

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9615/2020

Date of Institution ... 25.08.2020
Date of Decision ... 26.04.2022

Mr. Zulqarnain, Ward Orderly (BPS-03), Office off the District
Health Officer, District Mardan.

... (Appellant)

VERSUS

The Director General, Health Services Department, Khyber
Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Noor Muhammad Khattak,
Advocate

... For appellant.

Muhammad Rasheed,
Deputy District Attorney

... For respondents.

Salah-Ud-Din
Rozina Rehman

... Member (J)

... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

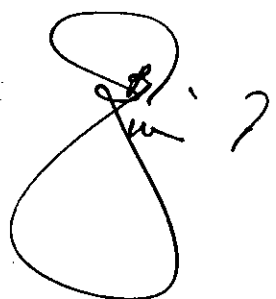
**“On acceptance of this appeal, the respondents may
very kindly be directed to adjust/post the appellant
against his original post of Ward Orderly/Helper
(BPS-03) and released the monthly salaries of the
appellant w.e.f June, 2019 till date.”**

2. The relevant facts leading to filing of instant appeal are that
appellant was appointed on 18.08.2015 as Helper (BPS-01) and was

posted at Mardan Medical Complex/Teaching Hospital Mardan. On 30.08.2017, the services of appellant were placed at the disposal of DHO Mardan for further posting. Resultantly, appellant was posted at Category-D Hospital Rustam, Mardan. Further he was transferred and posted to MTI/MMC Mardan through order dated 28.03.2019. On 23.05.2019, the office order dated 28.03.2019 was cancelled and on 17.07.2019, another office order was issued, whereby, the appellant was again transferred to MMC MTI Mardan. On 04.12.2019 through an office order, the service of appellant was retained by the office of DHO Mardan for further posting against a vacant post. The grievance of the appellant is that despite all the transfer postings within a short span of time, at present he is not allowed any posting. Further, his salary has been stopped from 01.06.2019 without any reason. Feeling aggrieved, he filed departmental appeal but to no avail, hence, the present service appeal.

3. We have heard Noor Muhammad Khattak Advocate learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

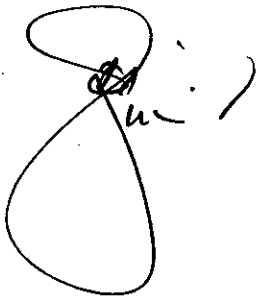
4. Noor Muhammad Khattak Advocate, learned counsel appearing on behalf of appellant, inter-alia, submitted that the action and inaction of the respondents by not adjusting the appellant against the post of Helper and withholding the monthly salaries of the appellant is against law, facts, norms of natural justice as the appellant was not treated in accordance with law and rules and as such, the

A large, stylized handwritten signature or mark is present on the left side of the page, overlapping the text of paragraph 4. It consists of several loops and a question mark-like shape.

respondents violated Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was argued that the respondents acted in arbitrary and malafide manner by withholding the salaries of the appellant which act is discriminatory, therefore, requested for acceptance of appeal.

5. Conversely learned DDA submitted that the appellant was initially appointed in Mardan Medical Complex/Teaching Hospital Mardan and that his order was canceled and retained under the control of DHO but due to unavailability of Helper post (BPS-01) the appellant could not be adjusted by respondent No.2 and his salary was stopped due to his transfer to MTI.

6. From the record it is crystal clear that on the recommendation of Selection Committee, appellant was appointed as Helper vide order dated 18.08.2015. Through the appointment order, the rules framed by the Provincial Government for categories of Government servants were made applicable to the appellant. On 30.08.2017, the services of the appellant were placed at the disposal of DHO Mardan for further posting under his control. Resultantly, he was posted at Category-D Hospital Rustam, Mardan. Further, he was transferred and posted to MTI/MMC Mardan through order dated 28.03.2019. On 23.05.2019, the office order dated 28.03.2019 was cancelled and on 17.07.2019, another office order was issued whereby, the appellant was again transferred to MTI/MMC Mardan. On 04.12.2019 through an office order the service of the appellant was retained by the office of DHO Mardan for further posting against

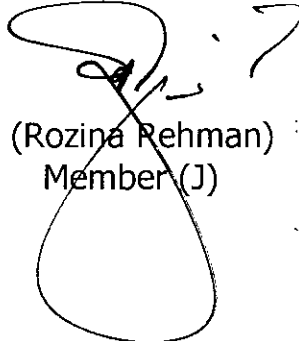


a vacant post. It is crystal clear that the appellant was made a bit of rolling stone by the respondents and that too, without any salary. There is nothing on file which could show any type of misconduct on the part of the appellant. He has been frequently transferred by the respondent Department for no fault. Not releasing the monthly salary is clear violation of the Constitution of Islamic Republic of Pakistan, 1973 as well as the violation of principle "**Work done must be paid**" as not a single penny was paid to the appellant w.e.f June, 2019 till date.

7. Keeping in view the above discussion, this appeal is allowed with directions to the respondents to make payment of salaries to the appellant forthwith. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
26.04.2022

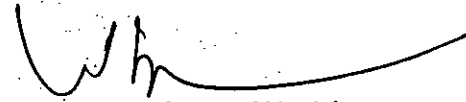

(Salah-Ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

01.02.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Due to paucity of time arguments could not be heard. To come up for arguments on 26.04.2022 before the D.B.



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



Chairman

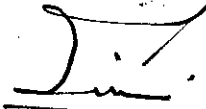
ORDER
26.04.2022

Appellant present through counsel.

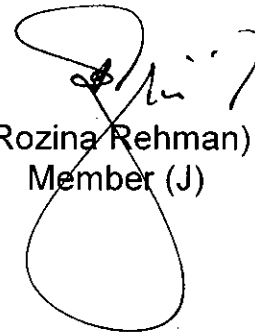
Muhammad Rasheed learned Deputy District Attorney for respondents present.

Vide our judgment of today of this Tribunal placed on file, instant service appeal is allowed with directions to the respondents to make payment of salaries to the appellant 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)

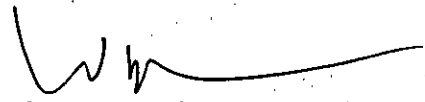


(Rozina Rehman)
Member (J)

25.03.2021

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Reply/comments on behalf of respondents No. 1 & 2 have been already submitted. Learned Additional Advocate General is required to contact the respondent No.3 and facilitate the submission of reply/comments. Last opportunity is granted. To come up for reply/comments on behalf of respondent No. 3 on 31.05.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

31.05.2021

Counsel for the appellant and Mr. Javaidullah, Asstt. AG for the respondents present.

Respondents No. 1 and 2 have already furnished written reply. Respondent No. 3, despite service of notice for attendance and submission of written reply/comments has not submitted the reply/comments. Respondent No. 3 i.e. the District Account Officer, District Mardan in view of the particular factual position of dispute is a proforma party. Therefore, there is no need to wait for reply of respondent No. 3. The appeal is assigned to D.B for arguments on 28.09.2021.


Chairman

28.9.21

DB is on Taus case to come up?
For the same on Dated. 1-2-22

*
Revised

07.12.2020

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Representative of respondents is not in attendance, therefore, case is adjourned on the request of learned A.A.G with direction to submit written reply/comments on 21.12.2020 before S.B.

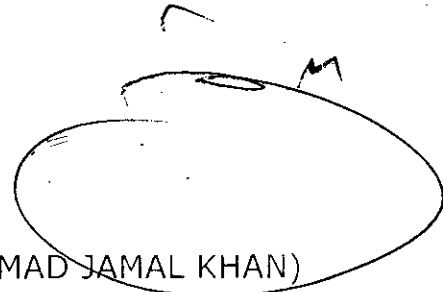


(Rozina Rehman)
Member (J)

26.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Saleem Javed, Litigation Officer, on behalf of respondents No. 1 & 2, are also present.

Representative of the department submitted written reply on behalf of respondents No. 1 & 2 which is placed on file. Neither written reply on behalf of respondent No. 3 submitted nor any representative on his behalf is present, therefore, learned Additional Advocate General is directed to contact the respondent No. 3 and furnish written reply/comments on the next date of hearing. Adjourned to 25.03.2021 on which date file to come up for written reply/comments on behalf of respondent No. 3 before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

07.10.2020

Counsel for the appellant present.

Contends that the appellant was appointed on 18.08.2015 as Helper (BPS-1) and was posted at Mardan Medical Complex/ Teaching Hospital Mardan. Through the appointment order the rules framed by the Provincial Government for categories of Government servants were made applicable to the appellant. On 30.08.2017, the services of appellant were placed at the disposal of DHO Mardan for further posting. Resultantly, the appellant was posted at Category-D Hospital Rustam, Mardan. Further, he was transferred and posted to MTI/MMC Mardan through order dated 28.03.2019. On 23.05.2019, the office order dated 28.03.2019 was cancelled and on 17.07.2019 another office order was issued, whereby, the appellant was again transferred to MMC/MTI Mardan. On 04.12.2019 through an office order, the service of appellant was retained by the office of DHO Mardan for further posting against a vacant post. The grievance of appellant is that despite all the transfers/postings within a short span of time, at present he is not allowed any posting. Further, his salary has been stopped from 01.06.2019 without any reason.

In view of the available record and arguments of learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 07.12.2020 before S.B.

Appellant Deposited
Security & Process Fee

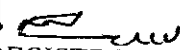
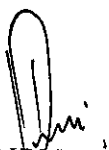
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9615 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/08/2020	<p>The appeal of Mr. Zulqurnain presented today by Mr. Noor Muhammad Khattak 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/10/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 9615 /2020

ZULQARNAIN

VS

HEALTH DEPTT:

INDEX

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6	Order & pay slip	G & H	10- 11.
7	Order dated 17.07.2013	I	12.
8	Order dated 04.12.2019	J	13.
9	Departmental appeal	K	14.
10	Vakalat nama	15.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtukhwa
Service Tribunal

APPEAL NO. 9615 /2020

Diary No. 8976

Dated 25-8-2020

Mr. Zulqarnain, Ward Orderly (BPS-03),
O/O the District Health Officer, District Mardan.

.....**APPELLANT**

VERSUS

- 1- The Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer, District Mardan.
- 3- The District Account Officer, District Mardan.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ADJUSTING THE APPELLANT AGAINST THE POST OF WARD ORDERLY/HELPER (BPS-3) AND NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT W.E.F. JUNE, 2019 TILL DATE AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may very kindly be directed to adjusted/posted the appellant against his original post of Ward Orderly/Helper (BPS-03) and released the monthly salaries of the appellant w.e.f June, 2019 till date. Any other remedy which your good self deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was initially appointed in the respondent Department as Helper vide order dated 18.08.2015. That after the appellant submitted his charge report and started performing his duty at the concerned station quite efficiently and up to the entire

Filed to-day

Registrar

25/8/2020

satisfaction of his superiors. Copies of the appointment order and medical certificate are attached as annexure.....**A & B.**

2- That appellant while performing his duty at Category-D Hospital Mardan was transferred vide order dated 30.08.2017 and the services of the appellant was placed at the disposal of the respondent No.4 for further posting. Copies of the order and LPC are attached as annexure.....**C & D.**

3- That vide order dated 28.03.2019 the appellant was posted at MTI/MMC Mardan. That in response to the order dated 28.03.2019 the appellant submitted his arrival report and started performing his duty efficiently. Copies of the order and relieving are attached as annexure.....**E & F.**

4- That just after the lapse of two months the order dated 28.03.2019 was cancelled by the respondent No.2 vide order dated 23.05.2019. That it is also pertinent to mention here that salaries of the appellant has also been stopped by the respondent since June, 2019 till date with any cogent reason and clear justification. Copies of the order & Pay slip are attached as annexure.....**G & H.**

5- That finally the appellant was posted at MTI/MMC Mardan against the vacant post vide order dated 17.07.2019 and the appellant in pursuance of the order submitted his charge report and started performing his duty. Copy of the order is attached as annexure.....**I.**

6- That it is worth mentioning here that the appellant has been made a rolling stone by transferring from one place to another with a short span of time and once again dis-located the appellant from his post by placing his service at the disposal of respondent No.3 vide order dated 04.12.2019 while other colleagues of the appellant has not been disturbed from their place of posting and till date the appellant is in hanging position and having no post for performing his duty. Copy of the order is attached as annexure.....**J.**

7- That appellant time and again requested the respondents for adjustment against the post of Ward orderly in Category-D hospital Rustam, Mardan but the respondents are not willing to accept the repeated requests of the appellant. That appellant

feeling aggrieved preferred Departmental appeal but no reply has been received so far. Copy of the Departmental appeal is attached as annexure.....K.


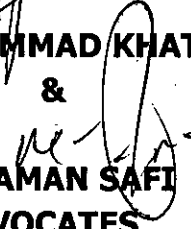
8- That appellant feeling aggrieved and having no other remedy but to the file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the action and inaction of the respondents by not adjusting the appellant against the post of Helper and withholding/stopping the monthly salaries of the appellant is against the law, facts, norms of natural justice and materials on the record, hence tenable.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondents acted in arbitrary and malafide manner by withholding/stoppage of salaries of the appellant and non adjustment against the post of ward orderly/helper.
- D- That the action and inaction of the respondents is discriminatory by lifting the appellant without any post.
- E- That withholding/stoppage of salaries of the appellant w.e.f. June, 2019 till date is violative of Article-11 of the Constitution of Islamic Republic of Pakistan, 1973.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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


APPELLANT
ZULQARNAIN

THROUGH:

NOOR MOHAMMAD KHATTAK
&

MIR ZAMAN SAFI
ADVOCATES

Better Copy-4

**MARDAN MEDICAL COMPLEX
TEACHING HOSPITAL, MARDAN**

**Prof. Ziaul Islam
Chief Executive**

**No.9436-41 MMC
Dated.18/8/2015**

Appointment Order:

On recommendation of the Selection Committee already constituted by the Govt, of KPK, Health Deptt, Peshawar for the purpose of recruitment of Class-IV Employee, Mr. Zulqarnain S/O Raj Dali Khan, NIC No#16101-4074840-3 R/O Mohallah Taus Kheil Surkh Dheri Rustam Mardan is hereby appointed as Helper (BPS-01) plus usual allowance as admissible under the rule in MMC Teaching Hospital, Mardan on the following terms and condition;

- 1- He will be on probation initially for one year, extendable for 2nd year.
- 2- His services can be terminated, if his work and conduct remained un-satisfactory or his document at any stage is/are found fake.
- 3- His appointment will be subject to medical fitness and verification of character and attendance.
- 4- He will not be entitled to any TA/DA for medical examination and joining the 1st appointment.
- 5- He will be governed by such services rules and ordered as framed by the Govt. from time to time for category of Govt. servant to which he belongs.
- 6- If he wishes to resign his service he will submit his resignation in written in prior or 14 days salary in lieu thereof to Govt. Treasury, however he will continue to serve the Govt. till his resignation is accepted by the competent authority.

If he accepts the above terms and conditions, he should report to the Chief Executive MMC, Teaching Hospital, Mardan for duty along with Medical Fitness Certificate from Medical Superintendent DHQ Mardan on his own expense within 07 days after the receipt of his letter, otherwise his appointment order will be considered as cancelled.

**CHIEF EXECUTIVE
MMC, Teaching Hospital, Mardan**

Accepted



Original

MARDAN MEDICAL COMPLEX, A-4
TEACHING HOSPITAL, MARDAN.

Prof. Ziaul Islam
Chief Executive

No. 9436/41 /MMC

Dated 18/8/15

Appointment Order.

On recommendation of the Selection Committee already constituted by the Govt. of KPK, Health Deptt. Peshawar for the purpose of recruitments of Class-IV employees, Mr. Zulqarnain S/o Raj Dali Khan, NIC No# 16101-4074840-3 R/o Mohallah Taus Kheil Surkh Dheri Rustam Mardan is hereby appointed as Helper (BPS-01) plus usual allowance as admissible under the rules in MMC, Teaching Hospital, Mardan on the following terms and conditions;

1. He will be on probation initially for one year, extendable for 2nd year.
2. His services can be terminated, if his work and conduct remained un-satisfactory or his documents at any stage is/are found fake.
3. His appointment will be subject to medical fitness and verification of character and attendance.
4. He will not be entitled to any TA/DA for medical examination and joining the 1st appointment.
5. He will be governed by such services rules and ordered as framed by the Govt. from time to time for category of Govt. servant to which he belongs.
6. If he wishes to resign his service he will submit his resignation in written in prior or 14 days salary in lieu thereof to Govt. Treasury, however he will continue to serve the Govt. till his resignation is accepted by the competent authority.

If he accepts the above mentioned terms and conditions, he should report to the Chief Executive MMC, Teaching Hospital, Mardan for duty along with Medical Fitness Certificate from Medical Superintendent DHQ Mardan on his own expenses within 07 days after the receipt of his letter, otherwise his appointment order will be considered as cancelled.

Ziaul Islam

CHIEF EXECUTIVE
MMC, Teaching Hospital, Mardan

No. /MMC Dated /2015.

Copy to.

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. Manager Employment Exchange Mardan.
3. Medical Superintendent, MMC, Mardan.
4. Distt. Comptroller of Accounts, Mardan for n/a.
5. Accountant MMC, Teaching Hospital, Mardan for n/a.
6. Mr. Zulqarnain S/o Raj Dali Khan R/o Mohallah Taus Kheil Surkh Dheri Rustam Mardan.

ATTESTED

Zulqarnain

Ziaul Islam

ATTESTED

CHIEF EXECUTIVE
MMC, Teaching Hospital, Mardan

MEDICAL CERTIFICATE

B-5

Name of Official..... Mr. Zulqarnain 16101-40748410

Caste or Race..... Afghan

Father's Name..... Rajidali Khan

Residence..... Mahabbat Khel Ruztan Teah Disi

Date of Birth..... 04-11-1995 (As Per civic)

Exact Height by measurement..... 5-6"

Exact mark of Identification..... NIL

Signature of the Official.....

Signature of Head of Office..... Peer Ahmad Chohan 24/08/2015

Peer Ahmad Chohan
Jr. Chief Executive
Seal of Office Mardan Medical Complex, Mardan.

I do hereby certify that I have examined Mr. Zulqarnain
for employment in the office of the..... Mardan Medical Complex
and cannot discover that he had any disease communicable or other constitutional
affection or bodily infirmity except..... FIT

I do not consider this is disqualification for employment in the office of the
above as..... Helper BPS-01 his age according to his own statement
..... 20 year and by appearance about year..... Twenty

LEFT HAND THUMB AND FINGER IMPRESSION

..... Date: 24-08-2015

Peer Ahmad Chohan
Medical Superintendent,
DHQ Hospital, Mardan.
24/08/15
Medical Superintendent
DHQ Hospital Mardan

ATTESTED

Peer Ahmad Chohan

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR**



E-Mail Address: dgshs@khyber.gov.pk Office Ph# 091-9210269 Fax# Exchange# 091-9210187, 9210196 Fax # 091-9210230

C-6

OFFICE ORDER

As approved by the competent authority, the services in respect of Mr. Zulqarnain Helper attached to MMC Mardan are hereby placed at the disposal of DHO Mardan for further posting under his control against the vacant post of helper in the interest of public service with immediate effect.

Arrival/ departure report should be submitted to this Directorate for record.


Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR.
Dated 30 /08/2017.

No. 13926-79 /Personnel

Copy forwarded to the:-

1. Hospital Director MMC Mardan.
2. DHO Mardan.
3. P.A to DGHS, Khyber Pakthunkhwa Peshawar.
4. Official Concerned.

For information and necessary action.


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

WZ
30/08/17

ATTESTED



LAST PAY CERTIFICATE

D (7)

Last Pay Certificate of Zulqarnain Helper (P.No= 749968)
 of the Mardan medical complex Teaching Hospital Mardan
 proceeding to Transfer to DHO Mardan

He has been paid upto 30-09-2017 AM

as per following rates:—

PARTICULARS:

Substantive Pay:—

Officiating Pay:—

Exchange Compensation Allowance:—

Deductions:—

He made over charge of the Office of Helper MDC, Mardan

on the _____ noon of 30-09-2017

Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.

From _____ to _____ a month.
 From _____ to _____ at Rs. 11 a month.
 From _____ to _____ at Rs. _____ a month.

He is entitled to draw the following:—

He is also entitled to joining time for _____ days.

The details to the Income Tax recovered from him upto the date from the beginning of the current year are noted on the reverse.

No= 11922/MTI/MDC
 Date= 10/10/2017

ATTESTED

Signature _____

Designation _____

0001 = B.Pay:	10000/-
1000 = HRA:	942 =
1210 = CA:	1785 =
1300 = MA:	1500 =
2148 = AR-13:	240 =
2199 = AR-15:	170 =
2211 = AR-16:	869 = 1000/-
0000 = AR-17:	1000 =
<hr/>	
	16506 / 16935 =
3017 = GPF:	646 =
3501 = BF:	300 =
3511 = AAI:	3 =
3604 = AI:	58 =
	<hr/>
	1007 =

All cutting attested
 [Signature]
 DIRECTOR
 MDC, MARDAN

Forwarded to DHO Mardan for further action

Hospital Director
 MDC, Mardan

BETTER COPY-8

**DIRECTORATE GENERAL HEALTH SERVICES KHYBER
PAKHTUNKHWA PESHAWAR**

OFFICE ORDER

Mr. Zulqarnain helper attached to MS T-D Hospital Rustam Mardan is hereby transferred and posted to MTI/MMC Mardan against the vacant post of Helper in the interest of public service with immediate effect.

Nb: arrival/departure report should be submitted to his Directorate for record.

Sd/xxxxxxxx

**DIRECTOR GENERAL HEALTH
SERVICES KPK PESHAWAR**

Dated 28.03.2019

ATTESTED



P-I
E 8 0

DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUN KHWA PESHAWAR

Head Office: Head Office office Phn 091-9210269 Exchange 091-9710187, 9210196 Fax # 091-9210230



OFFICE ORDER

Mr. Zulqarnain Helper attached to Cat-D Hospital Rustam Mardan is hereby transferred and posted to MTI/MMC Mardan against the vacant post of Helper in the interest of public service with immediate effect.

Nb: Arrival/ departure report should be submitted to this Directorate for record.

Sd/xxxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.
Dated, 28/03/2019

No. 3136-39 /Personnel

Copy forwarded to the:-

1. Hospital Director MTI/MMC Mardan.
2. DHO Mardan.
3. DAO Mardan.
4. Official concerned.

For information and necessary action.

office cancelled
order

DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR.

DATE
DHO OFFICE
NO. 181
DATE 16-03-19

- No. 7625-24 DHO Dated 15-5-2019
1. DHO Copy forwarded to
 2. MS T-D Hospital Rustam
 3. Accountant DHO office
 4. DHO's cell
 5. Mr. Zulqarnain Helper to Hospital Rustam for information

22/5/19

District Health Officer
Mardan

ATTESTED



حکومت خیبر پختونخوا

P-11
DISTRICT HEALTH OFFICER
MARDAN (Khyber Pakhtunkhwa)

Ph: # (0937) 9230030 Fax: # (0937) 9230283
Email: mardandho@gmail.com

All communications should be addressed to the District Health Officer Mardan and not to any official by name

No. 76/64 /DHO Dated: 16/05/2019

F-9

To

Mr. Zulqarnain, Helper
Cat-D Hospital Rustam.

Subject: RELIEVING ORDER

Reference Director General Health Services, Khyber Pakhtunkhwa, Peshawar office order No. 3136-39/Personnel dated 28/03/2019.

You are hereby relieved of your duties at this office with effect from 16th May, 2019 and directed to report to the MTI/MMC Mardan for duty there.

District Health Officer
Mardan

No. _____ /DHO

Copy forwarded to the:

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. District Comptroller of Accounts Mardan.
3. Hospital Director MTI/MMC Mardan.
4. MS Cat-D Hospital Rustam.
5. Account Section DHO Office Mardan.
6. DHIS Cell, DHO Office Mardan.

For information and necessary action.

District Health Officer
Mardan

ATTESTED

A

G-10

Mardan

S#: 1

P Sec:002 Month:May 2019
MR6170 -E.D.O HEALTH (HOSPITAL) MA
DISTRICT HEALTH OFFICER (

Pars #: 00749968 .Buckle:

Name: ZULQARNAIN .

WARD ORDERLY

CNIC No.1610140748403

GPF Interest Applied

03 Active Permanent

NTN:

GPF #:

Old #:

MR6170 -

PAYS AND ALLOWANCES:

0001-Basic Pay	10,780.00
1000-House Rent Allowance	1,413.00
1210-Convey Allowance 2005	1,785.00
1300-Medical Allowance	1,500.00
2148-15% Adhoc Relief All-2013	240.00
2199-Adhoc Relief Allow @10%	170.00
2211-Adhoc Relief All 2016 10%	836.00
2224-Adhoc Relief All 2017 10%	1,078.00
2247-Adhoc Relief All 2018 10%	1,078.00
Gross Pay and Allowances	18,880.00

DEDUCTIONS:

GPF Balance 20,739.00	Subrc:	770.00
3501-Benevolent Fund		300.00
4004-R. Benefits & Death Comp:		451.00

Total Deductions 1,521.00

17,359.00

D.O.B 04.11.1995
03 Years 09 Months 009 Days

LFP Quota:
UNITED BANK LIMITED
224640396

ATTESTED



P-III
DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: info@khyber.gov.pk office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230



OFFICE ORDER

As approved by the competent authority the posting/ transfer order in respect of Mr. Zulqarnain Helper issued vide this Directorate office Order bearing Endst: No.3136-39/Personnel dated 28.03.2019 is hereby cancelled.

No. 7232-35 /Personnel

Copy forwarded to the:-

1. Hospital-Director MT/MMC Mardan.
2. DHQ Mardan.
3. DAO Mardan.
4. Official concerned.

For information and necessary action.

Sd/xxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.
Dated 23 /05/2019

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

ATTESTE:

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

OFFICE ORDER

As per directives of the Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar, the following posting transfer of Class-IV are hereby ordered in the interest of public services with immediate effect:-

S.No	Name	From	To	Remarks
1	Mr. Zakria Helper	Typ-D Hospital Rustam Mardan	MMC MTI Mardan	Against the vacant post
2	Mr. Zulqarnain	Typ-D hospital Rustam Mardan	MMC MTI Mardan	-do-
3	Mr. Abdul Akbar Naib Qasid	THQ Shahbaz Garhi Mardan	MMC MTI Mardan	-do-
4	Mst. Amina yousaf Dai	BHU Mian Kali Mardan	MMC MTI Mardan	-do-
5	Mr. Muhammad Haris Ward Orderly	RHC Bakhshali Mardan	MMC MTI Mardan	-do-

Nb: arrival departure reports should be submitted to this directorate for record.

Sd/xxxxxx

**DIRECTOR GENERAL HEALTH
SERVICES, K.P, PESHAWAR**

Dated 17.07.2019

ATTESTED



DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUN KHWA PESHAWAR



E-Mail Address: dgshs@kpk.gov.pk, Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax# 091-9210230

OFFICE ORDER

As per directives of the Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar, the following posting transfer of Class-IVs are hereby ordered in the interest of public service with immediate effect:-

S.No	Name	From	To	Remarks
1.	Mr. Zakria Helper	Typ-D Hospital Rustam Mardan	MMC MTI Mardan	Against the vacant post ✓
2.	Mr. Zulqarnain Helper	Typ-D Hospital Rustam Mardan	MMC MTI Mardan	-do- } working for post
3.	Mr. Abdul Akbar Naib Qasid	THQ Shahbaz Garhi Mardan	MMC MTI Mardan	-do- } working under DHO Mardan
4.	Mst. Amina Yousef Dai	BHU Mian Kalli Mardan	MMC MTI Mardan	-do- ✓
5.	Mr. Muhammad Haris Ward Orderly	RHC Bakhshali Mardan	MMC MTI Mardan	-do- ✓

Nb: Arrival/ departure reports should be submitted to this Directorate for record.

Sd/xxxxxxxx

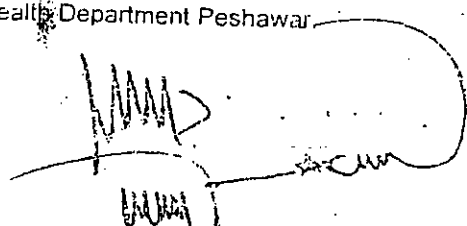
DIRECTOR GENERAL HEALTH
SERVICES, K.P. PESHAWAR.
Dated 17/07/2019.

No. 3600-304/Personnel

Copy forwarded to the:-

1. Hospital Director (MTI) MMC Mardan.
2. DHO Mardan.
3. P.S to Secretary to Govt. of KP Health Department Peshawar.
4. DAO Mardan.
5. Officials concerned.

For information and necessary action.


DEPUTY DIRECTOR (ADMN/AUX:)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P. PESHAWAR.

ATTESTED



P-12
Posted and working under DHO Mardan from the last 3 months
working for post
working under DHO Mardan
do



DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: mg@hds.gov.pk Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

④

J-13

OFFICE ORDER

As approved by the competent authority, Mr. Zulqarnain Helper & Mr. Abdul Akbar Naib Qasid under transfer to MMC MTI Mardan vide this Directorate Office Order bearing Endst: No: 8800-804/Personnel dated 18.07.2019 are hereby retained at the disposal of DHO Mardan for further posting under his control against the vacant posts in the interest of public service.

Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P, PESHAWAR.
Dated 05/12/2019.

No 13328-39 /Personnel
Copy forwarded to the:-

1. DHO Mardan.
2. Hospital Director MTI- MMC Mardan.
3. DAO DIKhan.
4. Official Concerned.

COPIY CLERK
DHO OFFICE MARDAN
NO 1106
DATE 5-12-2019

For information and necessary action.

[Handwritten signature]

DEPUTY DIRECTOR (ADMN/AUX:)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR.

[Handwritten signature]
04/12/19

TEST

محفوظ صواب سیکرٹری صواب کیلئے جیٹ غیر ملکیوں کو اب لیتا ہے

K-14

سنون : ایپل برائے ایپل جسٹس کے پاس سے
NMC اسپتال مردان

صواب علی : گزارش ہے کہ سب سے پہلے وہ قسم فعلیہ اور جن کا کیا شدہ۔ وہاں سے یہ علم یا دستہ
لکھنؤ ڈی اسپتال رستم میں وارد آ رہی ہے اور اسٹریٹ میں آ رہی ہے
اسٹریٹ آ رہی ہے 39-3136 فرم 28 کے جوابات ڈی ایچ او
صواب مردان کے ماسٹر ڈیو 7664-DHO فرم 16/5/2019 کے مطابق رستم
ہ اسپتال میں ڈیوٹی سے فارغ کرنے MTA اردن میں رپورٹ کرنے
کی یہ بات لائی۔ آ رہی ہے اور اسٹریٹ میں ڈیو صواب لیتا ہے
دوسری طرف درخواست پیش کرنا۔ جس کے جواب میں ڈیو
بیلو صواب نے اسٹریٹ کے اٹھکانوں والی نے پورے پورے ڈیوٹی پر
حال کرنے کے اٹھکانوں کے بارے میں۔ اسٹریٹ کے بارے میں
میں اپنی ڈیوٹی پر حال نہ ہو سکا۔ شوق آ رہی ہے کیا یہ ممکن ہے
یہی اس ٹیوٹر سے سفارش فرمایا گیا۔ کہ ڈیو ایچ او صواب مردان نے کہا
تیسرے ہر ماہی کرتے ہوئے سیکرٹری صواب کیلئے جیٹ کے مشورے پر صواب مردان
ڈیو جی بیلو صواب نے کہا کہ سب سے پہلے ڈیو۔ اور ساتھ میں جن 2019 سے
سیر کے مشورے بند کرنے کے قانون کے جواب میں لکھا گیا۔

Attested

انڈیا میں صواب سے عاقلانہ اتحاد ہے، کہ جسے اس کے پاس ہر ایک صواب
کرنے کے اٹھکانوں صواب پر مشورے کو اب فرم 16/5/2019 کے مشورے کے مطابق
حالیہ کرنے کے اٹھکانوں صواب پر مشورے کے

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Zulqarnain

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We *Zulqarnain*

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. ____/____/2020

[Signature]

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

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

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

Appeal No. 9615/2020

Mr. Zulaqarnain Appellant

Versus

DG Health & Others..... Respondent

MOST RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

- a. That appellant has got no locus standi.
- b. That appellant has not come to this court with clean hands.
- c. That the appellant was initially appointed in Mardan Medical Complex Teaching Hospital Mardan.
- d. That the Respondent No. 02 does not even have any sanctioned post of Helper (BPS-01).

ON BRIEF FACTS:

1. Incorrect: the appellant was initially appointed in Mardan Medical Complex Teaching Hospital Mardan. It is pertinent to mention that Respondent No. 02 does not have any sanctioned post of Helper (BPS-01) at all. **(Annexed – I)**
2. Pertain to record.
3. Pertain to record.
4. Pertain to record.
5. The appellant was posted in MTI/MMC Mardan, being initially appointed over there, as well as regarding performing of duty is pertain to record.
6. The Hospital Director MTI/MMC Mardan had intimated that no vacant post was available under his control, therefore appellant's order was cancelled and retained under the control of DHO Mardan vide office order No. 13329-32/Personnel dated 04.12.2019. **(Annexed – II)**
7. Pertain to record.
8. Formal no comment.

ON GROUNDS:

- A. Incorrect: the Respondent No. 02 does not have any sanctioned post of Helper (BPS-01).
- B. Incorrect: the appellant has been treated in accordance with Law & Rules.
- C. Incorrect: the appellant's salary was stopped due to transfer from the control of the Respondent No. 02 to MTI/MMC Mardan.

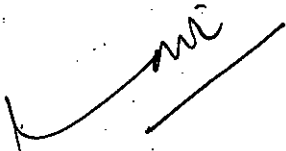
D. Incorrect: as explain in Supra Para No. 06 of Brief Facts, the appellant's order was cancelled and retained under the control of Respondent No. 02, but due to unavailability of Helper post (BPS-01) the appellant couldn't be adjusted by Respondent No. 02.

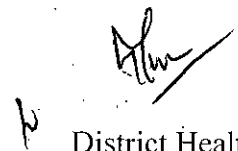
E. Incorrect: the salary was stopped due to transfer of the appellant to his parent department i.e. MTI/Mardan Medical Complex, Mardan.

F. Formal no comments.

PRAYER:

From the above facts, it is most humbly prayed that this appeal may please be disposed.


Director General
Health Services KPK


District Health officer
Mardan
District Health Officer
Mardan

(Amended - I)

18/8/15



MARDAN MEDICAL COMPLEX, A
TEACHING HOSPITAL, MARDAN.

Prof. Ziaul Islam
Chief Executive

No. 9436/41 /MMC

Dated 18/8/15

Appointment Order.

On recommendation of the Selection Committee already constituted by the Govt. of RPK, Health Deptt. Peshawar for the purpose of recruitments of Class-IV employees, Mr. Zulqarnain S/o Raj Dali Khan, NIC No# 16101-4074840-3 R/o Mohallah Taus Kheil Surkh Dheri Rustam Mardan is hereby appointed as Helper (BPS-01) plus usual allowance as admissible under the rules in MMC, Teaching Hospital, Mardan on the following terms and conditions:

1. He will be on probation initially for one year, extendable for 2nd year.
2. His services can be terminated, if his work and conduct remained un-satisfactory or his documents at any stage is/are found fake.
3. His appointment will be subject to medical fitness and verification of character and attendance.
4. He will not be entitled to any TA/DA for medical examination and joining the 1st appointment.
5. He will be governed by such services rules and orders as framed by the Govt. from time to time for category of Govt. servant to which he belongs.
6. If he wishes to resign his service he will submit his resignation in written in prior or 14 days salary in lieu thereof to Govt. Treasury, however he will continue to serve the Govt. till his resignation is accepted by the competent authority.

If he accepts the above mentioned terms and conditions, he should report to the Chief Executive MMC, Teaching Hospital, Mardan for duty along with Medical Fitness Certificate from Medical Superintendent DHQ Mardan on his own expenses within 07 days after the receipt of his letter, otherwise his appointment order will be considered as cancelled.

CHIEF EXECUTIVE
MMC, Teaching Hospital, Mardan.

No. _____ /MMC Dated _____ /2015.

Copy to:

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. Manager Employment Exchange Mardan.
3. Medical Superintendent, MMC, Mardan.
4. Distt. Comptroller of Accounts, Mardan for n/a.
5. Accountant MMC, Teaching Hospital, Mardan for n/a.
6. Mr. Zulqarnain S/o Raj Dali Khan R/o Mohallah Taus Kheil Surkh Dheri Rustam Mardan.

ATTESTED

ATTESTED
CHIEF EXECUTIVE
MMC, Teaching Hospital, Mardan.

Letter Copy-4

**MARDAN MEDICAL COMPLEX
TEACHING HOSPITAL, MARDAN**

**Prof. Ziaul Islam
Chief Executive**

**No.9436-41 MMC
Dated.18/8/2015**

Appointment Order:

On recommendation of the Selection Committee already constituted by the Govt. of KPK, Health Deptt, Peshawar for the purpose of recruitment of Class-IV Employee, Mr. Zulqarnain S/O Raj Dali Khan, NIC No#16101-4074840-3 R/O Mohallah Taus Kheil Surkh Dheri Rustam Mardan is hereby appointed as Helper (BPS-01) plus usual allowance as admissible under the rule in MMC Teaching Hospital, Mardan on the following terms and condition;

- 1- He will be on probation initially for one year, extendable for 2nd year.
- 2- His services can be terminated, if his work and conduct remained un-satisfactory or his document at any stage is/are found fake.
- 3- His appointment will be subject to medical fitness and verification of character and attendance.
- 4- He will not be entitled to any TA/DA for medical examination and joining the 1st appointment.
- 5- He will be governed by such services rules and ordered as framed by the Govt. from time to time for category of Govt. servant to which he belongs.
- 6- If he wishes to resign his service he will submit his resignation in written in prior or 14 days salary in lieu thereof to Govt. Treasury, however he will continue to serve the Govt. till his resignation is accepted by the competent authority.

If he accepts the above terms and conditions, he should report to the Chief Executive MMC, Teaching Hospital, Mardan for duty along with Medical Fitness Certificate from Medical Superintendent DHQ Mardan on his own expense within 07 days after the receipt of his letter, otherwise his appointment order will be considered as cancelled.

**CHIEF EXECUTIVE
MMC, Teaching Hospital, Mardan**

Accepted
[Signature]

KHYBER PAKHTUN KHWA PESHAWAR

Mail Address: www.health.peshawar.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

OFFICE ORDER

Annexed - II

J-13

As approved by the competent authority, Mr. Zulqarnain Helper & Mr. Abdul Akbar Naib Qasid under transfer to MMC MTI Mardan vide this Directorate Office Order bearing Endst. No. 8800-804/Personnel dated 18.07.2019 are hereby retained at the disposal of DHO Mardan for further posting under his control against the vacant posts in the interest of public service.

Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P, PESHAWAR.
Dated 05 /12/2019.

No 13329-39 /Personnel

Copy forwarded to the:-

1. DHO Mardan.
2. Hospital Director MTI- MMC Mardan.
3. DAO DIKhan.
4. Official Concerned.

CLERK
DHO OFFICE MARDAN
NO 1106
DATE 5-12-2019

For information and necessary action.

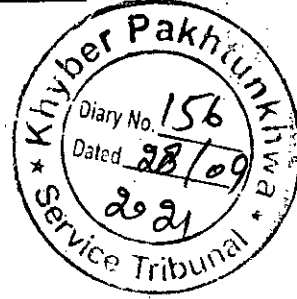
(Handwritten signatures and initials)

DEPUTY DIRECTOR (ADMN/AUX):
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR.

(Handwritten signature and date)
04/12/19

(Handwritten signature)

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS MARDAN



Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Appeal No: 9615/2020

Mr: Zulqarnain

District Accounts Officer Mardan

Most Respectfully Shewith:

Appellant

Respondent No:3

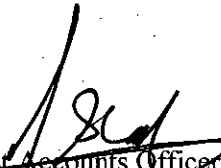
Para wise replies of Respondent No: 3

1. Pertain to record and not concerned with Audit.
2. Not concerned with Audit Office.
3. Not concerned with Audit Office.
4. Not concerned with Audit. However it is necessary to clarify that in Audit Office Pay of a Government Employee is stopped:
 - (i) On receipt of computerized source for pay "In Activation" signed by the DDO concerned reason for "Pay stopped" duly recorded. Or
 - (ii) Order issued by a Court for "Attachment of Pay" of a Government Servant.
 - (iii) When a Government Servant attain the age of Superannuation.
5. Not concerned with Audit.
6. Not concerned with Audit
7. Not concerned with Audit
8. No reply.

On Brief: in Audit Office Pay of a Government Employee is stopped.

- (i) On receipt of computerized source for pay "In Activation" signed by the DDO concerned reason for stoppage duly recorded thereon.
- (ii) When a Government Servant attain the age of Superannuation. In this case pay is stopped automatically in computer SAP System.
- (iii) When Pay attachment order issued by a Court of Law is recorded in Audit Office.

Submitted please.


District Accounts Officer
Mardan

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS MARDAN

Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Appeal No: 9615/2020

Mr: Zulqarnain

Appellant

District Accounts Officer Mardan

Respondent No:3

Most Respectfully Shewith:

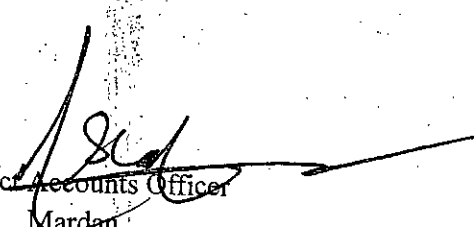
Para wise replies of Respondent No: 3

1. Pertain to record and not concerned with Audit.
2. Not concerned with Audit Office.
3. Not concerned with Audit Office.
4. Not concerned with Audit. However it is necessary to clarify that in Audit Office Pay of a Government Employee is stopped:
 - (i) On receipt of computerized source for pay "In Activation" signed by the DDO concerned reason for "Pay stopped" duly recorded. Or
 - (ii) Order issued by a Court for "Attachment of Pay" of a Government Servant.
 - (iii) When a Government Servant attain the age of Superannuation.
5. Not concerned with Audit.
6. Not concerned with Audit
7. Not concerned with Audit
8. No reply.

On Brief: in Audit Office Pay of a Government Employee is stopped.

- (i) On receipt of computerized source for pay "In Activation" signed by the DDO concerned reason for stoppage duly recorded thereon.
- (ii) When a Government Servant attain the age of Superannuation. In this case pay is stopped automatically in computer SAP System.
- (iii) When Pay attachment order issued by a Court of Law is recorded in Audit Office.

Submitted please.


District Accounts Officer
Mardan

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS MARDAN

Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Appeal No: 9615/2020

Mr: Zulqarnain

District Accounts Officer Mardan

Most Respectfully Shewith:

Appellant

Respondent No:3

Para wise replies of Respondent No: 3

1. Pertain to record and not concerned with Audit.
2. Not concerned with Audit Office.
3. Not concerned with Audit Office.
4. Not concerned with Audit. However it is necessary to clarify that in Audit Office Pay of a Government Employee is stopped:
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 - (ii) Order issued by a Court for "Attachment of Pay" of a Government Servant.
 - (iii) When a Government Servant attain the age of Superannuation.
5. Not concerned with Audit.
6. Not concerned with Audit
7. Not concerned with Audit
8. No reply.

On Brief: in Audit Office Pay of a Government Employee is stopped.

- (i) On receipt of computerized source for pay "In Activation" signed by the DDO concerned reason for stoppage duly recorded thereon.
- (ii) When a Government Servant attain the age of Superannuation. In this case pay is stopped automatically in computer SAP System.
- (iii) When Pay attachment order issued by a Court of Law is recorded in Audit Office.

Submitted please.


District Accounts Officer
Mardan



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: 1244 /ST Dated: 03/06 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

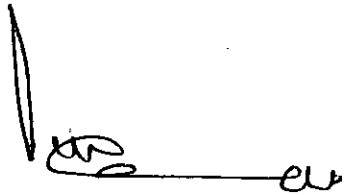
To

District Health Officer,
Mardan.

Subject: JUDGMENT IN APPEAL NO. 96/2015 Titled Mr. Zulqarnain Vs Health Department.

I am directed to forward herewith a certified copy of judgment dated 26.04.2022 passed by this Tribunal on the above subject for information please.

Encl: As Above.


(WASEEM AKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.