

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6721/2021

Date of Institution ... 06.07.2021
Date of Decision ... 26.04.2022

Dr. Sikdandar Zeb, Medical Officer (BPS-17) S/O Jehazeb R/O
DHQ Hospital, Charsadda.

... (Appellant)

VERSUS

Secretary Health, Government of Khyber Pakhtunkhwa at Civil
Secretariat Peshawar and one another.

... (Respondents)

Javid Iqbal Gulbela,
Advocate

... For appellant.

Muhammad Adeel Butt,
Additional Advocate General

... For respondents.

Salah-Ud-Din
Rozina Rehman

... Member (J)
... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Dr. Sikandar Zeb through this
appeal has impugned the order of his transfer issued on 09.06.2021,
whereby, he was transferred from DHQ Charsadda to RHC Chor Lakki
Kohat against the vacant post of Medical officer (BPS-17). It is the
legality and validity of this order which has been challenged by him in
the present service filed U/S 4 of the Khyber Pakhtunkhwa Service
Tribunal Act, 1974.

2. Learned counsel for appellant contends that the impugned
transfer order is totally illegal, against law and facts. He while
referring to an incident impugned through Writ Petition No.2491-

P/2021 contended that the transfer order though has been given the color of public interest but in fact it is imbued with the bias of competent authority on account of the incident being pursued by appellant alongwith others against the Medical Superintendent of the Hospital. He argued that the appellant was victimized on account of raising his voice against the brutalities, atrocities and violation of fundamental rights of the people of District Charsadda; that the impugned transfer order is thoroughly in derogation to the principles as laid down in the transfer and posting policy; that the spouse policy clearly covers the case of appellant as the wife of appellant is also serving in DHQ Hospital. He contended that the appellant is Mardan based and having domicile of District Mardan, therefore, as per policy, the appellant is entitled to be placed in Mardan or any adjoining District; that the impugned orders have not been issued in the public interest or in exigencies of public service rather it is the result of colorful exercise of discretionary power vested in the respondents.

3. The defense set up by the respondents in the written comments is that the performance of appellant and his other colleagues was not up to the mark and due to their unsatisfactory performance, condition of the hospital was getting worst day by day which can be judged from the report of DGHS and the referral report. He contended that every civil servant shall be liable to serve anywhere within or outside the province in any post in terms of Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and that the appellant has no legal right to raise the grievance against his

posting and transfer. He submitted that it is not the legal right of the appellant to be posted at his home station and that the competent authority is empowered to post the appellant at any station.

4. Arguments heard and record perused.

5. The crux of the claim of the appellant is that his transfer through impugned order was not made in the public interest or in the exigencies of the public service and that in fact, Ward Orderlies, Chowkidars, Class-IV employees and even outsiders were allowed to take blood samples, inject injections, carry all paramedical acts, match blood samples, cross blood samples, carry laboratory test within the premises of DHQ through laboratories of DHQ and even were allowed to perform the duties of doctors and thus they were allowed to play with lives of people. The impugned Notification dated 9th June, 2021 is available on file vide which thirteen Medical Officers/Doctors were transferred from DHQ Hospital Charsadda including the present appellant to RHC Chor Lakki, Kohat. This notification in respect of transfer posting of 13 different Doctors is worth perusal. From Serial No.1 to Serial No.13, Doctors serving at DHQ Hospital Charsadda were transferred to different districts. No doubt that they were serving in DHQ Hospital Charsadda till the date of issuance of this notification but their posts were shown as vacant in the impugned Notification in column No.4 vide which Doctors at Serial No.14 to 23 were transferred to DHQ Hospital Charsadda against the vacant post of M.O despite the fact that all Doctors including the present appellant were still serving in the said Hospital. It is also on record that the appellant alongwith his other colleagues did not relinquish the charge till today but even then, other Doctors

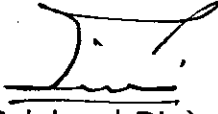
were asked to assume the charge despite the fact that the post was not vacated as charge had not been relinquished by the appellant and his other colleagues. His pay was stopped and he was not allowed to carry on his duties. It is pertinent to mention here that operation of impugned transfer posting order was suspended by this Tribunal vide order dated 05.07.2021. The appellant alongwith other colleagues filed Writ Petition No.2491-P/2021. In view of categorical admission of the Medical Superintendent, Secretary Health was asked to appear in person in order to apprise the august Peshawar High Court of the situation, who appeared before the court and produced a letter dated 02.07.2021 whereby one Dr. Sher Khan Director HRM was appointed as Inquiry Officer to probe into the matter. The Worthy Secretary Health had also undertaken to personally look into the matter and will take appropriate steps if anyone is involved and playing with the precious lives of patients. In view of his commitment, writ petition was disposed of, where-after, inquiry was initiated. The inquiry report is available on file and the Inquiry Officer was directed to probe into the matter regarding a video which went viral on social media wherein an outsider and a Ward Orderly were taking blood samples from patients in DHQ Hospital Charsadda. The Inquiry Officer was of the view that staff directly attached to blood bank may be issue warning and that Medical Superintendent may be directed to be vigilant in future and keep close eyes on officials/officers concerned. Nothing was brought on record in order to show poor performance of the present appellant rather the inquiry report goes against the respondents.


6. We are conscious of the fact that transfer of any Government servant can be made by the competent authority in the exigency of service and public interest. No Government servant has a legal right to remain posted at a particular place but where transfer order is malafide and for extraneous consideration to accommodate some blue eyed chap, then this right is justifiable. In the instant case, we have noticed that appellant alongwith his other colleagues were transferred and without relinquishment of their charge, the incumbents were handed over charge, keeping the appellant deprived of his salary. What could mainly be gathered from comments so submitted by the respondents is that the appellant was not performing his duty up to the mark. If the performance of the appellant was not satisfactory, competent authority was required to have initiated departmental action against him, but instead of that, the appellant was transferred. It appears that the appellant was transferred as punishment, which course is wrong and illegal. The respondents failed to show any public interest which is contrary to the policy formulated by the respondents themselves. The respondents are mandated to act with certain amount of reasonableness with regard to law and rule as well as humanitarian aspect. It is a well settled legal proposition supported by numerous judgments of the superior courts that things are required to be done in a prescribed manner in accordance with law and not at the whim and wishes of the authority. Appellant was treated in a perfunctory manner instead of professional manner. It merits a mention here that even the spouse policy clearly covers the case for the appellant as his wife is serving in DHQ Hospital Mardan.

7. In view of the above, instant service appeal is accepted and impugned order in respect of transfer of the appellant stands set aside with direction to the respondents to adjust the appellant at Mardan i.e. the place of his domicile where his spouse is already serving in DHQ Hospital Mardan with further direction to release the salary of the appellant withheld by the authority since 9th June, 2021 forthwith. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

26.04.2022


(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

ORDER

26.04.2022

Appellant alongwith counsel present.

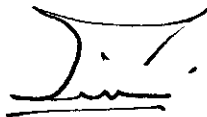
Muhammad Adeel Butt, learned Additional Advocate General alongwith Dr. Aftab Litigation Officer for respondents present.

Learned counsel for appellant submitted an application seeking correction of prayer, which application was not objected to by the learned AAG, hence, allowed. Necessary correction be made in the memo of appeal.

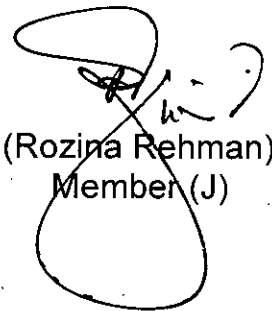
Vide our judgment of today of this Tribunal placed on file, instant service appeal is accepted and impugned order in respect of transfer of the appellant stands set aside with direction to the respondents to adjust the appellant at Mardan i.e. the place of his domicile where his spouse is already serving in DHQ Hospital Mardan with further direction to release the salary of the appellant withheld by the authority since 9th June, 2021 forthwith. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

26.04.2022




(Salah-Ud-Din)
Member (J)



(Rozina Rehman)
Member (J)

25.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 30.03.2022 for the same as before.



Reader

30.03.2022

Appellant alongwith his counsel present.

Mr. Muhammad Tufail S.O (Litigation) and Syed Yasir Ali S.O-II alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present who requested for adjournment on the ground that he is not in possession of certain record. Adjourned. To come up for arguments on 31.03.2022 before D.B.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)

31.03.2022

Appellant alongwith his counsel present. Mr. Muhammad Tufail S.O (Litigation) and Dr. Aftab Litigation Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Partial arguments heard. To come up for remaining arguments before the D.B on 13.04.2022.



(Rozina Rehman)
Member (J)

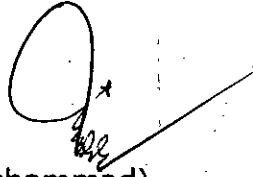


(Salah-Ud-Din)
Member (J)

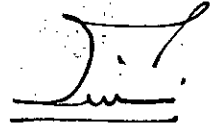
13.04.2022

Appellant alongwith his counsel present. Muhammad Riaz Khan Pindakhel, Asst: AG alongwith Dr. Aftab, Litigation Officer, DHO Charsadda for respondents present.

The instant appeal was partially heard by a D.B, wherein one of the Member was Ms. Rozina Rehman, Member(J), therefore, the instant appeal be fixed before the concerned D.B and to come up for arguments on 25.04.2022.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)

25.04.2022

Appellant alongwith counsel present. Dr. Aftab Ahmad Litigation Officer alongwith Mr. Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Arguments heard. To come up for order on 26.04.2022 before the D.B.



(Rozina Rehman)
Member (J)

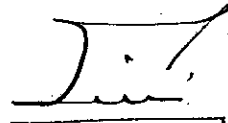


(Salah-Ud-Din)
Member (J)

03.12.2021

Learned counsel for the appellant present. Mr. Safiullah, Section Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete. Adjourned. To come up for arguments on 03.01.2022 before the D.B.

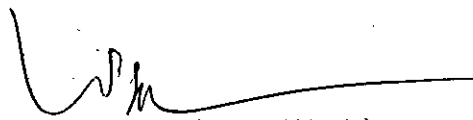


(Salah-ud-Din)
Member (J)

03.01.2022

Counsel for the appellant and Mr. Asif Masood Ali Shah, DDA alongwith Safiullah, Litigation Officer for the respondents present.

Counsel for the appellant seeks adjournment for preparation. Request accorded. Case to come up for arguments on 14.01.2022 before the D.B.



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

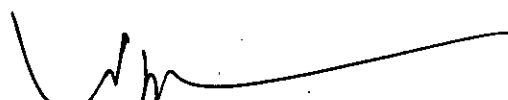


Chairman

14.01.2022

Mr. Javed Iqbal Gulbela, Advocate present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

File to come up alongwith connected Service Appeal No. 7084/2021 title Siraj-ud-Din Versus Secretary Health, before the D.B on 25.02.2022.



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



Chairman

03.09.2021

Due to summer vacations, the case is adjourned to 30.09.2022 for the same as before.

8.
READER

30-9-21

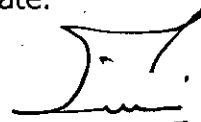
DB is on tour case to come up
For the same on Dated, 18-10-21

Read

18.10.2021

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Ziaullah, Deputy Secretary (Legal) for the respondents present.

Due to general strike of the bar, counsel for the appellant is not in attendance today. To come up for arguments on 11.11.2021 before the D.B. The restrain order dated 09.07.2021 shall remain operative till next date.


(Salah-ud-Din)
Member(J)

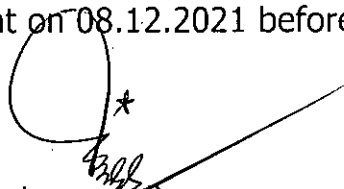

Chairman

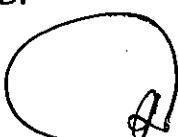
11.11.2021

Junior to counsel for appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Safi Ullah S.O for respondents present.

File to come up alongwith connected Service Appeal No.6686/2021 titled Dr. Ateeqa Rehman Vs. Health Department on 08.12.2021 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

11.08.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Zia Ullah Law Officer and Safeer Ullah Focal Person for respondents present.

A request for adjournment was made on behalf of appellant as senior counsel is busy before Hon'ble Peshawar High Court; granted. To come up for arguments on 24/08/2021 before D.B. The operation of impugned order to the extent of appellant shall remain suspended till next date of hearing.

24.08.2021

Mr. Junaid Khan, Advocate; Junior of learned counsel for the appellant present. Mr. Muhammad Rashid, DDA alongwith Mr. Ziaullah, Law Officer for the respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that the learned counsel for the appellant is not available today due to some domestic engagement. Adjourned. Last opportunity granted. To come up for argument before the D.B on 03.09.2021. The operation of the order shall remain suspended till date fixed.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

27.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General alongwith Zia Ullah Law Officer for respondents present.

Learned A.A.G made a request for time to furnish reply/comments. An application for release of salary was received on behalf of appellant. Notice of the said application be issued to respondents for reply.

In view of above, respondents are directed to furnish reply of appeal within 5 days in office. In case of non-compliance, the office shall submit the file with a note of non-compliance. To come up for arguments on 04.08.2021 before D.B. The operation of impugned order shall remain suspended till the next date of hearing.



(Rozina Rehman)
Member (J)



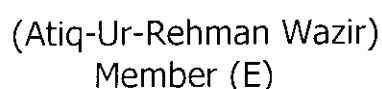
Chairman

04.08.2021

Junior to counsel for appellant present.

Mr. Usman Ghani learned District Attorney alongwith Zia Ullah Law Officer for respondents present.

Reply on behalf of official respondents submitted. Junior to counsel for appellant requests for adjournment as senior counsel is not available today. To come up for arguments on 10.08.2021 before D.B. The operation of impugned order shall remain suspended till the next date of hearing.



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

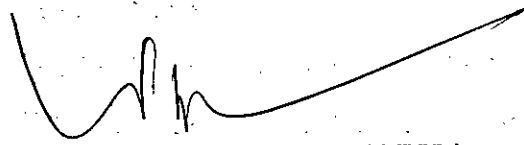


(Rozina Rehman)
Member (J)

27.07.2021

Appellant alongwith his counsel Mr. Javed Iqbal Gulbela, Advocate, present. Mr. Ziaullah, Deputy Secretary (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned Additional Advocate General requested that as other Service Appeals of similar nature are fixed before D.B-I for today, therefore, the appeal in hand may be clubbed with the said appeals, so as to avoid any conflicting judgments. In this respect, he submitted written application, which is placed on file. The appeal in hand is, therefore, sent to worthy Chairman Service Tribunal for further appropriate order. Appellant as well as his counsel and learned Additional Advocate General shall appear before the worthy Chairman Service Tribunal at 12:15 P.M. Office is directed to do the needful.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

09.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Copy of order dated 05.07.2021 in Service Appeal No. 6727/2021 has been produced by learned counsel for the appellant, which is placed on file. Accordingly the said Service Appeal has been admitted for regular hearing. The transfer order is one and same, therefore, this appeal is also admitted for regular hearing and be clubbed with Service Appeal No. 6727/2021. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 27.07.2021 before the D.B.

Appellant Deposited
Security & Process Fee
9/7/21

The appeal is also accompanied with an application for suspension of the impugned order to the extent of the appellant. Notice of the same be also given to the respondents for the date already fixed. The operation of the impugned order to the extent of appellant shall remain suspended till date of hearing mentioned above.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6721 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/07/2021	<p>The appeal of Dr. Sikandar Zeb presented today by Mr. Javed Iqbal Gulbela Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/07/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No _____/2021

Dr. Sikandar Zeb

VERSUS

Secretary Health & Others

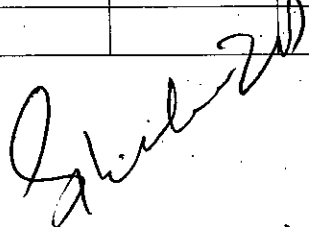

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5.	Copy of Departmental Appeal	"B"	12
6.	Copies of W.P & Order Dated 02-07-2021	"C & D"	13-22
7.	Other Documents	"E"	23-29
8.	Wakalat Nama		

Dated: 06/07/2021

Through

Appellant



Javed Iqbal Gulbela
Advocate, Supreme Court
of Pakistan.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No- 6721 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6804

Dated 06-7-2021

Dr. Sikandar Zeb, Medical Officer (BPS-17) S/o Jehanzeb R/O
D.H.Q Hospital, Charsadda.

..... Appellant

VERSUS

1. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa

..... Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL ACT -1974 AGAINST THE
IMPUGNED TRANSFER Order No. SOH(E-II)/1-
1/2021 Dated 09-06-2021 OF THE OFFICE OF
SECRETARY HEALTH KHYBER PAKHTUNKHWA,
WHEREBY THE APPELLANT HAS BEEN
TRANSFERRED FROM DISTRICT (PESHAWAR) TO RHC
CHOR LAKKI KOHAT IN UTTER VIOLATION TO THE
LAW AND POLICY OF TRANSFER & POSTING
GOVERNING THE SUBJECT.

Respectfully Sheweth,

1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan & hails from respectable family.
2. That the Appellant is Doctor by profession and is performing his duties at District Headquarters Hospital (D.H.Q) Charsadda.
3. That since induction into service, the Appellant always remained dutiful and pragmatic fellow, who never left any stone unturned in performance of his duties and have won felicitations and appreciations of his high-up's at certain junctures.

Filed to-day
Registrar
6/7/2021

26/04/2021
P. S. / 11/11/2021
P. S. / 11/11/2021

4. That the irony of fate is that certain mishaps and unfortunate events took place at D.H.Q Hospital Charsadda, which have not only made vulnerable the lives of the inhabitants of District Charsadda to extreme perilous and danger, consequences but rather are put under the democal sword as every time and every moment in the hospital, there is very likelihood of inevitable casualty at the hands of Quakers, rather are put to guillotine.
5. That in fact ward Orderlies, Chowkidars, Class-IV employees and even outsiders are allowed to take Blood samples, inject injections, carry all paramedical acts, match blood samples, cross blood samples, carry laboratory test within the premises of D.H.Q through laboratories of D.H.Q over the patients of D.H.Q-and even are allowed to perform the duties of doctors and are thus allowed to play with the lives of the people, causing havoc to the innocent souls of District Charsadda.
6. That the story did not end here, but rather the most abominable and bete-noire picture of the event is not only all these illegal , unethical , un-islamic and extremely dangerous acts are taking place not only under the nose of the in-charge of the Hospital i.e Medical Superintendent D.H.Q Charsadda, rather with the backing and support the Medical Superintendent D.H.Q.
7. That the Medical Superintendent D.H.Q has for himself not only acknowledged the happening of all these unwanted events, but rather have put forth justifications and lame excuses in order to justify the unjustified deeds of his stubborn subordinates. This justification has been put forth by the same M.S i.e through a video message which he has put on air, wherein the said M.S has categorically stated that all the acts done are ok, legal, valid because of the reasons that 'I have trained them for carrying all these acts'.

8. That now another an extremely dangerous scenario is erupted from the very message that how, where and upon whom directions the M.S have trained these class-IV, where after they been allowed to operate in the premises of D.H.Q charsadda.
9. That one another question arises that who is M.S and who has empowered him to cause havoc to the lives of masses and poor citizens of District Charsadda and above all how he can justify all deeds.
10. That by seeing and looking upon the foul play being played with the lives of the people of District Charsadda and its unwarranted justifications put forth by the M.S not only raised the eyebrows of every sensible man in the hospital but the most concerned doctors raised their voices against all these happenings as they could not see the happening of such unfortunate events in front of their eyes, but as the M.S was adamant and all these abominable acts have been carried under his nose with his full support and backing so an order to seldom the voices of doctors concerned the Appellant was transferred in vengeance and as a retaliation in order to pave way for keeping his hegemony over the hospital in an extremely notorious manner.
11. That this is how the Appellant was paid for raising his voice against the brutalities, atrocities and violations of fundamental rights of the people of District Charsada, i.e the rights to live and get health facilities from government institutions and thus the Appellant is transferred in bulk from district charsadda to far flung areas of Khyber Paktunkhwa. **(Copies of the impugned Order dated 09-06-2021 is annexed as annexure "A")**.
12. That feeling aggrieved from the transfer order, the Appellant preferred a Departmental Appeal to the Appellate Authority, but despite of lapse of stipulated time, nothing came out of the

same. (Copy of Departmental Appeal is annexed herewith as Annexure "B").

13. That even the Appellant moved the Hon'ble Peshawar High Court Peshawar against the illegalities committed by M.S D.H.Q Charsadda, wherein, the Hon'ble Peshawar High Court Peshawar was gracious enough to order directions to the Secretary Health Khyber Pakhtunkhwa for initiating inquiry against the M.S D.H.Q. (Copies of Writ Petition & Order Dated 02-07-2021 are annexed herewith as Annexure "C & D" respectively).

14. That feeling aggrieved from the supra-mentioned episode, the grievances, that comes into existence, having the only forum and remedy available, the Appellant approaches this Hon'ble Tribunal, inter-alia, upon the following grounds, inter-alia;

GROUND:

- A. That the impugned office order dated 09-06-2021 is wrong, illegal, unlawful and is liable to be struck down and set-aside.
- B. That it is a cherished principle of law, that where a law requires a thing to be done in a particular manner, then the same is to be done in that manner and not otherwise.
- C. That the impugned Transfer & Posting is thoroughly in derogation to the principles as laid down and enumerated in the Transfer & Posting Policy.
- D. That by transferring the post of the Appellant, the Appellant has virtually been penalized for no wrong done and have been simply kicked out as in either case, the Appellant can easily be adjusted in some other hospital of District Charsadda or nearby areas, where are lying dozens of vacant posts.
- E. That the policy of the government can safely be interpreted and stretched to bring in its ambit the case of the Appellant.
- F. That even the spouse policy clearly covers the case for the Appellant, as the wife of the Appellant is also serving in D.H.Q

Hospital, hence the impugned transfer and posting policy is in utter violation of law and rules governing therein.

- G. That from all prospective, the impugned order dated 09-06-2021 is the result of colorful exercise of discretionary powers vested in the Respondents, because of which, the Appellant has been made a escape goat and has been victimized for raising his voice against the illegalities of M.S concerned.
- H. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned Office Order No. SOH(E-II)/1-1/2021 Dated 09-06-2021 issued on behest of M.S D.H.Q Hospital, Charsadda by Respondent No. 1 be declared as void, illegal and be set-aside, as being issued upon the basis of vengeance and retaliation and the Appellant be let to serve in D.H.Q Charsadda.

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

Dated: 06/07/2021

Through

Appellant

Javed Iqbal Gulbela
Advocate, Supreme Court
of Pakistan

Saghir Iqbal Gulbela

&

Ahsan Sardar
Advocates, High Court
Peshawar.

NOTE: -

As per information of my client, no such like appeal for the same Appellant, upon the same subject matter have earlier been filed, prior to the instant one.

Advocate

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No- _____/2021

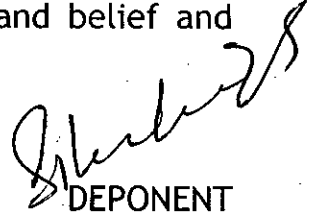
Dr. Sikandar Zeb

VERSUS

Secretary Health & Others

AFFIDAVIT


I, Dr. Sikandar Zeb, Medical Officer (BPS-170, S/o Jehanzeb R/o Professor Colony, Agricultural University, Flat No. 168, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal is correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT


CNIC:16101-1285744-9

CELL: 0316-9694028

Identified by:


Javed Iqbal Gulbela
Advocate, Supreme Court of
Pakistan




06-07-2021

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In Re S.A _____/2021

Dr. Sikandar Zeb

VERSUS

Secretary Health & Others

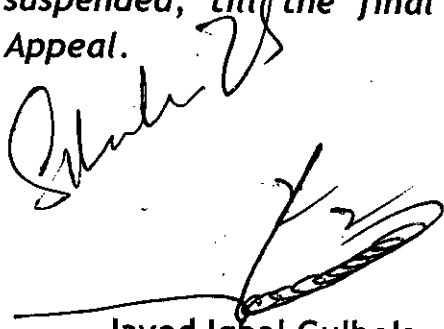
Application for suspension of operation of impugned Transfer & Posting Order Dated 09-06-2021

Respectfully Sheweth,

1. That the Appellant / Applicant is filing the instant application, the contents of which may very graciously be considered as integral part and parcel of the instant Appeal.
2. That balance of convenience lies in favor of the Appellant / Applicant.
3. That if the impugned Transfer & Posting orders are not suspended, the Appellant / Applicant shall suffer irreparable loss.
4. That in given circumstances of the case, suspension of operation of the impugned Transfer & Posting Orders Dated 01-06-2021 are indispensable.

It is therefore most humbly prayed that on acceptance of the instant application, the operations of impugned Transfer & Posting Orders Dated 09-06-2021 may very graciously be suspended, till the final disposal of the instant Service Appeal.

Dated: 06-07-2021


Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

In S.A No _____/2021

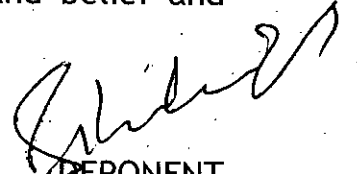
Dr. Arshad Karim

VERSUS

Secretary Health & Others

AFFIDAVIT

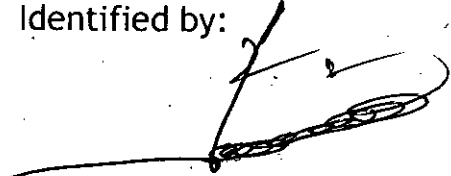
I, Dr. Sikandar Zeb, Medical Officer (BPS-170, S/o Jehanzeb R/o Professor Colony, Agricultural University, Flat No. 168, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal is correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

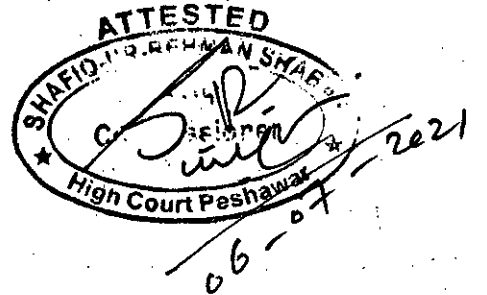

DEPONENT

CNIC:16101-1285744-9

CELL: 0316-9694028

Identified by:


Javed Iqbal Gulbela
Advocate, Supreme Court of
Pakistan



**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

In S.A No- _____/2021

Dr. Sikandar Zeb

VERSUS

Secretary Health & Others

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT

Dr. Sikandar Zeb, Medical Officer (BPS-17) S/o Jehanzeb R/O
D.H.Q Hospital, Charsadda.

ADDRESSES OF RESPONDENTS

1. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa

Dated: 06/07/2021

Through

Appellant

Javed Iqbal Gulbela
Advocate, Supreme Court
of Pakistan.



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 09th June, 2021

NOTIFICATION

No.SOH(E-II)/1-1/2021: The Competent Authority is pleased to order the following posting / transfers of doctors with immediate effect in the public interest:-

S.No	Name of doctors	From	To
1.	Dr. Asghar Nawaz S/O Khoob Nawaz, MO (BPS-17)	DHQ Hospital Charsadda	DHQ Hospital Karak against the vacant post of MO (BS-17)
2.	Dr. Jibrin Khan S/O Qasim Jan, MO (BPS-17)	DHQ Hospital Charsadda	RHC Bandai Nihaq Dir Upper against the vacant post of MO (BS-17)
3.	Dr. Muhammad Waqas S/O Lal Zada, MO (BPS-17)	DHQ Hospital Charsadda	THQ Hospital Wari Dir Upper against the vacant post of MO (BS-17)
4.	Dr. Muhammad Tariq S/O Muhammad Hassan, MO (BPS-17)	DHQ Hospital Charsadda	BHU Bela Chand (Dir Upper)
5.	Dr. Sikandar Zeb S/O Jehanzeb Khan, MO (BPS-17)	DHQ Hospital Charsadda	RHC Chorlakk Distt: Kohat against the vacant post of MO (BS-17)
6.	Dr. Muhammad Kashif Javed S/O Muhammad Javed, MO (BPS-17)	DHQ Hospital Charsadda	Type "D" Hospital Lachi Kohat against the vacant post of MO (BS-17)
7.	Dr. Maria Babar D/O Salim Khan Shinwari, WMO (BPS-17)	DHQ Hospital Charsadda	DHQ Hospital KDA Kohat against the vacant post of MO (BS-17)
8.	Dr. Sami-Ul-Haq S/O Said Rehman, MO (BPS-17)	DHQ Hospital Charsadda	BHU Kachal Distt: Kohat against the vacant post of MO (BS-17)
9.	Dr. Arshad Karim S/O Haji Fazal Akbar, MO (BPS-17)	DHQ Hospital Charsadda	BHU Sherkol Distt: Kohat against the vacant post of MO (BS-17)
10.	Dr. Inam Ullah S/O Rooh Ullah, SMO (BPS-18)	DHQ Hospital Charsadda	Category "D" Hospital Barawal Dir Upper against the vacant post of SMO (BS-18)
11.	Dr. Amin Gul S/O Raheem Gul, District Specialist Children BPS-18	DHQ Hospital Charsadda	THQ Hospital Wari Dir Upper against the vacant post of District Specialist Children (BS-18)
12.	Dr. Khan Bahadar, BPS-19 (Management Cadre) DMS (Admn)	DHQ Hospital Charsadda	Report to DGHS, Khyber Pakhtunkhwa
13.	Dr. Sald Muhammad S/O Akbar Khan, Senior Distt: Specialist Medicine, BPS-19	DHQ Hospital Charsadda	Report to DGHS, Khyber Pakhtunkhwa
14.	Dr. Umer Zia S/O Zia-Ul-Islam, MO (BPS-17)	Under transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
15.	Dr. Fatima Khattak D/O Fazal Karim Khattak, WMO (BPS-17)	Under transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
16.	Dr. Yasir Inam S/O Inam Ullah Khan, MO (BS-17)	Under transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
17.	Dr. Balqees D/O Jamal Shah, WMO (BPS-17)	Under transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)

JAVED IQBAL GULBELA

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

BETTER COPY NO. 910
GOVERNMENT OF KHYBER PAKHTOON KHWA
HEALTH DEPARTMENT

Dated Peshawar the 9th June, 2021

Notification

No.SOH(E-II)/1-1//: The competent authority is pleased through order the following posting/transfer of doctors with immediate effect in the public interest

S.No	Name of the Doctors	From	To
1	Dr. Asghar Nawaz S/o Khoob Nawaz, MO (BPS 17)	DHQ Hospital Charsadda	DHQ Hospital Karak against the vacant post of MO BS 17
2	Dr. Jibran Khan S/O Qasim Jan, MO (17)	DHQ Hospital Charsadda	RHC Bandai Nihag Dir Upper against the vacant post of MO BS 17
3	Dr, Muhammad Waqas SO lal zada MO BPS_17	DHQ Hospital Charsadda	THQ Warai Dir Upper against the vacant post of MO BS 17
4	Dr Muhammad Tariq S/O Muhammad Hassan, MO BPS-17	DHQ Hospital Charsadda	BHU Bela Chand Dir Upper
5	Dr Sikander Zaib s/o Jahanzaib Khan MO BPS-17	DHQ Hospital Charsadda	RHC Chorlaiki distt kohat against the vacant post of MO BS 17
6	Dr Muhammad Kashif Javed s/o Muhammad Javed MO BPS-17	DHQ Hospital Charsadda	Type-D hospital lacchi kohat against the vacant post of MO BS 17
7	Dr maria babar d/o saleem khan shinwari WMO BPS-17	DHQ Hospital Charsadda	DHQ hospital KDA Kohat against the vacant post of MO BS 17
8	Dr sami ul haq s/o said rehman MO BPS -17	DHQ Hospital Charsadda	BHU kachai distt kohat against the vacant post of MO BPS 17
9	Dr arshad karim s/o haji fazal akbar MO BPS-17	DHQ Hospital Charsadda	BHU Sherkot Distt kohat against the vacant post of MO BS -17
10	Dr inam ullah s/o roohullah BPS-18	DHQ Hospital Charsadda	Category D hospital barawal against the vacant post of SMO BS-18
11	Dr amin gul s/o raheem gul, district specialist children BPS-18	DHQ Hospital Charsadda	Report to DGHS Khyber pakhtoonkhwa
12	Dr khan bahadar, BPS-19 (Management Cader) DMS (Admn)	DHQ Hospital Charsadda	Report to DGHS Khyber Pakhtoonkhwa
13	Dr said Muhammad s/o akbar khan, senior Distt specialist medicine BPS-19	DHQ Hospital Charsadda	Report to DGHS, Khyber Paktunkhwa
14	Dr. Umer Zia S/O Zia ul Islam, MO (BPS-17)	Under Transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
15	Dr. Fatime Khattak D/O FAzal Karim Khattak, WMO (BPS-17)	Under Transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
16	Dr. Yasir Inam S/O Inam Ullah Khan, MO (BPS-17)	Under Transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
17	Dr. Balqees D/O Jamal Shah, WMO(BPS-17)	Under Transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)

JAVED IQBAL GULBELA
 Advocate
 Supreme Court of Pakistan
 (ASCP-17)

JAVED IQBAL Gul Bela
 Daudzai Law Chamber

18.	Dr. Nida Khan D/O Noor Nawaz Khattak, WMO (BPS-17)	Under transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
19.	Dr. Shanze Khan D/O Yousaf, WMO (BPS-17)	Category "D" Hospital Lachi (Kohat)	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
20.	Dr. Faiqa Farah Muslim D/O Muslim Khan, MO (BS-17)	Returned from Deputation	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
21.	Dr. Abdul Basit S/O Fida Muhammad, MO (BS-17)	Waiting for posting	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
22.	Dr. Yasir Ishaq S/O Muhammad Ishaq MO (BPS-17)	Waiting for posting	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
23.	Dr. Asif Naveed S/O Ishaq Ahmad, MO (BS-17)	Waiting for posting	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
24.	Dr. Kanwal Falima D/O Tajamal Hussain, WMO (BPS-17)	Under transfer to DHO, Nowshera	Women & Children/LMH Kohat
25.	Dr. Samaraat S/O Abdul Wahid Khan, MO (BS-17)	THQ Hospital Khwaza Khela, District Swat	At the disposal of DHO Buner against the vacant post of MO (BS-17)
26.	Dr. Zia Ur Rehman, MO (BS-17)	DHQ Hospital Dir Upper	At the disposal of DHO Buner against the vacant post of MO (BS-17)
27.	Dr. Rehmal Ullah Jan S/O Malik Ghazi Mar Jan, SMO (BPS-18)	Waiting for posting	As DMS (Admn) at DHQ Hospital Charsadda against the vacant post of SMO (BS-18)
28.	Dr. Hayat, Medical Officer (BS-17)	THQ Hospital Gadezi, District Buner	DHQ Hospital Alpuri, District Shangla
29.	Dr. Siraj Ud Din, Medical Officer (BS-17)	THQ Hospital Gadezi, District Buner	DHQ Hospital Alpuri, District Shangla
30.	Dr. Alia, Women Medical Officer (BS-17)	THQ Hospital Gadezi, District Buner	DHQ Hospital Alpuri, District Shangla

SECRETARY HEALTH
KHYBER PAKHTUNKHWA

Endst. of even No. & Date.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. MS DHQ Hospital Charsadda with the direction to relieve the doctors at serial No. 01-13 with immediate effect under intimation to this office.
4. District Health Officer Buner with the direction to relieve the doctors at serial No. 28-30 with immediate effect under intimation to this office.
5. All DHOs concerned.
6. All DAOs concerned.
7. PS to Secretary Health, Khyber Pakhtunkhwa.
8. PA to Special Secretary Health, Khyber Pakhtunkhwa.
9. PA to Deputy Secretary Health (Estab), Khyber Pakhtunkhwa.
10. Doctors concerned.
11. Master file.

(Ijaz Rahim)
Section Officer (E-II)

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

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan

BETTER COPY NO. 1011

18	Dr. Nida Khan D/O Noor Nawaz Khattak, WMO (BPS-17)	Under Transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
19	Dr Shanze Khan D/O Yousaf, WMO (BPS-17)	Under Transfer to DHO, Nowshera	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
20	Dr Faiqa Farah Muslim D/O Muslim Khan, MO (BPS-17)	Returned from Depulation	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
21	DR. Abdul Basit S/O Fida Muhammad, MO (BPS-17)	Waiting for post	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
22	Dr. Yasir Ishaq S/O Muhammad Ishaq MO (BPS-17)	Waiting for post	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
23	Dr. Asif Naveed S/o Ishaq Ahmad. MO (BPA-17)	Waiting for post	DHQ Hospital Charsadda against the vacant post of MO (BS-17)
24	Dr. Kanwal Fatima D/O Tajamal Hussain, WMO (BPS-17)	Under transfer to DHO, Nowshera	Women & Children/LMH Kohat
25	Dr. Samaraat S/O Abdul Wahid Khan, MO (BS-17)	THQ Hospital Khawaza Khela, District Swat	All the disposal of DHO Buner against the vacant post of MO (BS-17)
26	Dr. Zia Ur Rehman, Mo (BS-17)	DHQ Hospital Dir Upper	All the disposal of DHO Buner against the vacant post of MO (BS-17)
27	Dr. Rehmat Ullah Jan S/O Malik Ghazi Mar Jan, SMO (BPS-18)	Waiting for post	As DMS (Admn) at DHQ Hospital Charsadda against the vacant post of SMO (BS-18)
28	Dr. Hayat, Medical Officer (BS-17)	THQ Hospital Gadezi, District Buner	DHQ Hospital Alpuri, District Shangla
29	Dr Siraj Ud Din, Medical Officer (BS-17)	THQ Hospital Gadezi, District Buner	DHQ Hospital Alpuri, District Shangla
30	Dr, Alia, Women Medical Officer (BS-17)	THQ Hospital Gadezi, District Buner	DHQ Hospital Alpuri, District Shangla

SECRETARY HEALTH KHYBER PAKHTUNKHWA

Endst. Of even No.& Date.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. MS DHQ Hospital Charsadda with the direction to relieve the doctors at serial No.01-13 with immediate effect under intimation to this office.
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5. All DHOs concerned.
6. All DAOs concerned.
7. PS to Secretary Health, Khyber Pakhtunkhwa.
8. PA to Special Secretary Health, Khyber Pakhtunkhwa.
9. PA to Deputy Secretary Health (Estab), Khyber Pakhtunkhwa.
10. Doctors concerned.
11. Master file.

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

(Ijaz Rahim)
Section Officer (E-II)

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

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 6345-9405501

To

The Honourable Chief Minister,
KHYBER PUKHTUNKHWA.

SUBJECT, APPEAL AGAINST THE ORDER DATED
09-06-2021

RESPECTED Sir,

It is humbly stated that I am serving as MO at DHQ Hospital Charsadda, from where I was transferred and posted RHC Chorlakci Kohat in utter violation of the Government Policy.

It is therefore kindly requested to withhold my transfer & let me serve at DHQ Charsadda.

I shall be thankful to you.
Sikander Zul

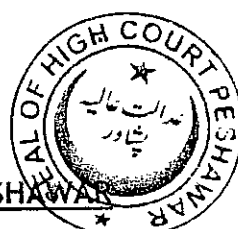
Date: 10-06-2021

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

Sikander Zul
Medical officer
DHQ Charsadda

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BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

In W.P No. _____/2021

1. Dr. Jibran Khan S/o Qasim Jan
 2. Dr. Asghar Nawaz S/o Khoob Nawaz
 3. Dr. Muhammad Waqas S/o Lal Zada
 4. Dr. Sikander Zeb S/o Jehanzeb Khan
 5. Dr. Muhammad Kashif Javed S/o Muhammad Javed
 6. Dr. Dr. Maria Baber D/o Saleem Khan Shnwari
 7. Dr. Sami ul Haq S/o Said Rahman
 8. Dr. Arshad Kareem S/o Haji Fazal Akbar
 9. Dr. Syed Muhammad S/o Akbar Khan
- All residents of D.H.Q Hospital, Charsadda.

.....Petitioners

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Director General Health Services Khyber Pakhtunkhwa
4. Medical Superintendent, District Headquarters Hospital, Charsadda.

.....Respondents

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

Respectfully Sheweth,

1. That the Petitioners are naturally born bona-fide citizens of Islamic Republic of Pakistan & hails from respectable families.
2. That the Petitioners are Doctors by profession and are performing their duties at District Headquarters Hospital (D.H.Q) Charsadda.
3. That since induction into service, the Petitioners remained dutiful and pragmatic fellows, who never left any stone unturned in performance of their duties and have won felicitations and appreciations of their high-up's at certain junctures.

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

ATTESTED
EXAMINER
Peshawar High Court

14)

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4. That the irony of fate is that certain mishaps and unfortunate events took place at D.H.Q Hospital Charsadda, which have not only made vulnerable the lives of the inhabitants of District Charsadda to extreme perilous and danger, consequences but rather are put under the democal sword as every time and every moment in the hospital, there is very likelihood of inevitable casualty at the hands of Quakers, rather are put to guillotine.
5. That in fact ward Orderlies, Chowkidars, Class-IV employees and even outsiders are allowed to take Blood samples, inject injections, carry all paramedical acts, match blood samples, cross blood samples, carry laboratory test within the premises of D.H.Q through laboratories of D.H.Q over the patients of D.H.Q and even are allowed to perform the duties of doctors and are thus allowed to play with the lives of the people, causing havic to the innocent souls of District Charsadda.
6. That the story did not end here, but rather the most abominable and bete-noire picture of the event is not only all these illegal , unethical , un-islamic and extremely dangerous acts are taking place not only under the nose of the in charge of the Hospital i.e Medical Superintendent D.H.Q Charsadda, rather with the backing and support the Medical Superintendent D.H.Q.
7. That the MS D.H.Q has for himself not only acknowledged the happening of all these unwanted events, but rather have put forth justifications and lame excuses in order to justify the unjustified deeds of his stubborn subordinates. This justification has been put forth by the same MS i.e Respondent no. 4 through a video message which he has put on air, wherein the said MS has categorically stated that all the acts done are ok, legal , valid because of the reasons that I have trained them for carrying all these acts.

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8. That now another an extremely dangerous scenario is erupted from the very message that how, where and upon whom the M.S have trained these class-IV where after they been allowed to operate in the premises of D.H.Q charsadda.
 9. That one another question arises that who is MS and who has empowered him to cause havoc to the lives of masses and poor citizens of District Charsadda and above all how he can justify all deeds (the video recording will be presented at the time of arguments).
 10. That by seeing and looking upon the foul play being played with the lives of the people of District Charsadda and its unwarranted justifications put forth by the M.S not only raised the eyebrows of every sensible man in the hospital but the most concerned doctors raised their voices against all these happenings as they could not see the happening of such unfortunate events in front of their eyes, but as the M.S was adamant and all these abominable acts have been carried under his nose with his full support and backing so an order to seldom the voices of doctors concerned the petitioners were transferred in vengeance and as a retaliation in order to pave way for keeping his hegemony over the hospital in an extremely notorious manner.
 11. That this is how the petitioners were paid for raising their voices against the brutalities atrocities and violations of fundamental rights of the people of District Charsada, i.e the rights to live and get health facilities from government institutions and thus the petitioners are transferred in bulk from district charsadda to far flung areas of Khyber Paktunkhwa. (Copies of the impugned Order dated 09-06-2021 is annexed as annexure "A").

X

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

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ATTESTED
EXAMINER
Peshawar High Court

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12. That feeling aggrieved from the supra-mentioned episode, the grievances, that comes into existence, having no other efficacious remedy available elsewhere and forum to be addressed at, the Petitioners approaches this August Court under its extra-ordinary constitutional jurisdiction and subsequent thereupon, for recognition, enforcement, and acknowledgement of their due and fundamental rights, inter-alia, upon the following grounds;

GROUNDS:

- A. That there exists no other expedient- cum- expeditious and adequate remedy available elsewhere, hence the instant Constitutional Petition under the extra-ordinary jurisdiction of this August Court.
- B. That the Petitioners are naturally born bona-fide citizens of the Islamic Republic of Pakistan and are fully and equally, on equality basis, entitled to all the basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws and law Courts of the land.
- C. That it is a cherished principle of law, that where a law requires a thing to be done in a particular manner, then the same is to be done in that manner and not otherwise.
- D. That the petitioners are not approaching this August court for enforcement of their terms and conditions of service as essentially the transfer and posting is a matter pertaining to the terms and conditions of service, but the scenario is thoroughly volta-facie as here the question of simple transfer and posting is not involved, rather the lives, liberty, health and very existence of the people of charsadda are involved, which are in doldrums and are made extremely susceptible to inevitable havoc-some destruction, at the

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

ATTESTED
EXAMINER
Peshawar High Court

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hands of Respondent No. 4, whose incompetence has resulted such inevitable mishaps.

E. That no matter, the herein impugned order is against the transfer and posting policy 2009, is against the policy of rationale (Domicile based policy), against the normal tenure and many other reasons are also available to the Petitioners, but being all those matters pertaining to the normal transfer and posting orders which all of them have to be addressed to the Services Tribunal, but here the scenario is totally different and if action on expeditious manner is not taken, not only great injustice shall prevail, but rather the adamant Respondent No. 4 would turn to be a merciless assassin who plays with innocent citizens such playfully without any fear of Allah and any fear of administrative or judicial action against him.

F. That from all prospective, the impugned order is the result of high headedness and adamancy of the Respondent No. 4, which requires the benign look and consideration of this August Court to stop and halt the further happenings of the already continued mishaps.

G. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the Respondent No. 1 to 3 may graciously be directed to take serious and strict action, on urgent basis, against Respondent No. 4 and take disciplinary action against Respondent no. 4 for the causing the havoc to the lives of the People of Charsadda and letting and thereafter justifying the actions of orderlies, chowkidars, Class-IV and private persons and be criminally proceeded for the crimes committed by Respondent No. 4 and be taken to books.

It is further prayed that a writ of Quo-Warranto may also be issued to Respondent No. 4 that under what

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

M 91
ATTESTED
EXAMINER
Peshawar High Court

18)

(18)

authority of law, the Respondent No. 4 has empowered and authorized his subordinate staff of ward orderlies, Class-IV, and chowkidars and private persons to carry all paramedical and laboratory technicians as well as Doctors Jobs in the DHQ Charsadda and under what authority of law, he can justify all these deeds?

It is further prayed that impugned Office Order No. SOH(E-II)/1-1/2021 Dated 09-06-2021 issued on behest of Respondent No. 4 by Respondent No. 2 be declared as void, illegal and be set-aside, as being issued upon the basis of vengeance and retaliation and the Petitioners be let to serve in DHQ Charsadda.

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

INTERIM RELIEF:

By way of interim relief, the impugned Office Order No. SOH(E-II)/1-1/2021 Dated 09-06-2021 may kindly be suspended till the final disposal of the instant case.

Dated: 18/06/2021

[Handwritten Signature]
SCRIPED TO BE TRUE CO-
M.A.
Peshawar High Court, Peshawar
Authorised Under Article 177 of
the Constitution of Pakistan
05 JUL 2021

Petitioners
Through
Javed Iqbal Gulbela
Advocate, Supreme Court
of Pakistan
Saghir Iqbal Gulbela
&
Ahsan Sardar
Advocates, High Court
Peshawar.

NOTE: -

As per information of my client, no such like writ petition for the same Petitioners, upon the same subject matter have earlier been filed, prior to the instant one.

Advocate. *[Handwritten Signature]*

Books Referred:

1. Constitution of the Islamic Republic of Pakistan 1973.
2. Case Laws
3. Any other books as per need.

Advocate. *[Handwritten Signature]*

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

19)

(2)

IN THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR

In W.P No- _____/2021

Jibran Khan & others

Versus

Government of Khyber Pakhtunkhwa & others

AFFIDAVIT

I, Jibran Khan S/o Qasim Khan R/o Kareem Pura, House No. 2525, Street No 2, Muhallah Baildararan, Peshawar, do hereby solemnly affirm and declare that the contents of the Instant writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

DEPONENT

CNIC#17301-7189578-7 ✓

Cell No: 0345-9129259

IDENTIFIED BY:

Javed Iqbal Gulbela
Advocate Supreme Court of,
Peshawar

IDENTIFIED TO BE TRUE COPY

JAVED IQBAL GULBELA
Advocate Supreme Court of Pakistan
(ASC # 5317)
EXAMINER Peshawar High Court
Authorized Under Article 172 of
Constitution of Pakistan Order 182
09 JUN 2021

Roll No. 28586	
Certified that the above was read on solemnly affirmation before me on	
day of June 21	17
at Qasim Khan	Jibran Khan Peshawar
Who was identified by	Javed Iqbal Gulbela
Who is personally known to me:	
	17/06/2021

20)

8

BEFORE THE HONORABLE PESHAWAR HIGH COURT PESHAWAR

In W.P No- _____/2021

Dr. Jibran Khan & Others

VERSUS

Government of Khyber Pakhtunkhwa & Others

ADDRESSES OF PARTIES

ADDRESS OF PETITIONERS

1. Dr. Jibran Khan S/o Qasim Jan
 2. Dr. Asghar Nawaz S/o Khoob Nawaz
 3. Dr. Muhammad Waqas S/o Lal Zada
 4. Dr. Sikander Zeb S/o Jehanzeb Khan
 5. Dr. Muhammad Kashif Javed S/o Muhammad Javed
 6. Dr. Dr. Maria Baber D/o Saleem Khan Shnwari
 7. Dr. Sami ul Haq S/o Said Rahman
 8. Dr. Arshad Kareem S/o Haji Fazal Akbar
 9. Dr. Syed Muhammad S/o Akbar Khan
- All residents of D.H.Q Hospital, Charsadda.

ADDRESSES OF RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
3. Director General Health Services Khyber Pakhtunkhwa
4. Medical Superintendent, District Headquarters Hospital, Charsadda.

Dated: 18/06/2021

Through Petitioners

Javed Iqbal Gulbela
Advocate, Supreme Court
of Pakistan.

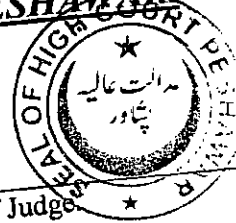

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 87 of
the Constitution of Pakistan 1973

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

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge
<p><u>02/07/2021</u></p>	<p><u>WP No. 2491-P/2021 with IR</u></p> <p>Present: Mr. Javed Iqbal Gulbela, Advocate, for the petitioners.</p> <p>M/s Atif Ali Khan & Syed Asif Jalal AAGs along with Syed Imtiaz Hussain Shah Secretary Health & Dr. Jehanzeb MS DHQ Charsadda.</p> <p>===</p> <p>SYED ARSHAD ALLI, J.- Through the instant constitutional petition, petitioners have invoked the jurisdiction of this Court praying that:-</p> <p>"It is, therefore, most humbly prayed that on acceptance of the instant petition, the Respondent No. 1 to 3 may graciously be directed to take serious and strict action, on urgent basis, against Respondent No. 4 and take disciplinary action against Respondent No. 4 for the causing the havoc to the lives of People of Charsadda and letting and thereafter justifying the actions of orderlies, chowkidars, Class-IV and private persons and be criminally proceeded for the crimes committed by Respondent No.4 and be taken to books.</p> <p>It is further prayed that a writ of Quo-Warranto may also be issued to Respondent No.4 that under what authority of law, the Respondent No.4 has empowered and authorized his subordinate staff of ward orderlies, Class-IV, and chowkidars and private persons to carry all paramedical and laboratory technicians as well as Doctors Jobs in the DHQ Charsadda and under what authority of law, he can justify all these deeds?</p> <p>It is further prayed that impugned Office Order No. SOH(E-II)/1-1/2021 Dated 09-06-2021 issued on behest of Respondent No.4 by Respondent No.2 be declared as void, illegal and be set-aside, as being issued upon the basis of vengeance and retaliation and the Petitioners be let to serve in DHQ Charsadda.</p> <p>Any other relief not specifically asked for may also graciously be extended in favour of the Petitioners in circumstances of the case".</p> <p>It is mentioned in the petition that respondent No. 4</p>

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

ATTESTED
EXAMINER
Peshawar High Court

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has literally assigned all the affairs of providing health care of the needy patients to the class-IV employees of the hospital and when an objection was raised in this regard, respondent No.4 in a very categorical terms has admitted this fact and has further stated that in this regard the class-IV employees are duly trained. In this view of the matter, on 01.07.2021, respondent No.4 as well as the worthy Secretary Health was asked to appear in person in order to apprise this Court of the situation.

3. That's why today, the learned Additional Advocate Generals along with worthy Secretary Health appeared before the Court and produced a letter dated 02.07.2021 whereby one Dr. Sher Khan Director HRM has been appointed as inquiry officer to probe into the matter. The worthy Secretary Health, present in Court, has undertaken that he will personally look into the matter and will take appropriate steps/actions if any one is involved playing with the precious live of the patients.

4. In view of the commitment of worthy Secretary Health, we dispose of this petition and thus direct that the said inquiry be conducted at the earliest and thereafter appropriate actions/remedial steps be taken not only to ensure provision of adequate health facilities in the hospital to the patients but any person, if found involved in illegal practice, pursuant to the said inquiry would be dealt with in accordance with law.

No. 324
 Date of Presentation 03/7/21
 No of Pages 107
 Copying fee 40/-
 Total 40/-
 Date of Preparation of Copy 05/7/21
 Date of Delivery of Copy 05/7/21
 Received By [Signature]

JUDGE

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

JUDGE

[Signature]
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(5) 24)

- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, KHYBER PAKHTUNKHWA needs to be obtained
- ²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary KHYBER PAKHTUNKHWA needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor KHYBER PAKHTUNKHWA shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
³DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the KHYBER PAKHTUNKHWA Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column2 thereof:

- | | |
|---|---|
| 1 | Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the KHYBER PAKHTUNKHWA Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. |
| 2 | Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004 |
| 3 | Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005. |

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(25)

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Khyber Pakhtunkhwa Services Laws

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Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

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

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation, with focus on the integrity of the concerned officers/officials be

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JAVED IQBAL
Daudzar Law Firm
Advocate High Court Peshawar
Phone: 8345-9465511

Khyber Pakhtunkhwa Services Laws

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It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF KHYBER PAKHTUNKHWA

NAME OF ADMINISTRATIVE DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

NO. _____ The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER**

PAKHTUNKHWA
Endst. No. and date even.
Copy forwarded

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

- 1.
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JAVED IQBAL GULBELA
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Supreme Court of Pakistan
(ASC # 5317)

**(NAME)
SECTION OFFICER
Administrative Department**

{Authority: Letter No. SO (E-1) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the KHYBER PAKHTUNKHWA Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in

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The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008}.

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.}

.....
The Chief Minister KHYBER PAKHTUNKHWA has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;
- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 8-6-2004. Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) KHYBER PAKHTUNKHWA Government Rules of Business' 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005}

.....
The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the KHYBER PAKHTUNKHWA Govt Servants (Conduct)

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(ASC # 5317)

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(ASC # 5317)

29)

(22)

Service (Special Powers) Ordinance

Govt Rules of Business 1985, the Administrative Secretaries shall ensure that policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007.

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(ASC # 5317)

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

BL-10-7924

0345-9405501

وکالت نامہ

بعدالت: محکمہ صحت و صیغہ - محکمہ خواہ سردار شری سرفراز

ڈاکٹر مکندر سب بنام سیکریٹری صحت و صیغہ

منجانب Appellant دعویٰ Service Appeal

تاریخ 06/7/21

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی بمقام محکمہ صحت و صیغہ کیلئے جاوید اقبال گل بیلہ ایڈووکیٹ ہائی کورٹ کو بدین شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کی کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹا لشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتاعی یا ترقی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ویسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند ہے۔ مورخہ ----- مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted by

(7)



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No- 6727 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6780

Dated 05/7/2021

1. Dr. Jibran Khan S/o Qasim Jan R/O D.H.Q Hospital, Charsadda.
.....Appellant

VERSUS

1. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa
.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL ACT -1974 AGAINST THE
IMPUGNED TRANSFER Order No. SOH(E-II)/1-
1/2021 Dated 09-06-2021 OF THE OFFICE OF
SECRETARY HEALTH KHYBER PAKHTUNKHWA,
WHEREBY THE APPELLANT HAS BEEN
TRANSFERRED FROM DISTRICT PESHAWAR TO
DISTRICT DIR UPPER IN UTTER VIOLATION TO THE
LAW AND POLICY OF TRANSFER & POSTING
GOVERNING THE SUBJECT

Respectfully Sheweth,

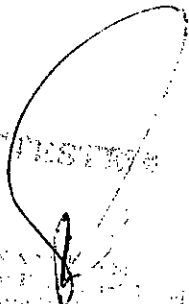
1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan & hails from respectable family.
2. That the Appellant is Doctor by profession and is performing his duties at District Headquarters Hospital (D.H.Q) Charsadda.
3. That since induction into service, the Appellant always remained dutiful and pragmatic fellow, who never left any stone unturned in performance of his duties and have won felicitations and appreciations of his high-up's at certain junctures.

Filed to-day

Registrar

05/07/2021

ATTEST


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Dr. Jibran Khan

05.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Alongwith the appeal, the appellant has annexed the copy of Posting and Transfers policy of the Government from Esta Code. According to Para xiv of the said policy, right of appeal has been given to the government servants and accordingly, if one is aggrieved due to the orders of posting/transfer of authorities, he may seek remedy from the next higher authority/the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. It is further provided in the said Para that such appeal shall be disposed of within fifteen days. As far as the office objection based on general waiting of 90 days is concerned, it is not workable in presence of a special condition of 15 days under the policy is in field for disposal of appeal. Therefore, office objection is overruled.

The appellant through this appeal has impugned the order of his transfer issued on 09.06.2021, whereby he was transferred from DHQ, Charsadda to RHC, Bandai Nihaq Dir Upper against the vacant post of Medical Officer (BPS-17). The learned counsel while referring to an incident agitated through writ petition No. 2491-P/2021 contended that the transfer order though has been given the color of public interest but in fact it is imbued with the bias of the competent authority on account of the incident being pursued by appellant among other against the Medical Superintendent of the Hospital. The contention of the appellant is rebuttable. Let the respondents, submit comments/written reply for rebuttal of the

ATTENTION

Dr. Jibran Khan
Advocate High Court Peshawar
Mobile: 3348-990553

absence of public interest in issuance of the impugned order. Therefore, this appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 27.07.2021 before the D.B.

The appeal is also accompanied with an application for suspension of the impugned order to the extent of the appellant. Notice of the same be also given to the respondents for the date already fixed. The operation of the impugned order to the extent of appellant shall remain suspended till date of hearing mentioned above.



CHIEF JUSTICE
 Supreme Court
 Islamabad
 Pakistan


 Chairman

Date of Receipt of Appeal 7/7/2021
 Number of Copies 1600
 Copies of 18 -
 Total 4 -
 Total 22 -
 Name of
 Date of 7/7/2021
 Date of Delivery of Copy 7/7/2021

Before The Service Tribunal (Hyder Pathankhane)

Appeal nos 6721/21, 6722/21, 6723/21, 6724/21, 6727/21

Sikandar Zaib etc vs Govt of I.C.P

P.O.F.
J.S.
27/07/21

Application for clubbing / transferring the appeals
being similar nature issue involved.

Respectfully sheweth.

- ① That the above mentioned appeals are pending before DB II and similar nature appeals titled "Dr Atiqul Rahman & 12 others" are fixed before D.B I for today.
- ② That the issue involved in the appeals are one and the same and in order to avoid conflicting decisions all the cases may be clubbed.

It is therefore requested that all
appeals may be clubbed for end
of Justice.

27/7/21
Ratan Khattar
A.P.R.

Respected No 2

Thouq
Ziaullah DS (Asst)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 6721/2021

Dr Sikandar Zeb..... Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary and others..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

PRELIMINARY OBJECTIONS:-

Respectfully Sheweth ;

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

FACTS

1. Pertains to record.
2. Pertains to record.
3. Pertains to record however his performance was not above the mark.
4. Needs proof however the appellant along with other doctor's performance was not up to the mark and due to their unsatisfactory performance condition of the hospital was getting worse day by day. The performance of the appellants can best be judged from the report of DGHS And the referral report whereby they referred 2,224 cases out district and referred 2238 patients to other districts which remained till May, 2021 however

after the impugned Notification the refereed cases came down to 31. The Competent Authority prior to the impugned notification in order to improve the worse condition of the Hospital transferred the then MS Dr.Akhtar Ali and posted Dr.Janzeb as MS DHQ Hospital Charsadda vide Notification dated 23.05.2021 (copy of the reports is Annex-A).

5. As the appellants badly failed to perform their legal duties and the poor patients were left on the mercy of class IV however the competent authority initiated departmental proceedings against those who were involved in such illegal activities .(Copy of the inquiry report is annexure B).
6. Subject to proof however anyone who would be involved in any illegality would be proceeded departmentally and dealt with iron hands.
7. As per para 6 however it is not the duty of the appellant rather the Competent Authority would look into the matter. The appellant should have perform his duty which he badly failed to perform rather he indulged himself into extra activities which affected the public at large badly.
8. Already replied in para 6&7 above.
9. Already replied in para 6&7 above.
10. Incorrect. The appellant has not mentioned or annexed any complaint against the MS or DHO concerned to the replying respondents which may substantiate his claim in fact the appellant has been transferred vide notification dated 09.06.2021 which was issued by the Competent Authority in accordance with Section-10 of the Khyber Pakhtunkhwa Civil Servant Act 1973.however the appellant trying to pressurise the responding department through various forums illegally including young Doctor Association as well as professional doctor Associations.
11. Incorrect detail reply has been given in paras above in case of any illegality or irregularity the competent authority would deal such an official in accordance with law and rules however the appellant in order to misguide the honourable tribunal levelled some baseless allegations. The appellant being a civil servant may be transferred anywhere in accordance with law.
12. Pertains to record however the instant appeal has been filed pre maturely in utter violation of Section-4 of Civil Servant Act 1974 and the dictum laid down by apex Court as well as Service tribunal in various judgement hence the same is not maintainable.
13. Correct to the extent of writ petition which was dismissed by the honourable court however the inquiry has already been conducted .it is worth to mention that the incident has nothing to do with the transfer

order of the appellant as transfer is a routine matters and comes within his term and condition of his service.

14. Incorrect the appellant has been transferred in accordance with Section-10 of the Khyber Pakhtunkhwa Civil Servant Act 1973 as transfer and posting comes within terms and conditions of service therefore no vested right of the appellant has been violated by the respondents it is worth to mention that the instant appeal has been filed before this Honourable Tribunal prematurely in utter violation of Section-4 of Service Tribunal Act 1974.

GROUND:

- A. Incorrect. The impugned notification dated 01.06.2021 is in accordance with law rules and principal of natural justice.
- B. Incorrect the impugned notification has been issued in accordance with law and transfer and posting policy of the Provincial Government policy and in accordance with Section-10. As per Section-10 of the Khyber Pakhtunkhwa Civil Servant Act 1973 a Civil Servant may be posted any where even outside of his cadre where the Competent Authority want to utilize his services.
- C. Incorrect the appellant being a member of Provincial cadre post is liable to be posted anywhere by the Competent Authority under law and she is bound to serve where she is posted.
- D. The para is based on mala fide, misleading concocted hence denied. The appellant has been transferred vide a general transfer posting order in accordance with law. No clause of policy has been mentioned by the appellant which has been violated by respondents in fact respondents acted as per law, rules and policy.
- E. As per paras above.
- F. Incorrect the appellant has not been penalized she has been transferred which is terms and conditions her service and is not penalty.
- G. Incorrect the competent authority has been empowered by Section 10 of the Khyber Pukhtunkhwa Civil Servant Act 1973 to transfer a civil servant at anytime to any other post even outside his cadre or province provided his terms & conditions of service is not affected .As per dictum, laid down by the apex court, in 2020 PLCCS 1207 Supreme Court,

PLACE of service .Prerogatives of employer...Government servant was required to serve any where his employer wanted him to serve; it was not a

choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another judgment reported as 2004 PLC (CS) 705 S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at anytime in exigencies of service or on administrative ground.

H. Legal however the respondents also seek permission of this honorable tribunal to adduce other grounds during final hearing.

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

Director General Health Services
Khyber Pakhtunkhwa
Respondent No-3

Secretary Health Department
Khyber Pakhtunkhwa
Respondent No-1&2

VERIFICATION

I, Mr. Ziaullah Deputy Secretary (Lit) Health Department hereby verify that the contents of the Petition are correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Deputy Secretary
(Zia Ullah)

Deputy Secretary (Lit) Health Department

Identified by

AA 07

Service Tribunal
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal Peshawar

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWA

In Re S.A 6721 /2021

Dr. Sikander Zeb

VERSUS

Secretary Health & Others

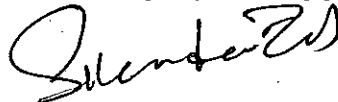
Application for issuing directions to release the Salary of the Appellant

Respectfully Sheweth,

1. That the captioned case is pending before this Hon'ble Court and is fixed for today, i.e. 27-07-2021.
2. That the impugned transfer and posting order dated 09-06-2021 has already been suspended by this Hon'ble Tribunal vide Order Dated 09-07-2021.
3. That as an act of retaliation, the Respondents have with-held the salary of the Appellant and are reluctant in releasing the same.
4. That in given circumstances, releasing of the salary of the Appellant is indispensable.

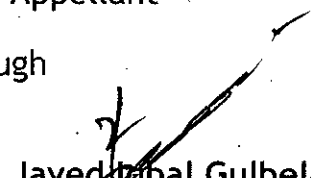
It is therefore most humbly prayed that on acceptance of the instant application, the respondents be directed to release the salary of the Appellant forthwith.

Dated: 27-07-2021



Appellant

Through



Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In S.A No-6721 /2021

Dr. Sikander Zeb

VERSUS

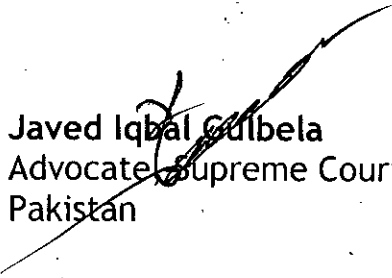
Secretary Health & Others

AFFIDAVIT


I, Dr. Sikander Zeb S/o Jehanzeb R/o Agriculture University Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal is correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

Identified by:


Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan




27-07-2021

INQUIRY REPORT

Inquiry into the issues regarding a video which went viral on social media wherein, an outsider and a ward orderly were taking blood samples from patients in District Head Quarter Hospital Charsadda

Background: The undersigned was nominated as inquiry officer through an office order No 9651-54/HRM Dated 02/07/2021 by the Director General Health Services, Khyber Pakhtunkhwa (annexed-1) to probe into the matter regarding a video which went viral on social media wherein, an outsider and a ward orderly were taking blood samples from patients in DHQ Hospital Charsadda.

Procedure: As per direction of DGHS, letter No. 9680-83/E-1 Dated 02.07.2021 (annexed-II) I Dr. Sher Khan Director (HRM) DGHS, office visited DHQ Hospital Charsadda on 03rd July 2021, Discussions were held with the concerned Medical Superintendent, District Pathologist DHQ Hospital Charsadda, Khalid Usman I/C Blood Bank Technician DHQ Hospital Charsadda and Mr. Jan Ali Ward Attendant DHQ Hospital Charsadda and their statements were recorded and review of the relevant records were conducted.

Facts: On the basis of the discussions, written statements and review of the records, the noteworthy findings are given as under:-

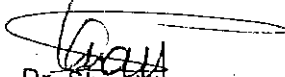
1. The Chief Executive Officer, Blood Transfusion Authority issued letter to MS DHQ Hospital Charsadda and Incharge Blood Bank, DHQ Hospital Charsadda regarding issues at Blood Bank highlighted on social media (annexed-III)
2. MS DHQ Hospital Charsadda called explanation from Mr Khalid Usman CT (Laboratory Technician) DHQ Hospital Charsadda upon that your son has been found in Laboratory illegally, simultaneously, Mr Jan Ali ward attendant/Ward Orderly has been shown collecting blood samples for viral screening of the patients. (annexed-IV).
3. Letter of MS DHQ Hospital Charsadda Medical to Chief Executive Officer, Blood Transfusion Authority that the following steps were taken: (annexed-V).
 - a. Explanation was called upon from the concerned technician
 - b. Strict warning was issued to him
 - c. To rectify the said problem, Blood bank was shifted to ground floor adjacent to main lab for proper supervision.
4. Medical Superintendent DHQ Hospital Office Order for shifting of blood bank and physiotherapy mutually in the best interest of public (annexed-VI).
5. Statement of Mr Khalid Usman CT (Laboratory Technician) Blood Bank, DHQ Hospital Charsadda is attached as annexed-VII.
6. Statement of Mr. Jan Ali ward attendant is attached as annexed-VIII.
7. Warning issued by Medical Superintendent DHQ Hospital Charsadda (annexed-IX)

8. Facts report about the incident submitted by District Pathologist DHO Hospital Charsadda with the following steps taken after the incident. (annexed - X)
- a. That Mr Hamza Khalid son of Khalid Usman CT Lab Technician and Mr Jan Ali ward attendant were shown in the video performing blood bank tests. No one has taken permission from me as well as from Medical Superintendent about their work in the blood bank.
 - b. Explanation was called from Mr Khalid Usman CT Lab Technician (Blood Bank).
 - c. Warning was issued to Mr Khalid Usman CT Lab Technician (Blood Bank).
 - d. Blood Bank has shifted to the ground floor adjacent to the blood bank.
 - e. Mr Jan Ali Ward Attendant has removed from Blood Bank.
 - f. The hospital has eight technicians at present.
 - g. In May, we have performed 12365 tests in the main laboratory.
 - h. In June, we have performed 18237 tests in the main laboratory.

Conclusions/Recommendations:

In light of the above facts and personal statements, the inquiry officers is of the view that.

1. Staff directly attached to Blood Bank i.e. Dr Waheed Alam District Pathologist Mr Khalid Usman Lab Technician I/C Blood Bank and Mr Jan Ali Ward Attendant may issue warning to be careful and such practice should not be repeated in future otherwise they will be transferred to far flung area on administrative ground.
2. Medical Superintendent may be directed to be vigilant in future and keep close eyes on the officers/officials concerned.


Dr. Sher Khan
Director (HR),
DGHS, KP, Peshawar
5.7.21



GOVERNMENT OF KHYBER PAKHTUNKHWA,
HEALTH DEPARTMENT

No E&A/Health/2-05/2019
Dated: the Peshawar May 17, 2019

To,

1. All Hospital, Medical Directors MTI, Khyber Pakhtunkhwa
2. All District Health Officers, Khyber Pakhtunkhwa
3. All Medical Superintendents, Khyber Pakhtunkhwa
4. Director Health Services, Merged Districts Khyber Pakhtunkhwa

Subject: **STRICT COMPLIANCE OF DOMICILE/ RATIONALIZATION BASED
POSTING/ TRANSFERS OF DOCTORS IN THE HEALTH
DEPARTMENT.**

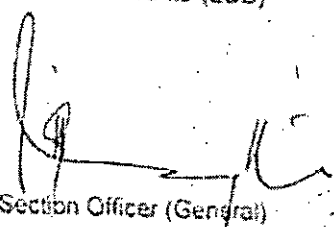
Dear Sir,

I am directed to refer to the above noted subject and to say that this department has recently issued posting/ transfer notifications in respect of doctors on domicile/ rationalization basis. In this regard, all the Hospital/ Medical Directors of MTIs and DHOs/ MSs Khyber Pakhtunkhwa are required to relieve all the doctors who were transferred from MTIs/ other hospitals and subsequently, posted in their respective home districts and stop their salaries/ pays henceforth.

2. I am further directed to convey that all Hospital/ Medical Directors of MTIs, Khyber Pakhtunkhwa should advise the positions left vacant due to the above posting/ transfers and fill-up the same under their control in the prescribed manner, at the earliest possible.

3. Similarly, all DHOs/ MSs/ DHS merged Districts, Khyber Pakhtunkhwa are required to accept arrival of the reporting doctors transferred from MTIs/ other hospitals and should ensure that they must serve at the place of posting, as per notifications without any further internal adjustment.

4. All the DHOs/ MSs/ DHS merged Districts, Khyber Pakhtunkhwa are required to report the doctors transferred from MTIs/ other hospitals to this department who fail to join their new assignment within the stipulated time for initiation of disciplinary proceedings under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.


Section Officer (General)

End: of even No. & Date.

1. Director General Health Services, Khyber Pakhtunkhwa.
2. PSO to Minister for Health, Khyber Pakhtunkhwa.
3. PS to Secretary Health, Khyber Pakhtunkhwa.


Section Officer (General)

OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEAD QUARTER HOSPITAL CHARSADDA.

dated the 16/06/2021.

No. 4741-59 / DHQ Hospital CHD

To

1. Dr. Asghar Nuwaz Medical Officer
2. Dr. Jibran Khan Medical Officer.
3. Dr. Muhammad Waqas Medical Officer
4. Dr. Muhammad Tariq Medical Officer
5. Dr. Sikandar Zeb Medical Officer
6. Dr. Muhammad Kashif Medical Officer
7. Dr. Maria Babar Medical Officer
8. Dr. Sami ul Haq Medical Officer
9. Dr. Arshid Karim Medical Officer.
10. Dr. Inam Ullah Medical Officer
11. Dr. Amin Gul District Specialist Peeds.
12. Dr. Khan Bahadur DMS Admn'
13. Dr. Said Muhammad District Sr: physician

Subject: RELINQUISH FROM DUTIES.
Memo.

With reference to Government Health Department notification NO. SOHSOII(E-II)1-1/2021 dated 09th June 2021.

You are hereby relieved from your duties with immediate effect in the best interest of Public.


Medical Superintendent
DHQ Hospital Charsadda

NO. _____ / DHQ Charsadda

dated the _____ /06/2021

Copy to the:-

01. Secretary to Government Health Department Khyber Pakhtunkhwa Peshawar.
02. Director General Health Services Khyber Pakhtunkhwa Peshawar.
03. District Accounts Officer Charsadda.
04. Accounts Section DHQ Charsadda.
05. Establishment Section DHQ Charsadda.

For information and further necessary action.


Medical Superintendent
DHQ Hospital Charsadda

CERTIFICATE OF TRANSFER OF CHARGE

It is hereby notified that I Dr. Nida Khan Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHQ Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-II)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHQ Hospital Charsadda

Designation:

Signature of relieving
Government
Servant P. Jafar

Dated: 12/06/2021

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 4873-77 /MS DHQ Hospital Charsadda Dated: 12-106 /2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda,
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda.

For information and necessary action.

Received
12/6/2021

P. Jafar

Medical Superintendent
DHQ Hospital Charsadda

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Dr. Yasir Inam Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHO Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-II)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant

Station: DHO Hospital Charsadda

Designation:

Signature of relieving
Government
Servant

Dated: 15/06/2021

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHO HOSPITAL, CHARSADDA

No. 5091-96 /MS DHO Hospital Charsadda Dated: 18/06/2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHO Hospital Charsadda.

For information and necessary action.

Medical Superintendent
DHO Hospital Charsadda

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Dr. Faizun Farah Muslim Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHQ Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-II)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHQ Hospital Charsadda

Designation:

Signature of relieving
Government
Servant _____

Dated: 14/06/2021

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 4963-67 /MS DHQ Hospital Charsadda Dated: 14/06/2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda.

For information and necessary action.

Medical Superintendent
DHQ Hospital Charsadda

CERTIFICATE OF TRANSFER OF CHARGE

It is certified that Dr. Yasir Ishaq Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHO Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-II)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHO Hospital Charsadda

Designation:

Signature of relieving
Government
Servant Dr. J

Dated: 16/06/2021

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHO HOSPITAL CHARSADEA

No. 5048-52 /MS DHO Hospital Charsadda Dated: 16/06/2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHO Hospital Charsadda.

For information and necessary action.

Medical Superintendent
DHO Hospital Charsadda

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Dr. SHANZE KHAN Women Medical Officer (BS-17) have on this day took charge of the office of Women Medical Officer (BS-17) DHQ Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-II)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHQ Hospital Charsadda

Designation:

Signature of relieving
Government
Servant Shanze Khan

Dated: 08/07/2021.

Designation: WMO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 5642-59/MS DHQ Hospital Charsadda Dated: 12/17 /2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda.

For information and necessary action.

Medical Superintendent
DHQ Hospital Charsadda

11/17

Received
Shanze Khan
SOH 135
17

CERTIFICATE OF TRANSFER OF CHARGE

Certified that Dr. Umar Zia Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHQ Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-11)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHQ Hospital Charsadda

Designation:

Signature of relieving
Government
Servant [Signature]

Dated: 11/06/2021

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 4915-19 MS DHQ Hospital Charsadda Dated: 12-06 2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda.

For information and necessary action.

[Signature]

[Signature]
Medical Superintendent
DHQ Hospital Charsadda

Scanned with CamScanner

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Dr. Balqees Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHQ Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SOH (E-11)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHQ Hospital Charsadda

Designation:

Signature of relieving
Government
Servant _____

Dated: 12/06/2021.

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 4868-72 /MS DHQ Hospital Charsadda Dated: 12/06 2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda.

For information and necessary action.

Medical Superintendent
DHQ Hospital Charsadda
[Signature]

[Handwritten signatures and dates]
12/6/21

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CERTIFICATE OF TRANSFER OF CHARGE

Certified that Dr. Abdul Hasit Medical Officer (BS-17)
office of Medical Officer (BS-17), DHQ Hospital Charsadda,
Khyber Pakhtunkhwa Notification No. S011 (I) -H/1-1/2011, dated 09/06/2011

Signature of
Government
Servant

Station: DHQ Hospital Charsadda

Designation

Signature of
Government
Servant

Dated: 10/06/2021

Designation: MO (BS-17)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 4791-95 /MS DHQ Hospital Charsadda Dated 10/06/2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information and reference in notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa Peshawar
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda

For information and necessary action.

Medical Superintendent
DHQ Hospital Charsadda

Received

CERTIFICATE OF TRANSFER OF CHARGE

certified that I Dr. Fatima Khattak Medical Officer (BS-17) have on this day took charge of the office of Medical Officer (BS-17) DHQ Hospital Charsadda vide Secretary Health, Govt of Khyber Pakhtunkhwa Notification No. SO11 (E-11)/1-1/2021, dated: 09/06/2021.

Signature of relieved
Government
Servant _____

Station: DHQ Hospital Charsadda

Designation:

Signature of relieving
Government
Servant Fatima Khattak
Designation: MO (BS-17)

Dated: 10/06/2021

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL CHARSADDA

No. 4770-74 /MS DHQ Hospital Charsadda Dated: 10/06/2021

Copy to:

1. Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar for information with reference to notification as quoted above.
2. Director General, Health Services Khyber Pakhtunkhwa, Peshawar.
3. DAO Charsadda.
4. Doctor concerned.
5. Accounts Section DHQ Hospital Charsadda.

For information and necessary action.

[Signature]
Medical Superintendent
DHQ Hospital Charsadda
10/06/21

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 09th June, 2021

NOTIFICATION

No.SOH(E-II)/1-1/2021: The Competent Authority is pleased to order the following posting / transfers of doctors with immediate effect in the public interest:-

S.No	Name of doctors	From	To
1.	Dr. Asghar Naivaz S/O Khoob Nawaz, MO (BPS-17)	DHO Hospital Charsadda	DHO Hospital Karak against the vacant post of MO (BS-17)
2	Dr. Abrar Khan S/O Oasim Jan, MO (BPS-17)	DHO Hospital Charsadda	RHC Bandai Mithaq Dir Upper against the vacant post of MO (BS-17)
3	Dr. Muhammad Waqas S/O Lal Zaqa, MO (BPS-17)	DHO Hospital Charsadda	DHO Hospital Wari Dir Upper against the vacant post of MO (BS-17)
4	Dr. Muhammad Tariq S/O Muhammad Hassan, MO (BPS-17)	DHO Hospital Charsadda	DHO Bela Chand (Dir Upper)
5	Dr. Sikandar Zeb S/O Jehanzeb Khan, MO (BPS-17)	DHO Hospital Charsadda	RHC Chorlakk Distt: Kohat against the vacant post of MO (BS-17)
5.	Dr. Muhammad Kashif Javed S/O Muhammad Javed, MO (BPS-17)	DHO Hospital Charsadda	Type "D" Hospital Lachi Kohat against the vacant post of MO (BS-17)
7.	Dr. Maria Babar D/O Salim Khan Sifinwari, WMO (BPS-17)	DHO Hospital Charsadda	DHO Hospital KDA Kohat against the vacant post of MO (BS-17)
8	Dr. Sami-Ul-Haq S/O Saïd Rehman, MO (BPS-17)	DHO Hospital Charsadda	DHO Kachai Distt: Kohat against the vacant post of MO (BS-17)
9	Dr. Ashad Karim S/O Haji Fazal Akbar, MO (BPS-17)	DHO Hospital Charsadda	BIU Sherkot Distt: Kohat against the vacant post of MO (BS-17)
10	Dr. Inam Ullah S/O Rooh Ullah, SMO (BPS-18)	DHO Hospital Charsadda	Category "D" Hospital Barawal Dir Upper against the vacant post of SMO (BS-18)
11.	Dr. Amir Gul S/O Raheem Gul, District Specialist Children BPS-18	DHO Hospital Charsadda	DHO Hospital Wari Dir Upper against the vacant post of District Specialist: Children (BS-18)
12	Dr. Khan Bahadar, BPS-19 (Management Cadre) DMS (Admin)	DHO Hospital Charsadda	Report to DGHS, Khyber Pakhtunkhwa
13:	Dr. Saïd Muhammad S/O Akbar Khan, Senior Distt: Specialist Medicine, BPS-19	DHO Hospital Charsadda	Report to DGHS, Khyber Pakhtunkhwa
14	Dr. Umer Zia S/O Zia-Ul-Islam, MO (BPS-17)	Under transfer to DHO, Nowshera	DHO Hospital Charsadda against the vacant post of MO (BS-17)
15	Dr. Fatima Khalilak D/O Fazal Karim Khalilak, WMO (BPS-17)	Under transfer to DHO, Nowshera	DHO Hospital Charsadda against the vacant post of MO (BS-17)
16.	Dr. Yasir Inam S/O Inam Ullah Khan, MO (BS-17)	Under transfer to DHO, Nowshera	DHO Hospital Charsadda against the vacant post of MO (BS-17)
17.	Dr. Balqees D/O Jarnal Shah, WMO (BPS-17)	Under transfer to DHO, Nowshera	DHO Hospital Charsadda against the vacant post of MO (BS-17)

19	Dr. Nida Khan D/O Noor Nawaz Khatik, WMO (UPS-17) Dr. Shanze Khan D/O Yousaf, WMO (BPS-17)	Under transfer to DHO, Nowshera Category "D" Hospital Lachi (Kohat)	DHO Hospital Charsadda against the vacant post of MO (BS-17) DHO Hospital Charsadda against the vacant post of MO (BS-17)
20.	Dr. Faqir Farah Muslim D/O Muslim Khan, MO (BS-17)	Returned from Deputation	DHO Hospital Charsadda against the vacant post of MO (BS-17)
21.	Dr. Abdul Basit S/O Fida Muhammad, MO (BS-17)	Waiting for posting	DHO Hospital Charsadda against the vacant post of MO (BS-17)
22.	Dr. Yasir Ishaq S/O Muhammad Ishaq MO (BPS-17)	Waiting for posting	DHO Hospital Charsadda against the vacant post of MO (BS-17)
23	Dr. Asif Naveed S/O Ishaq Ahmad, MO (BS-17)	Waiting for posting	DHO Hospital Charsadda against the vacant post of MO (BS-17)
24	Dr. Kanwal Fatima D/O Tajamal Hussain, WMO (BPS-17)	Under transfer to DHO, Nowshera	Women & Children/LMI Kohat
25.	Dr. Samirani S/O Abdul Wahid Khan, MO (BS-17)	THO Hospital Khwaza Khela, District Swat	At the disposal of DHO Buner against the vacant post of MO (BS-17)
26.	Dr. Zin Ur Rehman, MO (BS-17)	DHO Hospital Dir Upper	At the disposal of DHO Buner against the vacant post of MO (BS-17)
27.	Dr. Rehmata Ullah Jan S/O Malik Ghazi Mar Jan, SMO (BPS-18)	Waiting for posting	As DMS (Admin) at DHO Hospital Charsadda against the vacant post of SMO (BS-18)
28.	Dr. Hayat, Medical Officer (BS-17)	THO Hospital Gadezi, District Buner	DHO Hospital Alपुरi, District Shangla
29.	Dr. Siraj Ud Din, Medical Officer (BS-17)	THO Hospital Gadezi, District Buner	DHO Hospital Alपुरi, District Shangla
30.	Dr. Aika, Women Medical Officer (BS-17)	THO Hospital Gadezi, District Buner	DHO Hospital Alपुरi, District Shangla

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SECRETARY HEALTH
KHYBER PAKHTUNKHWA

ndst. of even No. & Date.
copy to the

1. Accountant General Khyber Pakhtunkhwa.
 2. Director General, Health Services, Khyber Pakhtunkhwa.
 3. MS DHO Hospital Charsadda with the direction to relieve the doctors at serial No. 01-13 with immediate effect under intimation to this office.
 4. District Health Officer Buner with the direction to relieve the doctors at serial No. 28-30 with immediate effect under intimation to this office
- All DHOs concerned.
All DAOs concerned.
PS to Secretary Health, Khyber Pakhtunkhwa.
PA to Special Secretary Health, Khyber Pakhtunkhwa.
PA to Deputy Secretary Health (Estab), Khyber Pakhtunkhwa.
Doctors concerned.
Master file.

(11-3
(Ijaz Rahim)
Section Officer (E-II)

The worthy
Secretary Health,
Khyber Pakhtunkhwa.

JURY NO. 10253
DATE 8/7/21
HEALTH DEPARTMENT

Subject: Application for DS (Legal)
Arrival of committee
for the case.

Respected Sir,

with utmost respect, the undersigned
very humbly solicits as under:


- 1- That the undersigned was transferred from D.H.Q Hospital Charsadda to District Dir upper vide Order of your goodself office dated 09-06-2021.
- 2- That feeling aggrieved, the Undersigned approached the Hon'ble Khyber Pakhtunkhwa Services Tribunal for Suspension of the transfer Order in question.
- 3- That the Hon'ble Khyber Pakhtunkhwa Services Tribunal was gracious enough to Suspend the Operations of the transfer Orders dated 09-06-2021. (Copy Annexed)

It is therefore kindly requested that the Undersigned be let to serve at D.H.Q Charsadda.

Thanking you.

Date: 08-07-2021.

Sincerely Yours


Dr. Jibran Khan
Medical Officer (BS-17)
D.H.Q Hospital
Charsadda.

PA # 0345 1129 259



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Subject: APPLICATION FOR ARRIVAL

13 Litigation Section of Health Department, Government of Khyber Pakhtunkhwa has forwarded the letter of Service Tribunal Peshawar for compliance as the Service Tribunal Peshawar has impugned / suspended this Department order of transfer dated 09-06-2021 in respect of the following doctors belonging to Peshawar and Charsadda through Appeal No: 6723 "F/A"

14 It is to mention here that 05 doctors transferred from DHQ Hospital Charsadda have a stay order against order of transfer dated 09-06-2021 vide "F/B"

15 It is further stated that consequent upon stay order of the Service Tribunal Peshawar against this Department's transfer order dated 09-06-2021 the following Medical Officers (BS-17) will continue their duties in DHQ Hospital Charsadda till the outcome of the appeal.

- a) Dr. Maria
- b) Dr. Iftikhar
- c) Dr. Arshad Karim
- d) Dr. Sikandar Zaib
- e) Dr. Avin Khattak



**MOST IMMEDIATE
COURT MATTER**

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

NO. 2011/10/11/11/11/11/11
Dated: 11/11/11

Section Officer (Lit. II),
Health Department

Subject: **APPLICATION FOR ARRIVAL**

I am directed to refer to the subject noted above and to forward herewith an application submitted by Dr. Ibram Khan alongwith a copy of the order sheets of Services Tribunal Peshawar in respect of the mentioned medical officers for compliance please.

1. Dr. Syed Usman Shah
2. Dr. Muhammad Asif
3. Dr. Nabeela Rehman
4. Dr. Muhammad Ali
5. Dr. Waqihullah
6. Dr. Arshad Rahat Ullah
7. Dr. Noor-e-Mubeen
8. Dr. Sadaqat Hussain
9. Dr. Bushra Ayub
10. Dr. Faiza Mehmood Khattak
11. Dr. Hamayun Murtaza
12. Dr. Ateeq Rehman

Being court matter, hence may please be treated as **MOST URGENT**

Encls. As above.

Section Officer (Lit. II)

Encls. No. and date.

Copy forwarded for information to:-

1. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. PS to the Secretary Health Department, Khyber Pakhtunkhwa.
3. PA to Deputy Secretary (Litigation) Health Department Peshawar.

INQUIRY REPORT

Inquiry into the issues regarding a video which went viral on social media wherein, an outsider and a ward orderly were taking blood samples from patients in District Head Quarter Hospital Charsadda.

Background: The undersigned was nominated as inquiry officer through an office order No 9651-54/HRM Dated 02/07/2021 by the Director General Health Services Khyber Pakhtunkhwa (annexed-1) to probe into the matter regarding a video which went viral on social media wherein, an outsider and a ward orderly were taking blood samples from patients in DHQ Hospital Charsadda.

Procedure: As per direction of DGHS, letter No. 9680-83/E-1 Dated 02.07.2021 (annexed-II) I Dr. Sher Khan Director (HRM) DGHS, office visited DHQ Hospital Charsadda on 03rd July 2021, Discussions were held with the concerned Medical Superintendent, District Pathologist DHQ Hospital Charsadda, Khalid Usman I/C Blood Bank Technician DHQ Hospital Charsadda and Mr. Jan Ali Ward Attendant DHQ Hospital Charsadda and their statements were recorded and review of the relevant records were conducted.

Facts: On the basis of the discussions, written statements and review of the records, the noteworthy findings are given as under:-

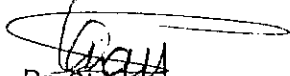
1. The Chief Executive Officer, Blood Transfusion Authority issued letter to MS DHQ Hospital Charsadda and Incharge Blood Bank, DHQ Hospital Charsadda regarding issues at Blood Bank highlighted on social media (annexed-III)
2. MS DHQ Hospital Charsadda called explanation from Mr Khalid Usman CT (Laboratory Technician) DHQ Hospital Charsadda upon that your son has been found in Laboratory illegally, simultaneously, Mr Jan Ali ward attendant/Ward Orderly has been shown collecting blood samples for viral screening of the patients (annexed-IV).
3. Letter of MS DHQ Hospital Charsadda Medical to Chief Executive Officer, Blood Transfusion Authority that the following steps were taken: (annexed-V).
 - a. Explanation was called upon from the concerned technician
 - b. Strict warning was issued to him
 - c. To rectify the said problem, Blood bank was shifted to ground floor adjacent to main lab for proper supervision.
4. Medical Superintendent DHQ Hospital Office Order for shifting of blood bank and physiotherapy mutually in the best interest of public (annexed-VI).
5. Statement of Mr Khalid Usman CT (Laboratory Technician) Blood Bank, DHQ Hospital Charsadda is attached as annexed-VII.
6. Statement of Mr. Jan Ali ward attendant is attached as annexed-VIII.
7. Warning issued by Medical Superintendent DHQ Hospital Charsadda (annexed-IX)

8. Facts report about the incident submitted by District Pathologist DHQ Hospital Charsadda with the following steps taken after the incident. (annexed - X)
- a. That Mr Hamza Khalid son of Khalid Usman CT Lab Technician and Mr Jan Ali ward attendant were shown in the video performing blood bank tests. No one has taken permission from me as well as from Medical Superintendent about their work in the blood bank.
 - b. Explanation was called from Mr Khalid Usman CT Lab Technician (Blood Bank).
 - c. Warning was issued to Mr Khalid Usman CT Lab Technician (Blood Bank)
 - d. Blood Bank has shifted to the ground floor adjacent to the blood bank
 - e. Mr Jan Ali Ward Attendant has removed from Blood Bank
 - f. The hospital has eight technicians at present
 - g. In May, we have performed 12365 tests in the main laboratory.
 - h. In June, we have performed 18237 tests in the main laboratory.

Conclusions/Recommendations:

In light of the above facts and personal statements, the inquiry officers is of the view that

1. Staff directly attached to Blood Bank i.e. Dr Waheed Alam District Pathologist Mr Khalid Usman Lab Technician I/C Blood Bank and Mr Jan Ali Ward Attendant may issue warning to be careful and such practice should not be repeated in future otherwise they will be transferred to far flung area on administrative ground
2. Medical Superintendent may be directed to be vigilant in future and keep close eyes on the officers/officials concerned.


Dr. Sher Khan
Director (HR),
DGHS, KP, Peshawar
5.7.21



GOVERNMENT OF KHYBER PAKHTUNKHWA,
HEALTH DEPARTMENT

No. E&A/Health/2-65/2019
Dated: the Peshawar May 17, 2019

To,

1. All Hospital, Medical Directors MTI, Khyber Pakhtunkhwa
2. All District Health Officers, Khyber Pakhtunkhwa
3. All Medical Superintendents, Khyber Pakhtunkhwa
4. Director Health Services, Merged Districts Khyber Pakhtunkhwa

Subject:

STRICT COMPLIANCE OF DOMICILE/ RATIONALIZATION BASED
POSTING/ TRANSFERS OF DOCTORS IN THE HEALTH
DEPARTMENT.

Dear Sir,

I am directed to refer to the above noted subject and to say that this department has recently issued posting/ transfer notifications in respect of doctors on domicile/ rationalization basis. In this regard, all the Hospital/ Medical Directors of MTIs and DHOs/ MSs, Khyber Pakhtunkhwa are required to relieve all the doctors who were transferred from MTIs/ other hospitals and subsequently, posted in their respective home districts and stop their salaries/ pays henceforth.

2. I am further directed to convey that all Hospital/ Medical Directors of MTIs, Khyber Pakhtunkhwa should advertise the positions left vacant due to the above posting/ transfers and fill-up the same under their control in the prescribed manner, at the earliest possible.
3. Similarly, all DHOs/ MSs/ DHS merged Districts, Khyber Pakhtunkhwa are required to accept arrival of the reporting doctors transferred from MTIs/ other hospitals and should ensure that they must serve at the place of posting as per notifications without any further internal adjustment.
4. All the DHOs/ MSs/ DHS merged Districts, Khyber Pakhtunkhwa are required to report the doctors transferred from MTIs/ other hospitals to this department who fail to join their new assignment within the stipulated time for initiation of disciplinary proceedings under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.


Section Officer (General)

End: of even No. & Date.

1. Director General Health Services, Khyber Pakhtunkhwa.
2. PSO to Minister for Health, Khyber Pakhtunkhwa.
3. PS to Secretary Health, Khyber Pakhtunkhwa.


Section Officer (General)

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

In Re S.A _____/2021

Dr. Sikandar Zeb

VERSUS

Secretary Health & Others

APPLICATION FOR CORRECTION OF PRAYER

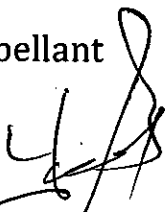
Respectfully Sheweth,

1. That the captioned case is pending adjudication before this hon'ble tribunal and is fixed for today i.e., 25/04/2022.
2. That inadvertently and mistakenly, District Peshawar has been mentioned instead of District Charsadda, which may kindly be read as District Charsadda in the heading of the prayer of the main service appeal.

It is therefore, most humbly prayed that on acceptance of the instant application the "District Peshawar" may kindly be read as "District Charsadda" in the main Service Appeal.

Dated: 25/04/2022

Appellant

Through 

Javed Iqbal Gulbela

Advocate Supreme Court