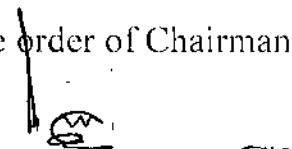


FORM OF ORDER SHEET

Court of _____

Case No.- _____ **30/2023**


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	4/1/2023	<p>The appeal of Mr. Akhtar Munir resubmitted today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

This is an appeal filed by Mr. Akhtar Munir today on 11/11/2022 against the order dated 12.09.2022 against which he made/preferred departmental appeal/representation on 14.09.2022 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 3173/ST,

Dt. 14/11/2022.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Javed Iqbal Gulbela Adv. Pesh

Note:-

Resubmitted as the J.A stands mature and thus needs to be instituted for hearing purposes.

Advocate

04-01-2023.

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Akhter Munir

Appeal no. 30/2023

VERSUS

LRH & Others

INDEX

S#	Description of Documents	Annex	Pages
1.	Appeal		1-4
2.	Affidavit		5
3.	Application for suspension of impugned order		6
3.	Copy of impugned Transfer Order No. 22670-78/HR-IV Dated: 12-09-2022	"A"	7
4.	Copy of application & office order dated 20/09/2022	"B" -"C"	8-9
5.	Copy of order dated 31-10-2022	"D"	10-12
6.	Wakalatnama		

Dated: 08/11/2022

Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan,

Saghir iqbal Gulbela
Advocate, High Court
Peshawar,

&
Hamza Durrani
Advocate, Peshawar.

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

In Service Appeal No. 30 /2023

Akhter Munir s/o Taus khan, class IV (Civil Servant) at lady Reading hospital, MTI, Peshawar

.....Appellant

VERSUS

1. Secretary, Health Department, Govt. of Khyber Pakhtunkhwa, at Civil Secretariat, Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Lady Reading Hospital MTI, Peshawar Through Hospital Director Hospital Director LRH.
4. Director Finance LRH MTI, Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTOONKHWA SERVICES TRIBUNAL 1974, AGAINST THE IMPUGNED OFFICE ORDER NO. 22670-78 HR-IV DATED: 12-09-2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETED AGAINST THE IMPUGNED RELIEVED ORDER NO. 22670-78/HR-IV OF THE 'OFFICE OF THE HOSPITAL DIRECTOR, LADY READING HOSPITAL MTI, PESHAWAR, WHEREBY THE APPELLANT HAS BEEN RELIEVED FROM LADY READING HOSPITAL MTI, PESHAWAR TO THE OFFICE OF DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR, IN A CLASSICAL, CURSORY AND WHIMSICAL MANNER. HENCE THE INSTANT APPEAL.

Respectfully Sheweth,

1. **That** the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable family of a locality.
2. That after going through the mandatorily required criteria, the Appellant got onto the rolls of the Respondent Department years back and since then the appellant working and performing his duties in LRH.

3. That since induction into service and getting onto the rolls of this extremely humane and prestigious Department, the Appellant has remained the most pragmatic, devoted, and dutiful fellow, who never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to the appellant.
4. That being highly professional and pragmatic towards the responsibilities bestowed upon the shoulders of the Appellant and because of his whetted professional skills, there have never been any sort of soot or soot-age upon his long career, which fact is reflected from Appellant Service record, which sans any complaint or adverse or even advisory remarks mentioned or ever communicated to the Appellant.
5. That it was in this backdrop that while the Appellant was serving his duties in the Lady Reading Hospital MTI, Peshawar that the Respondent No.04 relieved from LRH MTI and his services are hereby placed at the disposal of Director General Health Services KPK, PESHAWR, vide impugned Transfer Order No. 22670-78/HR-IV-Dated: 12-09-2022, OF THE Office of The Hospital Director, Lady Reading Hospital MTI, Peshawar. **(Copy of impugned Transfer Order No. 22670-78/HR-IV Dated: 12-09-2022 as annexure "A")**
6. That feeling aggrieved the Appellant moved departmental appeal for setting aside **Impugned Relieved Order No. 22670-69/HR-IV Dated: 12-09-2022** to Respondents while being civil servant the departmental appeal of the appellant was transmitted to DG health services which was graciously allowed **(Copy of departmental appeal dated 14-09-2022 & Order of DG health are Annexed as Annexure "B & C")**

7. That it is also important to mention here that in this regard Directorate General Health Services Khyber Pakhtunkhwa, Peshawar issued an office order to Hospital Director and requested to withdraw the relieving order of the appellant because there is no vacant post of class-IV in Peshawar and its outskirts, against which the relieved employee can be adjusted.
8. That initially the appellant approached before Hon'ble MTI appellant Tribunal but after a legal discussion, the instant appeal disposed with the observations that the appellant approach to proper forum for the redressal of their grievance. **(Copy of Hon'ble MTI Appellate Tribunal Order dated 30-10-2022 is annexed as annexure "D")**
9. That feeling aggrieved and having no other remedy available elsewhere, the Appellant approaches this Hon'ble Tribunal for setting aside 'the **impugned Transfer Order No. 22670-78/HR-IV Dated: 12-09-2022** order upon the following grounds, inter-alia.

GROUND:

- A. That the impugned Transfer & Posting Order is wrong, illegal, unwarranted, and hence not tenable in the eyes of law.
- B. That the Appellant has already been a post in respondent department and he was working from year 1998 but the respondents malafidely illegally and unlawfully transferred the Appellant from lady reading hospital Peshawar, to director general health services Peshawar which is not warranted under the law.
- C. That the impugned Transfer & Posting is thoroughly in derogation to the principles as laid down and enumerated in the Transfer & Posting Policy.
- D. That the Appellant has been transferred without any rim or reason. So, if the appellant has been transferring without any reason and DGHS has categorically replied that there is no post with him where against the appellant could be posted then if appellant and his services are not required by LRH then it is not only the appellant who has to be transferred and

(4)

relieved from LRH, then LRH also surrender and transfer his post as well to the DGHS.

- E. That the impugned transfer order is also against the normal tenure Policy, which under the law is not allowed.
- F. That by transferring the Appellant, the Petitioner has virtually been penalized for no wrong done and have been simply kicked out from Lady Reading Hospital to Director General Health Services Khyber Pakhtunkhwa, Peshawar.
- G. That from every angle, the impugned Transfer & Posting Order is wrong, illegal, unlawful and is liable to be set-aside.
- H. That any other ground not raised here may graciously be allowed at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned Relieved Order No. 22670-78/HR-IV Dated: 12-09-2022, of Hospital Director and Impugned Order of the office Director Human Resources, Lady Reading Hospital MTI, Peshawar' may kindly be set-aside, and by doing so the appellant may graciously be allowed to perform his duties at LRH MTI, Peshawar.

Any other relief not specifically asked for may also graciously be extended in favor of the Appellant in the circumstances of the case.

Dated: 08/11/2022.

Appellant

Through

Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan,
&
Hamza Durani
Advocate, Peshawar

NOTE:

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate

(5)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No- _____/2022


Akhtar Munir

VERSUS

Govt of Khyber Pakhtunkhwa & Others

AFFIDAVIT

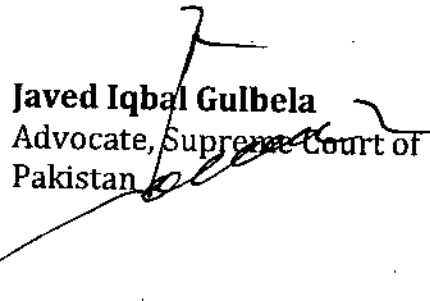
I, Akhtar Munir S/o Tawas Gul (Ward Orderly) R/o Jhagra P/o Tarnab Faram Tehsil & District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal is correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

 DEPONENT

CNIC:17301-1502796-9

CELL: 0349-7294856

Identified by:


Javed Iqbal Gulbela
Advocate, Supreme Court of
Pakistan

(6)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Akhter Munir

VERSUS

LRH & Others

C.M No # _____/2022

In

S.A _____/2022

**APPLICATION FOR SUSPENSION OF THE IMPUGNED OFFICE
ORDER NO.22670-78/HR-IV DATED 12-09-2022**

RESPECTFULLY SHEWETH,

1. That the applicant/appellant is filing the accompanying appeal, the contents of which may graciously be considered as integral part & parcel of the instant service appeal.
2. That prima facie case exists in favor of the appellant.
3. That if the impugned notification as mentioned above is not suspended the appellant will suffer irreparable loss.
4. That balance of convenience is also lies in favor of the appellant and his quite sanguine of his success.
5. That in the given circumstances the suspension of operation of the impugned notifications are indispensable.

It is therefore, most humbly prayed that on acceptance of the instant application, operation of the impugned notification for as mentioned above may kindly be suspended till the final disposal of the accompanying appeal.

Any other relief not specifically asked for may also graciously be extended in favor of the applicant in the circumstances of the case.

Dated : 8/11/2022

Appellant
Through
Javed Iqbal Gulbela
&
Hamza Durrani

Advocate

Annex "A"

7



**LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION, PESHAWAR**

ID: 7-0130

OFFICE ORDER

Mr. Akhtar Munir S/o Tawas Gul, Ward Orderly (Civil Servent) is hereby relieved from Lady Reading Hospital MTI and his services are hereby placed at the disposal of Director General Health Services, Khyber Pakhtunkhwa, Peshawar with immediate effect for further posting.

He is hereby directed to submit clearance certificate from all concerned sections of LRH.

Sd/-xxxx

Hospital Director

Lady Reading Hospital MTI,
Peshawar.

No. 27670-70 /HR-IV

Dated. 10/12/2022

Copy forwarded to:

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar
2. Director Human Resources LRH-MTI
3. Director Finance LRH-MTI
4. Manager Housekeeping, LRH-MTI
5. Provost LRH-MTI
6. Dealing office:
7. HRMIS
8. Incharge Recruitment Cell, LRH-MTI
9. Mr. Akhtar Munir S/o Tawas Gul, Ward Orderly, LRH-MTI

JAVED IQBAL QILBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Hospital Director

Lady Reading Hospital MTI,
Peshawar.

خدمت جناب راجہ صاحب سپریم کورٹ ریڈنگ ہسپتال لیٹا اور
عنوان: درخواست برائے غیر قانونی ٹرانسفر آرڈر 78-22670-22670

Ann "B" جناب عالی

موجودہ نوازش ہے کہ سائل کو مورخہ

2022-9-12 کو صراستہ آرڈر 78-22670-22670 موصول ہوا ہے جس میں
سیرا ٹرانسفر لیڈس ریڈنگ ہسپتال سے D.O. میں ٹرڈس
سائیل 1990-10-16 سے لیڈس ریڈنگ ہسپتال میں بھرتی ہے۔ سائیل
اپنی ڈیوٹی ایمانداری سے کر رہا ہے۔ کسی قسم کا کوئی اعتراض
میری ڈیوٹی پر نہیں۔ لہذا آپ صاحبان سے عاجزانہ اپیل
کی جاتی ہے کہ سائیل کا بلا جواز اور غیر قانونی آرڈر صراستہ

IAVED IQBAL GILBERT
Advocate
Supreme Court of Pakistan
(ASC # 5317)

22670-78 واپس کر کے مشکور فرمائیں

IAVED IQBAL GILBERT
Advocate
Supreme Court of Pakistan
(ASC # 5317)

11/9/2022
15/9/2022

عین نوازش ہوگی

المرفوع 5-9-2022

برائے سیرا کاروائی

ڈائریکٹر جنرل ہیلتھ سروسز خیرپختونخوا لیٹا اور

آپ کا فرما بند دار طرازم، خدمت وارڈ اردو لہجی و لفظی

لیڈس ریڈنگ ہسپتال لیٹا اور

Amu "C" (9)

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR



E-Mail Address: mvfndzhs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 10670 / Personnel Dated: 20/09/2022

To,

The Hospital Director
MTI/LRH Peshawar.

Subject: **OFFICE ORDER**

Memo:

Reference to your Office Order bearing Endst: No. 22670-78/HR-IV dated 12.09.2022, on the subject noted above.

It is submitted that there is no vacant post of Class-IV in Peshawar and its outskirts, against which the relieved employees can be adjusted.

You are therefore, requested to withdraw the relieving order in respect of Mr. Akhtar Munir Ward Orderly of MTI-LRH Peshawar, being low paid employee.

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

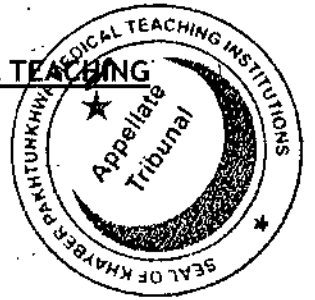
20/09/2022

11804
21/9/2022

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
Khyber Pakhtun
KASCO 23372

Annex 4 D^y (10)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA MEDICAL TEACHING
INSTITUTION TRIBUNAL, PESHAWAR**



HR-5.A 105 /2022

Akhter munir S/o taus khan at lady Reading hospital, MTI,
Peshawar

.....Appellant

Versus

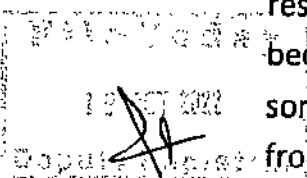
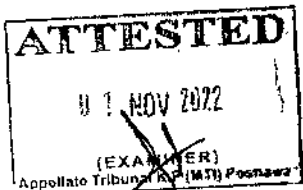
1. Secretary, Health Department govt of kpk at Civil Secretariat, Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Lady Reading Hospital MTI, Peshawar Through Hospital Director.
4. Hospital Director LRH.
5. Director Finance LRH MTI, Peshawar.

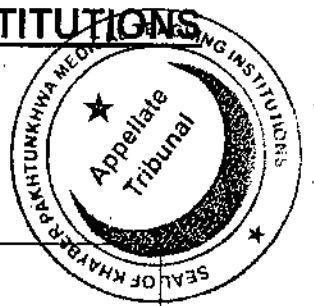
.....Respondents

**Appeal Under Section 16-A of 'The Khyber Pakhtunkhwa Medical
Teaching Institutions Reforms Act, 2015', against the impugned
Office Order No. 22670-78/HR-IV Dated: 12-09-2022,**

Respectfully Sheweth,

1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable family of District Peshawar.
2. That after going through the mandatorily required criteria, the Appellant got onto the rolls of the Respondent Department years back, and since then the appellant working and performing his duties in LRH.
3. That since induction into service and getting onto the rolls of this extremely humane and prestigious Department, the Appellant has remained the most pragmatic, devoted and dutiful fellow, who never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to the Petitioner.
4. That being highly professional and pragmatic towards the responsibilities bestowed upon the shoulders of the Appellant and because of his whetted professional skills, there have never been any sort of soot or soot-age upon his long career, which fact is reflected from Appellant Service record, which sans any complaint or adverse or even advisory remarks mentioned or ever communicated to the Appellant.



KHYBER PAKHTUNKHWA MEDICAL TEACHING INSTITUTIONS**APPELLATE TRIBUNAL****ORDER SHEET**

<u>Date of hearing</u>	Proceedings of the Tribunal
31.10.2022	<p><u>MTI A # 102/2022 with C.M. No.188/2022</u></p> <p>Present: Mr.Hamza Durrani, advocate, for the appellant.</p> <p>_____</p> <p><u>NISAR HUSSAIN KHAN, CHAIRMAN:-</u> Our this single order, shall dispose of three identical appeals, being Nos. 102/2022, 103/2022 and 105/2022, as the law points as well as the facts involved in all the appeals, are common.</p> <p>2. Learned counsel for the appellants contended that though appellants have been relieved from the MTI LRH, Peshawar, being civil servants, to report to their parent department but the Director General, Health Service, KP, Peshawar, parent department, is not accepting their arrival report on the ground that they have no such posts to adjust them.</p> <p>3. After thorough discussion on the legal questions, learned counsel for the appellants submitted at the bar that the appellants would submit arrival report in written form before the parent department and in case of denial, they would approach the proper forum for the redressal of their grievance and in view of this legal position, he does not want to press these appeals.</p>

ATTESTED

31.10.2022

(EXAMINER)
Appellate Tribunal (P.MTI) Peshawar

12



4. In the circumstances, all the three appeals mentioned above, stand disposed of with the above observations.

CHAIRMAN
MEMBER

No. 380
 Date of Presentation of Application 1 Nov 2022
 No of Pages 4
 Copying fee 4x20
 Total 80
 Date of Presentation of Copy 1 Nov 2022
 Date of Delivery of Copy 1 Nov 2022
 Received by

(Handwritten signature)

ATTESTED
 08 NOV 2022
 (EXAMINER)
 Appellate Tribunal K.P. (MTI) Peshawar

وکالت نامہ

عدالت: ^{صواب} سروس ٹریبیونل حیدرآباد خواہ

اختیار علی منیر بنام حکومت و غیرہ

منجانب ایڈووکیٹ دعویٰ سروس اپیل

تاریخ

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

بمقام کیس نمٹانے کے لیے جاوید اقبال گل بیلہ ایڈووکیٹ سپریم کورٹ آف پاکستان

کو پدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کوڈ یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر دالت کروں گا، اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کی کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کطرفہ درخواست حکم انتہائی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند ہے۔

مورخہ 8-11-2022 مضمون مختار نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Academy

Handwritten signature

اختیار علی منیر وکیل طلاس گل