FORM OF ORDER SHEET

Court of	
· Case No	159/ 2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge	
1	2	3	
1-	18/1/2023	The appeal of Mr. Mohib Ullah presented today Mr. Muhammad Tariq Advocate. It is fixed for prelimina	
	· .*	hearing before Single Bench at Peshawar on Pare	
		Peshi is given to appellant/counsel.	
		By the order of Chairman	
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BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA PESHAWAR

Service Appeal No. 139 /2023	

Mohib Ullah

Versus

Secretary Health & other

INDEX

S.No	Description		- <u>-</u>
	- Description	Annexure	Page
1.	Ground of Appeal	-	01-04
	Convert to COLUMN TO COLUM		
2.	Copy of the SOH(E-II)/1-1/2022/3349-58 Dated	"A"	05-06
	12/04/2022		
3.	Copy of the Arrival Banary Date of 40/04/2005		<u></u>
u.	Copy of the Arrival Report Dated 18/04/2022	"B"	07
4.	Copy of the Notification No. SOH(E-II)/1-	"C"	
	3371(4, 11)/ 1-		08
	1/2022/9522-33 dated 14/06/2022	•	
5.	Copy of the Arrival Report Dated 15/06/2022		
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6.	Copy of the Departmental Appeal/	66 277	10-11
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	Representation		
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7.	Wakala Nama	_	12
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Through

Appellant

(Muhammad Tariq)

Advocate,

Supreme Court of Pakistan

Office Address: 2nd Floor Al-Mansoor Hotel Opp: Gulbahar Police Station

G.T.Road Peshawar Cell # 0333-9385283 CNIC # 17301-4574728-9

BC# BC-11-1564

Email: tariq.adv.hc@gmail.com

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA PESHAWAR

Service Appeal No. 159 /2023

Mohib Ullah S/O Khan Zada, Medical Officer (BPS-17), RHC Shahab Khel, Lakki Marwat

(Appellant)

VERSUS

- Secretary Health, Health Department, Government of Khyber Pakhtunkhwa, Peshawar
- Director General Health Service Khyber Pakhtunkhwa, Peshawar
- 3. District Health Officer, District Lakki Marwat, Khyber Pakhtunkhwa

(Respondents)

APPEAL UNDER SECTION 4 OF K.P.K. SERVICE TRIBUNAL ACT, 1974 AGAINST NOTIFICATION DATED 14/06/2022 VIDE WHICH APPELLANT WAS POSTED AS MEDICAL OFFICER (BS-17) AT RHC SHAHAB KHEL, LAKKI MARWAT AND RESPONDENTS REGULARIZED THE SERVICE OF APPELLATE FROM THE DATE OF ABOVE SAID NOTIFICATION INSTEAD OF NOTIFICATION DATED 12/04/2022 VIDE WHICH APPELLANT WAS APPOINTED AS MEDICAL OFFICER (BS-17) ON REGULAR BASIS IN HEALTH DEPARTMENT AND APPELLANT HAS FILED DEPARTMENT APPEAL/ REPRESENTATION TO THE RESPONDENT 02

FOR REGULARIZATION OF GAP PERIOD i.e. 18/04/022 TO 14/06/2022 BUT TILL DATE NO ORDER HAS BEEN COMMUNICATED TO THE APPELLANT INSPITE OF SEVERAL REQUEST

Respectfully Sheweath:

Brief facts of the case giving rise to instant Writ Petition are as under:

- That Appellant has been appointed as Medical Officer (BS-17) on the recommendation of Khyber Pakhtunkhwa Public Service Commission in the prescribed manner by the Competent Authority after fulfilling codal formalities vide Notification No. SOH(E-II)/1-1/2022/3349-58
 Dated 12/04/2022 on regular basis in Health Department and Appellant has made his arrival on 18/04/2022. (Copy of the Notification No. SOH(E-II)/1-1/2022/3349-58 Dated 12/04/2022, Arrival Report Dated 18/04/2022 are Annexure "A" & "B")
- 2. That, thereafter, Appellant was posted as Medical Officer (BS-17) at RHC Shahab Khel, Lakki Marwat vide Notification No. SOH(E-II)/1-1/2022/9522-33 dated 14/06/2022 by Respondent and Appellant has made his arrival on 15/06/2022. (Copy of the Notification No. SOH(E-II)/1-1/2022/9522-33 dated 14/06/2022 and Arrival Report Dated 15/06/2022 are Annexure "C" & "D")
- 3. That Respondents have counted the regular service of the Appellant from the dated 14/06/2022 instead of 12/04/2022. Respondents have not included the gap period from 12/04/2022 to 14/06/2022 in the service of Appellant. Appellant aggrieved from the acts and deeds and Notification No. SOH(E-II)/1-1/2022/9522-33 dated 14/06/2022 of the Respondents. On 05/10/2022 Appellant has filed Departmental Appeal/ Representation to the Respondent 02 for regularization of gap period i.e. 18/04/2022 to 14/06/2022 but till date no order has been communicated to the Appellant inspite of several request were

made by the Appellant but in vane. (Copy of the Departmental Appeal/Representation is Annexure "E").

4. That Appellant is highly aggrieved from impugned Notification dated 14/06/2022 issued by the Respondent 03. As such, approached this Honorable Tribunal by challenging the same on the following

GROUNDS:

- a. That the impugned Notification dated 14/06/2022 and acts and deeds of the Respondents not counting the gap period i.e. 18/04/2022 to 14/06/2022 in the regular service of the Appellant are against the law, without lawful authority, without jurisdiction, without substance, in derogation of the relevant provision of law. Hence, not tenable.
- b. That Appellant has been appointed as Medical Officer (BS-17) on the recommendation of Khyber Pakhtunkhwa Public Service Commission in the prescribed manner by the Competent Authority after fulfilling codal formalities vide SOH(E-II)/1-1/2022/3349-58 Dated 12/04/2022 on regular basis in Health Department. In these circumstance, Appellant service is regularized from the date of his appointment and not from the date of his posting. By doing so, Respondents have violated the well settled principle of law.
- c. That impugned Notification dated 14/06/2022 and acts and deeds of the Respondents are incorrect, illegal and utter disregard of the well settle principle of law. As such, the same is liable to be set aside.
- d. That the acts and deeds of the Respondents are tainted with mala fide, the same are in derogation of provision of the constitution of Islamic Republic of Pakistan, 1973.
- e. That Respondents have not treat the Appellant in accordance with law, rules and policy on the subject and acted in violation of relevant provision of well settle principle of law.

- f. That treatment met out to the Appellant is clear cut violation of the verdicts of the Apex Supreme Court of Pakistan and principle of Natural Justice.
- g. That any other ground may be agitated at the time of arguments with kind permission of this honorable Court.

It is, therefore, most humbly prayed that on acceptance of instant Appeal in hand, Respondents may very graciously be directed to regularized the service of the Appellant from the date of his appointment i.e. 18/04/2022 and Consequently, include the gap period i.e. 18/04/2022 to 14/06/2022 in his regular service Any other order deemed proper in the matter which has not been specifically asked for may also be granted in favour of Appellant against Respondents.

Appellant

Through

(Muhammad Tariq)

Advocate,

Supreme Court of Pakistan

<u>AFFIDAVIT</u>

It is hereby solemnly affirm and declare on oath that contents of <u>Service Appeal</u> are true and correct to the best of my knowledge and belief and nothing has been kept from this honorable Tribunal.

(Deponent)

CERTIFICATE

Certified that no such Service Appeal has been filed earlier on the subject matter in this honorable Tribunal.

(Deponent)





Dated Peshawar the April 12, 2022

NOTIFICATION

No.SOH(E-11)/1-1/2022/3349-58:

On the recommendation of Khyber Pakhtunkhwa

Public Service Commission, the Competent Authority is pleased to appoint the following Medical Officers/Women Medical Officers (BS-17) on regular basis in Health Department with immediate effect:-

S.No	Names	Father's Name	Domicile / Zone
1.	Simran James	James Iqbal	Peshawar / 2
2	Waqar Ahmad	Umer Traz Khan	Ваппи / 4
3.	Mohib Ullah	Khan Zada	FR Bannu / 1
4.	Naveed Liaqat	Liagat Ali	Peshawar / 2
5.	Ayman Jadoon	Shakeel Mansoor	Abbottabad / 5
G.	Sarab Jeet Singh	Jagdees Singh	Buner / 3
7.	Ansa Anam	Arshad Jan	Peshawar / 2
8.	Muhammad Salman	Muhammad Idrees	Charsadda / 2
9.	Gulzar Hussain	Muhay Ud Din	Shangla / 3
10.	Yaseen Ghaffar	Fazli Ghaffar	Malakand / 3
11.	Rida Kumari	Lal Kumar	Swat / 3
12.	Zutfiger Khattak	Mushtaq Khattak	Nowshera / 2
<u> 13.</u>	Nouman Anthony	Naveed Asif	Peshawar / 2
14.	Nadia Khan	Muhammad Shafi	Mardan / 2
15.	Aimen James	James Iqbal	'Peshawar / 2
16.	Rozi Akbar	Gul Bar Khan	Buner / 3

- a) The posting order of the above mentioned doctors will be issued after arrival report is submitted by them in the office of Section Officer (E-ii), Health Department, Government of Khyber Pakhtunkhwa, Peshawar.
- b) The terms & conditions of their service shall be governed under the provisions of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 and rules made under there.
- c) Their posting shall be governed under Section-5 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.
- d) They will be on probation for a period of one year extendable to another one year in terms of Rule-15 of APT Rules 1989.
- e) Appointment shall be subject to medical fitness and verification of antecedents as well as testimonials.
- f) The DGHS, concerned DHO and Medical Superintendent shall be personally responsible for verification of documents/certificates/ Degrees of the Doctor and his/her salary shall not be released till the verification of the academic documents/certificates/Degrees from the concerned institutions.
- g) The doctors concerned are required to submit their arrival report to the office of Section Officer (E-II), Health Department, Government of Khyber Pakhtunkhwa, Peshawar within <u>fifteen</u> days of the issuance of this notification failing which the appointment will stand automatically cancelled.

SECRETARY HEALTH KHYBER PAKHTUNKHWA

4 Attesteol

NOTIFICATION

Dated Peshawar the April 12, 2022

No.SOH(E-II)/1-1/2022/3349-58: On the recommendation of Khyber Pakhtunkhwa Public Service Commission, the Competent Authority is pleased to appoint the following Medical Officers/Women Medical Officers (BS-17) on regular basis in Health Department with immediate effect:-

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2.	Waqar Ahmad	Umer Tiaz Khan	Bannu/4
3.	Mohib Ullah	Khan Zada	FR Bannu/1
4.	Naveed Liaqat	Liaqat Ali	Peshawar/2
5.	Ayman Jadoon	Shakeel Mansoor	Abbottabad/5
6.	Sarab Jeet Singh	Jagdees Singh	Buner/3
7.	Ansa Anam	Arshad Jan	Peshawar /2
8	Muhammad Salman	Muhammad Idrees	Charsadda /2
9.	Gulzar Hussain	Muhay Ud Din	Snangla /3
10.	Yaseen Ghaffar	Fazli Ghaffar	Malakand /3
11.	Rida Kumari	Lal Kumar	Swat /3
12	Zulfigar Khattak	Mushtaq Khattak	Nowshera /2
13.	Nouman Anthony	Naveed Asif	Peshawar /2
14.	Nadia khan	Muhammad Shafi	Mardan /2
15.	Aimen James	James Iqbal	Peshawar /2
16.	Rozi Akbar	Gui Bar Khan	Buner /3

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The terms & conditions of their service shall be governed under the provisions of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 and rules made under there.

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e) Appointment shall be subject to medical fitness and verification of antecedents as well as testimonials.

f) The DGHS, concerned DHO and Medical Superintendent shall be personally responsible for verification of documents/certificates/Degrees of the Doctor and his/her salary shall not be released till the verification of the academic documents/certificates/ Degrees from the concerned institutions.

The doctors concerned are required to submit their arrival report to the office of Section Officer (E-II), Health Department, Government of Khyber Pakhtunkhwa, Peshawar within fifteen days of the issuance of this notification failing which the appointment will stand automatically cancelled.

SECRETARY HEALTH

KHYBER PAKHTUNKHWA

Attested

Endst. of even No. & Date.

-Copy to the:

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 3. Deputy Director (IT), Health Department, Peshawar.
- 4. PS to Minister for Health Khyber Pakhtunkhwa.
- 5. PS to Secretary Health, Khyber Pakhtunkhwa.
- 6. PA to Special Secretary (E&A / B&D) Health Department.
- 7. PA to Additional Secretary (E&A / B&D), Health Department.
- 8. PA to Deputy Secretary (Estab), Health Department.
- 9. Doctors concerned.

(Dr. Syed Yasir Ali Shah SECTION OFFICER (E-II)

Attested

 \mathcal{T}_{O} ,

18/04/22

The Secretary Health KPK.

Subject: Anival RePort

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Sin,

With due respect, it is stated in Light of notification NO-SOHLE-11)/1-1/2012) 3349-58 on recommendation of KPPSC, A am appointed as Medical officer (BPS-17) on regular basis in Health Defastment

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DS - / amin

DS - Legal

DS - ESTI

With immediate effect. In this regard, Please accept

my amival in your Prestigions. defaitment. A shall be highly obliged.

Thanks in anticipation. Mystell Yours obediently

physically appeared

Domiste FR Banny

An Mobile vellah Khan Zada FR Bannu

Oated: 18th April 2072



Dated Peshawar 14th June, 2022

NOTIFICATION

NO.SOH(E-II)/1-1/2022/ 9527 - 33 : On the recommendations of Khyber Pakhunkhwa Public Service Commission, the Competent Authroity is please to order the following posting of Medical Officers (BS-17), with immediate effect, in the public interest

Simran James D/O James Iqbal, Medical Officer (BS-17) Flobib Ullah S/O Khan Zada Fledical Officer (BS-17) Naveed Liagat S/O Liagat Ali Fledical Officer (BS-17) Ayman Jadoon D/O Shakeef Mansoor	-do	At the disposal of DHO Mardan RHC Shabab Khel, takki Marwat
Hobib Ullah S/O Khan Zada <u>Hedical Officer (BS-17)</u> Naveed Liagat S/O Liagat Ali Hedical Officer (BS-17)		RHC Shabab Khel, Lakki Harwat
Naveed Liagat S/O Liagat Ali Neglical Officer (85-17)		Marwat
Naveed Liagat S/O Liagat Ali Nedical Officer (BS-17)	-do-	
Medical Officer (BS-17)	-do	
Medical Officer (BS-17)		At the disposal of DHO
Ayman Jadoon DWA Shat ool Mageone		Mardan
Ayman saadan byo shakeer mansoor	-do-	At the disposal of DHO
	! !	Abbottabad,
	-do	At the disposal of DHO
		Shangla
	-do-	L Woman & Children Hospital
		, Rajjar Charsadda.
	-do	At the disposal of DHO
1	1	Charsadda.
Medical Officer (B5-17)		
Gulzar Hussain S/O Muhay ud Din	-do-	DHQ Hospital Alpun Shangla
Medical Officer (BS-17)	 	·
	-do-	At the disposal of DHO
	<u> </u>	Malakand
	· -do-	At the disposit of DHO Swat
		<u> </u>
	-20-	At the disposal of DHO
		Hardan
1	-00-	At the disposal of DHO
		Mardan
	1 -00-	At the disposal of DHO
		Mardan
		At the disposal of DHO
Rozi Akbar S/O Gul Bar Khan		Marrian
	1	At the disposal of DHO Shangla
	Medical Officer (BS-17) Sarab Jeet Sing S/O Jagdees Sing Medical Officer (BS-17) Ansa Anam D/O Arshad Jaan Medical Officer (BS-17) Muhammad Salman S/O Muhammad Idrees Medical Officer (BS-17) Guizar Bussain S/O Muhay ud Din Medical Officer (BS-17) Yaseen Ghaffar S/O Fazli Ghaffar Medical Officer (BS-17) Rida Kumarr D/O Lal Kumar Medical Officer (BS-17) Zulfigar Khattak S/O Mushtag Khattak Hedical Officer (BS-17) Nouman Anthony S/O Naveed Asif Medical Officer (BS-17) Mida Khan D/O Muhammad Shafi Medical Officer (BS-17) Aiman James D/O James Iqbal Medical Officer (BS-17) Rozi Akbar S/O Gul Bar Khan Medical Officer (BS-17)	Sarab Jeet Sing S/O Jagdees Sing Medical Officer (BS-17) Ansa Anam D/O Arshad Jaan Medical Officer (BS-17) Aluhammed Salman S/O Muhammad Idrees Medical Officer (BS-17) Gulzar Bussain S/O Muhay ud Din Medical Officer (BS-17) Yaseen Ghaffar S/O Fazli Ghaffar Medical Officer (BS-17) Rida Kumari D/O Lal Kumar Medical Officer (BS-17) Zulfigar Khattak S/O Mushtaq Khattak Hedical Officer (BS-17) Nouman Anthony S/O Naveed Asif Medical Officer (BS-17) Mida Khan D/O Muhammad Shafi Medical Officer (BS-17) Aiman James D/O James Iqbal Medical Officer (BS-17) Rozi Akbar S/O Gul Bar Khan -dododododododod

SECRETARY HEALTH HEALTH DEPARTMENT

Endst. No. Even & date: Copy to the:-

- Accountant Ceneral, Khyber Pakhtunkhwa.
 Director General, Health Services, Khyber Pakhtunkhwa.
 Deputy Director 11, Health Department with the request to upload on the website.
- Deputy Director, HRMIS, Directorate General Health Services, Peshawar
- All the concerned DHOs / MSs, Khyber Pakhtunkhwa.
 All the concerned District Account Officers, Khyber Pakhtunkhwa.
- 7. PS to Minister for Health, Govl. of Khyber Pakhtunkhwa 8. PS to Secretary Health, Khyber Pakhtunkhwa 9. PS to Special Secretary(E&A/B&D) Health Department
- 9. PS to Special Secret 10 Doctors concerned.

11. Master file.

Section Officer (E-II)

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NOTIFICATION

Dated Peshawar 14 June, 2022

No.SOH(E-II)/1-1/2022/9522-33: On the recommendation of Khyber Pakhtunkhwa Public Service Commission, the Competent Authority is pleased to Order the following posting of Medical Officers (BS-17), with immediate effect, in the public interest.

S.No.	Name/Father Name	mmilediate effect, in the	ne public interest.
1.	Tivame/rather Name	From	To
	Simrah James D/O James Iqbal, Medical Officer (BS-17)	Initial appointment	At the disposal of DHO Mardan
2.	Mohib Ullah S/O Khan Zada , Medical Officer (BS-17)	-do-	RHC Shahab Khel, Lakki Marwat
3.	Naveed Liaqat S/O Liaqat Ali, Medical Officer (BS-17)	-do-	At the disposal of DHO
4.	Ayman Jadoon D/O Shakeel Mansoor, Medical Officer (BS-17)	-do-	At the disposal of DHO Abbottabad
5.	Sara Jeet Singh S/O Jagdees Singh, Medical Officer (BS-17)	-do-	At the disposal of DHO Shangla
6	Ansa Anam D/O Arshad Jaan , Medical Officer (BS-17)	-do-	Women & Children Hospital Rajjar Charsadda
7.	Muhammad Salman S/O Muhammad Idrees, Medical Officer (BS-17)	´-do-	At the disposal of DHO Charsadda
8.	Guizar Hussain S/O Muhay Ud Din, Medical Officer (BS-17)	-do-	DHO Hospital Alpuri Shangla
9.	Yaseen Ghaffar S/O Fazli Ghaffar, Medical Officer (BS-17)	-do-	At the disposal of DHO Malakand
10:	Rida Kumari D/O Lal Kumar, Medical Officer (BS-17)	-do-	At the disposal of DHO Swat
11,	Zulfiqar Khattak S/O Mushtaq Khattak, Medical Officer (BS-17)	-do-	At the disposal of DHO Mardan
12	Nouman Anthony S/O Naveed Asif , Medical Officer (BS-17)	-do-	At the disposal of DHO Mardan
13.	Nida Khan D/O Muhammad Shafi, Medical Officer (BS-17)	-do-	At the disposal of DHO Mardan
14.	Aiman James D/o James Iqbal, Medical Officer (BS-17)	-do-	At the disposal of DHO Mardan
15	Rozi Akbar S/O Gulbar Khan , Medical Officer (BS-17)	-do-	At the disposal of Shangla

SECRETARY HEALTH KHYBER PAKHTUNKHWA

Endst No. Even & Date

Copy to the :-

- Account General, Khyber Pakhtunkhwa 1.
- Director General, Health Services, Khyber Pakhtunkhwa 2.
- Deputy Director IT, Health Department with the request to uphold on the 3. website.
- Deputy Director, HRMIS, Directorate General Health Services, Peshawar 4.
- All the concerned DHOs/MSs, Khyber Pakhtunkhwa 5.
- All the concerned District Account Officers, Khyber Pakhtunkhwa 6.
- PS to Minister for Health, Govt, of Khyber Pakhtunkhwa 7.
- PS to Secretary Health, Khyber Pakhtunkhwa 8.
- PS to Special Secretary (E&A/B&D) Health Departmetn. 9.
- 10. Doctors concerned
- 11. Master file

Signature in English Section Officer (E-II)

Diptrict Health Officer

Diptrict Lakki Manuat

Annival RePort Subject:

Sin,

With due respect, it is stated in light of notification NO. SOHLE-117/1-1/2022/ 9522-33 on recommendation of healthdepartment government of KPK, & have been appointed as medical officer (BPS-17) at RHC Shahab Khel, Lakki Maywat.

In this regard, Please accept my assival in your frestigions department. I shall be highly abliged.

Thanks in anticipation.

Yours obedientry MMA Dr. Mohib Ullah Khan Zada Medical offices Dated 1 15 /06/2022

То,

(10)

The Diptoret Health officer.

Lakki Marwat. Annex

Subject: Request for Regularization of

GAP Period from 18/04/22 to 14/06/.

Replected Sin,

doing my Job in RHC Shahab Kirel as medical efficer (BPS-17). Six my GAP Rie. Is from 18/04/22 to 14/06/22
Respected Six it is Kindly requested to regularize my GAP Resident.

grie g

DHOQ1 Dated: 05/10/2022

Attested

Your obedientry

Pr. Mobile Wellah

MO LHC Shahab Elg.

Contact 4 03329738338

I shall be very thankful.

Email: dholakki@yahoo.com 0969-510472

Fax#: 0969 510474 Dated: 0.5 0 1 _/2022.

· To

The Director General Health Services Khyber Pakhtunkhwa Peshawar.

SUBJECT:

REGULARIZATION OF GAP PERIOD FROM 18-04-2022 to 14-06-2022

Respected Madam,

I have the honor to enclose herewith an application in original in respect of Dr. Mohib Ullah Medical Officer BPS-17 attached to RHC Shahab Khel District Lakki Marwat, which is self explanatory for favor of further

necessary action please.

District Health Officer

Lakki Marwat 🕸

1. Doctor concerned.

Lakki Marwat

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