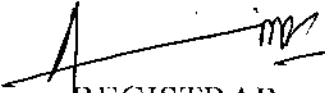


## FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ **155/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/1/2023	<p>The appeal of Mr. Muhammad Ashfaq presented today by Mr. Javed Iqbal Gulbella Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Service Appeal No. 155/2023

**Muhammad Ashfaq**

**VERSUS**

**Government of Khyber Pakhtunkhwa, etc.**

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**Dated: 13-01-2023**

**Appellant**

*Through*

**Javed Iqbal Gulbela**  
Advocate, Supreme Court.  
Pakistan.

(1)

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

Service Appeal No. 155/2023

***Muhammad Ashfaq*** S/o Bashir Muhammad R/o Pajagi Road, Faqir Garhi  
Fazal, P.O Faqir Kaley, Peshawar

..... ***Appellant***

**VERSUS**

1. Secretary, Government of Khyber Pakhtunkhwa, Health Department,  
Civil Secretariat, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Service, Newly Merged Area/Old FATA, Warsak Road,  
Peshawar.
4. District Health Officer, District Khyber.
5. District Account Officer, Khyber

..... ***Respondents***

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE IMPUGNED OFFICE ORDER OF THE  
DISTRICT HEALTH OFFICER DATED: 25-10-2019,  
WHEREBY THE SERVICES OF THE APPELLANT WAS  
TERMINATED FROM THE ROLLS OF THE RESPONDENT,  
IN A CLASSICAL CURSORY AND WHIMSICAL MANNER.**

***Respectfully Sheweth,***

1. **That**, before dilating upon the facts of the instant lis/Appeal, it would be effective to reflect on brief background of the Appellant's service from the time of his appointment.
2. **That**, back in the days the Respondent Department pursuant to publication and appointment, advertised certain posts for the different categories and various position offered in the Respondent Department, whereby the appellant having requisite qualification and fulfilling the required criteria applied for the subject post and duly went through selection process which the Appellant successfully qualified and got appointed on the post of "**Operation Theater Assistant (BPS-12)**" at

(2)

District Khyber. **(Copy of the Appointment Order/Letter is annexed here as Annexure "A")**

3. **That**, after the appointment the appellant kick-started the discharge of his duties, which his subject post asked for, that too without any soot and sootage. But little did appellant knew his ugly fate, and the mischievous Respondents had for him in their stores.
4. **That**, the Respondents without any rhyme and reason surreptitiously stopped the appellant's salary since September 2019, before appellants sailed to the next staged.
5. **That**, as a natural instinct and in the light of general procedure, the dissatisfied appellant preferred an application to his high up's in the Respondent department on 04-06-2020, which was of no avail. **(Copy of the Application is annexed here as Annexure "B")**
6. **That**, now the Respondents who had totally mutilated the appellant's service by a single jerk of a pen, the appellant in all his agitation knocked the doors of the Hon'ble Peshawar High Court Peshawar in writ petition No.3066-P/2021 for the release of his salaries. **(Copy of the Writ Petition is annexed here as Annexure "C")**
7. **That**, now the aggrieved appellant who had coat some fresh air in the corridors of law and in the shape of writ petition, but another tragedy which shock appellant to his core was that whilst lis pendis, before Hon'ble Peshawar High Court Peshawar, the Respondent submitted their comments in which they stated the service of the Appellant had been terminated vide order dated 25-20-2019, hence, the Hon'ble Peshawar High Court Peshawar disposed the same vide order dated 09-05-2022, and furnished the appellant with directions to approach proper forum and avail proper remedy. **(Copy of the Comments and Order Dated: 25-10-2019 is annexed here as Annexure "D & E")**
8. **That**, the Appellant, as per direction of the Hon'ble Peshawar High Court Peshawar submitted Departmental appeal against the impugned order of the Respondent department in order to catalyze the legal and proper procedure of law prescribed by rules and the Act, but despite the stark

(3)

facts and position of appellant narrated above the Respondents still have maintained tight lip and complete silence over the said departmental appeal. **(Copy of the Department Appeal is annexed here as Annexure "F")**

9. That, feeling aggrieved from the acts of the Respondent having no other efficacious remedy available elsewhere & forum to be addressed at, the Appellant approaches this Hon'ble Tribunals inter alia upon the following grounds:-

**GROUNDS:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy and unlawfully as firstly they stopped the appellant's salary, and followed by his termination, which is constitutional, unjust, unfair and hence ineffective upon the rights of the Appellant.
- B. That the Appellant was properly appointed in accordance with law on the recommendation of the properly constituted Selection Committee by the Competent Authority after observing all the codal formalities. The appointment order of the Appellant was acted upon, carried into effect and now valuable rights have accrued in favour of Appellant.
- C. That the whole proceeding of the respondents in shape of show-cause notice, explanation letter, so- called inquiry and impugned termination order dated 25/10/2019 was conducted in the absence of the Appellant which is fake and fabricated documents having no legal footing, hence liable to be set aside and consequently the Appellant is liable to be reinstated with all back benefits.
- D. That it is a well settled legal principle of law that salary of an employee cannot be stopped even during the course of his suspension from service, whereas the salary of Appellant is illegally been stopped in spite of his uninterrupted duties, which amounts to forced labour, therefore, Respondents have violated Article- 11 of the Constitution of the Islamic Republic of Pakistan, 1973..

- E. That besides it is a settled law that if any irregularity in the process of selection is committed by the Competent Authority, then it is the 'competent authority who is to be held responsible and for that lapse the poor employees cannot be made to suffer. However, in the case in hand no illegality was found against the competent authority.
- F. That the Appellant time and again requested the respondents to release his salary but the respondents with malafide intention concealed the whole inquiry proceeding from the Appellant and passed the impugned order in a haphazard manner despite the fact that the other colleagues of the Appellant which were appointed in the same batch, their salaries were released while the no- called inquiry was initiated against the Appellant, hence liable to be set aside.
- G. That Appellant have been serving the Respondent Department to the best of his capabilities with unblemished service record, throughout his service no complaint whatsoever had been lodged against him, thus the impugned termination letter is without any legal justifications is totally deviation from the law, hence not sustainable in the eye of law.
- H. That the act of the Respondents is just for accommodate their blue eyed nears and dears, hence needs interference of this Hon'ble Tribunal.
- I. That clear violation of Section 24 A of the General Clauses Act, 1897 has been made by not responding to the application of the Appellants which is not sustainable in the eye of law. It is in settled law that authorities having statutory powers must exercise the same in fair, just and reasonable manner. The impugned order of the Respondents is unfair, unjust and therefore not maintainable.
- J. Any other grounds will be raised at the time of arguments with kind permission of this Hon'ble tribunal.

(5)

*It is therefore most humbly prayed that on acceptance of the instant service appeal, the Impugned Termination Order of the Office of the District Health Officer, Dated: 25-10-2019, may kindly be set aside, and by doing so, the Appellant may graciously be reinstated into service with all back benefits.*

Dated: 13-01-2023

Through

Appellant

Javed Iqbal Gulbela

Advocate, Supreme Court,  
Pakistan,

Saghir Iqbal Gulbela,

Advocate, High Court,  
Peshawar

&

Alamzeb Khan,

Advocate, Peshawar

**Certificate:**

No such like Service Appeal has ever been prior to this one, filed by me for the same Appellant upon the same subject, and nothing has been concealed from this Hon'ble Tribunal.

Advocate.

(6)

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

In S.A No-\_\_\_\_\_/2023

Muhammad Ishfaq

VERSUS

Govt of Khyber Pakhtunkhwa & Others

**AFFIDAVIT**

I, **Muhammad Ishfaq S/o Bashir Muhammad R/o Pajagi Road, Faqir Garhi Fazal, P/o Faqir Kaley, 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

AMIL K

CNIC:17301-2062768-1

CELL: 0333-9261745

Identified by:

**Javed Iqbal Gulbela**  
Advocate, Supreme Court of  
Pakistan

**JAVED IQBAL GULBELA**  
Advocate  
Supreme Court of Pakistan  
(ASC # 3317)



(7)

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

Service Appeal No. \_\_\_\_/2023

**Muhammad Ashfaq**

VERSUS

**Government of Khyber Pakhtunkhwa, etc.**

**ADDRESSES OF THE PARTIES**

**ADDRESSES OF THE APPELLANTS:**

***Muhammad Ashfaq*** S/o Bashir Muhammad R/o Pajagi Road, Faqir Garhi Fazal,  
P.O Faqir Kaley, Peshawar

**ADDRESSES OF THE RESPONDENTS:**

1. Secretary, Government of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Service, Newly Merged Area/Old FATA, Warsak Road, Peshawar.
4. District Health Officer, District Khyber.
5. District Account Officer, Khyber

Dated: 13-01-2023

Appellant

Through

**Javed Iqbal Gulbela**  
Advocate, Supreme Court.  
Pakistan.

(8)

Appointment Order "A"

OFFICE OF THE AGENCY SURGEON  
KHYBER DISTRICT AT JAMRUD

OFFICE ORDER

As per recommendation of the Selection Committee Mr. Muhammad Ishfaq S/O  
Muhammad District Peshawar is hereby appointed as OTA BPS-12 (13320-863-  
4212) in Khyber District, with the following terms and conditions:-

- 1 He is declared medically fit for this job.
- 2 His appointment is purely on temporary basis.
- 3 He shall be bound to serve in the Khyber Tribal District.
- 4 He shall not include in any trade / business and any other activity what so ever has been declared prohibited for the Govt Servants in Civil Servant Act 1973
- 5 If he wishes to resign the service, a prior notice of 60 days will be Submitted or pay of 60 days should be deposited in lieu of resignation in Govt Treasury
- 6 He will have to serve anywhere in Khyber Tribal District
- 7 The offer shall be automatically held cancelled, if he fail to join the duty within 15 days of receipt of this order.

Agency Surgeon  
Khyber at Jamrud

Dated 23/11/2018

No 322-85 IAS/Khy  
Copy forwarded to the:-

- 1 Director Health Services Tribal District.
- 2 Deputy Commissioner Khyber District.
- 3 District Accounts Officer Khyber District.
- 3 Official concerned



Agency Surgeon  
Khyber at Jamrud

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

Respectable D.H.O Jamrood Tarq Hayat Sahib.  
Dear Sir. (9) "B"

It is to inform you that me Muhammad Ishfaq is an employee in your department (D.H.O Jamrood) my salary has been stopped by the (X-D.H.O) without any reason, without any show cause notice, without informing me. They stopped my salary since the month of October 2019 upto date June 2020. Therefore it is my humble request to you that please release my all salaries from October 2019 upto June 2020. I will be very thankful to you forever.

Applicant  
Muhammad Ishfaq  
(O.T.A) District Health  
Office Jamrood  
Date - 4-6-2020

JAVED IQBAL GULBELA  
Advocate  
Supreme Court of Pakistan  
(ASC 15317)

Writ Petition "C" (10)

18

(1)

~~Amr D~~

**BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR**

W.P. No. \_\_\_\_\_/2021

1. Muhammad Ashfaq S/o Bashir Muhammad R/o Deh Faqir Garhi Fazil, Peshawar.
2. Uzair Khan S/o Gohar Ali R/o Dag Kalay, Warsak Road, Peshawar.....(Petitioners)

**VERSUS**

1. The Secretary, Government of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. That Director Health Service, Newly Merged Area/ Old FATA, Warsak Road, Peshawar.
4. The District Health Officer, District Khyber at Jamrud.
5. District Account Officer, Khyber at Jamrud....(Respondents)

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

**Respectfully Sheweth:**

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

1. That all Petitioners are the permanent and bonafide residents of District Peshawar. Both have all rights and liabilities which have been guaranteed to them

**ATTESTED**  
EXAMINER  
Peshawar High Court

under the Constitution of the Islamic Republic of Pakistan, 1973. (Copies of CNICs of petitioners are attached as annexure "A" & "B").

2. That Respondents advertised multiple posts inviting applications for various posts of different categories. Petitioners having the requisite qualification and fulfilling the terms of advertisement applied for the subject posts. They went through the selection process which they successfully qualified and accordingly they were offered appointment against their respective posts i.e. petitioner No. 2 for the post of Junior Clerk (BPS-11) and Petitioner No. 1 for the post of OTA (BPS-12) at District Khyber. Subsequent to their appointment they were medically examined by the Authorized Medical Officers and were found fit. Eventually submitted their respective Arrival Reports and started performing their duties. (Copies of appointment orders are attached as annexure "C" & "D").

3. That while discharging their duties against subject posts, all of sudden, Respondent No. 4

JAVED IQBAL GULBELA  
Advocate  
Supreme Court of Pakistan  
(ASC #1017)

JAVED IQBAL GULBELA  
Advocate  
Supreme Court of Pakistan  
(ASC #1017)

ATTESTED  
EXAMINER  
Peshawar High Court

(B) 20

without showing any reason unlawfully stopped petitioner's salaries from September 2019 till now.

4. That Petitioner feeling dissatisfied of the impugned action, preferred an application for releasing their salaries on 04/06/2020 to the Respondent but to no avail, It is pertinent to mention here that the salaries of the Petitioners have unlawfully been stopped by the Respondents despite the fact that they have been performing their duties without any interruption. (Copy of application dated 04/06/2020 is attached as annexure "E").

5. That petitioners, now being aggrieved of the acts and omissions of the Respondents and impugned action, and having no other adequate and efficacious remedy file this constitutional petition inter-alia on the following grounds:

**GROUND:**

A. That Respondents: have not treated petitioners in accordance with law, rules and policy on 'Subject and acted in violation of Articles 4 of the

JAVED IQBAL GULBELA  
Advocate  
Supreme Court of Pakistan  
(ASC # 4317)

**ATTESTED**  
EXAMINER  
Peshawar High Court

(11) 21

Constitution, of Islamic Republic of Pakistan, 1973. and unlawfully stopped petitioner salaries, which is unconstitutional, unjust, unfair and hence ineffective upon the rights.

B. That the petitioners were properly appointed in accordance with law on the recommendation of the properly constituted Selection Committee by the competent authority after observing all the codal formalities. The appointment orders of petitioners were acted upon, carried into effect and now valuable rights have accrued in favour of petitioners, therefore, Petitioners are performing their duties and by means of impugned action. Respondents have unlawfully stopped the salaries of Petitioners which is against the law.

C. That it is a well settled legal principle of law that salary of an employee cannot be stopped even during the course of his suspension from service, whereas the salaries of Petitioners have illegally been stopped inspite of their performing uninterrupted duties, which amounts to forced labour, therefore, Respondents have violated Article-

JAVED IQBAL GULBELA  
Advocate  
Supreme Court of Pakistan  
(A.S.# 53171)

ATTESTED  
EXAMINER  
Peshawar High Court

22

11 of the Constitution of the Islamic Republic of Pakistan, 1973.

D. That besides it is a settled law that if any irregularity in the process of selection is committed by the competent authority then it is the 'competent authority who is to be held responsible and for that lapse the poor employees cannot be made to suffer. However, in the case in hand no illegality was found against the competent authority.

E. That Petitioners have been serving the Department to the best of their capabilities with unblemished service record. Throughout their service no complaint whatsoever has been lodged against them, thus the impugned action is without any legal justifications is totally deviation from the law, hence not sustainable in the eye of law.

F. That clear violation of Section-24 A of the General Clauses Act, 1897 has been made by not responding to the application of the Petitioners which is not sustainable in the eye of law. It is settled law that authorities having statutory powers

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

ATTESTED  
EXAMINER  
Peshawar High Court



(15)

(B) 23

must exercise the same in fair, just and reasonable manner. The acts of the Respondents are unfair, unjust and therefore not maintainable.

G. That Petitioners would like to offer some additional grounds during the course of arguments when the stance of the Respondents is known to the petitioners.

For the, aforesaid reasons; "it is "therefore, humbly prayed that on acceptance of this writ petition, this Hon'ble Court may graciously be pleased to declare the acts and omissions of the Respondents whereby salaries of the Petitioners were unlawfully stopped, as without lawful authority and hence of no legal effect and this Hon'ble Court may further be pleased to direct the Respondents to act in the matter in accordance with law and release the salaries of Petitioners.

Any other relief a as s. deemed d appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

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

**ATTESTED**  
EXAMINER  
Peshawar High Court

(11)

24

**INTERIM RELIEF:**

By way of interim relief, the operation of the impugned action may graciously be suspended and Respondents may graciously be restrained from taking any adverse action against the Petitioners till the final disposal of the instant Writ Petition.

Petitioners

Through

Dated: 08/07/2021

*[Signature]*  
**Jehanzeb Khan Khalil**  
Advocate High Court,  
Peshawar.

**CERTIFICATE:**

It is certified by no such like Writ Petition has early been filed by the petitioner in this Hon'ble Court. The Writ Petition No. 3728-P/2020 titled "Abdul Qadir..VS. Government" on the same footing has already been decided by this Hon'ble Court. (Attested copy of the Writ Petition along with order of this Hon'ble Court is attached). Further stated that being Writ Petition on the score that since there is no adequate and alternate remedy is available or previously avail or approach lower forum, thus this case may fixed before the Worthy Division Bench (D.B) of this Hon'ble Court.

ADVOCATE

**LAW BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any Law Book as per need.

ADVOCATE

*[Signature]*  
24 JUN 2022

*[Signature]*  
**JAVED IQBAL GULBELA**  
Advocate  
Supreme Court of Pakistan  
(ASC #5317)

28 Am D (17)

**BEFORE THE HONORABLE PESHAWAR HIGH COURT PESHAWAR.**

**WRIT PETITION NO. 3166-P/2021**

Muhammad Ashfaq & one other.....Petitioner

**Versus**

Govt. of Khyber Pakhtunkhwa through Secretary Health and others Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 2 TO 4.**

**Respectfully Sheweth:**

**Preliminary Objections:**

1. That the petitioners have got neither cause of action nor locus standi to file the instant petition.
2. That the petitioners have deliberately concealed the material facts from the Honorable Peshawar High Court, Peshawar, hence, liable to be dismissed.
3. That the petitioners have filed the instant petition just to pressurize the respondents.
4. That the petitioners have filed the instant petition with mala-fide motives.
5. That the instant petition is against the prevailing Law and Rules.
6. That the petition is not maintainable in its present form and also in the present circumstances of the issue.
7. That the petitioners have not come to this Honorable Court with clean hands.
8. That the petition is bad due to non-joinder of necessary and mis-joinder of unnecessary parties.
9. That the petition is time barred and hit by laches.

**ON FACTS:**

1. Pertains to record.
2. Incorrect, Petitioner No. 2 Mr. Uzair Khan has concealed the facts from this Honorable Court by producing the fake order of Junior Clerk BPS-11 in fact he was appointed against the post of Junior EPI Technician BPS-12 (Annex-4), while respondent No. 1 was appointed as OT Technician. They were asked time and again to provide relevant diplomas. However, they failed to

**FILED TODAY**

**Deputy Registrar**

**08 APR 2022**

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

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2

produce. They were issued explanation which they replied, admitted that they have no diploma.

Therefore, they were issued Charge Sheets and Show Cause Notices, however, they failed to respond resultantly. They were terminated. (copy of explanations, reply, charge sheets, show cause notices and termination order are Annexed as B to F.)

3. Incorrect, the petitioners have been terminated after fulfilling all codal formalities under the rules. It is worth to mentioned that the petitioners did not performed a single day duty.
4. Incorrect, their salaries have been stopped after issuing their termination orders as they do not posses relevant diplomas / qualification. It is further stated that their salaries were started paid by the District Accounts Officer without any authorization /permission of the Competent Authority as one petitioner Mr. Uzair Khan is the son of the then DAO Khyber and the second petitioner is the brother of the then Assistant DAO Khyber. The petitioners did not performed a single day duty.
5. Incorrect, as the petitioners are concealing material facts from this Honorable Court because their salaries are not only stopped but they have been terminated from services.

**ON GROUNDS**

- A. Incorrect as the petitioners have been terminated and their salaries is stopped as they failed to produce required diplomas of medical facility of Khyber Pakhtunkhwa Peshawar. However, the respondents acted as per Law and Rules.
- B. Incorrect because their salaries have been stopped after issuing their termination order as they failed to produce their relevant diplomas.
- C. Incorrect. The petitioner did not perform a single day duty therefore they are not entitled for any pay because as per law the pay will be paid to them who will perform duty accordingly.
- D. Incorrect as the petitioners were failed to produce the relevant diplomas / qualification. Hence they are not entitled for any relief.

**FILED TODAY**  
**JAVED IQBAL GULBELA**  
 Advocate, District Registrar  
 Supreme Court of Pakistan  
 (ASC # 5317) 08 APR 2022

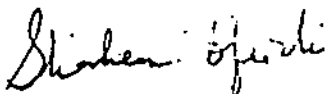
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(19)  
3

- E. Incorrect, as the petitioners are concealing the facts from this Honorable Court because petitioner No. 2 has produced a fake appointment order of junior clerk BPS-11, while he was appointed against the post of EPI technician BPS-12 on fake diploma and their salaries were stopped after issuance of their termination orders and no irregularity and violation has been made.
- F. Incorrect, because no violation of section-24 A of the General clauses Act, 1897 has been made as the petitioners were given the chance time and again to produce their relevant diplomas but they failed.
- G. That the respondents will also like to raise additional grounds at the time of arguments.

**PRAYER:**

It is therefore humbly prayed that on acceptance of the parawise comments, the petition of the petitioner may very graciously be dismissed with costs.



Director General Health Services,  
Khyber Pakhtunkhwa  
Respondent No. 02 & 03



District Health Officer Khyber at Jamrud  
Respondent No. 04

**FILED TODAY**

Deputy Registrar

08 APR 2022

JAVED IQBAL GULBELA,  
Advocate  
Supreme Court of Pakistan  
(ASC # 5817)

*Impugned Order "E" (20)*  
**OFFICE OF THE DISTRICT HEALTH OFFICER  
KHYBER AT JAMRUD**

**OFFICE ORDER**

The following fresh Appointees paramedic staff failed to produce their original Diplomas/ Certificates duly verified from medical faculty Khyber Pakhtunkhwa inspite of time and again directions by this office therefore they the following staff of health facilities Khyber district are hereby terminated with immediate effect due to the following allegations and they are directed to deposit the following amount of pay, which has illegally been drawn by them into Govt treasury through challan within 15 days with the receipt of this termination letter:-

**ALLEGATIONS:**

1. They failed to produce their original diplomas/Certificates dully verified by the medical faculty Khyber Pakhtunkhwa with in stipulated period of 15 days.
2. Therefore their diplomas are considered fake.
3. They Did not performed a single day duty during their tenure.

S.No	Name	Designation	Amount has to be recovered
1	Mr. Muhammad Shahzaib Awan	OT Technician	302628
2	Mr. Muhammad Ishfaq	OT Technician	289306
3	Mr. Uzair Khan	Junior EPI Technician	206884

No. 4088-92 /DHO/Khyber

Copy forwarded to the:-

1. Director Health Services Merged Areas Peshawar.
2. Deputy Commissioner Khyber District.
3. District Accounts Officer Khyber at Jamrud.
4. Officials Concerned.

District Health Officer  
Khyber at Jamrud  
Date: 25/10/2019

*[Signature]*  
District Health Officer  
Khyber at Jamrud

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

41 (21) ~~Ann "E"~~  
Ann "F"

THE DIRECTOR GENERAL HEALTH SERVICES, KHYBER  
PAKHTUNKHWA, PESHAWAR

DEPARTMENTAL APPEAL/ REPRESENTATION  
AGAINST THE ORDER DATED 25/10/2019.

Respected Sir,

1. That the your department advertised multiple posts inviting applications for various posts of different categories. Appellants having the requisite qualification and fulfilling the terms of advertisement applied for the subject posts. They went through the selection process which they successfully qualified and accordingly they were offered appointment against their respective posts i.e. appellant No. 1 Uzair Khan for the post of Junior Clerk (BPS-11) and appellant No. 2 Muhammad Ishfaq for the post of Operation Theater Assistant (BPS-12) at District Khyber. Subsequent to their appointment they were medically examined by the Authorized Medical Officers and were found fit. Eventually submitted their respective Arrival Reports and started performing their duties.

2. That while discharging their duties against the subject posts, all of sudden, the DHO Khyber without showing

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

42. (22)

any reason unlawfully stopped appellant's salaries from September 2019 till now.

3. That Appellants feeling dissatisfied of the impugned action, preferred an application for releasing their salaries on 04/06/2020 to the DHO Khyber, but to no avail. It is pertinent to mention here that the salaries of the Appellants have unlawfully been stopped by the DHO Khyber despite the fact that they have been performing their duties without any interruption.

4. That appellants, being aggrieved of the acts and omissions of the your department, and impugned action filed Writ Petition No. 3066-P/2021 before the Hon'ble Court, Peshawar.

5. That during the pendency of Writ Petition your department submitted comments in which stated vide order dated 25/10/2019 that the appellants were terminated from the service, hence the appellants came to know about their termination.

6. That thereafter the Hon'ble Peshawar High Court, Peshawar disposed the above mentioned Writ Petition vide order dated 09/05/2022 with the direction to the

**JAVED IQBAL GULBELA**  
Advocate  
Supreme Court of Pakistan  
(ASC # 1317)



43 (23)

appellants to approach the proper forum, hence this appeal.

It is requested that on acceptance of this appeal, your good-ship may graciously be pleased to declare impugned termination order dated 25/10/2019 of your department whereby salaries of the appellants were unlawfully stopped, and the appellants were terminated from their services as null and void and the appellant may graciously be reinstate upon their positions with all back benefits.

Appellants

1. Uzair Khan ~~S/o~~ Gohar Ali R/o Dag Kalay, Warsak Road, Peshawar
2. Muhammad Ashfaq S/o Bashir Muhammad R/o Deh Faqir Garhi Fazil, Peshawar

AWK  
12-5-2022

JAVED IQBAL GULBELA  
Advocate  
Supreme Court of Pakistan  
(ASC # 3317)

## وکالت نامہ

عدالت: Khyber Pakhtunkhwa Senior Tribunal

بنام \_\_\_\_\_  
 منجانب Appellant دعویٰ \_\_\_\_\_  
 تاریخ \_\_\_\_\_

باعتبار تسمیر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے درج شدہ بیرونی وجود ہی  
 بمقام لیتا اور کیلے جاوید اقبال گل بیلہ ایڈووکیٹ سپریم کورٹ آف پاکستان

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کوڈ یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا۔ اور ہوتے پکارے  
 جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر و ملت کرونگا، اگر پیشی پر من مظہر 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 ہونگے۔ نیز وکیل صاحب  
 موصوف صدر مقام کچہری کی کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ  
 ہونگے۔ 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 مظہر 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 ہونگے۔ مجھے کوکل پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو  
 عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے 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 کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے  
 بیان دینے اور سپرد و تالی و رضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی  
 مقدمہ یا منسوخی ڈگری یا کطرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری قتل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار  
 نہ بیرونی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزوی 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 ہونگے 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 کرونگا تو  
 صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف  
 کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سندر ہے۔

مورخہ \_\_\_\_\_ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

(BC-10-7924)

17301-1486065-7

Javed Iqbal Gulbela

Saghir Iqbal Gulbela

17301-1502481-3

JAVED IQBAL GULBELA  
 Advocate  
 Supreme Court of Pakistan

(Appellant)

محمد الشفاق