

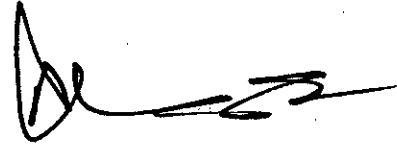
**ORDER**

24<sup>th</sup> May, 2022

Counsel for the appellant present. Mr. Asif Masood Ali Shah,  
Deputy District Attorney for respondents present.

Vide our detailed judgment of today placed in Service Appeal No. 7035/2021 titled "Dr. Ijaz Ahmad-vs- The Government of Khyber Pakhtunkhwa through Chief Secretary to the Government of Khyber Pakhtunkhwa Peshawar and others" this appeal is also dismissed. Costs shall follow the events. Consign.

*Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 24th day of May, 2022.*



(KALIM ARSHAD KHAN)  
CHAIRMAN



(FAREEHA PAUL)  
MEMBER(E)

18.04.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General alongwith Safiullah, Focal Person for the respondents present and submitted reply/comments, which are placed on file. To come up for arguments before the D.B on 10.05.2022. The appellant may submit rejoinder within a fortnight, if so advised. The operation of the impugned order to the extent of appellant shall remain suspended till next date.

  
Chairman

10.05.2022

Mr. Tariq Altaf and Hidayatullah Khattak, Advocates for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Argument heard. To come up for order before the D.B on 12.05.2022.

  
Chairman

(Fareeha Paul)  
Member (E)

12<sup>th</sup> May, 2022

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

On 10.05.2022, arguments were heard in this appeal and case was fixed for order but in the connected appeal No. 7035/2021, titled "Dr. Ijaz Ahmad Vs. Health Department etc." learned counsel for the appellant has sought adjournment to assist the court properly. To-day he concluded his arguments. To come up for order/consideration on 24.05.2022 before this D.B.


  
(Fareeha Paul)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

26.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Jaffar Ali, Assistant for respondents present.

P  
Reply/comments on behalf of respondents are still awaited. Representative of respondents requested for time to furnish reply/comments. Granted. To come up for reply/comments before the S.B on 17.02.2022. The operation of the impugned order to the extent of appellant shall remain suspended till next date.



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

17.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 09.03.2022 for the same as before.

09.03.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 18.04.2022 for the same as before. Reader



Reader

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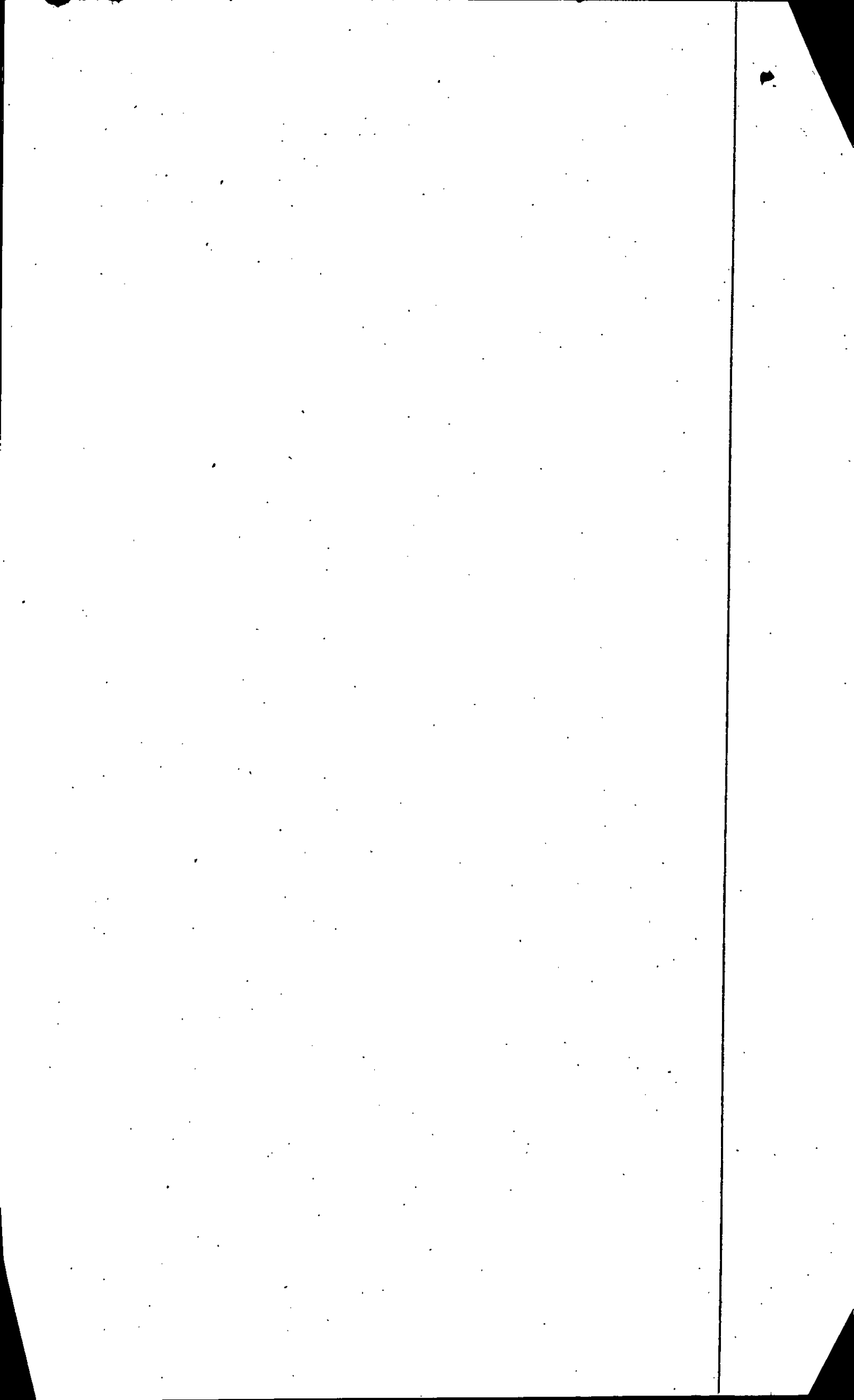
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13.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.


Written reply/comment on behalf of respondent not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments. Granted but as a last chance. To come up for written reply/comments on 04.01.2022 before S.B. The operation of impugned order dated 03.03.2021 to the extent of appellant shall remain suspended till next date.

  
(MIAN MUHAMMAD)  
MEMBER (E)

04.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, AAG for respondents present.

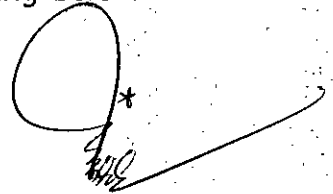
Reply/comments on behalf of official respondents are still awaited. Learned AAG sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 26.01.2022. The operation of impugned order to the extent of appellant shall remain suspended till next date.

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

11.10.2021

None for the appellant present.

Due to General Strike of the Peshawar Bar Association.  
Adjourned. To come up for preliminary hearing before the S.B  
on 01.11.2021.



(MIAN MUHAMMAD)  
MEMBER (E)

01.11.2021

Learned counsel for the appellant present.

Arguments of the learned counsel for appellant, pertaining to application for early hearing as well as suspension of impugned order dated 03.03.2021, were heard. Since the impugned order dated 03.03.2021 stands suspended in service appeal of Dr. Ijaz Ahmad (Appeal No. 7035/2021), Dr. Tahir Saeed, (appeal No. 7447/2021) and M. Dr. Muhammad Nisar, the principle of consistency demands to suspend it in respect of the appellant till the date fixed. Notice of suspension application be also issued to the respondents for reply. To come up for written reply/comments on main appeal as well as reply/arguments on suspension application on the date already fixed i.e 13.12.2021 before D.B.



(Mian Muhammad)  
Member(E)

**Dr. Rizawan, 7402/2021**

27.09.2021

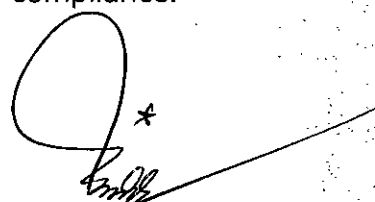
Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that vide impugned order dated 03.03.2021, the appellant was transferred from D.H.Q Hospital Karak to D.H.Q Hospital Kohat as Chief District Surgeon against the vacant post. The said transfer order was issued on the basis of an enquiry conducted against one of his junior colleagues. The appellant preferred departmental appeal to the appellate authority on 02.04.2021 however the same was not responded within the stipulated statutory period, hence, the instant service appeal filed in the Service Tribunal on 13.09.2021. Learned counsel for the appellant was confronted with the question of limitation. He argued that the same impugned order is being adjudicated upon in the Service Tribunal in two similarly placed service appeals of Dr. Ijaz Ahmad and Dr. ~~Muhammad~~ Nisar. The impugned order dated 03.03.2021 is suspended in those two appeals and the case is now fixed for regular hearing before the D.B during next month. Moreover, the limitation does not run in the case where the impugned order is already suspended. To strengthen his arguments he relied on 2019 SCMR 1004.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 13.12.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

30/9/21

  
(Mian Muhammad)  
Member(E)

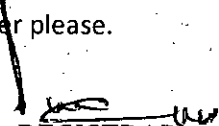



Form- A

### FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 7402 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/09/2021	<p>The appeal of Dr. Rizwan Ahmad presented today by Mr. Hidayatullah Khattak 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>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

# KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

## CHECK LIST

G. I. - Aziz Khan Khan **Versus**  
 ..... Appellant

Qurat Akhlaq  
 ..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Hidayat Ullah</u> <b>Advocate</b> <b>Court</b>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent 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?	√	
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:- Hidayat Ullah Khattak

Signature:- Hidayat Ullah

Dated:- 13-9-2021

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....Appellant

**V E R S U S**

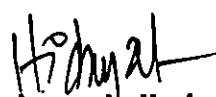
Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....Respondents

**I N D E X**

5	Description of Documents	Annex	Pages
1.	Service Appeal with affidavit		1-11
2.	Application for suspension alongwith Affidavit		12-15
3.	Application for condonation alongwith Affidavit		16-18
4.	Addresses of parties		19
5.	Copy of the impugned order dated 03.03.2021	A	<del>20</del>
6.	Copy of Reprerstation dtd 2/4/2021	B	21-22
7.	Copies of letters 6/3/2021, 8/3/2021	C	23-24
8.	Copy of letter dtd 13/8/2021	D	25
9.	(Copy of letter dtd 11/8/2021	E	26
10.	Wakalatnama		27

  
Appellant

Through

  
**Hidayatullah Khattak**  
Advocate High Court  
Cell No.0300-9357757

Dated 10.09.2021

1

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7546

Dated 13/09/2021

Service Appeal No. 7402/2021

Dr. Rizwan Ahmad Son of Sanat Khan  
Chief District Surgeon (BPS-20),  
D.H.Q Hospital, Karak.....**Appellant**

**V E R S U S**

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat, Peshawar
- 3) Director General Health Services, Health Department, Govt. of Khyber Pakhtunkhwa main Warsak Road, Peshawar .....**Respondents**

**Filed to-day**

*W*  
Registrar,  
13/9/2021

**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974 READ WITH ALL OTHER LAW  
ENABLING JURISDICTION OF THIS HON'BLE  
TRIBUNAL UNDER ARTICLE 212 OF THE  
CONSTITUTION OF PAKISTAN, TO  
WITHDRAW/CANCEL THE IMPUGNED  
TRANSFER ORDER OF THE APPELLANT**

**DATED 03.03.2021 AND BE ALLOWED TO  
CONTINUE HIS SERVICE AS CHIEF DISTRICT  
SURGEON (BPS-20) AT DHQ HOSPITAL  
KARAK**

---

**Prayer in Appeal**

**On acceptance of this service appeal,  
the impugned transfer posting order  
dated 03.03.2021 upto the extent of  
appellant may please be cancelled and  
the appellant be allowed to continue his  
services as Chief District Surgeon at DHQ  
Karak.**

**Any other relief, this Hon'ble Tribunal  
which deems fit and appropriate tha  
may also be awarded in favour of the  
appellant**

---

**Respectfully Sheweth:-**

1. That the appellant joined the Health Department of Khyber Pakhtunkhwa Government in the year 1999 as Medical Officer BPS-17 after proper Selection Process and subsequently promoted as Chief District

Surgeon BPS-20 and presently performing his duties as Such at DHQ ~~210 260~~ <sup>Hospital</sup> Karak.

2. That appellant had, and has been performing his duties quite diligently and utmost devotion and dedication and have no complaint from any quarter *till date*.
3. That an inquiry against one of the our junior colleague was conducted and on the recommendation of that inquiry appellant alongwith 6 other specialist doctors were transferred on 03.03.2021. (Copy of the impugned order dated 03.03.2021 is attached as annexure "A").
4. That regarding this appellant preferred a Reprerstation before the respondent No.1 but without any fruitful response. (Copy of Reprerstation is attached as annexure "B").
5. That meanwhile , Medical Superintendent DHQ Hospital Karak sent a letter bearing No.766/Admn/DHQ/KK/20 dated 08.03.2021 and also MS Kohat submitted letter bearing

No.1059/DHQ hospital dated 06.03.2021 for the retention of the both the surgeons at their respective place of postings. (Copies of letter are attached as annexure "C").

6. That apart from this, appellant submitted an explanation letter through Diary No.11757 dated 13.08.2021 Health Department for the revisiting the impugned order dated 03.03.2021 upto the extent of appellant and DR Muhammad Nasir. (Copy of letter is attached as annexure "D").
7. That now all of sudden on 11.08.2021 respondent No.3 through a letter bearing No.SOH-32/HD/3-5/2020 issued explanation letter to appellant. (Copy of letter is attached as annexure "E").
8. That having no other adequate and efficacious remedy, approaches this Hon'ble Tribunal inter alia, on the following ground against the impugned order dated 03.03.2021 and explanation letter No.11.08..2021 on following grounds:

**GROUNDS:**

- A. That the impugned transfer order dated 03.03.2021 passed by the respondents are patently illegal, against facts and evidence available on file, hence liable to be reserved and set aside *and cancelled,*
- B. That the appellant has been punished ~~for~~ for wrong act of one of the Junior Surgeon and the inquiry committee never associated appellant in the proceedings, there is no complaint against the appellant till date and punishment of the appellant for an offence which he has not committed is against law, justice equity and procedure, hence the impugned order is liable to be cancelled.
- C. That the law recognizes no punishment in form of a transfer, which is what, has been done with the appellant.
- D. That the fact of the matter is that the appellant did no wrong and he is still being made to suffer that also through the novel mode transfer. As transfer cannot be inflicted as a punishment. The travesty of justice in the instant case is that



the post of the appellant from which he has been transferred is left to be vacant. How can the same be allowed to be kept vacant to the detriment of the appellant is something which the appellant is not privy to. However, it is worth mentioning that it is the bounden duty of the Government functionaries to act in accordance with law and ensure that no violation of the law takes place.

- E. That the posting to Kohat is clearly unprecedented as the appellant is made to be work away from his spouse/family.
- F. That the leaving of the posting at DHQ Hospital vacant through the transfer of the appellant is in itself against public interest for the people of karak.
- G. That the principles of natural justice and that of the law, rules and policy dictates and require that the appellant be allowed to work as the Chief District Surgeon DHQ Hospital karak.
- H. That the appellant is an aggrieved person within the meaning of Article 212 of the

constitution of the Islamic republic of Pakistan, 1973.

- I. That the fundamental rights of the appellant have been violated in relation to Article 4, 8, 9, 18 and 25 of the Constitution of the Islamic republic of Pakistan, 1973, the said rights follow out of the terms and conditions of services of the appellant and this Hon'ble Tribunal being the custodian of the rights of Civil Servants as enshrined in the Civil Servants Act, the rules made thereunder as well as the protection afforded by the Constitution of Islamic republic of Pakistan, 1973 is why the appellant seeks the redress of their grievances and to bring to an end the ordeal the Appellant is going through due to the illegal, unlawful and unjust acts and inaction of the respondents.
- J. That the law does not recognize transfer as a punishment. This is concept alien to the Civil Servant Act, 1974, the rules made thereunder. Therefore transferring petitioner as a punishment is illegal.

- K. That the Appellant has been discriminated under the law. The said deviation and negation is unwarranted and not recognized by the law.
- L. That the rights of the Appellant are secured under article-8 and the entirety of Part-II of the Constitution of the Islamic republic of Pakistan, and its redress fall solely within the ambit of Article 212 of the Constitution of the Islamic republic of Pakistan, 1973.
- M. That the Appellant have not been treated in accordance with law, and their right secured and guaranteed under law and Constitution have been violated.
- N. That the Appellant has suffered for no fault of their own and the entire premise of the case is based on the illegality of the respondents to the complete detriment of the Appellant.
- O. That the deviation from settled law and adopting the novel principles of "inclusion" which aren't recognized by the Constitution law nor the service law of the country is clearly in disregard of the law and the dictums of the Hon'ble Superior Courts of Pakistan.

- P. That the respondents cannot be allowed under the law to pass any illegal order, as valuable rights of the Appellants are involved, which are guaranteed under the Constitution of Islamic republic of Pakistan, 1973.
- Q. That the decisions of the provincial government by transferring the appellant by order dated 03.03.2021 is illegal, unlawful and without lawful authority.
- R. That the order dated 03.03.2021 and explanation letter dated 11.08.2017 vindictive and violative upon the rights of the appellants and is liable to be struck down.
- S. That in similar nature Service Appeal No.7035/2021 titled Dr. Ejaz Amjad, transfer order <sup>dt/ 3/3/2021</sup> has been suspended and fixed for on 13.12.2021.
- T. That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.

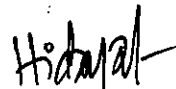
It is, therefore most humbly prayed that on acceptance of this service appeal, this Hon'ble Court may graciously be pleased to withdraw/cancelled the transfer orders of the appellant dated 03.03.2021 and he be allowed to continue his services as the Chief Surgeon at DHQ Hospital Karak and also struck down the explanation letter dated 11.08.2021 of the respondent No.3

Any other relief which deemed fit and appropriate in the circumstances of the case may also be passed in favour of the appellant.



Appellant

Through



**Hidayatullah Khattak**  
Advocate High Court

Dated 10.09.2021

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....**Appellant**

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....**Respondents**

**A F F I D A V I T**

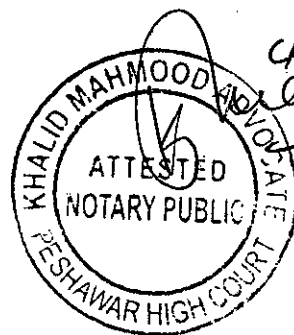
I, Dr. Rizwan Ahmad Son of Sanat Khan Chief District Surgeon (BPS-20), D.H.Q Hospital, Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:-

  
**Hidayatullah Khattak**  
Advocate High Court

  
DEPONENT.

DR. Rizwan Ahmad



CH/16 No: 1420320625/177

17/8-21

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

C.M No. \_\_\_\_\_/2021

In

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....**Appellant**

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....**Respondents**

**APPLICATION FOR SUSPENDING THE  
impugned transfer order dated <sup>3/3/2021</sup> AND THE  
RESPONDENTS MAY ALSO BE RESTRAINED  
FROM TAKING ANY KIND OF ADVERSE  
ACTION AGAINST THE APPELLANT, TILL THE  
FINAL DISPOSAL OF THE MAIN SERVICE  
APPEAL.**

**Respectfully Sheweth:**

1. That the titled Service Appeal is being filed before this Hon'ble Tribunal in which no date of hearing is fixed.
2. That the grounds of main appeal may be considered as integral part of this application.

3. That the balance of convenience also lies in favour of the appellant.
4. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
5. That the appellant has been punishment for wrong act of one of the Junior Surgeon and the inquiry committee never associated appellant in the proceedings there is no complaint against the appellant till date and punishment of the appellant for an offence which he has not committed is against law, justice equity and procedure, hence the impugned order is liable to be cancelled.
6. That if the operation of the impugned Notification No.SOH-1(HD)3-5/2020 dated 03.03.2021 not suspended then the appellant would suffer irreparable loss.
7. That any other ground will any will be raised at the time of arguments with the prior permission of this Hon'ble Court.

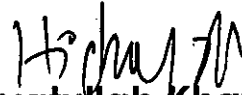


It is, therefore, most humbly prayed that by accepting this application, the interim relief as prayed for in the instant application may kindly be passed in favour of the appellant against the respondents



Appellant

Through



**Hidayatullah Khattak**  
Advocate High Court

Dated 10.09.2021

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

C.M No. \_\_\_\_\_/2021

In

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....**Appellant**

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....**Respondents**

**AFFIDAVIT**

I, Dr. Rizwan Ahmad Son of Sanat Khan Chief District Surgeon (BPS-20), D.H.Q Hospital, Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:-

  
**Hidayatullah Khattak**  
**Advocate High Court**



  
**DEPONENT**

**DR. Rizwan Ahmad**

**CNIC No 1420320625477**

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

C.M No. \_\_\_\_\_/2021

In

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....**Appellant**

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....**Respondents**

**APPLICATION FOR CONDONATION OF  
DELAY IN FILING THE INSTANT SERVICE  
APPEAL.**

---

**Respectfully Sheweth:**

1. That the captioned appeal is filed before this Honourable Court, in which no date of hearing has yet to be fixed.
2. That the grounds of the accompanying appeal may be read as integral part of this appeal.
3. That the delay, if any, in filing of instant appeal, is neither intentional nor deliberate but due to the reason that the respondent gave assurance not leave charge at DHQ Karak. *to appellant*

4. That due <sup>to</sup> covid-19 positive appellant also did not filed appeal *within time*.
5. That valuable rights of the appellant are involved, the same would be defeated, if the delay in filing of the petition is not condoned.
6. That even otherwise law tilts in favour of adjudication on merit rather than on technicalities.

It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled appeal may kindly be condoned in the interest of justice.

*Ali Imran*  
Appellant

Through

*Hidayatullah*  
**Hidayatullah Khattak**  
Advocate High Court

Dated 10.09.2021

20

BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

C.M.No. \_\_\_\_\_ \2021

In

Service Appeal No. \_\_\_\_\_ \2021

Dr. Rizwan Ahmad.....Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretary, Peshawar & others.....Respondents

AFFIDAVIT

I, Dr. Rizwan Ahmad son of Sanat Khan Chief District  
Surgeon (BP-20), D.H.Q Hospital, Karak, do hereby  
solemnly affirm and declare on oath that the contents of  
the accompanying Application are true and correct to  
the best of my knowledge and belief and nothing has  
been concealed from this Hon'ble Court.

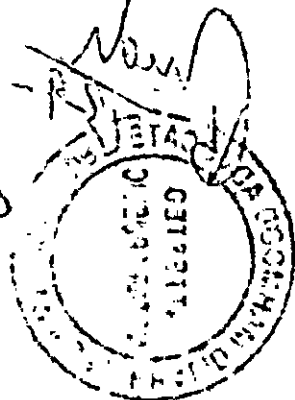
*[Handwritten signature]*

DEPONENT

DR. Rizwan Ahmad

Identified by:-

*[Handwritten signature]*  
Hidayatullah Khattak  
Advocate High Court



C.M. No. 2021-2021

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

C.M No. \_\_\_\_\_/2021

In

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....**Appellant**

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....**Respondents**

**A F F I D A V I T**

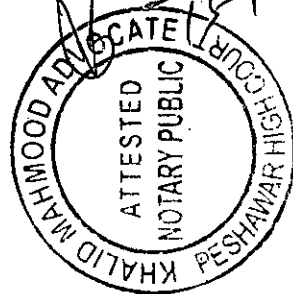
I, Dr. Rizwan Ahmad Son of Sanat Khan Chief District Surgeon (BPS-20), D.H.Q Hospital, Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:-

*Hidayatullah*  
**Hidayatullah Khattak**  
Advocate High Court

*Rizwan*  
DEPONENT

*DR. Rizwan Ahmad*



*CNLC.1420320625472*

**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

Dr. Rizwan Ahmad.....**Appellant**

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Secretariat, Peshawar & others.....**Respondents**

**ADDRESSES OF PARTIES**

**APPELLANT:**

Dr. Rizwan Ahmad Son of Sanat Khan  
Chief District Surgeon (BPS-20),  
D.H.Q Hospital, Karak

**RESPONDENTS:**

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat, Peshawar
- 3) Director General Health Services, Health Department, Govt. of Khyber Pakhtunkhwa main Warsak Road, Peshawar

  
Appellant

Through

  
**Hidayatullah Khattak**  
Advocate High Court

Dated 10.09.2021

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

Dated Peshawar, the 3<sup>rd</sup> March, 2021

**NOTIFICATION**

**SOH-1/HD/3-5/2020** The Competent Authority is pleased to order posting/transfer of the following doctors, in the best public interest, with immediate effect.

S#	NAME & DESIGNATION OF DOCTOR	FROM	TO	REMARKSS
1.	Dr. Rizwan Ahmad Chief District Surgeon (BS-20) DHQ Hospital Karak	DHQ Hospital Karak	DHQ Hospital Koat as Chief District Surgeon	Against the vacant post
2.	Dr. Jamil Anwar Senior District Surgeon (BS-19) DHQ Karak	DHQ Hospital Karak	City Hospital Lakki Marwat as Senior District Specialist	Against the vacant post
3.	Dr. Tahir Saeed District Surgeon (BS-18) THQ Postal Banda Daud Shah	THQ Hospital Banda Daud Shah	THQ Hospital, Lakki Marwat as District Surgeon	Against the vacant post
4.	Dr. Ijaz Ahmad District Specialist Surgery (BS-18) at Cat "C" Hospital Karak	Cat "C" Hospital Karak	DHQ Hospital Chitral	Against the vacant post
5.	Dr. Muhammad Nisar Chief District Surgeon (BS-20) DHQ Hospital Kohat	DHQ Hospital Karak	DHQ Hospital Karak as Chief District Specialist (BS-20)	Against the place of Dr Rizwan
6.	Dr. Abdul Waheed Jan Senior District Specialist (BS-19) City Hospital Lakki Marwat	City Hospital Lakki Marwat	City Postal Lakki Marwat	Against the place of Dr Jamil Anwar
7.	Dr. Arshad Aziz District Surgeon (BS-18) THQ Hospital Lakki Marwat	THQ Hospital Lakki Marwat	THQ Hospital Lakki Marwat	Against the place of Dr Tahir Saeed

Sd/-  
Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department

**Endst: of even No. & date**

Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General Health Services Khyber Pakhtunkhwa.
3. The Medical Superintendent/Incharge DHQ, Postal, Kohat, Karak Banda Daud Shah & Lakki Marwat
4. District Account Officer, Kohat, Karak, Lakki Marwat
5. The Medical Superintendent City Hospital, Peshawar
6. Deputy Director IT, with the request to upload the instant Notification in the official website of Health Department, Govt. of Khyber Pakhtunkhwa
7. P.S to Secretary Health Govt. of Khyber Pakhtunkhwa
8. PA to the Deputy Secretary (E) Health Department
9. Doctors concerned
10. Master File.

Sd/-  
Section Officer (E-I)

**ATTESTED**





GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

20-A

Dated Peshawar, the 3<sup>rd</sup> March, 2021

**NOTIFICATION**

SON-MDQ-82020 The Competent Authority is pleased to order posting/transfer of the following doctors, in the best public interest, with immediate effect:

S. #	NAME & DESIGNATION OF DOCTOR	FROM	TO	Remarks
1	Dr. Rizwan Ahmad Chief District Surgeon (BS-20) DHQ Hospital Karak	DHQ Hospital Karak	DHQ Hospital Kohat as Chief District Surgeon	Against the vacant post
2	Dr. Jamil Anwar Senior District Surgeon (BS-19) DHQ Karak	DHQ Hospital Karak	City Hospital Lakki Marwat as Senior District Specialist	Against the vacant post
3	Dr. Tahir Saeed District Surgeon (BS-18) THQ Hospital Banda Daud Shah	THQ Hospital Banda Daud Shah	THQ Hospital, Lakki Marwat as District Surgeon	Against the vacant post
4	Dr. Ijaz Ahmad District Specialist Surgry (BS-18) at Cat "C" Hospital Karak	Cat "C" Hospital Karak	DHQ Hospital Chitral	Against the vacant post
5	Dr. Muhammad Nisar Chief District Surgeon (BS-20) DHQ Hospital Kohat	DHQ Hospital Kohat	DHQ Hospital Karak as Chief District Specialist (BS-20)	Against the place of Dr. Rizwan
6	Dr. Abdul Waheed Jan Senior District Specialist (BS-19) City Hospital Lakki Marwat	City Hospital Lakki Marwat	DHQ Hospital, Karak	Against the place of Dr. Jamil Anwar
7	Dr. Arshad Aziz District Surgeon (BS-18) THQ Hospital Lakki Marwat	THQ Hospital Lakki Marwat	THQ Hospital, Banda Daud Shah	Against the place of Dr. Tahir Saeed

→ admitted for R.H.  
13.12.21  
7035  
→ " " " 22.9.21  
11 2021

-SD-

Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department

Endst: of oven No. & date:-  
Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General Health Services Khyber Pakhtunkhwa.
3. The Medical Superintendent/Incharge DHQ Hospital, Kohat, Karak, Banda Daud Shah & Lakki Marwat.
4. District Account Officer, Kohat, Karak, Lakki Marwat.
5. The Medical Superintendent City Hospital, Peshawar.
6. Deputy Director IT, with the request to upload the instant Notification in the official website of Health Department Govt of Khyber Pakhtunkhwa.
7. PS to the Secretary Health Govt. of Khyber Pakhtunkhwa.
8. PA to the Deputy Secretary (E) Health Department.
9. Doctors Concerned.
10. Master file.

Section Officer (E-1) 03/03/2021

**ATTESTED**

To

(21)

B  
Am

**The Worthy Secretary Health,**  
Government of Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar

Subject: **APPEAL FOR SETTING ASIDE TRANSFER ORDERS DATED 03.03.2021; WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM DHQ HOSPITAL KARAK TO KOHAT**

1. That the appellant joined the Health Department of Khyber Pakhtunkhwa Government after proper competitive selection process. The recent most posting of the appellant was as Chief District Surgeon BS-20 DHQ Postal Karak.
2. That the appellant has been performing his duties quite diligently and with utmost dedication since his initial appointment.
3. That the appellant has been transferred vide transfer orders dated 03-03-2021 of the Government of Khyber Pakhtunkhwa Health Department. This transfer was based on an inquiry, the report of which is yet to be shared with the appellant. The said transfer of the appellant this is quite clearly being made in form of a punishment and not in the public interest. Copy of the transfer order dated 03-03-2021 is enclosed.
4. That the law recognizes no punishment in form of a transfer, which is what has been done with the appellant.

**ATTESTED**

5. That the fact of the matter is that the appellant did no wrong, and he is still being made to suffer that also through the novel mode of transfer. As transfer cannot be inflicted as a punishment. The travesty of justice in the instant case is that the post of the appellant from which he has been transferred is left to be vacant. How can the same be allowed to be kept vacant to the detriment of the appellant is something which the appellant isn't privy to.
6. That the leaving of the posting at DHQ Hospital vacant through the transfer of the appellant is in itself against public interest for the people of Karak.
7. That the principles of natural justice and that of the law, rules and policy dictates and require that the appellant be allowed to work as the District Surgeon at Cat "C" Hospital Karak. Where his spouse is also currently performance her duties al diligently and with dedication.

It is therefore most humbly prayed that on the acceptance of this Appeal may it please your good self to so kindly withdraw the transfer orders of the Appellant dated 03.03.2021 and he be allowed to continue hi services as the Chief District Surgeon (BS-20) Hospital Karak

**Dated 02.04.2021**

Yours Most Truly,



**Dr. Rizwan Ahmad**  
Chief District Surgeon  
DHQ Hospital

  
**ATTESTED**

~ C ~  
Amun  
(23)

OFFICE OF THE  
MEDICAL SUPERINTENDENT  
DHO TEACHING HOSPITAL, KDA KOHAT  
No. 1635/1 DHO Hosp  
Dated Kohat the 26 Mar 2021

To -  
The Secretary Health  
Government of Khyber Pakhtunkhwa  
Peshawar

SUBJECT - TRANSFER OF DR. MUHAMMAD NASIR CHIEF DISTRICT SURGEON BPS-20

Memorandum

Reference to the Govt of Khyber Pakhtunkhwa Notification No. BOH-1/HDS-5/2020 dated 3/3/2021.

I have the honour to state that Dr. Muhammad Nasir Chief District Specialist BPS-20 has been transferred to DHO Hospital Karak. The hospital administration is entirely satisfied from the services of above named doctor and there is no complaint either from public or from administration. He is providing services round the clock to the needy patients and his attitude is much polite with the patients. His residency is situated in the arm length of hospital and the hospital administration uncomplicated called him for any emergency.

This hospital is providing health service delivery to entire community of the Kohat Division, which is spread, to Kurram, Orakzai, Karak and Hangu Districts as well as covering some area of Punjab. Beside the catchment area the highway is passing nearby DHO Hospital Kohat and this hospital received casualties everyday from there.

Therefore, it is requested to please approach the competent authority to retain the services of Dr. Muhammad Nasir Chief District Specialist BPS-20 in the best interest of public.

*Govt (Estts)*  
*I command the*  
*transfer order to the extent*  
*of Dr. Mohd Nasir.*

*///*  
Medical Superintendent,  
DHO Teaching Hospital KDA Kohat.

*///*  
**ATTESTED**



(24)

**OFFICE OF THE MEDICAL SUPERINTENDENT  
DISTRICT HEADQUARTERS HOSPITAL KARAK**

No. 766 /Admn/DHQ/KK/20  
Date 08 / 03 / 2021  
Email: Address : dhqkarak@gmail.com

To  
The Secretary Health,  
Govt of Khyber Pakhtunkhwa,  
Peshawar


Subject: RETENSION OF DR RIZWAN AHMED (CHIEF SURGEON BS-20) AT DHQ  
HOSPITAL KARAK

Reference to the Govt of Khyber Pakhtunkhwa Secretary Health Notification no. SOH-  
I/HD/3-5/2020 dated 03-03-2021

It is submitted that Dr Rizwan Ahmed (BS-20) posted at this hospital as Chief Surgical Specialist is performing his duties absolutely as per the desired standards and according to the job description. Dr Rizwan has established the surgical unit and putting in his best. The hospital Administration is fully confident and satisfied by the efficiency being put in by the said doctor specially his response to 24/7 emergency services for the public of this far flung area of District Karak.

Keeping in view the geographical structure of the district spread over 3000 plus sq/kms, the patients are drained to DHQ Hospital Karak and presence of such senior consultants is direly needed. It is also to bring in your kind notice that MS DHQ Hospital Kohat has also initiated a request in respect of Dr Nasir Chief Surgical Specialist being transferred at the place of Dr Rizwan for cancellation of this very adjustment.

It is therefore humbly requested to kindly review the posting of Dr Rizwan Ahmed (BS-20) and retain him at the same place i.e DHQ Hospital Karak in the best public interest.

  
MEDICAL SUPERINTENDENT  
District Headquarters Hospital Karak

**ATTESTED**

DAIRY NO: 1/157

DATE 13/8/21

HEALTH DEPARTMENT

To: The Secretary Health  
Government of Khyber Pakhtunkhwa  
Peshawar

Subject: EXPLANATION FOR NON-IMPLEMENTATION OF POSTING/TRANSFER NOTIFICATION  
NO. SOH-1/HD/3-5/2020 DATED 3<sup>RD</sup> MARCH, 2021

Reference Health department letter no. SOH-1/HD/3-5/2020 dated 11<sup>th</sup> August 2021:

Following facts are submitted for your kind perusal, please:

1. Consequent upon my transfer to DHQ Kohat, the undersigned put in effort to fetch the details regarding this injudicious/pre mature posting but astonishingly it was revealed that it has been done on administrative grounds in context of one inquiry conducted against Dr. Ejaz (Surgeon BPS-18) of another hospital for committing negligence. Instead awarding some penalty/punishment to Dr. Ejaz, I was transferred to DHQ Hospital Kohat versus Dr Nasir.
2. It is astonishing to submit that an inquiry conducted against one district Surgeon (Dr. Ejaz (Surgeon BPS-18) of another hospital has not at all any link with me and even no inquiry officer has made any contact in any aspect and fully unaware of neither the negligence committed by that very doctor nor having any knowledge of such proceedings but being injudiciously posted out.
3. Subsequently both Dr Nasir (BPS-20) DHQ Hospital Kohat and myself submitted separate appeals to the Hon: Secretary Health for revisiting the postings of both the senior officers (Copies attached).
4. On the basis of better efficiency index and maintaining high standard of health services efficiency by both the Chief Surgeons, MS DHQ Hospital Karak and MS DHQ Hospital Kohat also submitted their concerns and recommendation for reversing the posting of both the senior officers. (Copy attached).
5. On 9<sup>th</sup> March 2021 in a highly level meeting chaired by Hon: Minister for Health also attended by Dr Farooq Jameel (Additional Secretary Health -KP), Dr Amir Affaq (Deputy Secretary Health-KP) where this posting of both the Chief Surgeon Dr Nasir (BPS-20) DHQ Hospital Kohat & Dr Rizwan (BPS-20) DHQ Hospital Karak was discussed in length and termed this posting as discrimination and also principally agreed to reverse the order accordingly.
6. On 06<sup>th</sup> June 2021 MS DHQ Hospital Karak in a meeting with hon: Secretary Health in his office personally discussed the same posting/transfer of both the chief surgeons for reversing the order and Hon: Secretary Health then and there instructed Dr Amir Affaq (Deputy Secretary Health-KP) telephonically to issue cancellation order to the effect.
7. Again the undersigned personally visited Health Secretariat however Secretary Health was away of his office due to his official commitments and then got an opportunity to visit Dr Farooq Jameel (Additional Secretary Health -KP) so as to clarify the matter therein I was informed regarding the principal decision to stay at the same place of duty (DHQ Hospital Karak).

In view of above it is requested to please revisit the letter under reference and subject posting for providing me justice and also providing peaceful environment for putting my best to serve.

**TESTED**

Dr. Rizwan Ahmad  
District Surgeon (BPS-20)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

SOH-I/HD/3-5/2020  
Dated Pesh: the 11<sup>th</sup> August, 2021

E  
Am  
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To

Dr. Rizwan Ahmad,  
Chief District Surgeon (BPS-20),  
DHQ Hospital Karak.

**SUBJECT:- EXPLANATION FOR NON-IMPLEMENTATION OF POSTING /  
TRANSFER NOTIFICATION NO.SOH-I/HD/3-5/2020 DATED  
3<sup>RD</sup> MARCH, 2021.**

I am directed to refer to the subject noted above and say that you were transfer from DHQ Hospital Karak to DHQ Hospital Kohat vide this department Notification with the approval of the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) under administrative grounds. However, you are blatantly failed to obey the said lawful orders remained same place of posting.

The above omission and commission of in subordination on your part constitutes the act of misconduct and the terms of the Khyber Pakhtunkhwa Civil Servants (E&D), 2011.

You are once again directed to immediately relinquish your charge and move to the new station. You are further directed as to why disciplinary proceedings may not be initiated against you under the rules ibid.

  
Section Officer E-I

Ednst: No and date even

Copy forwarded to the :-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. MS, DHQ Hospital Karak.
3. MS DHQ Hospital Kohat
4. District Accounts Officer, District Karak / Kohat.
5. PS to the Secretary Health Khyber Pakhtunkhwa Peshawar, Peshawar.
6. PS to the Special Secretary (E&A) Govt. of Khyber Pakhtunkhwa Health Department
7. PA to Deputy Secretary (Estab), Health Department, Peshawar
8. Master file

  
**ATTESTED**

  
Section Officer E-I

(E)

Form E-1  
(2) →

Form E

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10 — 13

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16/10/2



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90654




ایڈوکیٹ: میر سید امجد علی شاہ

بار کونسل ایسوسی ایشن نمبر: 1660/622

رابطہ نمبر: 0300-9357757

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: میر سید امجد علی شاہ

مخاطب: ڈاکٹر رحمان احمد	دعویٰ: سروس ایس
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

**باعت تحریر آگے**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لاہور صدر عدالت کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کام اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ بر حلف دینے اجازت دعویٰ اقبال دعویٰ اور درخواست ازہم قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا گرفت یا اپیل کی برائگی اور منسوخی، نیز دائر کرنے اپیل گرائی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانون کو اختیار ہوگا، نیز تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر دستخط منظور و قبول ہوگا دوران مقدمہ میں جو فریضہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

مقام کے لیے منظور ہے۔

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

CM No. \_\_\_\_\_/2021

In Re:

Appeal No. 7402/2021

**Dr Rizwan Ahmad.....Appellant**

**V E R S U S**

**DG Health & others.....Respondents**

**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Application for early hearing		1-2
2.	Affidavit		3
3.	Copy of Appeal No. 7402/2021 along with Order	A	4-5
4.	Copy of Appeal No. 7412/2021 along with Order	B	6-7
5.	Copy of Appeal No. 7035/2021 along with Order	C	8-10
6.	Wakalat Nama		//

Through

Appellant

  
**TARIQ ALTAF**  
Advocate, High Court

①

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA, PESHAWAR**

CM No. \_\_\_\_\_/2021

In Re:

Appeal No. 7402/2021



**Dr Rizwan Ahmad.....Appellant**

**V E R S U S**

**DG Health & others.....Respondents**

**APPLICATION FOR EARLY HEARING**

*Put up to the worthy chairman with relevant appeal.*

**Respectfully Sheweth:**

1. That the above titled Appeal is pending adjudication before this Honourable Court which is fixed for 13.12.2021.

*7/10/2021*

2. That the learned single Member Bench admitted the captioned service Appeal into regular hearing but without passing any order on the suspension Application on 27.09.2021.

*Put up before SB on 11/10/2021*

3. That as discussed by the Hon'ble Member, the impugned order dated 03.03.2021 has already been suspended in the service Appeal Nos.

a. SA No. 7035-P/2021, titled Ejaz Ahmed Vs DG Health & others, dated 19.07.2021

b. SA No. 7412-P/2012, Dr Nasir Ahmad Vs DG Health & others, dated 22.09.2021

Justice and equity demands that the same relief shall be granted to the present Applicant / appellant.

- (2)
4. That according to the reported judgment of Supreme Court as 2009 SCMR 1004 the present Applicant / Appellant is also entitled for the same relief.
  5. That in similar nature cases already suspension order had been issued by this Hon'ble Tribunal and the Appellant is also entitled for the same relief.
  6. That all fundamental rights of appellant has been badly violated in the case subjudice.
  7. That being sanguine about the success of Appeal it is requested the case may be posted for early date.
  8. That there is no legal bar on acceptance of this application.

**It is, therefore, most humbly prayed that on acceptance of this application, the above titled Service Appeal may kindly be fixed for an early date as soon as possible.**

Through

  
Appellant

**TARIQ ALTAF**  
Advocate, High Court

(3)

**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

CM No. \_\_\_\_\_/2021

In Re:

Appeal No. 7402/2021

**Dr Rizwan Ahmad.....Appellant**

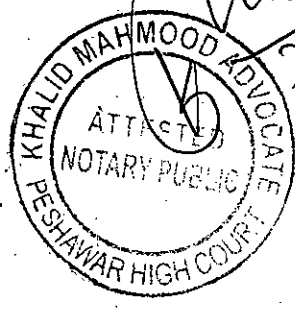
**V E R S U S**

**DG Health & others.....Respondents**

**AFFIDAVIT:**

It is stated on oath that the contents of the instant Application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

*[Handwritten signature]*  
**DEPONENT**



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7



**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7546

Dated 13/09/2021

Service Appeal No. 7402/2021

Dr. Rizwan Ahmad Son of Sanat Khan  
Chief District Surgeon (BPS-20),  
D.H.Q Hospital, Karak.....Appellant

**VERSUS**

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat, Peshawar
- 3) Director General Health Services, Health Department, Govt. of Khyber Pakhtunkhwa main Warsak Road, Peshawar .....Respondents

**Filed to-day**

*[Signature]*  
Registrar

13/9/2021

APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974 READ WITH ALL OTHER LAW  
ENABLING JURISDICTION OF THIS HON'BLE  
TRIBUNAL UNDER ARTICLE 212 OF THE  
CONSTITUTION OF PAKISTAN, TO  
WITHDRAW/CANCEL THE IMPUGNED  
TRANSFER ORDER OF THE APPELLANT

Certified to be true copy

*[Signature]*  
Chairman  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

5



Dr. Rizawan, 7402/2021

27.09.2021 Learned counsel for the appellant present. Preliminary arguments heard.

Learned-counsel for the appellant argued that vide impugned order dated 03.03.2021, the appellant was transferred from D.H.Q Hospital Karak to D.H.Q Hospital Kohat as Chief District Surgeon against the vacant post. The said transfer order was issued on the basis of an enquiry conducted against one of his junior colleagues. The appellant preferred departmental appeal to the appellate authority on 02.04.2021 however the same was not responded within the stipulated statutory period, hence, the instant service appeal filed in the Service Tribunal on 13.09.2021. Learned counsel for the appellant was confronted with the question of limitation. He argued that the same impugned order is being adjudicated upon in the Service Tribunal in two similarly placed service appeals of Dr. Ijaz Ahmad and Dr. ~~Muhammad~~ Nisar. The impugned order dated 03.03.2021 is suspended in those two appeals and the case is now fixed for regular hearing before the D.B during next month. Moreover, the limitation does not run in the case where the impugned order is already suspended. To strengthen his arguments he relied on 2019 SCMR 1004.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 13.12.2021 before the D.B.

Appellant Deposited Security & Process Fee  
30/9/21

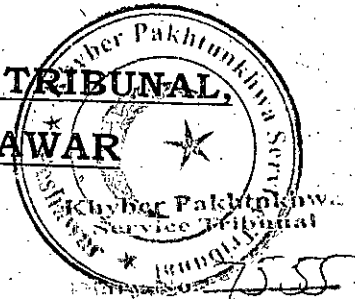
*[Signature]*  
(Mian Muhammad)  
Member(E)

Date of Presentation of Application 5/10/21  
Number of Words 83  
Copying Fee 20/-  
Urgent —  
Total 107/-  
Name of Copy —  
Date of Completion of Copy 9/10/21  
Date of Delivery of Copy 6/10/21

Certified to be true copy  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(6) (4)

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



Service Appeal No 7412 /2021

14-9-20

Muhammad Nasir S/o Muhammad Tahir (late), Surgical Specialist, DHQ Teaching Hospital KDA, Kohat.

.....Appellant

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
2. The Health Department, Govt of KPK through Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
3. Director General Health Services, Government of Khyber Pakhtunkhwa, Directorate Health, Peshawar.

.....Respondents

Filed to-day

*[Signature]*  
Registrar

14/9/2021

**SERVICE APPEAL UNDER SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT 1974 READ WITH ALL OTHERS LAW  
ENABLING JURISDICTION OF THIS HON'BLE  
TRIBUNAL UNDER ARTICLE 212 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC OF  
PAKISTAN 1973, AGAINST THE IMPUGNED  
ORDER DATED 03.03.2021, WHEREBY THE  
APPELLANT WAS TRANSFERRED FROM DHQ  
HOSPITAL KOHAT TO DHQ HOSPITAL KARAK  
AS CHIEF DISTRICT SPECIALIST (BS-20)**

Certified to be true copy

*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



(7)



22.09.2021

Counsel for the appellant present. Preliminary arguments

heard.

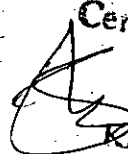
Certified copy of Service Appeal No. 7035/21 titled Dr. Ejaz Ahmad Vs. Government of Khyber Pakhtunkhwa and others" alongwith copy of order dated 19.07.2021 have been annexed with the appeal. The order as impugned in the present appeal has also been challenged by aforementioned Dr. Ejaz. Let this appeal be heard on merits by the D.B alongwith the said appeal. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 12.10.2021 before the D.B.

An application has been submitted alongwith memorandum of appeal for suspending the operation of impugned transfer order dated 03.03.2021 and restraining the respondents from taking any adverse action against the appellant, till the final disposal of the main service appeal. Notice of the application be given to the respondents. The operation of impugned order dated 03.03.2021 to the extent of appellant shall remain suspended till date fixed.

Appellant Deposited  
Security & Process Fee

22/9/21

  
Chairman

**Certified to be true copy**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Preparation of Application 5/15/22  
Number of Words 850  
Copying Fee 20/-  
Urgent \_\_\_\_\_  
Total 20/-  
Name of Customer \_\_\_\_\_  
Date of Completion of Copy 6/16/22  
Date of Delivery of Copy 6/16/22

(84)

IN THE  
HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL  
PESHAWAR



Appeal No. 7035/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6827

Dated 07/7/2021

Dr. Ejaz Ahmed District Surgeon Cat "C" Hospital, Karak.  
..... Appellant

Versus

1. The Government of Khyber Pakhtunkhwa,  
Through Chief Secretary to the Government of Khyber Pakhtunkhwa,  
Peshawar.
2. The Health Department, Government of Khyber Pakhtunkhwa,  
through Secretary to the Government of Khyber Pakhtunkhwa, Health  
Department, Civil Secretariat Peshawar.
3. Director General,  
Health Services, Health Department, Government of Khyber Pakhtunkhwa.  
..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA Service Tribunal ACT, 1974 READ WITH ALL OTHERS LAW ENABLING JURISDICTION OF THIS HONORABLE TRIBUNAL UNDER ARTICLE 212 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973, TO WITHDRAW THE TRANSFER ORDERS OF THE APPELLANT DATED 03-03-2021 AND HE BE ALLOWED TO CONTINUE HIS SERVICES AS THE DISTRICT SURGEON AT THE CAT "C" HOSPITAL ALONGSIDE HIS SPOUSE.

**RESPECTFULLY SUBMITTED:**

The Appellant most earnestly request to submit as under:

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**BRIEF FACTS:**

1. That the Petitioner joined the Health Department of Khyber Pakhtunkhwa Government in the year 2003 as Medical Officer (BS-17) after proper competitive selection process. Subsequently the petitioner was appointed as District Specialist Surgery (BS-18) on the recommendations of the then NWFP Public Service Commission. The recent most posting of the Petitioner was as District Surgeon at Cat "C" hospital Karak.

Copy of the Initial Appointment Orders are Annex-A.  
Copy of the Orders as DSS (BS-18) are Annex-A/1.  
Copy of the orders as SMO (BS-18) are Annex-A/2.

Filed to-day  
*[Signature]*  
Registrar  
07/07/2021

Re-submitted to -day  
and filed.

*[Signature]*  
Registrar  
13/7/2021

2. That the appellant has been performing his duties quite diligently and with utmost dedication since his initial appointment.

3. That the appellant attained his MBBS degree in the year 1996, and got qualification of FCPS surgery in the year 2002, needless to mention

9




11.08.2021

Appellant present through counsel.

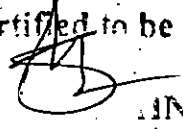
Kabir Ullah Khattak learned Additional Advocate General for respondents present.

A Request for adjournment was made on behalf of appellant; granted. To come up for arguments on 13/12/2021 before D.B. The operation of impugned order to the extent of appellant shall remain suspended till next date.

  
(Rozina Rehman)  
Member (J)

  
Chairman

Certified to be true copy



CHIEF CLERK  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Petition 5/10/21

Name of Petitioner Govt

Name of Respondent Govt

Date of Decision 6/10/21

Date of Delivery of Copy 6/10/21

10

19.07.2021

Appellant present through counsel.

Preliminary arguments heard. Record perused.

The appellant has impugned the order dated 03.03.2021 whereby he has been transferred from the Category-C Hospital Karak to D.H.Q Hospital Chitral against the vacant post. Subject to all just and legal objections including limitation, this appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 11 / 08 / 2021 before D.B.

An application has been submitted alongwith the memorandum of appeal seeking ad interim relief for suspension of the impugned order to the extent of appellant. Notice of the application be given to the respondents for the same date as already fixed. The operation of impugned order to the extent of appellant shall remain suspended till next date.

Appellant Deposited Security & Process Fee

*[Handwritten signature]*  
27/7/21

*[Handwritten signature]*  
(Rozina Rehman)  
Member (J)

Appellant present through counsel.

**ATTESTED**  
*[Handwritten signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

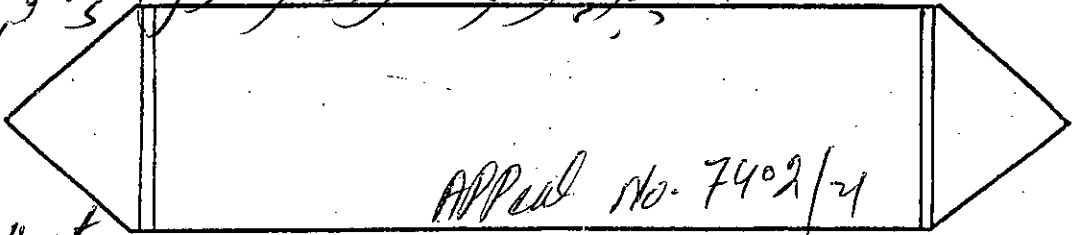
For department was made in behalf of appellant; granted to come up for arguments on 11 / 08 / 2021 before D.B. The operation of impugned order to the extent of appellant shall remain suspended till next date.

(Rozina Rehman)  
Member (C)

Chairman

(11)

# بعدالت حضور کورہ مسز رضوان احمد کی درخواست



Appeal No. 7402/21

Appellant 2021 پنجاب

ڈاکٹر رضوان احمد بنام Dr. Health و دیگر

-----	موزخہ
-----	مقدمہ
-----	دعویٰ
-----	جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کیسے کی طرف سے کیسے کی طرف سے مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا ایبل کی برآمدگی اور منسوخی نیز دائر کرنے ایبل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانا التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ مندر ہے۔

Attas to AND Accepted

ڈاکٹر رضوان احمد بنام Dr. Health  
Appellant

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 2021

\_\_\_\_\_ واہ العب \_\_\_\_\_

بمقام \_\_\_\_\_ کے لئے منظور ہے۔

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 7402 OF 2021**

Dr. Rizwan Ahmad .....Appellant

**Versus**

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

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

1. That the Appellant has got neither cause of action nor did locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form.
5. That the Appellant has filed the instant Appeal with mala-fide intention, hence liable to be dismissed.
6. That the Appeal is badly time barred.
7. That the Honourable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. The impugned transfer Notification has been issued in accordance with Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973.

**FACTS**

1. Pertains to record.
2. Subject to proof.
3. Incorrect. The appellant was transferred vide notification dated 03.03.2021 as the appellant being a Civil Servant is liable to be transferred by the competent authority from one post to other as the same comes with in terms and conditions of his service. Therefore, he was rightly transferred by the competent authority under section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973.
4. Pertains to record.
5. As per Para-3 above.

6. Pertains to record.
7. Pertains to record.
8. Incorrect. The appellant being a member of provincial cadre post is liable to be posted anywhere by the competent authority within the province or even outside of the province or cadre.

**GROUNDS:**

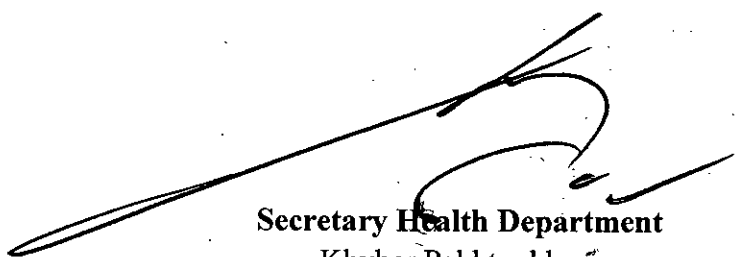
- A. Incorrect. The impugned notification dated 03.03.2021 is in accordance with law rules and principal of natural justice hence, liable to be maintained. The appellant is not an aggrieved person as he has no right to be posted at the place of his choice.
- B. Incorrect. The Competent Authority has been empowered by Section-10 of the Civil Servant Act 1973 to utilize services of a Civil Servant by posting him against any post even outside his cadre. The appellant has not been penalized as transfer comes with in terms and conditions of services.
- C. Incorrect. It is further to clarify that the impugned notification dated 03.03.2021 has been issued in accordance with law in the public interest. It is worth to mention that transfer and posting comes within terms and conditions of service therefore, the appellant has been transferred as per his terms and condition. He has not been awarded any punishment.
- D. Incorrect. The Competent Authority has been empowered by Section-10 of the Civil Servant Act 1973 to utilize services of a Civil Servant by posting him against any post even outside his cadre. The appellant has not been penalized as transfer comes with in terms and conditions of services.
- E. Incorrect. The appellant has not been discriminated rather treated in accordance with law and rules. It is worth mentioning that the Apex Court in a recent judgment reported is 2021 SCMR 1064 held that transfer of an employee / public servant fell within the ambient of "terms and conditions" of service, which included transfer and posting. Transfer and posting was part of service and it was for the authority to determine where services of any staff member were required.
- F. Incorrect. The impugned notification dated 03.03.2021 has been issued in public interest.
- G. As per Para-E above.
- H. As per Paras above.
- I. Incorrect, already replied in paras above.
- J. As per paras above.
- K. Incorrect. The appellant has been treated in accordance with law and rules.



- L. As per Paras above.
- M. As per Paras above.
- N. As per paras above.
- O. Incorrect. As per Para-A above.
- P. Incorrect. As per Para-A above.
- Q. Incorrect. As per Para-A above.
- R. Incorrect. Act of the replying respondents is in accordance with law and rules.
- T. Legal however the respondents also seek permission of this honorable tribunal to adduce other grounds during final hearing.

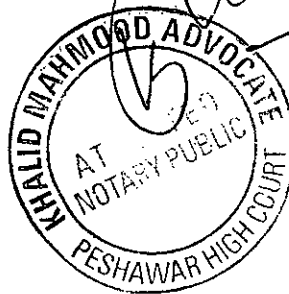
**PRAY:**

It is therefore requested that the appeal of the appellant may kindly be dismissed with cost.

  
Secretary Health Department  
Khyber Pakhtunkhwā  
Respondent No-1&2

**AFFIDAVIT:**

It is hereby stated on oath that contents of para-wise comments is correct to best of knowledge and believe and nothing has been concealed from this Hon'ble Court/Tribunal.



  
DEPONENT

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 7402 OF 2021**

Dr. Rizwan Ahmad .....Appellant

**Versus**

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

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

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5. As per Para-3 above.

6. Pertains to record.
7. Pertains to record.
8. Incorrect. The appellant being a member of provincial cadre post is liable to be posted anywhere by the competent authority within the province or even outside of the province or cadre.

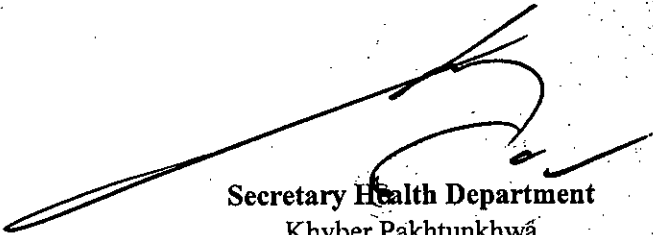
**GROUNDS:**

- A. Incorrect. The impugned notification dated 03.03.2021 is in accordance with law rules and principal of natural justice hence, liable to be maintained. The appellant is not an aggrieved person as he has no right to be posted at the place of his choice.
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- D. Incorrect. The Competent Authority has been empowered by Section-10 of the Civil Servant Act 1973 to utilize services of a Civil Servant by posting him against any post even outside his cadre. The appellant has not been penalized as transfer comes with its terms and conditions of services.
- E. Incorrect. The appellant has not been discriminated rather treated in accordance with law and rules. It is worth mentioning that the Apex Court in a recent judgment reported in 2021 SCMR 1064 held that transfer of an employee / public servant fell within the ambit of "terms and conditions" of service, which included transfer and posting. Transfer and posting was part of service and it was for the authority to determine where services of any staff member were required.
- F. Incorrect. The impugned notification dated 03.03.2021 has been issued in public interest.
- G. As per Para-E above.
- H. As per Paras above.
- I. Incorrect, already replied in paras above.
- J. As per paras above.
- K. Incorrect. The appellant has been treated in accordance with law and rules.

- L. As per Paras above.  
M. As per Paras above.  
N. As per paras above.  
O. Incorrect. As per Para-A above.  
P. Incorrect. As per Para-A above.  
Q. Incorrect. As per Para-A above.  
R. Incorrect. Act of the replying respondents is in accordance with law and rules.  
T. Legal however the respondents also seek permission of this honorable tribunal to adduce other grounds during final hearing.

**PRAY:**

It is therefore requested that the appeal of the appellant may kindly be dismissed with cost.

  
Secretary Health Department  
Khyber Pakhtunkhwa  
Respondent No-1&2

**AFFIDAVIT:**

It is hereby stated on oath that contents of para-wise comments is correct to best of knowledge and believe and nothing has been concealed from this Hon'ble Court/Tribunal.



  
DEPONENT

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

C.M No. \_\_\_\_\_/2021

In

S.A No.7402/2021

Dr. Rizwan Ahmad.....Appellant

**V E R S U S**

DG Health & others.....Respondents

**I N D E X**

S#	Description of Documents	Annex	Pages
1.	Application & affidavit		1-3
2.	Copies of the Memo of Appeal & Order dated 27.09.2021	"A"	4-14
3.	Copies of Service Appeal alongwith Orders dated 19.07.2021 and 22.09.2021	"B"	15-19

Put up to the court with  
relevant appeal.

Through

Appellant

*[Signature]*  
7/10/2021.

*[Signature]*

**Hidayatullah Khattak**

Advocate

High Court, Peshawar

Cell No: 0300-9357757

Dated: \_\_\_/\_\_\_/2021

*Ready,*

**BEFORE THE SERVICES TRIBUNAL PESHAWAR**

CM No. \_\_\_\_\_/2021

Khyber Pakhtunkhwa  
Service Tribunal

IN

Diary No. 1358

SA Appeal No.7402/2021

Dated 06/10/2021

Dr. Rizwan Ahmad .....Appellant

Versus

DG Health & Others..... Respondents

APPLICATION FOR ISSUANCE OF  
SUSPENSION ORDER AGAINST  
IMPUGNED ORDERS DATED 03.03.2021  
TILL THE FINAL DISPOSAL/  
ADJUDICATION OF THE CAPTIONED  
APPEAL.

*Respectfully Sheweth;*

- 1) That the captioned service appeal was fixed for preliminary hearing/arguments on 27.09.2021 main service appeal as well as suspension of the impugned Order dated 03.03.2021.
- 2) That the learned Single Member Bench admitted the captioned service appeal into regular hearing but without passing any order on the suspension application on 27.09.2021. (Copies of the Memo of appeal and Order dated 27.09.2021 are attached as Annexure A).
- 3) That Appellant/ Applicants seeks the suspension of the impugned Order dated 03.03.2021 on the following grounds:-

**GROUND:**

- a. That the non speaking order regarding suspension is against law, facts and procedure hence needs adjudication on this point of suspension.
- b. That as discussed by the Hon'ble Learned Member, the impugned Order dated 03.03.2021 has already been suspended in the services appeal Nos

- i. SA No.7035-P/2021

Titled Ejaz Ahmed....VS... DG Health & others

Dated 19-07-2021

- ii. S.A No.7412-P/2012

Dr. Nasir Ahmad ....VS.... DG Health & Others

Dated 22.09.2021

Justice and equity demands that the same relief shall be granted to the present applicant/ appellant. (Attested Copies are attached as Annexure B).

- c. That according to reported judgment of Supreme Court as 2009 SCMR 1004 the present appellant/ applicant is also entitled for the same relief.
- d. That all the four essential ingredients are also in favour of the appellant/ applicants i.e.
  - i. Prima facie case
  - ii. Sanguine of its success
  - iii. Balance of convenience
  - iv. & Irreparable loss.
- e. That there is no legal bar for granting of the suspension of the impugned Order dated 03.03.2021.

It is, therefore, respectfully prayed that on acceptance of this application, the impugned order dated 03.03.2021 upto the extent of appellant may please be suspended till the final disposal of the captioned appeal.

Applicants/ Appellants

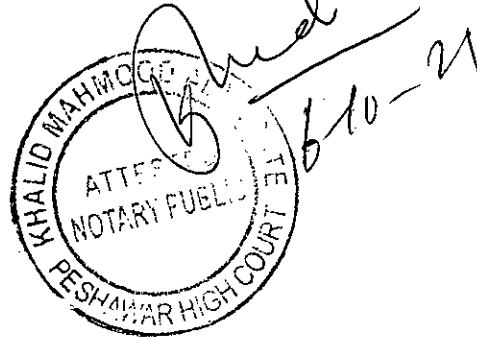
Through

*Hidayat*

**Hidayatullah Khattak**  
Advocate High Court.  
Peshawar.

**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT

*Hidayat*



4

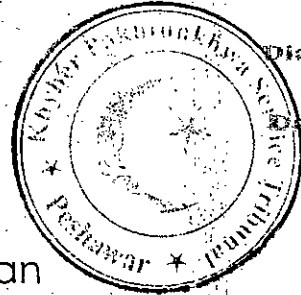
**BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7546

Dated 13/09/2021

Service Appeal No. 7402/2021



Dr. Rizwan Ahmad Son of Sanat Khan  
Chief District Surgeon (BPS-20),  
D.H.Q Hospital, Karak.....Appellant

**VERSUS**

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat, Peshawar
- 3) Director General Health Services, Health Department, Govt. of Khyber Pakhtunkhwa main Warsak Road, Peshawar .....Respondents

**Filed to-day**

*[Signature]*  
Registrar,  
13/9/2021

**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974 READ WITH ALL OTHER LAW  
ENABLING JURISDICTION OF THIS HON'BLE  
TRIBUNAL UNDER ARTICLE 212 OF THE  
CONSTITUTION OF PAKISTAN, TO  
WITHDRAW/CANCEL THE IMPUGNED  
TRANSFER ORDER OF THE APPELLANT**

**ATTESTED**

*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

DATED 03.03.2021 AND BE ALLOWED TO  
CONTINUE HIS SERVICE AS CHIEF DISTRICT  
SURGEON (BPS-20) AT DHQ HOSPITAL  
KARAK

---

**Prayer in Appeal**


On acceptance of this service appeal,  
the impugned transfer posting order  
dated 03.03.2021 upto the extent of  
appellant may please be cancelled and  
the appellant be allowed to continue his  
services as Chief District Surgeon at DHQ  
Karak.

Any other relief, this Hon'ble Tribunal  
which deems fit and appropriate that  
may also be awarded in favour of the  
appellant

---

**Respectfully Sheweth:-**


1. That the appellant joined the Health  
Department of Khyber Pakhtunkhwa  
Government in the year 1999 as Medical  
Officer BPS-17 after proper Selection Process  
and subsequently promoted as Chief District

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Surgeon BPS-20 and presently performing his duties as Such at DHQ <sup>Hosmial</sup> Karak.

2. That appellant had, and has been performing his duties quite diligently and utmost devotion and dedication and have no complaint from any quarter *till date*.
3. That an inquiry against one of the our junior colleague was conducted and on the recommendation of that inquiry appellant alongwith 6 other specialist doctors were transferred on 03.03.2021. (Copy of the impugned order dated 03.03.2021 is attached as annexure "A").
4. That regarding this appellant preferred a Reprerstation before the respondent No.1 but without any fruitful response. (Copy of Reprerstation is attached as annexure "B").
5. That meanwhile , Medical Superintendent DHQ Hospital Karak sent a letter bearing No.766/Admn/DHQ/KK/20 dated 08.03.2021 and also MS Kohat submitted letter bearing

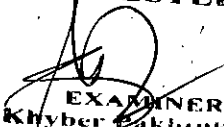
**ATTESTED**

  
**EXAMINER**  
**Khyber Pakhtukhwa**  
**Service Tribunal**  
**Peshawar**

(7)

No.1059/DHQ hospital dated 06.03.2021 for the retention of the both the surgeons at their respective place of postings. (Copies of letter are attached as annexure "C").

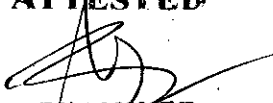
6. That apart from this, appellant submitted an explanation letter through Diary No.11757 dated 13.08.2021 Health Department for the revisiting the impugned order dated 03.03.2021 upto the extent of appellant and DR Muhammad Nasir. (Copy of letter is attached as annexure "D").
7. That now all of sudden on 11.08.2021 respondent No.3 through a letter hearing No.SOH-32/HD/3-5/2020 issued explanation letter to appellant. (Copy of letter is attached as annexure "E").
8. That having no other adequate and efficacious remedy, approaches this Hon'ble Tribunal inter alia, on the following ground against the impugned order dated 03.03.2021 and explanation letter No.11.08..2021 on following grounds:

**ATTESTED**  
  
**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

GROUNDS:

- A. That the impugned transfer order dated 03.03.2021 passed by the respondents are patently illegal, against facts and evidence available on file, hence liable to be reserved and set aside *and cancelled*.
- B. That the appellant has been punished ~~for~~ for wrong act of one of the Junior Surgeon and the inquiry committee never associated appellant in the proceedings, there is no complaint against the appellant till date and punishment of the appellant for an offence which he has not committed is against law, justice equity and procedure, hence the impugned order is liable to be cancelled.
- C. That the law recognizes no punishment in form of a transfer, which is what, has been done with the appellant.
- D. That the fact of the matter is that the appellant did no wrong and he is still being made to suffer that also through the novel mode transfer. As transfer cannot be inflicted as a punishment. The travesty of justice in the instant case is that

ATTESTED




EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

the post of the appellant from which he has been transferred is left to be vacant. How can the same be allowed to be kept vacant to the detriment of the appellant is something which the appellant is not privy to. However, it is worth mentioning that it is the bounden duty of the Government functionaries to act in accordance with law and ensure that no violation of the law takes place.

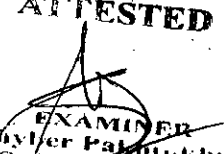
- E. That the posting to Kohat is clearly unprecedented as the appellant is made to be work away from his spouse/family.
- F. That the leaving of the posting at DHQ Hospital vacant through the transfer of the appellant is in itself against public interest for the people of karak.
- G. That the principles of natural justice and that of the law, rules and policy dictates and require that the appellant be allowed to work as the Chief District Surgeon DHQ Hospital karak.
- H. That the appellant is an aggrieved person within the meaning of Article 212 of the

**ATTESTED**


  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

constitution of the Islamic republic of Pakistan, 1973.

- I. That the fundamental rights of the appellant have been violated in relation to Article 4, 8, 9, 18 and 25 of the Constitution of the Islamic republic of Pakistan, 1973, the said rights follow out of the terms and conditions of services of the appellant and this Hon'ble Tribunal being the custodian of the rights of Civil Servants as enshrined in the Civil Servants Act, the rules made thereunder as well as the protection afforded by the Constitution of Islamic republic of Pakistan, 1973 is why the appellant seeks the redress of their grievances and to bring to an end the ordeal the Appellant is going through due to the illegal, unlawful and unjust acts and inaction of the respondents.
  
- J. That the law does not recognize transfer as a punishment. This is concept alien to the Civil Servant Act, 1974, the rules made thereunder. Therefore transferring petitioner as a punishment is illegal.

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

- K. That the Appellant has been discriminated under the law. The said deviation and negation is unwarranted and not recognized by the law.
- L. That the rights of the Appellant are secured under article-8 and the entirety of Part-II of the Constitution of the Islamic republic of Pakistan, and its redress fall solely within the ambit of Article 212 of the Constitution of the Islamic republic of Pakistan, 1973.
- M. That the Appellant have not been treated in accordance with law, and their right secured and guaranteed under law and Constitution have been violated.
- N. That the Appellant has suffered for no fault of their own and the entire premise of the case is based on the illegality of the respondents to the complete detriment of the Appellant.
- O. That the deviation from settled law and adopting the novel principles of "inclusion" which aren't recognized by the Constitution law nor the service law of the country is clearly in disregard of the law and the dictums of the Hon'ble Superior Courts of Pakistan.

**ATTESTED**  
  
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- P. That the respondents cannot be allowed under the law to pass any illegal order, as valuable rights of the Appellants are involved, which are guaranteed under the Constitution of Islamic republic of Pakistan, 1973.
- Q. That the decisions of the provincial government by transferring the appellant by order dated 03.03.2021 is illegal, unlawful and without lawful authority.
- R. That the order dated 03.03.2021 and explanation letter dated 11.08.2017 vindictive and violative upon the rights of the appellants and is liable to be stuck down.
- S. That in similar nature Service Appeal No.7035/2021 titled Dr. Ejaz Amjad, transfer order <sup>dt/ 3/3/2021</sup> has been suspended and fixed for on 13.12.20021.
- T. That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.

**ATTESTED****EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar**

It is, therefore most humbly prayed that on acceptance of this service appeal, this Hon'ble Court may graciously be pleased to withdraw/cancelled the transfer orders of the appellant dated 03.03.2021 and he be allowed to continue his services as the Chief Surgeon at DHQ Hospital Karak and also struck down the explanation letter dated 11.08.2021 of the respondent No.3

Any other relief which deemed fit and appropriate in the circumstances of the case may also be passed in favour of the appellant.

*Zi Zinn*

Appellant

Through

*Hidayat*

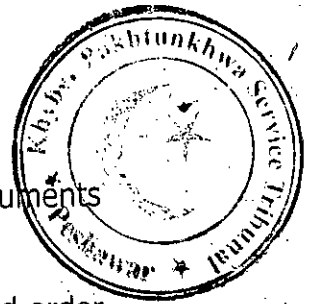
Hidayatullah Khattak  
Advocate High Court

Dated 10.09.2021

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

8/14



**Dr. Rizawan, 7402/2021**

27.09.2021 Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that vide impugned order dated 03.03.2021, the appellant was transferred from D.H.Q Hospital Karak to D.H.Q Hospital Kohat as Chief District Surgeon against the vacant post. The said transfer order was issued on the basis of an enquiry conducted against one of his junior colleagues. The appellant preferred departmental appeal to the appellate authority on 02.04.2021 however the same was not responded within the stipulated statutory period, hence, the instant service appeal filed in the Service Tribunal on 13.09.2021. Learned counsel for the appellant was confronted with the question of limitation. He argued that the same impugned order is being adjudicated upon in the Service Tribunal in two similarly placed service appeals of Dr. Ijaz Ahmad and Dr. ~~Mohd~~ Nisar. The impugned order dated 03.03.2021 is suspended in those two appeals and the case is now fixed for regular hearing before the D.B during next month. Moreover, the limitation does not run in the case where the impugned order is already suspended. To strengthen his arguments he relied on 2019 SCMR 1004.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 13.12.2022 before the D.B.

*[Handwritten Signature]*

(Mian Muhammad)  
Member(E)

**Date of Presentation of Application** 30-9-21  
**Number of Words** 4800  
**Copying Fee** 50/-  
**Urgency** 50/-  
**Total** 50/-  
**Name of** \_\_\_\_\_  
**Date of Completion of Copy** 30-9-21  
**Date of Delivery of Copy** 30-9-21

**Certified to be true copy**  
*[Handwritten Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(15) (16) (17) (18)

IN THE  
HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL  
PESHAWAR



Appeal No. 7035/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6827

Dated 07/7/2021

Dr. Ejaz Ahmed District Surgeon Cat "C" Hospital, Karak.  
..... Appellant

Versus.

1. The Government of Khyber Pakhtunkhwa,  
Through Chief Secretary to the Government of Khyber Pakhtunkhwa,  
Peshawar.
2. The Health Department, Government of Khyber Pakhtunkhwa,  
through Secretary to the Government of Khyber Pakhtunkhwa, Health  
Department, Civil Secretariat Peshawar.
3. Director General,  
Health Services, Health Department, Government of Khyber Pakhtunkhwa.  
..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA Service Tribunal ACT, 1974 READ WITH ALL OTHERS LAW ENABLING JURISDICTION OF THIS HONORABLE TRIBUNAL UNDER ARTICLE 212 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973. TO WITHDRAW THE TRANSFER ORDERS OF THE APPELLANT DATED 03-03-2021 AND HE BE ALLOWED TO CONTINUE HIS SERVICES AS THE DISTRICT SURGEON AT THE CAT "C" HOSPITAL ALONGSIDE HIS SPOUSE.

RESPECTFULLY SUBMITTED:  
The Appellant most earnestly request to submit as under:

BRIEF FACTS:

1. That the Petitioner joined the Health Department of Khyber Pakhtunkhwa Government in the year 2003 as Medical Officer (BS-17) after proper competitive selection process. Subsequently the petitioner was appointed as District Specialist Surgery (BS-18) on the recommendations of the then NWFP Public Service Commission. The recent most posting of the Petitioner was as District Surgeon at Cat "C" hospital Karak.

Copy of the Initial Appointment Orders are Annex-A.  
Copy of the Orders as DSS (BS-18) are Annex-A/1.  
Copy of the orders as SMO (BS-18) are Annex-A/2.

2. That the appellant has been performing his duties quite diligently and with utmost dedication since his initial appointment.

3. That the appellant attained his MBBS degree in the year 1996, and got qualification of FCPS surgery in the year 2002, needless to mention

Filed to-day  
Registrar  
07/07/2021

Re-submitted to -day  
and filed.

TESTED  
Registrar  
07/07/2021  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

16 03

19.07.2021

Appellant present through counsel.

Preliminary arguments heard. Record perused.

The appellant has impugned the order dated 03.03.2021 whereby he has been transferred from the Category-C Hospital Karak to D.H.Q Hospital Chitral against the vacant post. Subject to all just and legal objections including limitation, this appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 11 / 08 / 2021 before D.B.

An application has been submitted alongwith the memorandum of appeal seeking ad interim relief for suspension of the impugned order to the extent of appellant. Notice of the application be given to the respondents for the same date as already fixed. The operation of impugned order to the extent of appellant shall remain suspended till next date.

Appellant Deposited Security & Process Fee

*[Signature]*  
27/7/21

*[Signature]*  
(Rozina Rehman)  
Member (J)

Appellant present through counsel.  
The appellant has impugned the order dated 03.03.2021 whereby he has been transferred from the Category-C Hospital Karak to D.H.Q Hospital Chitral against the vacant post. Subject to all just and legal objections including limitation, this appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 11 / 08 / 2021 before D.B.  
An application has been submitted alongwith the memorandum of appeal seeking ad interim relief for suspension of the impugned order to the extent of appellant. Notice of the application be given to the respondents for the same date as already fixed. The operation of impugned order to the extent of appellant shall remain suspended till next date.

**Certified to be true copy**

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(Rozina Rehman)  
Member (J)

Chairman

(17) (15)

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



Service Appeal No 7412 /2021

Case No. 7555  
Date: 14-9-2021

Muhammad Nasir S/o Muhammad Tahir (late), Surgical Specialist, DHQ Teaching Hospital KDA, Kohat.

.....Appellant

**V E R S U S**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
2. The Health Department, Govt of KPK through Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
3. Director General Health Services, Government of Khyber Pakhtunkhwa, Directorate Health, Peshawar.

.....Respondents

Filed to-day

*[Signature]*  
Registrar

14/9/2021

**SERVICE APPEAL UNDER SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT 1974 READ WITH ALL OTHERS LAW  
ENABLING JURISDICTION OF THIS HON'BLE  
TRIBUNAL UNDER ARTICLE 212 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC OF  
PAKISTAN 1973, AGAINST THE IMPUGNED  
ORDER DATED 03.03.2021, WHEREBY THE  
APPELLANT WAS TRANSFERRED FROM DHQ  
HOSPITAL KOHAT TO DHQ HOSPITAL KARAK  
AS CHIEF DISTRICT SPECIALIST (BS-20)**

**ATTESTED**

*[Signature]*  
**EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar**

WHICH IS AGAINST THE WEDLOCK / SPOUSE  
POLICY.

Prayer in Appeal:

On acceptance of this Appeal, the Order dated 03.03.2021, whereby the Respondent No 2 has illegally, pre-maturely and against the Wedlock / Spouse Policy issued transfer order of the Appellant vide which the Appellant has been transferred from the DHQ Hospita Kohat to DHQ Hospital Karak, which is illegal, unlawful, against the lawful authority and the same may kindly be cancelled / set aside and the Appellant may graciously be allowed to continue his services as Chief District Specialist at DHQ Kohat.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is the Law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. (Copy of the CNIC is attached as Annex 'A').
2. That briefly stated the fact relevant for the purpose of this petition are that, Appellant was appointed as Medical Officer (BS-17) in the Respondents Departments and thereafter promoted and now is serving as Chief District Surgeon (BS-20), since than the Appellant was performing his duty with full devotion. (Copy of Appointment Order and Service Card is attached Annex "B")

TESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

19/09



22.09.2021

Counsel for the appellant present. Preliminary arguments

heard.

Certified copy of Service Appeal No. 7035/21 titled Dr. Ejaz Ahmad Vs. Government of Khyber Pakhtunkhwa and others" alongwith copy of order dated 19.07.2021 have been annexed with the appeal. The order as impugned in the present appeal has also been challenged by aforementioned Dr. Ejaz. Let this appeal be heard on merits by the D.B alongwith the said appeal. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 12.10.2021 before the D.B.

An application has been submitted alongwith memorandum of appeal for suspending the operation of impugned transfer order dated 03.03.2021 and restraining the respondents from taking any adverse action against the appellant, till the final disposal of the main service appeal. Notice of the application be given to the respondents. The operation of impugned order dated 03.03.2021 to the extent of appellant shall remain suspended till

Appellant Deposited Security & Process Fee

22/9/21

Chairman

Date of Presentation of Application 5/10/21 date fixed.

Number of Words 1670

Copying Fee 187

Urgent         

Total 187

Number of Copies         

Completion of Copy 5/10/21

Security of Copy 5/10/21

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Peshawar