


# FORM OF ORDER SHEET

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

Case No. - 87/2023

S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	6/1/2023	<p>The appeal of Mr. Muhammad Ibrar presented today by Mr. Amjad Hussain Tanoli Advocate. It is fixed for preliminary hearing before Touring Single Bench at A.Abad on _____ Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

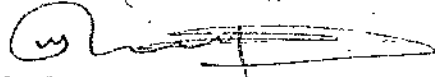
In rsef to Service Appeal No. 87 /2023

**Muhammad Ibrar  
V E R S U S  
Govt of KPK & others**

**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Service Appeal		1-6
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3.	Addresses of Parties		8
4.	Copy of Advertisement	A	9
5.	Copy of Appointment Order	B	10
6.	Copy of Cancellation Order	C	11-12
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8.	Copy of Messages	E	16-19
9.	Copy of comments of WP No. 956-A/2021	F	20-24
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12.	Other Documents		35-41
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Appellant  
Through

  
**Amjad Hassan Tanoli  
Advocate, High Court  
Peshawar**

**TANOLI LAW ASSOCIATES  
Advocates & Legal Consultants  
Flat No. 2, 5<sup>th</sup> Floor, Cantt Mall,  
Peshawar Cantt.**

①

**BEFORE THE SERVICES TRIBUNAL, PESHAWAR.**

In ref Service Appeal NO: 87 /2023

Muhammad Ibrar S/O Mabar Khan R/O Ahmad Abad, Tamae, Tehsil  
& District Batagram.

.....APPELLANT.

VERSUS

- 1) Government of Khyber Pukhtunkhwa Through Chief secretary civil secretariat Peshawar
- 2) Director General Health Services, government of Khyber Pukhtunkhwa Peshawar
- 3) Secretary Health, Govt Khyber Pukhtunkhwa, Civil Secretariat, Peshawar.
- 4) District Health Officer Batagram.

.....RESPONDENTS

**Appeal U/S 4 of Service Tribunal Act 1973 against order dated 23/08/2021 passed by respondent No:2, followed by order dated 28/8/2021 passed by Respondent No: 04.**

**Prayer:****On acceptance of instant Appeal:**

**A. Order dated 23/8/2021 passed by the respondent No: 4 and order dated 28/8/2021 by respondent NO: 2 be declared as illegal, unlawful, against the factual position, contra legume against the recognized rights of the appellant, 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 notification/order and allow the appellant to perform his duties as per their initial appointment orders and payment of arrears/ back benefits.**

***Respectfully sheweth,***

1. That the appellant is law abiding and peaceful citizen of Pakistan and permanent/bona fide residents of resident of District, 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.(coy of Advertisement is attached as annexure "A")

3. That in sequel to above all, the appellant being eligible, suitable and qualified candidate applied for the posts along with so many other candidates, after short listing the appellant was called for interview by respondent No:4 to appear before the selection committee and after fulfilling all the legal and code of formalities, the petitioner was placed in the merit list by the respondents, consequently, appointment orders of the appellant was issued.(copy attached as annexure "B").
4. That consequently, appellant submitted his arrival, he was posted to his respective place of duty as per advertisement and requirements, the appellant assumed his charge of post, served their for few days. But all of sudden respondent No: 4 issued impugned notification dated 23/8/2021 regarding cancellation of appointment of the appellant under political pressure of ruling party and their local representative for accommodating their blue eyed people. (impugned notifications are attached as ANNEXURE "c")
5. That the appellant being aggrieved from dated 28/08/2021 by respondent No: 4 and letter dated 23/8/2021 by respondent NO: 2, filed a writ petition before the August Peshawar High Court, Peshawar, the same was treated as an appeal and remanded the same to the authority concerned, But despite laps of more than 90 days the same has not been decided as per mandate of law. (copy of the order is attached as annexure D)
6. Consequently, the appellant has got no other appropriate/adequate remedy except to file the instant on the following grounds among the others.

## GROUNDS

- A. That the rights of the appellant have been flagrantly violated by the respondents by issuing impugned orders absolutely against the law governing the matter.
- B. That the appellant has not been treated in accordance with law , rather the act of respondents is **in conflict with the law governing the subject** .
- C. That rights of the appellant 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 appellant have been glaringly violated, appointment of the appellant 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.
- E. That the doctrine of **locus Poenitentiae** is fully applicable to the case of appellant 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** , 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/appellant.

- 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 of the appellant.**
- H. That the appointments of the appellant was 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 appellant without complying with law governing the subject.
- I. That the impugned orders are in glaring violation of judgments of Hon'le Supreme Court in case titled "**Chiefe Secretary Govt of Punjab vs Malik Asif Hayat**" reported as "**2011 SCMR-1220**".

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

- A. Order dated 23/8/2021 passed by the respondent No: 4 and order dated 28/8/2021 by respondent NO: 2 be declared as illegal, unlawful, against the factual position , contra legume against the recognized rights of the appellant, 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 notification/order and allow the appellant to perform his duties as per their initial appointment orders and payment of arrears/ back benefits.

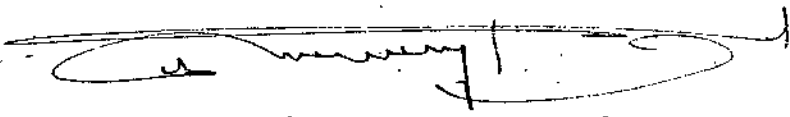
*Any other /further, better relief which has not been specifically prayed for but this Honourable Court deems just and equitable in the circumstances of the case may also be granted to petitioner.*

**Interim Relief:**

*It is further prayed that by way of seeking interim relief, Impugned order dated 23/8/2021 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 appeal.*

  
Appellant

Through



**Amjad Hassan Tanoli**

**ADVOCATE HIGH COURT**

**Certificate**

Certified as per instructions/information received from the client that no other appeal of similar nature has been filed by the petitioners.

  
Appellant



(7)

**BEFORE THE SERVICES TRIBUNAL, PESHAWAR.**

In ref to service appeal No \_\_\_\_\_/2023

**Muhammad Ibrar**

**VS**

**Govt of KPK & others**

**AFFIDAVIT**

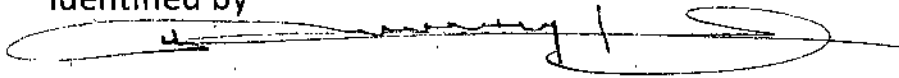
I, Muhammad Ibrar S/O Mabar Khan R/O District Batagram, do hereby solemnly affirm and declare on oath that the contents of this accompanying Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.



Deponent

CNIC No 13202 - 9806158 -

Identified by



**AMAJAD HASSAN TANOLI ADVOCATE**

(8)

**BEFORE THE SERVICES TRIBUNAL, PESHAWAR.**

In ref to service appeal No: \_\_\_\_\_/2023.

**Addresses of parties**

Muhammad Ibrar S/O Mabar Khan R/O Ahmad Abad, Tamae, Tehsil  
& District Batagram.

.....APPELLANT.

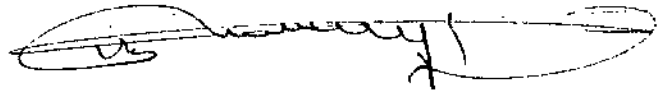
VERSUS

- 1) Government of Khyber Pukhtunkhwa Through Chief secretary  
civil secretariat Peshawar
- 2) Director General Health Services, government of Khyber  
Pukhtunkhwa Peshawar
- 3) Secretary Health, Govt Khyber Pukhtunkhwa, Civil Secretariat,  
Peshawar.
- 4) District Health Officer Batagram.

.....RESPONDENTS

Petitioner

Through



**Amjad Hassan Tanoli**

**ADVOCATE HIGH COURT**

# اشتہار برائے بھرتی

بیر ایڈیکل سٹاف ضلع بگرام کے مختلف مراکز صحت میں مندرجہ ذیل بیر ایڈیکل سٹاف کی آسامیاں خالی ہیں جن پر تقرری کیلئے ضلع بگرام سے تعلق رکھنے والے اہل امیدواروں سے درخواستیں مطلوب ہیں۔ ضلع بگرام میں اہل امیدوار دستیاب نہ ہونے کی صورت میں ملحقہ اضلاع سے بھی اہل امیدواروں کی تقرری ہو سکتی ہے۔

نمبر شمار	نام آسامی	BPS	مراکز صحت
1	JCT (Radiology)	12	ٹائپ ڈی ہسپتال، RHC
2	JCTC (Surgical)	12	ٹائپ ڈی ہسپتال
3	JCT (Pulmonology)	12	
4	PHET (EPI)	12	بی ایچ یو کورنڈول، کٹی، ہلیڈ، پامال شریف، پوسنگ، ہمسلائی، کتھوڑہ اور RHC قحا کوٹ
5	EPI Vaccinator	06	

## شرائط و ضوابط

- (1) سٹریک سائنس (کم از کم سینڈ ڈیگری) بمعدہ دو سالہ متعلقہ شعبہ کا ڈپلومہ خیر بخیر یا کسی بھی دیگر صوبے کی میڈیکل کالج 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 مرہبہ عمر سے زیادہ ہو تو وہ Age Relaxation سرٹیفکیٹ پیش کرنے کا پابند ہوگا۔ (4)۔ تجربہ کار سرٹیفکیٹ مطلوبہ قابلیت کے بعد تصور کیا جائے گا نیز تجربہ کار کا Certificate مستند ادارے سے حاصل کردہ ہونا ضروری ہے غیر مستند ادارے کا Certificate قابل قبول نہیں ہوگا۔ (5)۔ معذور افراد کیلئے 2% کوٹ مختص کیا جائے گا نیز معذوری کا Certificate متعلقہ مجاز اتھارٹی سے منظور شدہ جمع کرنا ہوگا۔ (6)۔ امیدوار اعز و یو کے موقع پر اپنی اصلی اسناد لے کر آئے نہ ہونگی صورت میں اعز و یو میں شامل نہیں کیا جائے گا صرف شارٹ لسٹ امیدواروں کو نمینٹ و اعز و یو کیلئے بلایا جائے گا اسٹ مجاز اتھارٹی کے دفتر میں آویزاں کی جائے گی۔ (7)۔ ٹیکم اور مقررہ تاریخ کے بعد موصول ہونے والی درخواستوں پر غور نہیں کیا جائے گا۔ (8)۔ اعز و یو کیلئے آنے والے کو کوئی TA/DA نہیں دیا جائے گا۔ (9)۔ تقرری صوبائی حکومت کے مجوزہ قواعد و ضوابط کے تحت عمل میں لائی جائیگی۔ (10)۔ آسامیوں کی تعداد کی پیشی ہو سکتی ہے۔ (11)۔ خواہشمند امیدوار اشتہار شائع ہونے کے بعد 15 یوم کے اندر سٹریک ہیلتھ آفیسر بگرام کے پاس اپنی درخواستیں سادہ کانڈ پر بمعدہ CV کیپوزرائزڈ قومی شناختی کارڈ، تعلیمی اسناد کی مصدقہ نقل اور ایک ہمدتازہ تصویر جمع کرانی ہوگی۔ (12)۔ جعلی اسناد جمع کرنے والے امیدوار کے خلاف قانونی کارروائی عمل میں لائی جائے گی۔ (13)۔ مجاز آفیسر کوئی جہت تائے بغیر نمینٹ و اعز و یو کنسل کر سکتا ہے۔

بحکم ڈائریکٹریٹ جی اے ایف ایس بی بگرام (ڈاکٹر نسیم احمد)

*Amir*



# OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax # (0997) 310507

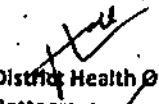
No. 17/S-2/103/ date 17/08/2021

## OFFICE ORDER

Consequent upon the recommendation of the Departmental Selection Committee, Mr. Muhammad Ibrar S/O. Mabar Khan is hereby appointed as PHET (MR) EPRPS-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. This order is subject to the verification of the original documents from the issuing authority/production Two years Diploma either from Khyber Pakhtunkhwa or any other illegible/ Registerable Institute/ College or University. If the Diploma is from outside KPK it must be registered with Medical Faculty of Khyber Pakhtunkhwa Peshawar.

1. If the academic/ technician/ experience certificates is not from the government institutions or International organization that will be not consider as experience.
2. If the academic/ technician/ experience certificates of any candidate found fake/ bogus of any stage his/ her services will be considered terminated automatically.
3. He/ She shall initially be on probation for a period of Two years under the rules extendable further for a period of one year.
4. He/ She can be terminated without any notice during the probation of his/her work if his/her conduct found unsatisfactory.
5. He/ She shall be governed by the Government of Khyber Pakhtunkhwa civil servants act 1973 and the laws applicable to the civil servants under the rule made there under E&S rules 2011
6. He/ She shall be entitled to annual increments as per existing policy.
7. He/ She join his duties at his own expenses.
8. In case you wish to resign at any time, one month notice will be essential or in lieu shall be forfeited.
9. 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.
10. Your appointment will be subject to provision of Medical Fitness certificate.
11. The appointee shall be bound to perform any duty assigned by the undersigned as per Govt. rules.
12. 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 photocopy for verification from concerned Boards/ University/Medical Faculty KPK/ 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 BHU \_\_\_\_\_ 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





(11)

*Amended*

## DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to the Directorate General Health Services Peshawar and not to any official by name  
DG Office Ph 091 - 9210104 Exchange 091 - 9210107 Fax 091 - 9210130E Mail: dgh.health@pk2014@gmail.com

No. 607-8 /DGHS

Dated 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 Technician 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. Faisal Khanzada (ADG Hazara Division) DGHS Office.
2. Mr. Hidayat (Deputy Director Coordination) DGHS Office.

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

  
**DIRECTOR GENERAL HEALTH  
SERVICES KHYBER PAKHTUNKHWA PESHAWAR**

Cc

1. Dr. Faisal Khanzada (ADG Hazara Division) DGHS Office (Inquiry Officer).
  2. Mr. Hidayat (Deputy Director Coordination) DGHS 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.
- 



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

(12)

No. 1803-08 /DHO/BTGM

Dated: 27/8/2021

**OFFICE ORDER**

In compliance with the DGHS Peshawar Letter No. 6028 /DGHS dated: 23/8/2021, all appointment 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  
Battagram

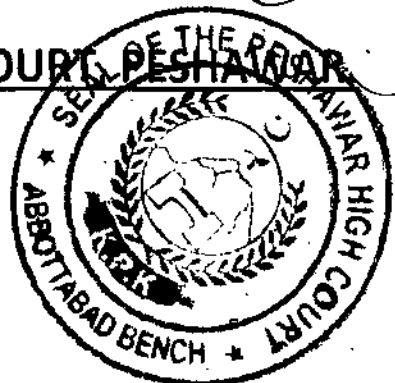
Copy forwarded to

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

District Health Officer  
Battagram

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Annexure D (13)



In ref to W.P NO: 955 /2021

1. Muhammad Waqar S/O Muhammad Bashir R/O PO Tamaee, Tehsil & District Batagram.
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 Shamshad Khan R/O Chapper Gram, Tehsil and District Battagram.
7. Naveedullah S/O Sayed Muhmmad 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 Batagram.
10. Muhammad Ibrar S/O Mabar Khan R/O Ajmeera, District Battagram.

No 4900  
3.9.21

**FILED TODAY**  
ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

Certified to be True Copy  
EXAMINER  
17 SEP 2022  
Peshawar High Court Atd Bench  
Authorized Under Sec. 75 Evu Ordns

VERSUS

PETITIONERS  
**FILED TODAY**  
Deputy Registrar  
3.1 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  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH  
3/9/21

3) Secretary Health, Govt Khyber Pukhtunkhwa, Cvili  
Secretariat , Peshawar.

4) District Health Officer Batagram.

(14)

.....RESPONDENTS

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

**Prayer:**

**On acceptance of instant writ petition:**

**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.***

Certified to be True  
EXAMINER  
17 SEP 2022  
Peshawar High Court and Bench  
Abbottabad Bench

**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**  
ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

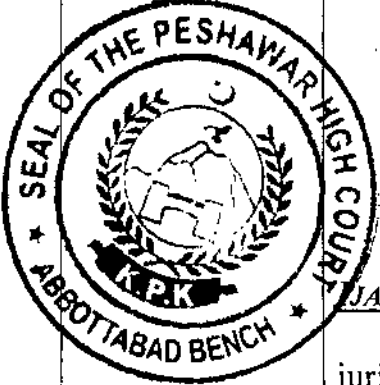
**FILED TODAY**  
Deputy Registrar  
31 AUG 2021



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

15

Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE(S) OF JUDGE(S)
1	2
15.09.2022	<p><u>WP No.955-A/2021.</u></p> <p>Present:- Mr.Amjad Hussain Tanoli; Advocate for petitioner</p> <p>Sardar Ali Raza, AAG for respondents with Javaid Salim Focal Person DGHS Khyber Pakhtunkhwa and Yasir Pasha Lit Officer DHO Office Battagram.</p> <p>***</p> <p><u>JAZ ANWAR, J.</u> 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.</p> <p>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.</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: right;">JUDGE</p>



Certified to be True Copy  
EXAMINER  
17 SEP 2022  
Peshawar High Court Atd Bench  
Authorized Under Sec 75E of Ord.

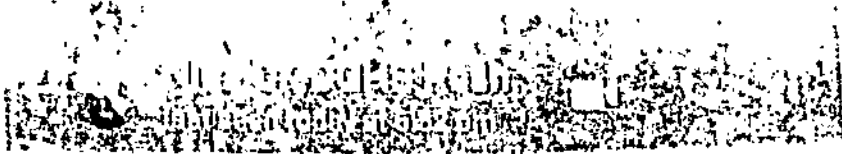
(Abdunnasir Jamil)

(DB) Hon'ble Justice Jaz Anwar,  
Hon'ble Justice Waqar Ahmad.

Office  
18/9/22

Annure E

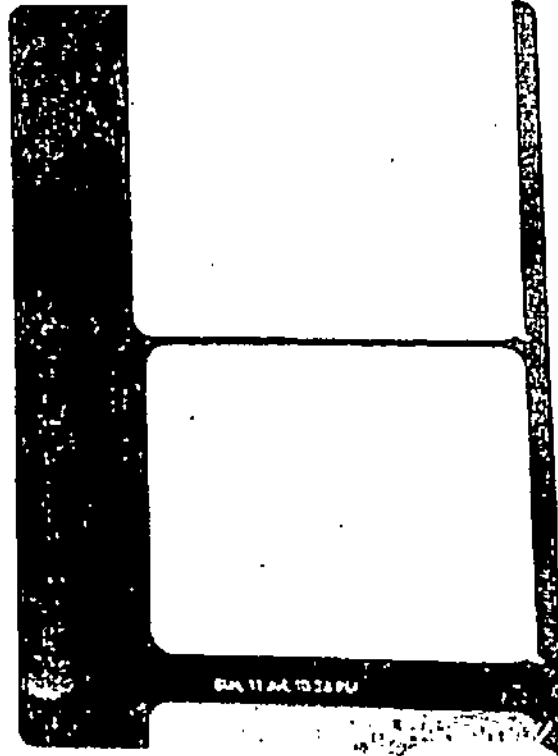
Scanned with



msgs to recruit their 12 candidates out of 18

So, 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 Waqar  
DHO Ballagram



19 / 21

Dear Sir, Assalam u Alaikum,



**Incident Report.**

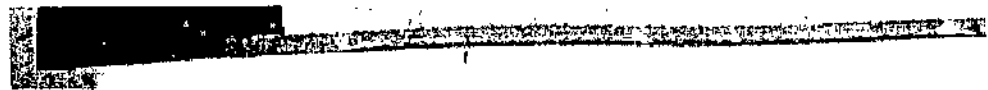
Sir I want to share with an incident occurred in DHO office batagram tonight around 10:30pm tonight . The MPA Mr.zubair came along with his gun men and took all record original of recruitment process being conducted recently

Sir it is pertinent to mention that from both sides ,I mean both MPAs namely Taj khan and Zubair khan allai tried their level best to recruit their own candidates of choice, In struck to the merit policy.

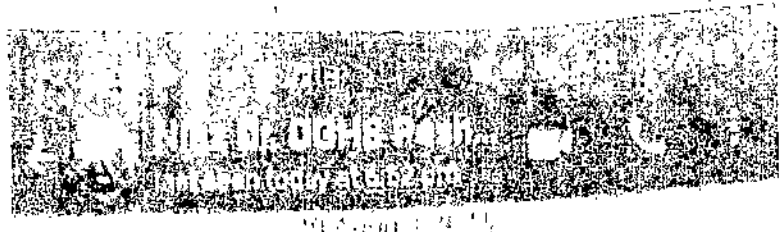
As per government RTI act, I was bound to give them photocopies of all record within seven days, but requested MPA that it's too late and I will give you photocopies of all documents tomorrow morning .He did not agree and put extreme pressure like he will me to the assembly, will call my explanation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

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

Regards  
Dr Waseem  
DHO Battagram



Scanned with



Incident Report

Sir I want to share with an incident occurred in DHO office batagram 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 get out their own candidates of choice, but I struck 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 sectry 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

*[Handwritten signature]*

ANNEXURE

PHCT EPI

S. No	Name candidate	Father Name	Technology	Domicile
01	Mohammad Islam	Faqir Khan	Health (EPI)	Battagram
02	Ubaidullah	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 Niqab	Health (EPI)	Battagram
07	Fidaullah	Umar Bax 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

Annexure F

(20)

**IN THE PESHAWAR HIGH COURT, BENCH ABBOTTABAD.**

W.P No.956-A/2021

Muhammad Islam & others

Petitioners.

Versus.

Government of Khyber Pakhtunkhwa, etc

Respondents

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3.	Statement of Ex DHO & Clerical Staff before inquiry committee	B	29-30
4.	Cancellation of Appointments by DGHS	C	31
5.	Cancellation of Appointments by DHO Battagram	D	32.

  
Deponent

BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

WP No 956-A/2021

21

Muhammad Islam & others ..... Petitioners

Versus

Govt of KPK & others ..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT DHO BATTAGRAM

Respectfully Sheweth,

*Para 1c*  
**Preliminary Objection:**

1. That the petitioner has neither cause of action nor locus standi to file the instant petition.
2. That the petitioner has not come to the Honourable court with clean hands.
3. That the instant petition is not maintainable due to non joinder and mis joinder of necessary parties.
4. That the petitioners have got no cause of action to file this instant petition.
5. That the petition is not maintainable in its present form.
6. That, the petitioners are not "AGGRIEVED" persons within the meaning of Article 199 of the Constitution of Pakistan.

**ON FACTS:**

1. Para No 1 is correct to the extent that the petitioners are residents of District Battagram. The remaining portion is subject to proof.
2. Para No 2 is correct.
3. Regarding Para No 3 it is submitted that besides selected candidates several other candidate had applied for the post advertised. According to the then DHO "the recruitment committee selected only the candidates who were qualifying on merit. The rest of candidates were left. All codal formalities were observed, in the comments submitted previously by the then DHO detailed checklist of codal formalities was provided (attached as annexure A)".  
However during an inquiry conducted by DGHS team some irregularities in the recruitment process were pointed out mainly related to "Experience Certificates" most of which were issued by the Medical Superintendent, DHQ Hospital Battagram or the experience certificates were issued by unauthorized institution. Moreover both, the then DHO and his clerical staff have admitted, in their statement before the Inquiry committee to existence of clerical mistakes in the merit list. (copy attached as annexure B)

4. Para No 4 is correct to the extent of appointment order. However no further progress in all the cases was done as the High Ups intervened and the candidate's appointment were cancelled by Respondent No 2 and inquiry was initiated into the matter dated 23.08.2021.(copy attached as annexure C)
5. Para No 5 is incorrect, the Petitioners have got no cause of action, as the High Ups have immediately intervened in the matter, (copy attached as annexure C) and respondent NO.4 has merely followed orders of High Ups (copy attached as annexure D).

**ON GROUNDS:**

- A. Para A of the ground is Incorrect; the Respondent No 4 completed the recruitment proceedings and Not independently issued any order against the Petitioners. The order of Respondent No 2 was complied for which the Respondent No 4 was legally bound being his subordinate. (copy attached as annexure D).
- B. Para B of the ground is Incorrect no right accrued to the Petitioner as the selection was set aside immediately without further proceeding in the matter except appointment order.
- C. Para C of the ground is Incorrect, the Respondent No 2 exercised his power under the law and Respondent No 4 complied his order.
- D. Para D of the ground is Incorrect. Detailed reply is given in the above paras.
- E. Para E of the ground is absolutely incorrect no right accrued to the petitioner as the selection was set aside immediately after selection, hence application of locus ponentiae is not applicable in the present case.
- F. Para F of the ground is Incorrect; detailed reply is given in the above paras. The selection order was set aside before completion of necessary proceedings required for recruitment of petitioners, which are essential.
- G. Para G of the ground is Incorrect.
- H. Para H of the ground is Incorrect and relate to Respondent No 2 who set aside the selection. The Respondent No 4 only complied to the orders of High Ups.
- I. Para I of the ground is legal.

**PARYER:**

In view of the above discussion it is humbly prayed that the petition be dismissed being devoid of merit.

*D/C*

Respondent No 4  
DHO Battagram

*22.7.2022*

*Jan*

*vetted by  
Mr. N. C.*



**IN THE PESHAWAR HIGH COURT, BENCH ABBOTTABAD.**

W.P No. 956-A/2021.

Muhammad Islam & others

Petitioners.

Versus

Government of Khyber Pakhtunkhwa etc

Respondents.

**AFFIDAVIT.**

I, Dr. Yasir Pasha, litigation officer to DHO office Battagram, do hereby solemnly affirm and declare on oath that the contents of the accompanying Para Wise comments in above tilted Writ Petition are true and correct to the best of my knowledge and available record and nothing has been concealed from this Hon'ble Court.

Identified by  
Yusuf A C

*Yasir Pasha*  
DEPONENT.

4523/22  
Atel  
05  
Dr. Yasir Pasha S/O  
Head Office  
At Battagram  
122  
08-2022  
T. Yasir Pasha  
C/O  
Battagram

*Yusuf A C*  
5/8/22

*Yusuf*



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

No 173-76 / Date 03/02/2021

24

To

The Secretary Health  
Govt of Khyber Pakhtunkhwa  
Peshawar

Subject :

**REQUEST FOR THE APPROVAL OF PENDING PARAMEDICS HIRING PROCESS DISTRICT BATTAGRAM**

Dear Sir,

Reference to last three monthly review meetings with DHOs where special focus on low polygon coverage of District Battagram was discussed. In this context it is submitted that one of the reasons of low polygon coverage is vacant positions of EPI technicians in 10 Union Councils out of total 20 Union Councils. It was recommended by your good selves to send letter for relaxation of ban for recruitment of Paramedics in District Battagram.

It is worthy to mention that these positions were duly advertised followed by short listing, but interview process could not be completed due to Ban on recruitment imposed by the Health Directorate Peshawar. Details of vacant positions are as under

S.No	Name of Position	Vacant	Remarks
1	JPHCT ( Multipurpose EPI )	10	
2	JCT ( Surgical )	02	
3	JCT ( Radiology )	04	One of X-Ray Unit is non functional due to deficiency of HR
4	JCT ( Pulmonology )	02	
5	Vaccinator	01	

It is pertinent to mention that all above positions were advertised and short listed last year in compliance with all codal formalities. You are requested to kindly grant ban relaxation retrospectively, so that the pending process may be completed or vice versa.

District Health Officer  
Battagram

Copy forwarded to the:-

1. PS to Minister Health Khyber Pakhtunkhwa Peshawar for information
2. PA to Director General Health Services Khyber Pakhtunkhwa Peshawar for information
3. Office copy

District Health Officer  
Battagram

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Scanned with CamScanner

Amended Gr  
25

**IN THE PESHAWAR HIGH COURT, BENCH ABBOTTABAD.**

WP No. 955-A/2021

Muhammad Waqar & others

..... Petitioners

Versus

Govt: of KPK etc:

... Respondents

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5.	Approval Of ban Relaxation	B	6
6.	Advertisement in News Paper	C,D	7,8
7.	Request for DGHS Representative	E	9
8.	Nomination of Representative by DGHS	F	10
9.	Request for nomination of Deputy Commissioner Representative	G	11
10.	Minutes of Departmental Selection Committee Meeting	H,I	12-13
11.	Display of Final Merit List	J	14-20
12.	Verification of Testimonials	K	21-29
13.	Cancellation of Appointment by DGHS	L	30
14.	Cancellation of Appointment by DHO Battagram.	M	31

*[Signature]*

*[Signature]*  
Deponent

BEFORE THE PESHAWAR HIGH COURT ABBOTTBAD BENCH

WP No 955/2021

Muhammad Waqar & others ..... Petitioners

Versus

Govt of KPK & others ..... Respondents

PARAWISE REPLIES ON BEHALF OF RESPONDENT DHO BATTAGRAM


Respectfully Sheweth,

**Preliminary Objection:**

1. That the petitioner has neither cause of action nor locus standi to file the instant petition.
2. That the petitioner has not come to the Honourable court with clean hands.
3. That the instant petition is not maintainable due to non joinder and mis joinder of necessary parties.

**ON FACTS:**

1. Para No 1 is correct to the extent that the petitioners are residents of District Battagram. The remaining portion is subject to proof.
2. Para No 2 is correct.
3. Regarding Para No 3 it is submitted that besides selected candidates several other candidate had applied for the post advertised. The recruitment committee selected only the candidates who were qualifying on merit. The rest of candidates were left. All codal formalities were observed, (check list of all codal formalities attached as annexure A to L).
4. Para No 4 is correct to the extent of arrival report. However no further progress in all the cases was done as the High Ups intervened and the candidate's appointment were cancelled by Respondent No 2.
5. Para No 5 is incorrect, the Petitioners have got no cause of action, as the High Ups have immediately intervened in the matter, ( copy attached as annexure L) and respondent No 4 has merely followed orders of High Ups ( copy attached annexure M).



**ON GROUNDS:**

- A. Para A of the ground is Incorrect, the Respondent No 4 completed the recruitment proceedings and Not independently issued any order against the Petitioners. The order of Respondent No 2 was complied for which the Respondent No 4 was legally bound being

- B. Para B of the ground is Incorrect no right accrued to the Petitioner as the selection was set aside immediately without further proceeding in the matter except arrival report.
- C. Para C of the ground is Incorrect, the Respondent No 2 exercised his power under the law and Respondent No 4 complied his order.
- D. Para D of the ground is Incorrect. Detailed reply is given in the above paras.
- E. Para E of the ground is absolutely incorrect no right accrued to the petitioner as the selection was set aside immediately after selection, hence application of locus ponentiae is not applicable in the present case.
- F. Para F of the ground is Incorrect, detailed reply is given in the above paras. The selection order was set aside before completion of necessary proceedings required for recruitment of petitioners, which are essential.
- G. Para G of the ground is Incorrect.
- H. Para H of the ground is Incorrect and relate to Respondent No 2 who set aside the selection. The Respondent No 4 only complied to the orders of High Ups.
- I. Para I of the ground is legal.

**PARYER:**

In view of the above discussion it is humbly prayed that the petition be dismissed being devoid of merit.

*[Signature]*  
 Respondent Health Officer  
 DHO Battagram

*verified*  
*[Signature]*  
 27/1/2011

IN THE PESHAWAR HIGH COURT, BENCH ABBOTTABAD.

WP NO 955/2021

Muhammad Waqar & others ..... Petitioners

Versus

Govt of KPK & others ..... Respondents

AFFIDAVIT

I Dr. Waseem Ahmed District Health Officer Battagram do hereby solemnly affirm and declare on Oath that the contents of the reply are true and correct to the best of my knowledge and belief and nothing has been concealed from the honourable court.

*Identified*

*[Handwritten signature]*

*27/9/21*  
*5880/559*

Dr. Waseem Ahmed  
District Health Officer  
Battagram

*ATD*  
*29* *21*  
*Dr. Waseem District Office*  
*Health OH & Battagram*

*[Handwritten signature]*  
*27/9/21*

خدمت صبا - ڈسٹرکٹ ہیڈ کوارٹرز آفیسر جنرل ضلع بہاولنگر  
ضلع عالی  
Anwar H  
(29)

رسیدوں - Arrival Report

موجودہ گزارش بند آپ کے آفس آرڈر نمبر 21-1715 مورخہ 20/8/2021  
کے تحت آج مورخہ 20-8-2021 قبل از دوپہر میں نے رخصت پی ڈی سی (MD) DHCT  
حاضر رہی رپورٹ کردی

کے تحت Arrival report میں کارروائی کیلئے حاضر  
رہتی ہے

الغافل  
محمد امیر شاہ سائبر خان پی ایچ سی سی (MD) ای پی آئی  
مورخہ 20/8/2021

Accepted / Forwarded  
Accepted

20.8.21

*[Signature]*



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

No. 1810-12 / Date 30/09/2021

30

To,

The Secretary Health  
Government of Khyber Pakhtunkhwa  
Peshawar

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

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## OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

31

### BACKGROUND:-

I DHO Battagram Dr. Waseem Ahmed have read the findings, conclusions and recommendations of the inquiry report vide letter No 13638-39/EI 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 cancelation 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:

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1. The objection of the inquiry committee regarding over hiring of JCT (Radiology) is incorrect as the office of the District Health Officer Battagram 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?).



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

**OFFICE OF THE DISTRICT HEALTH OFFICER****Battagram (Khyber Pakhtunkhwa)**

Phone &amp; Fax: # (0997) 310507

No 18/0-12- / Date 30/09/2021

To,

The Secretary Health  
Government of Khyber Pakhtunkhwa  
Peshawar

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.

*[Signature]*  
District Health Officer  
Battagram

Copy forwarded to the:-

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

*[Signature]*  
District Health Officer  
Battagram

*[Signature]*

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Scanned with CamScanner

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

In ref to WP No: \_\_\_\_\_/2021

Muhammad waqar &amp; OTHERS VS

Govt of KPK &amp; others

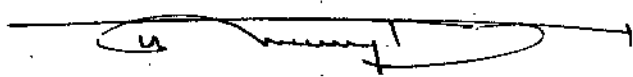
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10	Notice to the Parties + court fee		
11	Wakalatnama		

Petitioner

Through

Date : 31/08/2021

  
 Amjad Hassan Tanoli

TANOLI LAW ASSOCIATES

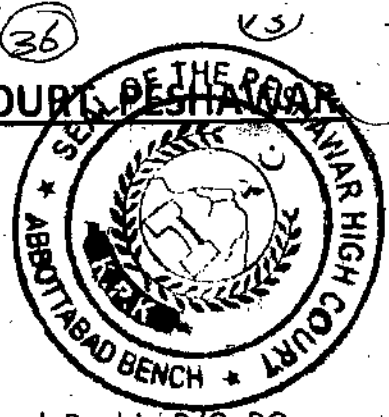
ADVOCATE HIGH COURT

ADVOCATES AND LEGAL CONSULTANTS,

31, 3<sup>RD</sup> FLOOR, SHAHID PLAZA, UNIVERSITY ROAD,

PESHAWAR.

BEFORE THE PESHAWAR HIGH COURT



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 Shamshad Khan R/O Chapper Gram, Tehsil and District Battagram.
7. Naveedullah S/O Sayed Muhmmad 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 Ajmeera, District Battagram.

No 4908  
3.9.21

FILED TODAY

ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

Certified to be True Copy  
EXAMINER  
17 SEP 2022  
Peshawar High Court Aid Bench  
Authorized Under Se. 75 Evia Ordns.

VERSUS

PETITIONERS  
FILED TODAY  
Deputy Registrar  
3.1 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  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

3/9/21

- 3) Secretary Health, Govt Khyber Pukhtunkhwa, Cvili 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:**

**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.**

**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").



- 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.

**GROUND**

- 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..*

E. That the doctrine of **locus Poenitentiae** 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**".

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

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.

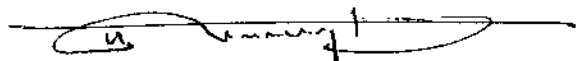
*Any other /further, better relief which has not been specifically prayed for but this Honourable Court deems just and equitable in the circumstances of the case may also be granted to petitioner.*

**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*

Petitioner

Through





**Amjad Hassan Tanoli**

**ADVOCATE HIGH COURT**

# وکالت نامہ

(42)

بعدالت سروسز ٹریڈیونل پشاور

	S No	4494
	BC No	10-7727
	Sign	
	PHCBA	

06/01/2023 مورخہ  
Service appeal مقدمہ  
/ / دعویٰ  
/ / جرم

3 جنوری 2023ء منجانب ایڈوانس  
محمد ابرار بنام حکومتی وغیرہ  
باعث تحرے آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی وکل کاروائی، متعلقہ  
آن مقام پشاور کیلئے (محمد حسن) تنویر کے ایڈوانس  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا۔  
نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو  
گا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء  
تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی  
کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب  
سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل  
موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا  
ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں  
تمام ساختہ پرداختہ منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط/ نشان  
انگشت ثبت کر دیا ہے تاکہ سند رہے۔

المرقوم 5/1/23ء ماہ جنوری 2023ء

بمقام پشاور

Accepted by محمد ابرار کے لئے منظور ہے۔



Aswale