

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7568/2021

Date of Institution 22.05.2018

Syed Farid Ullah Shah S/O Syed Rehman Shah Clinical Technician,
Radiology HMC, Peshawar.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary, Health
Department, Civil Secretariat, Peshawar and three others.

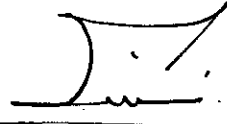
ORDER
07.10.2021

Mr. Kamran Khan, Advocate, for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Although pre-admission notice of the appeal was issued to the respondents, however the appeal in hand has not yet been registered, therefore, office is directed to register the same.

Learned counsel for the appellant stated at the bar that as per instructions of the appellant, he wants to withdraw the instant appeal. In this respect, written endorsement of learned counsel for the appellant obtained at margin of the order sheet.

In view of the above, the appeal in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.10.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

I, Kamran Khan Advocate Council for the appellant in case Fawadullah vs Govt here by with draw the instant appeal. 7/10/2021

10:08.2021

Since 10.08.2021 has been declared public holiday on account of Ist Muharram, therefore, case to come up for the same on 07.10.2021 before S.B.

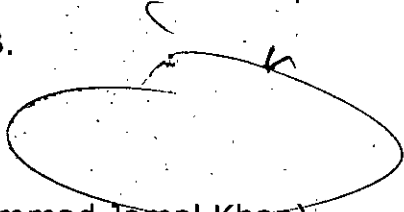


Reader

04.11.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for appellant is not available today. Adjourned to 20.01.2021 on which date to come up for further proceedings before S.B.



(Muhammad Jamal Khan)
Member (Judicial)

20.01.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former submitted an application for adjournment which is allowed and the case is adjourned to 22.04.2021 for further proceedings/hearing before S.B.


(Rozina Rehman)
Member (J)

22.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 10.08.2021 for the same as before.


Reader

28.07.2020

Mr. Noor Muhammad Khattak, Advocate, for appellant is present. Preliminary arguments heard. In view of addressed arguments at the bar, it is deem appropriate to issue pre-admission notice to respondents for 01.09.2020 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER

01.09.2020

Appellant in person and Addl. AG for the respondents present.

Former requests for adjournment due to engagement of his senior counsel, before Darul Qaza at Swat.

Adjourned to 05.10.2020 before S.B.


Chairman

05.10.2020

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG requests for time to seek instructions from the respondents who are not representing today. Adjourned to 04.11.2020 before S.B. On the next date instant matter will positively be argued as the same pertains to the year 2018 and is still at preliminary stage.


Chairman

28.01.2020 Appellant in person present and seeks adjournment due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council. Adjourned to 17.03.2020 before S.B.



Member

17.03.2020 Nemo for the appellant. Lawyers community is on strike on the call of Peshawar Bar Association.

One of the issue involved in the present service appeal is also that whether this Tribunal has got the jurisdiction to issue directions in relation to the method of recruitment, qualification and other conditions of service, in view of judgment of the august Supreme Court of Pakistan reported in 2015 SCMR page 269.

Adjourned for preliminary hearing on 22.04.2020 before S.B. Appellant be put to notice for the date fixed.



Member

22.04.2020 Due to public holiday on account of COVID-19, the case to come up for the same on 28.07.2020 before S.B.



Reader

14.11.2019

Counsel for the appellant present.

Due to fixation of a large number of cases before larger bench today of which the Chairman is also one of the constituents, instant appeal is adjourned to 03.12.2019 before S.B.


Chairman

03.12.2019

Counsel for the appellant present.

Due to paucity of time instant matter is adjourned to 10.12.2019 before S.B.


Chairman

10.12.2019

Junior to counsel for the appellant present.

A request for adjournment is made due to general strike of the Bar. Adjourned to 08.01.2020 before S.B.


Chairman

08.01.2020

Appellant present in person.

Requests for adjournment due to general strike of the Bar. Adjourned to 28.01.2020 before S.B.


Chairman

10.07.2019

Appellant in person present.

Appellant requests for adjournment due to non-availability of his learned counsel.

Adjourned to 03.09.2019 before S.B.


Chairman

03.09.2019

Appellant once again requests for adjournment due to non-availability of his learned counsel. Adjourned to 21.10.2019 but as a last chance.

CHAIRMAN 

21.10.2019

Appellant in person present.


Appellant requests for adjournment as his counsel is not available due to general strike of the Provincial Bar Council.

Adjourned to 14.11.2019 before S.B


Chairman

06.03.2019

Appellant in person present and seeks adjournment on the ground that his counsel is not available today. Adjourned to 11.04.2019 for preliminary hearing before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11.04.2019

Appellant in person present.

Due to general strike on the call of Bar Association instant matter is adjourned to 16.05.2019 before S.B.


Chairman

16.05.2019

Appellant in person present and seeks adjournment. Learned counsel for the appellant not present. Adjourn. To come up for further proceedings on 31.05.2019 before S.B.


Member

31.05.2019

Appellant in person present and once again requests for adjournment as his learned counsel has proceeded to Islamabad in his professional engagements. Adjourned to 10.07.2019 for preliminary hearing before S.B.


Chairman

09.08.2018

Today again neither the appellant nor his counsel present. Case to come up for further proceedings on 05.10.2018 before S.B.

05.10.2018

Neither appellant nor his counsel present. Notice be issued to appellant and his counsel for attendance for 21.11.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

21-11-2018


Since, 21, November has been declared as Public holiday on account of 12th Rabiul awwal therefore the case is adjourned to come up for the same on 10-1-2019


Reader

10.1.2019

Nemo for appellant.


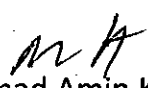
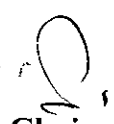
On the last date of hearing the matter was adjourned on the strength of Reader note. Notice be issued to appellant/counsel for 06.03.2019 for preliminary hearing before S.B.


Chairman

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. _____ /2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12/06/2018	As per direction of the Worthy Chairman this case is submitted to the S. Bench for decision on office objection. To be put up there on <u>28/6/18</u>  REGISTRAR
	28.06.2018	None present on behalf of the appellant. Adjourned. To come up for arguments on office objection on 30.07.2018 before S.B.  (Muhammad Amin Khan Kundi) Member
	30.07.2018	Neither appellant nor his counsel present. On previous date too none was present as such case to come up for further proceedings on 09.08.2018 before S.B.  Chairman

The appeal of Syed Faridullah Shah son Syed Rehman Shah Clinical Technician Radiology HMC Peshawar received today i.e. on 22.05.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- The appeal in hand is preferred against the insertion of a note in the notification dated 10.05.2016 while the departmental appeal was preferred/made against the final seniority list the same may be rectified and proper departmental appeal be placed on file.

No. 1074 /S.T,

Dt. 23/05 /2018.

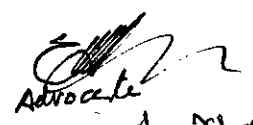

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Issa Khan Adv. Pesh.

Sir, kindly, have a look at the note inserted in the Rules at page-17 of the instant appeal, it transpires that seniority is allocated on the basis of date of acquiring the degree by virtue of this impugned note. The departmental appeal refers to preparation of seniority list "in accordance with the year of passing of degree examination" in para-4 thereof, which basically is the subject-matter.

Kindly, also have a look at the prayer part of the service Appeal, wherein the basic request is for "proper allotment of seniority" and removal of the note, which has badly affected the appellant's seniority.

Moreover, in the instant matter, where the Rules have been challenged, no departmental appeal is needed to be filed and such a matter can be directly assailed in service appeal. 1991 SCMR 1041 & 1994 SC MR 1033

Sir, The objection of the Tribunal and reply of counsel for the appellant is substantive for under Pt. 
Advocate
6/6/19.

Hairle
Chairman.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. _____/2018

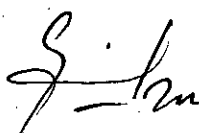
Syed Farid Ullah ShahAppellant

Versus

Government of KPK through Secretary, Health
Department and others.....Respondents

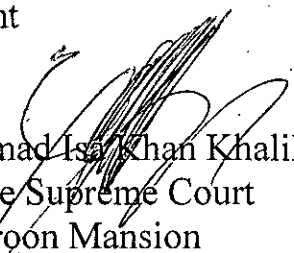
I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Service Appeal		1- 2
2.	Stay application		85
3.	Copy of seniority list	A	6-9
4.	Copy of order dated 29.03.2012 in W.P.No.2001/2011	B	10-12
5.	Copy of notification dated 10.05.2016	C	13-19
6.	Copy of departmental appeal	D	20-21
7.	Copy of KPK Civil Servants (Appointment, Promotion & Transfer) Rules, 1989	E	22-23
8.	Wakalatnama		24



Appellant

Through


Muhammad Isa Khan Khalil
Advocate Supreme Court

Off: 6-B, Haroon Mansion
Khyber Bazar Peshawar

Cell: 0300-5949173

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7568/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7521

Syed Farid Ullah Shah S/o Syed Rehman Shah
Clinical Technician, Radiology HMC, Peshawar.

Dated 22-5-2018

.....Appellant

Versus

- 1) Government of Khyber Pakhtunkhwa through Secretary, Health Department, Civil Secretariat, Peshawar.
- 2) Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
- 3) Secretary, Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4) Secretary, Finance Department, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

***APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE INSERTION OF A NOTE
TO CLAUSE (B) IN COLUMN NO.5 AGAINST
THE POST OF TECHNOLOGIST IN THE
NOTIFICATION DATED 10TH MAY, 2016,
WHEREBY THE METHOD OF RECRUITMENT,
QUALIFICATION AND OTHER CONDITIONS
TO THE POSTS OF PARAMEDICAL STAFF
HAVE BEEN NOTIFIED***

Filed to-day
22/5/18
Registrar

Sheweth;

- 1) That after fulfilling all the codal formalities and passing through the prescribed process of selection, the appellant was appointed as Radiographer (BPS-06) on 01.11.1988.
- 2) That the appellant got upgraded as Clinical Technician (BPS-12) on 08.04.2010 and as Chief Technician (BPS-14) on 02.08.2012.

At present he is at serial No.15 of the Provisional Seniority list of decree holders of Senior Clinical Technicians (Radiology) (BPS-14). (All these facts stated above find mention in the seniority list Annex "A")

- 3) That the appellant was selected for B.Sc (Hons) degree in 2005, which he completed in 2008, but due to late affiliation of the Medical PGPI/ Institution with the University of Peshawar, the degree was awarded to him in the year 2015, despite the fact that Peshawar High Court, Peshawar had given clear and unambiguous directions vide order dated 29.03.2012 in W.P.No.2001/2011 (Annex "B"), that *"the result of the examinations be declared within a period of six months at most"*
- 4) That the Government of KPK notified the method of recruitment, qualification and other conditions for the posts of paramedical staff vide notification dated 10.05.2016 (Annex "C"), wherein, a 'Note' is attached to clause (b) in column No.5 against the post of Technologist, videlicet;

"Note: For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column No.3.

Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials"

- 5) That the aforesaid note in the Rules is bound to hinder the promotion of the appellant qua his junior colleagues, therefore, he preferred a departmental appeal (Annex "D") to respondent No.2 for suitability amending the 2016 Rules for serving the service carrier of the senior paramedics. However, no reply has

yet been offered. Hence the instant service appeal, inter alia, on the following:-

GROUNDS

- a. That the impugned **Note** added to the relevant clause of the rules is, on the face of it, illegal and unlawful and it will, indubitably, have an adverse effect on the promotion of the appellant, who finds place in senior part of the seniority list, but has received his B.Sc degree later in point of time than his junior colleagues.
- b. That it is the length of service and the requisite academic qualification that count at the time of promotion. Similarly, seniority is fixed on the strength of length of service and not with reference to the date of acquiring academic qualification. The criterion introduced via the impugned note runs contrary to Rule 17 of the KPK Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 (Annex "E")
- c. That for promotion purposes, the possession of some relevant degree, certificate or diploma may be a condition precedent, but the date of its acquisition never matters. It is suffice that a Civil Servant is equipped with the relevant qualification on the date the process for promotion is initiated.
- d. That the impugned condition attached to the rules through the **Note** is unreasonable, irrational and it can't be justified under any canon of Law.
- e. That the **Note** is superfluous, uncalled for and it will create unnecessary hurdles in further advancement in service of the senior officials, who are otherwise eligible in all respects.
- f. That the posts were vacant since long before the addition of the impugned **Note** in the notification, which cannot apply retrospectively.

Prayer

In this view of the matter, it is, therefore, prayed that on acceptance of this appeal, the impugned Note may kindly be removed from the Rules notified on 10th May, 2016 and seniority may be allotted to the appellant as per the KP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, for all practical purposes, including promotion.

Any other remedy to which the appellant is found fit in law, justice and equity may also be granted.

Appellant

Through

Muhammad Isa Khan Khalil
Advocate Supreme Court

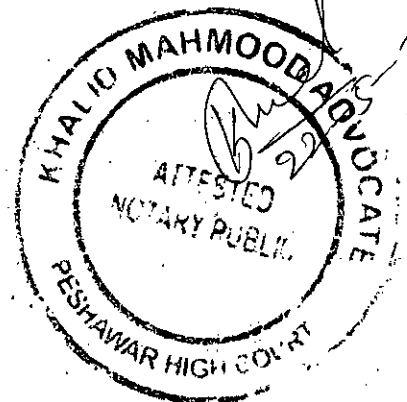
&

Akhter Ilyas
Advocate, High Court

AFFIDAVIT

I, Syed Farid Ullah Shah S/o Syed Rehman Shah Clinical Technician, Radiology HMC, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best to my knowledge and nothing has been concealed from this hon'ble court.

DEPONENT



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

Service Appeal No. _____/2018

Syed Farid Ullah ShahAppellant

Versus

Government of KPK through Secretary, Health
Department and others.....Respondents

Application for restraining the respondents
from promoting the junior Chief Technicians
to the post of Technologist till final disposal of
the instant appeal.

Respectfully Sheweth:

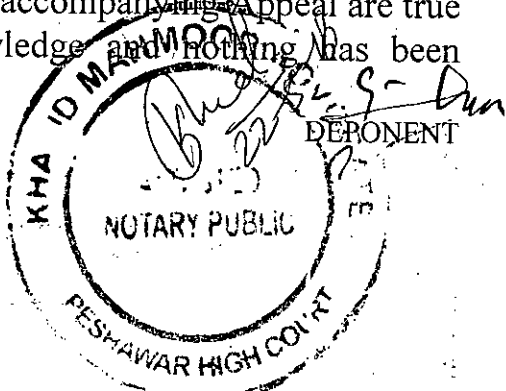
- 1) That the above titled appeal is being filed before this hon'ble Tribunal alongwith instant application.
- 2) That the grounds of main appeal may kindly also be considered as part and parcel of this application.
- 3) That appellant has a good prima-facie case in his favour and is also sanguine about its success.
- 4) That balance of convenience also leans in favour of appellant.
- 5) That if the relief as prayed for in the heading of this application is not granted, the very purpose of titled appeal will become infructuous.

It is, therefore, prayed that on acceptance of this application, the respondents may graciously be restrained from promoting the ~~junior Radiology~~ Technicians to the post of Technologist till final disposal of the instant appeal.

Appellant *Syed Farid Ullah Shah*
Through
Muhammad Isa Khan Khalil
Advocate Supreme Court

AFFIDAVIT

I, Syed Farid Ullah Shah S/o Syed Rehman Shah, Clinical Technician, Radiology HMC, Peshawar , do hereby solemnly affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best to my knowledge and nothing has been concealed from this hon'ble court.



Annex-A

6



**DIRECTORATE GENERAL
HEALTH SERVICES KHYBER
PAKHTUNKHWA PESHAWAR.**

No. 18657-757 /AE-VII
Dated. 30 / 11 / 2017

- To,
1. All Principals, of Medical Colleges in KPK.
 2. The Principal PGPI, Buddhni Road Douran Pur, PIMTs DI Khan, Abbottabad, Swat.
 3. All Hospital Directors, of Medical Teaching Institutions in KPK.
 4. Director General Provincial Health Services, Academy KPK Peshawar.
 5. The Director Health Services, FATA Peshawar.
 6. The Medical Superintendent, Saidu Group of Teaching Hospital Swat.
 7. The Medical Superintendent, Molvi Ameer Shah Memorial Hospital, GT Road Peshawar.
 8. The Medical Superintendent, Govt: NKB, Memorial Hospital, Kohat Road Peshawar.
 9. The Medical Superintendent, Services Hospital, Peshawar.
 10. The Medical Superintendent, SGS Memorial Hospital, Peshawar.
 11. The Medical Superintendent, Sarhad Hospital for Psychiatric Diseases, Peshawar.
 12. The Medical Superintendent, General & Mental Hospital Dadar, Mansehra.
 13. All Medical Superintendents, DHQ/ AHQ Hospitals in KPK/FATA.
 14. All Agency Surgeons in FATA/ FRs.
 15. All District Health Officers in Khyber Pakhtunkhwa.

Subject: FINAL SENIORITY LIST OF DEGREE HOLDERS (CLINICAL TECHNICIANS) (RADIOLOGY) BS-12 (SR. CLINICAL TECHNICIANS) (RADIOLOGY) BS-14 (CHIEF CLINICAL TECHNICIANS) (RADIOLOGY) BS-16 OF HEALTH DEPARTMENT KHYBER PAKHTUNKHWA.

Memo: Enclosed please find Final Seniority List of Degree Holders Clinical Technicians (Radiology) BS-12 (Sr. Clinical Technicians) (Radiology) BS-14 (Chief Clinical Technicians) (Radiology) BS-16 of Health Department Khyber Pakhtunkhwa for information and circulation amongst all the concerned officials working under your control.

Note: The Final seniority list has also been downloaded from the website www.dhiskp.gov.pk

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR

Cc. PS to Secretary to Govt: of Khyber Pakhtunkhwa, Health Department Peshawar.

Handwritten signature and initials.

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Annex-B

14
10

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
29.3.2012	<p><u>WP No.2001/2011.</u></p> <p><i>Present: Mr. Muhammad Asif Yousafzai, Advocate for the petitioner.</i></p> <p><i>Mr. Wasimuddin Khattak, Advocate alongwith Riaz Ali Law Officer University of Peshawar & Ureed Ahsun Zia, Deputy Controller of Examination.</i></p> <p>*****</p> <p><u>DOST MUHAMMAD KHAN, C.J.</u> At the very outset, learned counsel for respondents 1 to 3 stated at the bar that if respondent No.4 provides the record including testimonials of the petitioners then, they would arrange examination for the petitioners and they all would be cleared and their result would be announced for all the four years courses step by step but within six months.</p> <p>2. To the above arrangements, the petitioners and their learned counsel agreed, therefore, we called respondent No.4 (Director Provincial Health Services Academy Peshawar) telephonically through the office of the Advocate General who handed over the record to the learned counsel for respondents 1 to 3, present in court.</p>

ATTESTED

BY
Clerk

3. Accordingly, it is directed, because of the concession made at the bar, that the 1st year examination followed by 2nd year, 3rd year and the final year be arranged and the result of the examinations be declared within a period of six months at the most, however, keeping in view the miseries the petitioners have confronted during the last many years because of late affiliation of their Institute with the University of Peshawar, in the matter of marking, some legitimate concession be shown to them. It is clarified for future course of action that notwithstanding the fact that now the Institute of the petitioners is affiliated with Khyber Medical University and the present case relates to the period when the Institute of the petitioners was affiliated and remained affiliated with Peshawar University, therefore, the certificate or degree granted by the Peshawar University would be valid for all practical purposes. Petition disposed of.

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CM No.962/2011.

This CM is accepted in view of the concession

ATT
EX
ATTESTED

EXAMINER
Peshawar High Court.

made at the bar and the said applicant shall also be included in the same package of examination.

sd/ DUST Muhammad Khan
CJ
sd/ Isaghar Ahmad Sethi
T. 12

11 25/02

CERTIFIED TO BE TRUE COPY

Signature: [Handwritten Signature]
Date: 4/4/12
Peshawar High Court Peshawar
Authority: [Handwritten]
The Qanun-e-Adalat, 1974 (No. 10 of 1974)

Date of Presentation	13336
No of Pages	10 P 2/4/12
Copying fee	
Urgent Fee	1
Total	20
Date of Payment	4/4/12
Date Given	4/4/12
Date of Delivery	4/4/12
Amount By	21,151

Office
30/3
4/4/12
31/2

Annex-C

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
GAZETTE

13

7

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 10TH MAY, 2016

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NOTIFICATION

Peshawar dated the 10th May 2016.

No.SOH-III/HD/3-5/2014 -In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all Notifications issued in this behalf by the Health Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the Appendix to the posts of Paramedical Staff in the Health Department specified in column 2 of the said Appendix.

APPENDIX

S. No.	Nomenclature of the post.	Qualification for appointment by initial recruitment.	Age limits.	Method of recruitment.
1	2	3	4	5
1	Principal Technologist Principal Clinical Technologist Dental; Principal Clinical Technologist Pharmacy; Principal Clinical Technologist Radiology; Principal Clinical Technologist Pathology			By promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technologists and Chief PHC Technologists with five years service in BS-19 or above as such in

Attested
D

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18

- (v) Principal Clinical Technologist Anesthesia;
- (vi) Principal Clinical Technologist Cardiology;
- (vii) Principal Clinical Technologist Surgical;
- (viii) Principal Clinical Technologist Dialysis;
- (ix) Principal Clinical Technologist
Physiotherapy;
- (x) Principal Clinical Technologist
Pulmonology;
- (xi) Principal Clinical Technologist
Gastroenterology; and
- (xii) Principal Clinical Technologist
Ophthalmology / otorhinolaryngology; and

Principle PHC Technologist

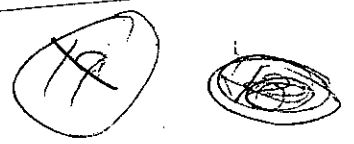
- (i) Principal PHC Technologist (Multi Purpose); and
- (ii) Principal PHC Technologist (MCH).

Chief Technologist

- (i) Chief Clinical Technologist Dental;
- (ii) Chief Clinical Technologist Pharmacy;
- (iii) Chief Clinical Technologist Radiology;
- (iv) Chief Clinical Technologist Pathology;
- (v) Chief Clinical Technologist Anesthesia;
- (vi) Chief Clinical Technologist Cardiology;
- (vii) Chief Clinical Technologist Surgical;
- (viii) Chief Clinical Technologist Dialysis;
- (ix) Chief Clinical Technologist Physiotherapy;
- (x) Chief Clinical Technologist Pulmonology;
- (xi) Chief Clinical Technologist
Gastroenterology; and
- (xii) Chief Clinical Technologist Ophthalmology/
Otorhinolaryngology; and

By promotion, on the basis of seniority-cum-fitness, from amongst Senior Technologists and Senior PHC Technologists with seven years service in BPS-18 or twelve years service in BPS-17 and above as such in the relevant technology.

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<p><u>Chief PHC Technologist</u></p> <p>(i) Chief PHC Technologist (Multi-Purpose); and (ii) Chief PHC Technologist (MCH).</p>			
<p>3 <u>Senior Technologist</u></p> <p>(i) Senior Clinical Technologist Dental; (ii) Senior Clinical Technologist Pharmacy; (iii) Senior Clinical Technologist Radiology; (iv) Senior Clinical Technologist Pathology; (v) Senior Clinical Technologist Anesthesia; (vi) SCT Senior Clinical Technologist Cardiology; (vii) Senior Clinical Technologist Surgical; (viii) Senior Clinical Technologist Dialysis; (ix) Senior Clinical Technologist Physiotherapy; (x) Senior Clinical Technologist Pulmonology; (xi) Senior Clinical Technologist Gastroenterology; and (xii) Senior Clinical Technologist Ophthalmology/Otorhinolaryngology; and</p> <p><u>Senior PHC Technologist</u></p> <p>(i) Senior PHC Technologist (Multi-Purpose); and (ii) Senior PHC Technologist (MCH).</p>	<p>At least Second Class Master's Degree or B.SC Honours/ BS (04-years) in the relevant technology or equivalent qualification from a recognized University / Institution.</p>	<p>20-35 years</p>	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Technologists and PHC Technologists with five years service as such in the relevant technology; and (b) fifty percent by initial recruitment.</p>
<p>4 <u>Technologist</u></p> <p>(i) Clinical Technologist Dental; (ii) Clinical Technologist Pharmacy; (iii) Clinical Technologist Radiology; (iv) Clinical Technologist Pathology; (v) Clinical Technologist Anesthesia;</p>	<p>At least Second Class Bachelor's Degree in the relevant Technology from a recognized University/ Institution.</p>	<p>18-32 years</p>	<p>(a) Forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Technicians and Chief PHC Technicians with five years service as such in the relevant technology;</p>

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	<p>(vi) Clinical Technologist Cardiology; (vii) Clinical Technologist Surgical; (viii) Clinical Technologist Dialysis; (ix) Clinical Technologist Physiotherapy; (x) Clinical Technologist Pulmonology; (xi) Clinical Technologist Gastroenterology; and (xii) Clinical Technologist Ophthalmology / Otorhinolaryngology); and</p> <p>PHC Technologist</p> <p>(i) PHC Technologist (Multi-Purpose); and (ii) PHC Technologist (MCH).</p>		<p>✓ (b) twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology.</p> <p>X <u>Note:</u> For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column No. 3:</p> <p>X Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials; and</p> <p>X (c) forty percent by initial recruitment.</p>
5	<p>Chief Technician</p> <p>(i) Chief Clinical Technician Dental; (ii) Chief Clinical Technician Pharmacy; (iii) Chief Clinical Technician Radiology; (iv) Chief Clinical Technician Pathology; (v) Chief Clinical Technician Anesthesia; (vi) Chief Clinical Technician Cardiology; (vii) Chief Clinical Technician Surgical; (viii) Chief Clinical Technician Dialysis; (ix) Chief Clinical Technician Physiotherapy; (x) Chief Clinical Technician Pulmonology; (xi) Chief Clinical Technician Gastroenterology and</p>		<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Technicians and Senior PHC Technicians with at least two years service as such in the relevant technology.</p>

	<ul style="list-style-type: none"> (vi) Clinical Technologist Cardiology; (vii) Clinical Technologist Surgical; (viii) Clinical Technologist Dialysis; (ix) Clinical Technologist Physiotherapy; (x) Clinical Technologist Pulmonology; (xi) Clinical Technologist Gastroenterology; and (xii) Clinical Technologist Ophthalmology / Otorhinolaryngology); and <p>PHC Technologist</p> <ul style="list-style-type: none"> (i) PHC Technologist (Multi-Purpose); and (ii) PHC Technologist (MCH). 		<p>(b) twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology.</p> <p><u>Note:</u> For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column No. 3:</p> <p>Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials; and</p> <p>(c) forty percent by initial recruitment.</p>
5	<p>Chief Technician</p> <ul style="list-style-type: none"> (i) Chief Clinical Technician Dental; (ii) Chief Clinical Technician Pharmacy; (iii) Chief Clinical Technician Radiology; (iv) Chief Clinical Technician Pathology; (v) Chief Clinical Technician Anesthesia; (vi) Chief Clinical Technician Cardiology; (vii) Chief Clinical Technician Surgical; (viii) Chief Clinical Technician Dialysis; (ix) Chief Clinical Technician Physiotherapy; (x) Chief Clinical Technician Pulmonology; (xi) Chief Clinical Technician Gastroenterology; and 		<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Technicians and Senior PHC Technicians with at least two years service as such in the relevant technology.</p>

(1) (2)

Annex-D (20) DG Health Services
3489
20/11/2018

To

The Director General
Health Services, KPK, Peshawar.

Through: The Senior Manager (HR)
HMC, Peshawar.

Subject: Appeal against the final seniority of Degree holders (clinical technicians) Radiology BS-12, Sr Clinical Technicians (Radiology) BS-14 and Chief Clinical Technicians (Radiology) BS-16 of the Health Department KPK.

Dear Sir,

With reference to the DG Health Services KPK, letter No.18657-757/ AE-VII Dated: 30-11-2017, enclosed to the appellant vide Senior Manager (HR), HMC, Peshawar letter no. 1251/HMC/Point Rect HR-III-IV Dated 09-01-2018, it is submitted that

1. The final seniority list of degree holders clinical technicians (BS-12) Sr. Clinical technicians (BS-14) & Chief clinical technicians (BS-16) Radiology has neither been prepared in accordance with section 8 of the KPK Civil servant Act 1973 nor the provision of the rule-17 KPK civil servants (appointment), promotion & transfer rules 1989 have been fulfilled.
2. That section 8 (4) of the KPK civil servants Act 1973 provides that seniority in a post service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post.
3. That Rule 17 (1) (a) of the KPK civil servants (APT) rules 1989 provides that inter-se-seniority of civil servants, appointed by initial appointment be determined in accordance with the merit of order, assigned by the commission or the departmental selection commission.
4. That the subject seniority list of radiographers (BS-14) has been prepared in accordance with the year of passing of degree examination hence the provisions of civil servants Act 1973 & APT rules 1989 have been violated.
5. That the seniority of senior clinical technicians (BS-14) radiology has been fixed as under.

S.NO.	Name	Date of Appointment	Date of Passing	Seniority Position
1.	Azam Shah	26-11-1988	2011	3
2.	Johar Ali	04-09-1988	2011	5
3.	Syed Farid Ullah Shah	01-11-1988	2015	15

6. Had the seniority been fixed in accordance with the civil servant Act 1973 & the appointment promotion & transfer rules 1989 the position would have been as under.

(Signature)

PART-V

PROBATION AND CONFIRMATION

⁵⁴15. Probation. ----- (1) Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.

16. **Confirmation:-**After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the North West Frontier Province Civil Servants Act, 1973.

PART-VI

SENIORITY

17. **Seniority :-**(1) the seniority inter se of civil servants ⁵⁵(appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁵⁶[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.



⁵⁴ Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

⁵⁵ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.

⁵⁶ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/I, dated 04-02-1996.

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Attested

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ایڈوکیٹ:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر:		
رابطہ نمبر:	91127612-0300	

بعدالت جناب: سرور حسین میرزا صاحب مددگار

مخانب:	دعویٰ:
فرمان الہ آباد	SP DO
فرمان الہ آباد	علت نمبر:
بنام	مورخہ:
فرمان الہ آباد	جرم:
	تھانہ:

بابت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام کیلئے سرور حسین میرزا صاحب مددگار کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: _____
 العہد _____ واہ شد _____
 مقام _____ کے لیے منظور ہے۔

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Gyed Farid Ullah Shah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department (RESPONDENT)
(DEFENDANT)

I/We Gyed Farid Ullah Shah
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 28 / 7 / 2020

Gyed

CLIENT

Accepted
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

Mir Zaman Safi
MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

Afrasiab Khan Wazir
7

Before The Chyber Pakhtunkhwa Service Tribunal
Peshawar.
Appeal No.

Farid Ullah Shah vs Health Dept.

Subject: Application for Adjourning request
in the above titled appeal.

R/Sheweth:-

- 1) That the above titled appeal is pending adjudication, placed due to office objection in preliminary hearing fixed today dated - 20.01.2021.
- 2) That council for the appellant is intended attending case in federal service tribunal, ~~intended~~ ^{intended} today dated - 20.01.2021.

It is therefore most humbly requested

that the above titled case may very kindly be adjourned as prayed for.

Dated - 20.01.2021

Applicant
Afrazat Wazir
Advocate
Afrazat
Wazir