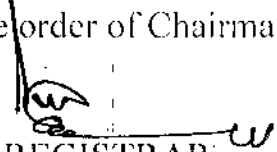


FORM OF ORDER SHEET

Court of _____

Case No.- _____ **77 /2023**

S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	5/1/2023	<p>The appeal of Mr. Noor ul Islam presented today by Mr. Noor Muhammad Khattak 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  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 77 /2022

^{ul}
NOOR ISLAM

VS

HEALTH DEPTT:

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APPELLANT

THROUGH:

**NOOR MOHAMMAD KHATTAK,
ADVOCATE SUPREME COURT**

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 77 /2023

Mr. Noor Islam, Junior Clinical Technician (Radiology) BPS-12,
O/O the District Health Officer, District Battagram.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
- 2- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, Battagram.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 23.08.2021 & 27.08.2021 WHEREBY THE APPOINTMENT ORDER DATED 30.7.2021 HAS BEEN CANCELLED AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned orders dated 23.08.2021 and 27.08.2021 may kindly be set aside and the respondents may kindly be directed to restore the appointment order dated 30.7.2022 of the appellant with all back benefits including seniority. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is law abiding and peaceful citizen of Pakistan and permanent/bonafide resident of District Battagram.
- 2- That respondent department advertised different posts of para medical staff including JCT(RADIOLOGY), JCTC(SURGICAL), JCT(PULMONOLOGY), PHCT(EPI) and EPI Vaccinator in Daily News Paper and the appellant being eligible, having requisite qualification and experience, applied for the post of JCT (Radiology). Copies of advertisement, Minutes of Selection Committee and Educational Documents are attached as AnnexureA & B.

- 3- That the appellant was appointed as JCT (Radiology) vide order dated 30.07.2021. Copy of appointment order is attached as AnnexureC.
- 4- That astonishingly the appointment of the appellant along with others were cancelled vide impugned office order dated 23.08.2021 under political pressure of ruling party and their local representative for accommodating their blue eyed by respondent No.2 and a committee was constituted to conduct inquiry regarding recruitments of various cadre of medical technicians by respondent No.3. Copy of the Impugned office order dated 23.08.2021 is attached as AnnexureD.
- 5- That in compliance with the ibid office order all the appointment letters issued by respondent No.3 were cancelled vide Impugned office order dated 27.08.2021 is attached as AnnexureE.
- 6- That the appellant being aggrieved from the impugned orders dated 23.08.2021 and 27.08.2021 issued by the respondent department has got no other appropriate /adequate remedy except to file the writ petition before the Honorable Peshawar High Court, Peshawar. Copy of the writ petition is attached as Annexure F.
- 7- That the Honorable Peshawar High Court, Peshawar scribed in its order dated 15.09.2022 that the matter squarely falls within the jurisdiction of August Service Tribunal and thereof copy of the memorandum of the said writ petition be transmitted to the respondents/department and be treated as Departmental Appeal for decision in accordance with law. Copy of the Order dated 15.09.2022 is attached as AnnexureG.
- 8- That the recommendations of the Inquiry committee were rejected by respondent no.3 and considered the recruitment process as per rules and regulations vide Rebuttal of Inquiry Report letter dated 30.09.2021. Copy of the Rebuttal Inquiry Report Letter dated 30.09.2021 is attached as Annexure H.
- 9- That the appellant feeling aggrieved form the inaction of the respondents by not deciding the departmental appeal of the appellant and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That actions of the respondents by issuing the Impugned notifications/orders dated 23.08.2021 and 27.08.2021 as well as not accepting the arrival report of the appellant is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the decision regarding cancellation of the appointments of appellant along with others was made by respondent No.2 before conduction of inquiry which is against law and rules.
- D- That the recruitment process of the appellant was considered as per rules and regulations and recommendations of the inquiry committee were rejected by respondent no.3 vide Rebuttal of Inquiry Report letter dated 30.09.2021.
- E- That actions and inactions of the respondents by issuing the impugned notifications/orders dated 23.08.2021 and 27.08.2021 whereby not accepting the arrival report of the appellant is violative of Law and Rules.
- F- That the respondents acted in arbitrary and mala-fide manner by issuing the impugned notifications/orders dated 23.08.2021 and 27.08.2021.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 12.2022

NILU
APPELLANT
NOOR ISLAM

Through:

M
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

W Adnan
WALEED ADNAN

U
UMAR FAROOQ MOMAND

Muhammad Ayub
MUHAMMAD AYUB

Ku
KHANZAD GUL
ADVOCATES

&

AFFIDAVIT

I, Mr. Noor Islam, Junior Clinical Technician (Radiology) BPS-12, O/O the District Health Officer, District Battagram, do hereby solemnly affirm that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

NILU
Deponent

ہر امیدوار ایک شافٹ منٹ کے مختلف مراکز صحت میں مندرجہ ذیل پندرہ امیدواروں کی آسامیاں خالی ہیں جن پر تقرری کیلئے شافٹ منٹ کے تعلق رکھنے والے اہل امیدواروں سے درخواستیں مطلوب ہیں۔ شافٹ منٹ کے اہل امیدوار دستیاب نہ ہونے کی صورت میں بالترتیب اضلاع سے کسی اہل امیدوار کی تقرری ہو سکتی ہے۔

شعبہ	امریکائی	BRS	امریکائی
1	JCT (Radiology)	12	ٹائپ ڈی اسپتال، RHC
2	JCTC (Surgical)	12	ٹائپ ڈی اسپتال
3	JCT (Pulmonology)	12	
4	PHCT (EPI)	12	بی ایچ یو کوڑھنڈول، لکھی، بیلاہ، پامال شریف، پونگ، ہمالائی، کتھوڑہ اور RHC تھاگوت
5	EPI Vaccinator	06	

- (1)۔ میٹرک سائنس (کم از کم سیکنڈ ڈویژن) بمقام ڈی ایچ او علاقہ شہرہ کا ڈیپو تجربہ بخیر بخیر یا کسی بھی دیگر صوبے کی میڈیکل ٹیکنیشن یا متعلقہ ٹیکنالوجی میں کسی منظور شدہ بورڈ سے ایف ایس سی۔ (2)۔ عمر کی حد 18 تا 30 سال۔ (3)۔ جس امیدوار کی عمر صوبہ سے زیادہ ہو تو وہ Ago Relaxation سرٹیفکیٹ پیش کرنے کا باقاعدہ ہوگا۔ (4)۔ تجربہ کار سرٹیفکیٹ منسلک قابلیت کے بعد منظور کیا جائے گا نیز تجربہ کار سرٹیفکیٹ منسلک ادارے سے حاصل کردہ وینا ضروری ہے غیر مستعدانہ کے Certificate قابل قبول نہیں ہوگا۔ (5)۔ معیار دراز افراد کیلئے 2% کوٹیشن کیا جائے گا نیز معتمد کی Certificate متعلقہ مجاز اداروں سے منظور شدہ صحیح کرنا ہوگا۔ (6)۔ امیدوار انٹرویو کے موقع پر اپنی اصل اسناد لے کر آئے تو وہ سبکی صورت میں انٹرویو میں شامل نہیں کیا جائے گا صرف شارٹ لسٹ امیدواروں کو ٹیسٹ دائرہ کیلئے بلایا جائے گا کالٹ مجاز اداروں کے دفتر میں آویزاں کیا جائے گی۔ (7)۔ ناکمل اور مقررہ تاریخ کے بعد موصول ہونے والی درخواستوں پر غور نہیں کیا جائے گا۔ (8)۔ انٹرویو کیلئے آنے والے کو کوئی TADA نہیں دیا جائے گا۔ (9)۔ تقرری صوبائی حکومت کے ہارڈ تو اور وضاحت کے تحت عمل میں لائی جائے گی۔ (10)۔ آسامیوں کی تعداد کی پیشی ہو سکتی ہے۔ (11)۔ خواہشمند امیدوار اشتہار شائع ہونے کے بعد 15 اپریل کے اندر دستخط و پتہ آفسر ایگرم کے پاس اپنی درخواستیں ساتھ ساتھ CV کے ساتھ قومی شناختی کارڈ، ایس ایس او کی تصدیق اور ایک ہندو تازہ تصویر جمع کروانی ہوگی۔ (12)۔ عمل اسناد جمع کرنے والے امیدوار کے خلاف قانونی کارروائی عمل میں لائی جائے گی۔ (13)۔ ہارڈ آفسر کوئی وجہ متائے انفرٹسٹ دائرہ کیلئے کنسل کر سکتا ہے۔



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

MINUTES OF THE PROCESS OF DEPARTMENTAL SELECTION COMMITTEE

(11)
-5-

A meeting was held in the office of District Health Officer Battagram on 14.07.2021 for appointment of various Paramedical Posts, vacant in DHO office Battagram. The following members attended the meeting.

- Dr. Wassem Ahmed DHO
- Dr. Ahmed Faisal Representative DGHS
- Mr. Muzafar Khan Representative DC Battagram

- Chairman
- Member
- Member

The post of CT Radiology, CT Surgical, CT Pulmonology and PICT MP (EPI/ Vaccinator) were advertised by District Health Officer in the Daily News Paper Aaj Peshawar (Advertisement attached), for the District Battagram. The applicants were directed to submit their documents to DHO office District Battagram. It was mentioned in the advertisement that the applicant applying for the post must have Diploma in the relevant field from the Medical Faculty or FSC Medical Technology from recognize board. Furthermore, the candidates having domicile of the concerned District will be given preference in case of non availability of suitable competent candidates in the District, the candidates could be selected from other District. As per following detail this office received applications of the following applicants.

A departmental selection committee was constituted on, vide this office order No.1305-07 dated 08.07.2021 and interview was scheduled on 12.07.2021. Various candidates attended the interview on mentioned date attendance list attached.

CT Surgical	CT Radiology	CT Pulmonology	PICT (EPI)	EPI Vaccinator
22	09 District Battagram 37 Out District	09	128	49

And after checking the original documents of the candidates a final merit list was prepared and signed by all the committee member. The following candidates as per final merit list are selected.

CT Radiology				
S. No	Name candidate	Father Name	Technology	Domicile
01	Amir Majid	Minhaj	CT Radiology	Battagram
02	Sajad Ahmed	Shamshad Khan	CT Radiology	Battagram
03	Aliq ur Rehman	Abdur Rehman	CT Radiology	Battagram
04	Noor Islam	Abdur Rahim	CT Radiology	Battagram
05	Abdul ulah	Basheer Ahmed	CT Radiology	Battagram

CT Surgical				
S. No	Name candidate	Father Name	Technology	Domicile
01	Mohammad Waqar	Mohammad Basir	CT Surgical	Battagram
02	Javed Khan	Mohammad Imran	CT Surgical	Battagram

CT Pulmonology						
S. No	Name candidate	Father Name	Technology	Domicile	Remarks	
01	Wassem Akram	Mohammad Nazir	CT Pulmonology	Battagram	Appointment subject to verification of Diploma	
02	Maveedullah	Said Mohd Khan	CT Pulmonology	Battagram		
03	Mohd Zubair	Gul Rehman	CT Pulmonology	Battagram		

~~Attachment C~~

-6-

EPI

S. No	Name candidate	Father Name	Technology	Domicile
01	Mohammad Islam	Faqir Khan	Health (EPI)	Battagram
02	Ubaiddullah	Muslim Khan	Health (EPI)	Battagram
03	Mohammad Usman	Mohammad Iqbal	Health (EPI)	Battagram
04	Inamullah	Siraj Khan	Health (EPI)	Battagram
05	Mohammad Amir Khan	Fazal Rahim	Health (EPI)	Battagram
06	Saeed Khan	Mohammad Nigab	Health (EPI)	Battagram
07	Fidaullah	Umar Baz Khan	Health (EPI)	Battagram
08	Mohammad Ibrar	Mabar Khan	Health (EPI)	Battagram
09	Mohammad Fawad Khan	Hazrat Rehman	Health (EPI)	Battagram
10	Syed Moeen Shah	Gul Wahid Shah	Health (EPI)	Battagram

EPI Vaccinator

S. No	Name candidate	Father Name	Technology	Domicile
01	Arshid Aziz	Aziz ur Rehman	EPI Vaccinator	Battagram
02	Syed Ijaz Ali Shah	Wahid Said	EPI Vaccinator	Battagram

The meeting ended with a vote of thanks from the chair.

District Health Officer
Battagram

No 1323-25 / Dated 18 / 07/2021

Copy forwarded to the:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar for information
2. All concerned for information
3. Office copy


District Health Officer
Battagram

Sc

7-

"B"

HAFEEZ INSTITUTE OF MEDICAL SCIENCES PVT. LTD.
Affiliated with Board of Intermediate & Secondary Education Peshawar



THIS IS TO ACKNOWLEDGE THAT

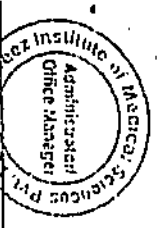
MR. NOOR UL ISLAM S/O ABDUR RAHMAN

Has successfully completed his
Course of study in

F.Sc RADIOLOGY TECHNOLOGY

Conducted at: HAFEEZ INSTITUTE OF MEDICAL SCIENCES, PESHAWAR

Duration: Two Years
Session: 2018-19



ADMINISTRATOR/OFFICE MANAGER

PHONOGRAM MESSAGE

Date of Issue: 07-10-2020

-8-

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION
ABOTTABAD

AB 1172021152

Secondary School Certificate Examination
PROVISIONAL & DETAILED MARKS CERTIFICATE

Roll No. 172021
Group SCIENCE

(CLASS X)

Session: 2015 (Annual)



Name: HOOR UL ISLAM
Father's Name: ABDUL RAHEEM
Date of Birth: 20-01-2000
Reg. No: 1321402021
Institution / District: AL-SYED GARDEN PUBLIC SCHOOL BATTAGRAM

has secured the marks shown against each subject in the Secondary School Certificate Examination (Class 10th) held in the month of March/April as a Regular Candidate.

Subjects	Total	Part-I		Part-II		Total	Marks in Words
		Marks Obtained		Marks Obtained			
		Th	Pract	Th	Pract		
English	150	54	--	46	--	100	One Hundred Only
Urdu	150	62	--	61	--	123	One Hundred Twenty-Three
Mathematics	150	27	--	22*	--	49	Forty-Nine
Physics	150	33	8	56	8	105	One Hundred Five
Chemistry	150	47	8	61	8	124	One Hundred Twenty-Four
Biology	150	36	8	56	8	108	One Hundred Eight
Islamiat Comp	100	36	--	41	--	77	Seventy-Seven
Pakistan Studies	100	39	--	37	--	76	Seventy-Six
Total: 1100						762-A	Seven Hundred Sixty-Two Only

Remarks :

Dated: 18 August, 2015

* Passed with Grace Marks

BOARD OF INTERMEDIATE & SECONDARY EDUCATION
PESHAWAR
KHYBER PAKHTUNKHWA, PAKISTAN

-9-

Roll No: 315461

S.No. PB: 315461

PROVISIONAL & DETAILED MARKS CERTIFICATE
Higher Secondary School Certificate Examination
INTERMEDIATE (ANNUAL) EXAMINATION, 2020
MEDICAL (TECHNOLOGY) (Part-II)



10272

Name: U. Islam Son / Daughter of: Abdur Raheem

at: Hafiz Institute Of Medical Science Peshawar

has secured the marks shown against each subject in the Higher Secondary School Certificate Examination
Annual 2020 as Regular Student

Subjects	Marks	Marks Obtained				Total	Marks in Words
		Part-I		Part-II			
		Theory	Pract	Theory	Pract		
English	200	44	--	As Per Part I	88	Eighty-Eight	
Urdu	200	47	--	As Per Part I	94	Ninety-Four	
Islamic Education	50	24	--	As Per Part I	24	Twenty-Four	
Pakistan Studies	50	--	--	As Per Part I	24	Twenty-Four	
Radiography Techniques - II	250	48	45	As Per Part I	170	One Hundred Seventy Only	
Applied Sciences	150	43	22	As Per Part I	130	One Hundred Thirty Only	
Basic Medical Sciences	200	44	20	As Per Part I	128	One Hundred Twenty-Eight	
Total : 1100					658-8	Six Hundred Sixty-Eight Only	

Reg: No 0054-B/HIMSP-2018

Remarks :

Applied Sciences
Part-I: Physics and Chemistry Part-II: Computer Science & Patient Safety
Basic Medical Sciences
Part-I: Anatomy & Physiology Part-II: Public Health & First Aid

Remarks: 3% marks have been added to the total on the basis of Part-I marks.

Checked By : _____
Result Date: 28-07-2020
Date of issue: 28-07-2020

Controller of Examinations

Note: The Marks awarded for Part II is the best prediction of the performance and has been awarded based on the formulae and guidelines approved by the government and recognized by IBCC due to Covid 19



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: (0992)333207

OFFICE ORDER

No. 154-22 / date 27/07/2021

Consequent upon the recommendation of the Departmental Selection Committee, Mr. Nasir Islam S/O Abdul Rahim is hereby appointed as ICT (Radiology) BPS-12 against the vacant post plus usual allowances as admissible under the rules and subject to revision from time to time on the following terms and conditions according to the Government policies.

1. This order is subject to the verification of the original documents from the issuing authority/ institution. Two years Diploma either from Khyber Pakhtunkhwa or any other eligible/ Registerable Institute/ College or University if the Diploma is from outside KP. It must be registered with Medical Faculty of Khyber Pakhtunkhwa Peshawar.
2. If the academic/ Technician/ experience certificates is not from the government institutions or International organization that will be not consider as experience.
3. If the academic/ technician/ experience certificates of any candidate found fake/ bogus of any stage his/ her services will be he considered terminated automatically.
4. He/ She shall initially be on probation for a period of Two years under the rules extendable further for a period of one year.
5. He/ She can be terminated without any notice during the probation if his/her work if his/her conduct found unsatisfactory.
6. He/ She shall be governed by the Government of Khyber Pakhtunkhwa civil servants act 1977 and the laws applicable to the civil servants under the rule made there under. FRS rules 2011.
7. He/ She shall be entitled to annual increments as per existing policy.
8. He/ She join his duties at his own expenses.
9. In case you wish to resign at any time, one month notice will be essential or it be shall be forfeited.
10. You will be awarded by such rules/ entitlement and orders related to TA, leave and MRC etc as may be issued by the Govt. from time to time for the category of Government servant to which you belong.
11. Your appointment will be subject to provision of Medical Fitness certificate.
12. The appointee shall be bound to perform any duty assigned by the undersigned as per Govt. rules.
13. Your Duty in National obligation and International commitment may be required time to time.

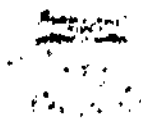
If he/ She accept the above mentioned Terms & Conditions he/she should report to the undersigned within 14 Days of receipt of this offer and submit original documents along with one set of the photocopies for verification from concerned Boards/ University/Medical Faculty KKP/ Nursing Council, if applicable in case he/ she fails to report for duty within stipulated period of time this appointment order will automatically stand cancelled and the next candidate in merit list (waiting) will be considered for appointment.

District Health Officer
Battagram

Copy forwarded to the:-

1. Director General Health Services Khyber Pakhtunkhwa for information
2. District Accounts officer Battagram for information
3. Incharge Type-D. Banna Allai for information
4. Account Section office of the undersigned for information
5. Official for information and compliance
6. Incharge Establishment section office of the undersigned for information and compliance
7. Office copy

District Health Officer
Battagram



FORM NO. 1
10/1/1972

MEDICAL CERTIFICATE

Name of Soldier
Grade of Soldier
Branch of Service
Regiment of Station
Full Name of the Medical Officer
Rank of Officer
Regiment of Station of Officer
Specialty of Officer

[Handwritten Signature]

Signature - Seal of the Officer

I, **Dr. Nagesh Chandra**, District Health Officer, Battagram, do hereby certify that the above named soldier is suffering from **.....** and is unfit for duty for a period of **.....** days.

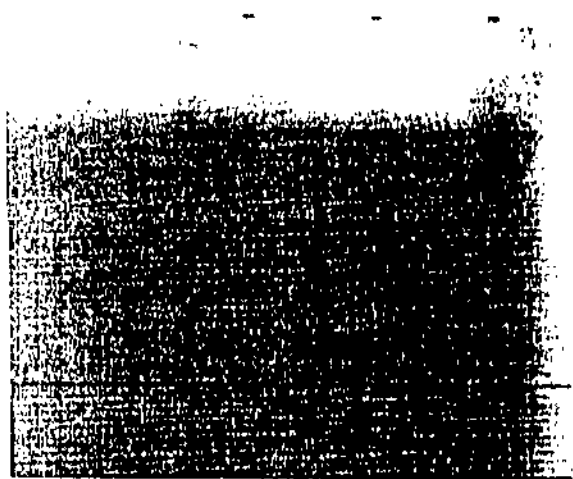
I do not consider this an impediment to the employment of the soldier in any other capacity.

Dr. Nagesh Chandra, District Health Officer, Battagram.

NIC 13202-5120354-3
Eye Vision: 6/6 one Eye without glasses.

Blood Group: AB +ve

LEFT HAND THUMB AND FINGER IMPRESSION.....



[Handwritten Signature]
Medical Superintendent
DHQ Hospital Battagram



DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to the Director General Health Services, Peshawar at any of the following addresses:
D.G. Health Services, P.O. Box 10707, Peshawar; P.O. Box 10707, Peshawar; P.O. Box 10707, Peshawar; P.O. Box 10707, Peshawar

No. 602-8 /DGH.S

Date: 27 /08/2021

OFFICE ORDER

Reportedly there are irregularities in the recruitment process of various cadre of Para Medics by District Health Officer Battagram, therefore all recent recruitment done by District Health Officer Battagram of various cadre of Medical Technicians are hereby stand cancelled with immediate effect and an inquiry committee consisting of following officers is hereby constituted to conduct the inquiry and submit report within 07 days.

1. Dr. Faizal Khanzada (ADG Hazara Division) DGH.S Office.
2. Mr. Hidayat (Deputy Director Coordination) DGH.S Office.

The recruitment process will be reinstated after proper inquiry as per government rules & policy.


DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

Cc:

1. Dr. Faizal Khanzada (ADG Hazara Division) DGH.S Office (Inquiry Officer).
2. Mr. Hidayat (Deputy Director Coordination) DGH.S Office (Inquiry Officer).
3. District Health Officer Battagram for immediate compliance.
4. PS to Minister Health Khyber Pakhtunkhwa.
5. PS to Secretary Health Khyber Pakhtunkhwa.
6. District Account Officer Battagram.

"E"-13



OFFICE OF THE DISTRICT HEALTH OFFICER,
Ballagram (Khyber Pakhtunkhwa)
Phone & Fax: # (0997) 310507

No. 1803-08 /DHQ/MTOM

Dated: 27/8/2021

OFFICE ORDER

In compliance with the DHHS Peshawar Letter No. 0020/DQHS dated: 23/07/2021; all appointments letters issued from the office of the undersigned are hereby stand cancelled. Moreover, all facility in-charges are directed not to accept the arrival of any candidate in this regard.

District Health Officer
Ballagram

Copy forwarded to

1. Director General Health Services (DGHS) Peshawar.
2. Dr Faisal Khanzada (ADG) Hazara Division.
3. Deputy Commissioner Ballagram.
4. District Account Officer Ballagram.
5. All facilities in-charge Ballagram for information and compliance
6. Office copy

District Health Officer
Ballagram

ATTESTED

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



In ref to W.P NO: 955 /2021

1. Muhammad Waqar S/O Muhammad Bashir R/O PO Tamaee, Tehsil & District Battagram.
2. Amir Majid S/O Minhaj R/O kas pul, kajbori Tehsil & district Battagram.
3. Ateeq ur Rehman S/O Abdur Rehman R/O Shams Abad, khas, District Battagram.
4. Abidullah S/o Bashir Ahmed R/O Tamaee, Tehsil & District Battagram.
5. Noor Ul Islam S/O Abdur Rahim R/O Kharari, Sardar Abad colony, District Battagram.
6. Sajjad Ahmed S/O Shamsad Khan R/O Chapper Gram, Tehsil and District Battagram.
7. Naveedullah S/O Sayed Muhammad Khan R/O Chapper Gram, Tehsil and District Battagram.
8. Muhammad Zubair S/O Gul Rehman R/O khas, District Battagram.
9. Javed Khan S/O Muhammad Imran R/O Ahmad Abad, Tamae, Tehsil & District Battagram.
10. Muhammad Ibrar S/O Mabar Khan R/O Almeera, District Battagram.

Certified to be True Copy
EXAMINED
10 SEP 2021
Peshawar High Court
Authorized Under Sec 75 Evid Ord 1974

No 4900
3.9.21

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

VERSUS

PETITIONERS
FILED TODAY
DEPUTY REGISTRAR
31 AUG 2021

- 1) Government of Khyber Pukhtunkhwa through Chief secretary civil secretariat Peshawar
- 2) Director General Health Services, government of Khyber Pukhtunkhwa Peshawar

FILED TODAY
ADDITIONAL REGISTRAR

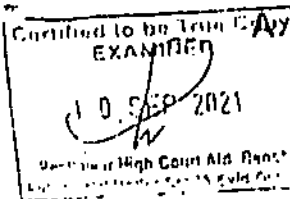
- 3) Secretary Health, Govt. Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar.
4) District Health Officer Batagram.

.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973.

Prayer:

On acceptance of instant writ petition:



writ of certiorari may please be issued to
declare Order dated 23/8/2021 passed by
the respondent No: 2 followed by order
dated 28/8/2021 by respondent NO: 4 as
illegal, unlawful, against the factual
position, contra legume against the
recognized fundamental rights of the
petitioners, passed under political
influence of the ruling party and their
representatives, based on motives other
than legal.

B. The respondents may please be directed to
withdraw the impugned
notifications/orders and allow the
petitioners to perform their duties as per
their initial appointment orders.

FILED TODAY

FILED TODAY
Deputy Registrar
10 SEP 2021

Respectfully sheweth,

1. That the petitioners are law abiding and peaceful citizen of Pakistan and permanent/bona fide residents of *different villages of* District Batagram.
2. That respondent No: 4 advertised different posts of para medical staff including JCT (RADIOLOGY), JCTC(SURGICAL), JCT(PULMONOLOGY) PHCT(EPI) AND EPI VACCINATOR in Daily News Paper by inviting applications from eligible candidates having domicile of District Batagram, Khyber Pukhtunkhwa, having specified age limit and qualification.(copy of Advertisement is attached as annexure "A")
3. That in sequel to above all, the petitioner being eligible, suitable and qualified candidates applied for the posts along with so many other candidates, after short listing the petitioners were called for interview by respondent No:4 to appear before the selection committee and after fulfilling all the legal and code formalities, appointment orders of the petitioners were issued.(copies attached as annexure "B").
4. That consequently , petitioners submitted their arrival, they were posted to their respective places of duties as per advertisement and requirements , the petitioners assumed their respective charges of post, served their for about 20/21 days. But all of sudden respondent No: 2 issued impugned notification dated 23/8/2021 regarding cancellation of appointment of the petitioners under political pressure of ruling party and their local representative for accommodating their blue eyed people.(impugned notifications ANNEXURE "c")

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 ABBOTTABAD BENCH
 27/9/21

FILED TODAY
 Deputy Registrar
 3.1 AUG 2021

(4)

5. That the petitioner being aggrieved from dated 23/08/2021 by respondent No:2, followed by order dated 28/08/2021 by respondent No:4, has got no other appropriate/adequate remedy except to file the instant writ petition on the following grounds among the others.

-17-

GROUNDS

A. That the rights of the petitioners have been flagrantly violated by the respondents by issuing impugned orders absolutely against the law governing the matter.

B. That the petitioners have not been treated in accordance with law, rather the act of respondents is in conflict with the law governing the subject specifically with regard to rights guaranteed by the constitution of Islamic Republic of Pakistan 1973.

C. That rights of the petitioners have been flagrantly violated by the respondents, being public functionaries exercising statutory powers, have not discharged their duties in accordance with and acted in a manner absolutely contrary to law.

D. That due to the illegal and unwarranted act of respondent No: 2 & 4 rights of the Petitioners have been glaringly violated, appointments of the petitioners have been cancelled in complete negation of rules and law, which is manifestly not only an illegality or irregularity but discriminatory and glaring disobedience of law and constitution.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
27/9/21

FILED TODAY
Deputy Registrar
31 AUG 2021

-18-

E. That the doctrine of *iusa Potestatis* is fully applicable to the case of petitioners in the light of principles laid down by august Supreme court of Pakistan.

F. That the act of respondents is the most blatant affront to the concept of rule of law, equal protection of law and protection from discrimination as provided under the article 25 of the constitution, as it is has not been neither mandated such omnibus and omnipotent powers to the respondent No:2 & 4, Nor ever bestowed with absolute discretion at the cost of rights of individuals/petitioners.

G. That the act of respondents is classical example bending for accomplishment of desires and whims of political allied, which in toto against the law on the subject and the rights guaranteed by the constitution.

H. That the appointments of the petitioners were cancelled without any notice or opportunity of personal hearing by keeping the aside the rules and the law. The illegal and unwarranted impugned orders of the respondent NO:2 and 4 have taken away the rights of the petitioners without complying with law governing the subject.

I. That the impugned orders are in glaring violation of judgment of Hon'le Supreme Court in case titled "Chiefe Secretary Govt of Punjab vs Malik Asif Hayat" reported as "2011 SCMR-1220".

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Deputy Registrar
31 AUG 2021

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

23/9/21

It is therefore, humbly prayed that on acceptance of instant writ petition:

6

A. writ of certiorari may please be issued to declare Order dated 23/8/2021 passed by the respondent No: 2 followed by order dated 28/8/2021 by respondent NO: 4 as illegal, unlawful, against the factual position, contra legume against the recognized fundamental rights of the petitioners, passed under political influence of the ruling party and their representatives, based on motives other than legal.

B. The respondents may please be directed to withdraw the Impugned notifications/orders and allow the petitioners to perform their duties as per their initial appointment orders.

Any other /further, better relief which has not been specifically prayed for but this Honourable Court deems just and equitable in the circumstances of the case may also be granted to petitioner.

Interim Relief:

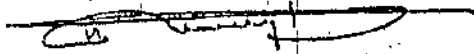
It is further prayed that by way of seeking interim relief, Impugned order dated 23/8/2021 and 28/8/2021 passed by Respondents may very kindly be suspended and the respondents may please be restrained from proceeding further with the matter pertaining to the subject appointments till decision of instant writ petition

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

FILED TODAY
Deputy Registrar
31 AUG 2021

Petitioner

Through


Amjad Hassan Tanoli
ADVOCATE HIGH COURT

1194

PESHAWAR HIGH COURT, ABBOTTABAD BENCH
FORM 'A'
FORM OF ORDER SHEET

20-

ORDER OR PROCEEDINGS WITH SIGNATURE(S) OF JUDGE(S)

13/09/2022

WP No. 955-A/2021

Present:- Mr. Anjum Hussain Tanoli, Advocates for petitioner
Sardar Ali Raza, AAG for respondents with Javed
Salim Pechal Person DGHS Khyber Pakhtunkhwa
and Musir Pasha Ial Officer DHO Office Antagram



JAZ ANWAR, J. Since the matter squarely falls within the jurisdiction of service tribunal, as such, jurisdiction of this court is bar under Article 212 of The Constitution of Islamic Republic of Pakistan.

2. In view thereof copy of the memorandum of this writ petition be transmitted to the respondents/department and be treated as department appeal for decision in accordance with law. On the completion of 90 days the petitioner would be at liberty to approach service tribunal subject to all just and legal exceptions.

Exhibited to the Court Copy
17 SEP 2022
Peshawar High Court
Abbottabad Bench

JUDGE
JUDGE

Handwritten notes at the bottom left of the page.



11H"
OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

No 18/C-12 / Date 30/09/2021

To,

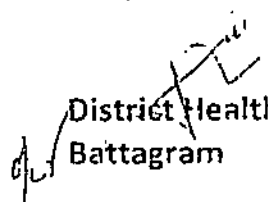
The Secretary Health
Government of Khyber Pakhtunkhwa
Peshawar

-21-

Subject:- REBUTTAL OF INQUIRY REPORT BY DISTRICT HEALTH OFFICER
BATTAGRAM

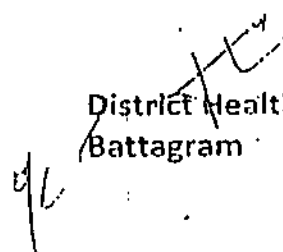
Dear Sir,

Reference to inquiry report received through letter number 13639-39/EI Dated 06-09-2021, my response is attached with annexure.


District Health Officer
Battagram

Copy forwarded to the:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar for information
2. Office copy


District Health Officer
Battagram



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

-22-

BACKGROUND:-

I DHO Battagram Dr. Waseem Ahmed have read the findings, conclusions and recommendations of the inquiry report vide letter No 13638-39/El Dated 6-9-2021, which I have seen for the first time on 29-9-2021. I completely disagree with the inquiry report and reject it on the following grounds.

1. Decision of cancellation was made by DGHS before the conduction of inquiry.
2. Junior staff was selected to conduct an inquiry with preplanned motives and to justify the illegal stance of the Directorate.
3. The only mission before the inquiry committee was to validate the stance/cancellation orders of DGHS passed vide letter No 6028/ DGHS dated 23.08.2021
4. The interview process was concluded on 12-7-2021. The appointment orders were issued on 15-7-2021 for three cadre's i.e Radiology, Pulmonology and Surgical Technicians. The appointment orders for EPI Technicians were withheld as two of the candidates, from EPI cadre had approached the court. After their appeals were dismissed the result of the EPI Technicians post was announced on 17-8-2021. The DGHS issued cancellation orders on 23-8-2021 vide letter No 6028/ DGHS while the undersigned complied with the above mention order and issued cancellation on 27-8-2021 vide letter No 1803-08/DHO/BTM. This action on part of DGHS has forced the selected candidates to approach the Honourable Peshawar High Court, resulting in an unwanted law suit which the department will have to face in the court of law.

Observations on the Findings of the inquiry:

PHCT SURGICAL:-

1. The observations on the inquiry committee regarding voluntarily work as work experience are totally rejected as the ESTA code does not reject voluntarily work as work experience. In addition to that it is worth mentioning that the department did not intimate any guidelines regarding work experience in addition to ESTA Code. Even the representative of DGHS, who was a member of selection committee, did not object to the merit of experience certificates. This issue is further highlighted in the following paragraphs.
2. The stance of inquiry committee that the candidate on serial No 1 for surgical cadre had experience certificate before completion of diploma, is contrary to facts and is hence rejected.
3. Point related to candidates at Serial No 06 of Surgical Technicians and candidate at Serial No 24 of EPI Technicians are clerical mistakes, however after rectification, there is no impact as overall list of selected candidates of Both JCT Surgical and EPI Technicians
4. Candidate at serial No 24 needs to be placed at serial No 18 according to marks. This finding is irrelevant as the cut off for the merit list was at serial No 2, both serial number 18 and 24 were not selected. This was again a clerical mistake which did not affect the final outcome of merit list.
5. The issuance of experience certificates to candidates working voluntarily at DHQ Hospital Battagram relates to MS DHQ.

JCT RADIOLOGY:

1. The objection of the inquiry committee regarding over hiring of JCT (Radiology) is incorrect as the office of the District Health Officer Dattaigram clearly mentioned in the Newspaper that Numbers of vacancies could be increased or decreased as per current status of vacant posts.
2. The objection by the inquiry committee that a candidate at serial No2 having 4 marks for experience meaning there by having one year experience has obtained only 2 marks in the interview. This objection is absolutely absurd the candidate was given marks in the interview purely on his performance and the experience marks have nothing to do with how many marks a candidate obtains in the interview.
3. The objection on part of the inquiry committee that the candidate serial No 3 was awarded 7 marks for experience certificate before receiving of diploma is wrong. The candidate obtained his diploma from medical faculty Peshawar on 10-7-2019. The experience certificate bears the dates from 19-5-2019 to 14-6-2021. i.e 23 months hence deserving 7 marks.
4. The ESTA code does not specify and passing marks out of the total 8 marks for the interview.
5. Objection is not valid as copies of Diploma provided to inquiry committee.

JCT PULMONOLOGY:-

1. Agreed 09 candidates were short listed out of which 02 were selected.
2. Appointment letter of the candidates was subject to verification of Diploma from Khyber Pakhtunkhwa Medical Faculty and Allied Science.
3. This point has been addressed in the preceding paragraphs.

JPHC/EPI:-

1. Correct 128 applicants were short listed for interview and 10 candidates were selected among them.
2. Experience of candidate selected was sent to concerned institution for verification and then verification is attached (Copy attached annexure A).
3. Correct experience marks were given as per experience certificates, for the number of years of internship, 1 year 4 marks, 2 years 7 marks and 3 years and above 10 marks as per ESTA Code. The experience certificates were later sent for verification to the issuing authority, (copy of verifications attached as annexure B).
4. The ESTA code does not specify any passing marks out of the total 8 marks for the interview.

VACCINATOR:-

1. Correct 49 candidates were short listed for 1 sanctioned post out of which 2 were selected.
2. Incorrect the under signed interpreted 2% disabled quota to be calculated from the total number of paramedics post of the whole district i.e 2% of 250 which equals to 4.5, this in accordance with the cabinet secretariat notification of 1st march 2019. While the inquiry committee assumed the 2% quota to be calculated from the total number of advertise posts. This is a mere disagreement on the interpretation of the federal government notification and does not depict any mala faide on part of the under signed.
3. Incorrect the disability of the selected candidates does not prevent them from performing duty as part of the EPI team. They can very well work as in DPCR, as cold chain operators and as EPI clerical staff as they were very well versed in the operation of computers. (ESTA Code?).

- 24-
4. Incorrect interpretation on part of the inquiry committee. 4 marks for 1 years experience were granted copy of experience attached. The rules do not bar the field workers of EPI to work in the above mentioned capacities. Currently 5 EPI technicians are involved in office work like DPCR, EPI office and EPI MIS.

STATEMENT OF DHO:-

1. Photocopy was provided to Inquiry committee for their record and original was retained for record purpose as DHO office already issued one set of Newspaper to Director General Health Services Office and other to District Account Office along with invoice for dues clearance.
2. Photo copy of Minutes of the meeting were provided to Inquiry Committee and original are available in office record (Annexure C)

SUMMARY OF FINDINGS:-

1. It is irrelevant whether the advertisement was on a plain paper photocopy. If there was any difference between the plain paper photocopy and the actual news paper advertisement of Daily Aaj dated 1-6-2021 only then should the undersigned be held accountable. Moreover the advertisement was floated through the concerned department.

POLITICAL INTERFEARANCE:-

The MPA from Allai Zubair Khan has tried to influence the selection process and nominated his own candidates for selection (Copy attached). The undersigned made it clear to him that the selections would be purely.

The MPA then tried to threaten the under signed on a telephone call of dire consequences if his blue eyed candidates were not selected (record of telephonic conversation available). Local MPA (Allai) took all the record in original by force and situating report were sent to Secretary Health (copy attached as Annexure D)

It is really sad that the inquiry committee failed to consider this political interference and threat to their colleague.

The undersigned is justified in launching a protest against the finding of the inquiry committee.

RECOMMENDATIONS:-

The undersigned rejects the recommendations of the inquiry committee and does not agree with the hasty manner in which the inquiry was conducted and considers requirement process was done as per roles and regulations.

Regards
Dr. Waseem Ahmed
District Health Officer
Battagram

Incident Report.

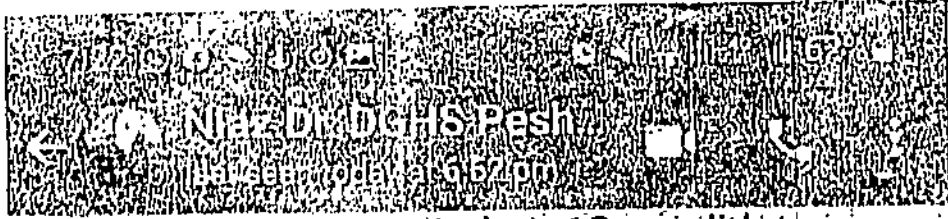
Sir I want to share with an incident occurred in DHO office Battagram tonight around 10:30pm tonight. The MPA Mr. Zubair came along with his gun men and took all record in original of recruitment process being conducted recently.

Sir it is pertinent to mention that from both sides, I mean both MPAs namely Taj Khan Trand and Zubair Khan Allai tried their level best to recruit their own candidates of choice, but I stuck to the merit policy.

As per government RTI act, I was bound to give them photocopies of all record within in seven days, but requested MPA that it's too late and I will give you photocopies of all documents tomorrow morning. He did not agree and put extreme pressure like he will drag me to the assembly, will call my explanation through secy Health and DGHS and will transfer me within no time. Few days back Zubair MPA also threatened me with same tone which is recorded in my cell phone as evidence along with WhatsApp msgs to recruit their 12 candidates out of 18.

Sir, as he took all record in original, it is feared that it might be tampered and that is why it is necessary to inform you in advance for your worthy information please.

Regards
Dr Wasim
DHO Battagram



msgs to recruit their 12 candidates out of 18.

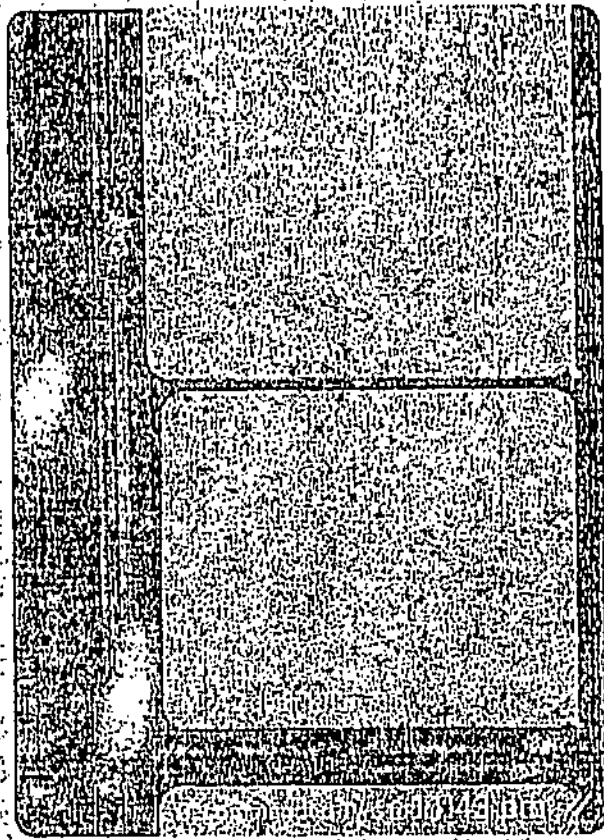
-27-

Sir, as he took all record in original, it is feared that it might be tampered and that is why it is necessary to inform you in advance for your worthy information please.

Regards
Dr Waseem
DHO Baltagram

11:43 pm ✓

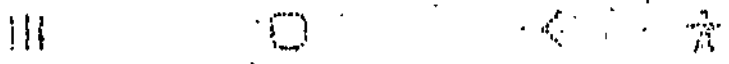
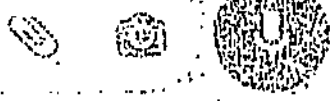
Forwarded



26 August 2021

Dear sir, Assalam u Alaikum,

Message





20 August 2021

-28-

Incident Report.

Sir I want to share with an incident occurred in DHO office batagram tonight aground 10:30pm tonight . The MPA Mr.zubair came along with his gun men and took all record in original of recruitment process being conducted recently.

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Handwritten signature or initials.

Message



VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 2022

29

Noor Islam

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt

(RESPONDENT)
(DEFENDANT)

I/We (Appellant)

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

Client
CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)

UMAR FAROOQ MOHMAND

WALEED ADNAN

&

MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291*-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)