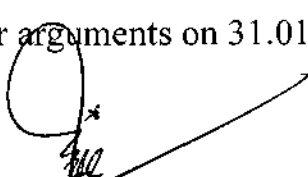


11.01.2023

Junior of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 31.01.2023 before the D.B.


(Mian Muhammad)
Member (E)

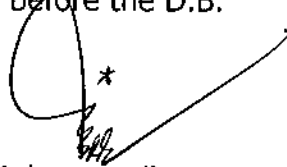
(Salah-Ud-Din)
Member (J)

SCANNED
KPST
Peshawar

22.09.2022

Junior of learned counsel for the appellant present. Mr. Shahnawaz, Assistant alongwith Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 12.12.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

12.12.2022

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for the respondents present.

Former made a request for adjournment in order to further prepare the brief. Last chance is given. To come up for arguments on 11.01.2023 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

SCANNED
KPST
Reshwar

25.02.2022

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

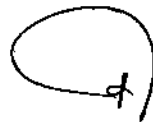

Reader

30.03.2022


Junior of counsel for the appellant present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned with direction to junior counsel for the appellant to furnish Member Copy of the instant appeal on the next date. To come up for arguments on 11.05.2022 before D.B.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)

11-5-22

Proper DB not available the case is adjourned on 26-7-22

26-7-2022

Proper DB not available the case is adjourned to 22-9-2022

Salah-Ud-Din


Reader

20.12.2021

Appellant in person and Mr. Muhammad Adeel Butt, Addl. AG for the official respondents present. None present on behalf of private respondent no.4, hence proceeded against ex-parte.


The official respondents have not furnished reply/comments. Learned AAG seeks further time to contact the respondents. Let the respondents be afforded with last opportunity with the warning that in case they fail to submit the written reply/comments on or before next date, their right for reply/comments shall be deemed as struck off by virtue of this order. Case to come up for arguments on 14.01.2022 before the D.B. The restraint order dated 13.10.2021 shall remain operative till next date.


Chairman

14.01.2022

Junior to counsel for the appellant present. Mr. Muhammad Rasheed, DDA alongwith Jaffar, Assistant for the respondents present.

Written reply of official respondents submitted. Placed on file. To come up for arguments on 25.02.2022 before the D.B. The restraint order dated 13.10.2021 shall remain operative till next date.


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


Chairman

10.11.2021

Mr. Said Khan, Advocate junior of learned counsel for the appellant present. Mr. Javed Ullah, Assistant Advocate General for the official respondents No. 1 to 3 present and sought time for submission of reply/comments. None present on behalf of private respondent No. 4, therefore, notice be issued to private respondent No.4 for submission of reply/comments. Adjourned. To come up for submission of reply/comments as well as arguments before the D.B on 07.12.2021. The operation of the impugned notification dated 23.08.2021 shall remain suspended to the extent of appellant only, till the date fixed.



(ATIQ UR REHMAN WAZIR)
MEMBER (E)



(SALAH-UD-DIN)
MEMBER (J)

07.12.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Jafar Ali, Assistant for official respondents No. 1 to 3 present. None present on behalf of private respondent No.4.

Written reply/comments not submitted. Representative of the respondents No. 1 to 3 seeks time to submit written reply/comments on the next date. Notice be also issued to the private respondent No.4. Adjourned. To come up for written reply/comments on 20.12.2021 before S.B. The operation of the impugned notification dated 23.08.2021 shall remain suspended to the extent of appellant only, till the date fixed.



(MIAN MUHAMMAD)
MEMBER (E)


Dr. Ayub Khan 7437/2021

13.10.2021 Learned Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant is aggrieved of the impugned order dated 23.08.2021 whereby private respondent No.4 has been posted against the post already occupied by the appellant, for the purpose of actualization of his up-gradation whereas the appellant does not appear anywhere in the impugned general order(notification) dated 23.08.2021. Contention of the learned counsel for the appellant is that the appellant has not been allowed to complete his normal tenure of posting as he was posted on the present position vide earlier notification dated 29.07.2020 i.e issued only thirteen (13) months ago. Moreover, his claim is also covered under wedlock policy of the Provincial Government as his wife is working as WMO (BS-17) and presently posted at THQ Hospital Dogra Picket Barra District Khyber. The impugned order is, therefore, issued in violation of Clause(i), (iv) and (ix) of the Posting/Transfer Policy 2003. The appellant is further aggrieved for having not ^{been} posted anywhere which is a glaring violation of 2013 PLD 195 (AneetaTurab case). Feeling aggrieved with the said impugned notification, the appellant preferred departmental appeal on 25.08.2021 which is not responded as yet, hence the instant Service Tribunal on 21.09.2021.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 10.11.2021 before the D.B.

Alongwith the service appeal an application for suspension of operation of impugned notification dated 23.08.2021. Notice of this application be also issued to the respondents for submission of written reply/comments for the date fixed. Till then the operation of impugned notification dated 23.08.2021 is suspended to the extent of appellant only, till the date fixed.


(Mian Muhammad)
Member(E)

Appellant Deposited
Security & Process Fee

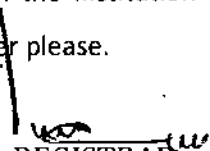

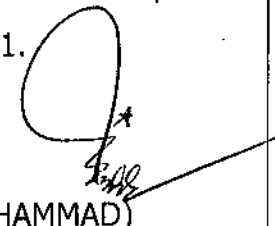
18/10/21

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7437 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/09/2021	<p>The appeal of Dr. Ayub Khan 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>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	30.09.2021	<p>Junior of counsel for the appellant present.</p> <p>Junior of learned counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing before the S.B on <u>13.10.2021</u>.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: DR, AYUB KHAN V/S HEALTH DEPARTMENT

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: NOOR MOHAMMAD KHATTAK	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

21.9.2021

Name: **NOOR MOHAMMAD KHATTAK**

Signature: _____

Dated: 2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____ /2021

DR, AYUB KHAN

V/S

HEALTH DEPARTMENT

INDEX

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1 - 3
2	Affidavit	4
3	Stay Application	5
4	Notification dt: 29-07-2020	A	6
5	Impugned notification dt: 23-08-2021	B	7-11
6	Departmental appeal	C	12
7	transfer/posting policy	D	13-15
8	Notification	E	16
9	CNICs	F & G	17-18
10	Nikahnama	H	19
11	Wakalat Nama		20

Dated: 21-09-2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 7437 /2021 Entry No. 765

Dr. Ayub Khan, Senior Medical Officer (BPS-18),
Presently posted as Additional District Health Officer, District Khyber

Dated 21/9/2021

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- 2- The Secretary, Government of Khyber Pakhtunkhwa Health Department, Peshawar.
- 3- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 4- Mr. Shams Ur Rehman, Medical Officer (BPs-17), presently posted as N.Stop Officer, DHO Office, District Khyber.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 23-08-2021 WHEREBY THE PRIVATE RESPONDENT No.4 HAS BEEN POSTED AGAINST THE POST ALREADY HELD BY THE APPELLANT AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD

PRAYERS:

That on acceptance of this appeal the impugned transfer Notification dated 23-08-2021 may very kindly be set aside to the extent of private respondent No.4 and the respondents may be directed not to transfer the appellant from the post of Additional District Health Officer, District Khyber. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the employee of the respondent Department and is serving the respondent Department as Senior Medical Officer (BPS-18) quite efficiently and up to the entire satisfaction of his superiors.

Filed to-day
Registrar
21/9/2021

- 2- That vide Notification dated 29.7.2020 the appellant was posted against the vacant post of Additional District Health Officer (BPS-18) at the office of District Health Officer, District Khyber. That in response the appellant took over the charge of the said post and started his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the Notification is attached as annexure **A.**
- 3- That astonishingly vide impugned Notification dated 23.8.2021 the private respondent No.4 who is actually is BPS-17 Officer has been transferred against the post already held by the appellant. That it is pertinent to mention that appellant left without any posting by the respondents. Copy Impugned Notification dated 23-08-2021 is attached as annexure **B.**
- 4- That, feeling aggrieved from the inaction of the respondent the appellant filed Departmental Appeal dated 25-08-2021 against the impugned Notification dated 23-08-2021 which was properly allotted with diary number but was not responded within the stipulated period. Copy of the Departmental Appeal is attached as annexure **C.**
- 5- That appellant having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A-** That the impugned transfer Notification dated 23-08-2021 is against the law, facts, norms of natural justice and materials on the record hence not tenable and is liable to be set aside to the extent of private respondent.
- B-** That appellant has not been treated by the respondent Department 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 issuing the impugned Notification dated 23.8.2021.
- D-** That the transfer Notification dated 23-08-2021 is prematurely issued by the respondents as the appellant has not yet completed his normal tenure on the post in question which is against clause-IV of the Posting Transfer Policy of 2009. Copy of the Policy is attached as annexure **D.**
- E-** That the impugned Notification dated 23-08-2021 is not only against Spouse Policy as wife of the appellant is working in THQ Hospital Picket Bara, District Khyber as WMO (BPS-17)

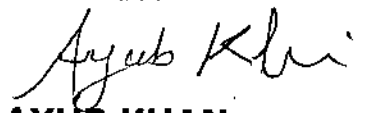
and is also against Article-35 of the constitution of Pakistan. Copies of the Notification, CNIC's and nikahnama are attached as annexure **E, F, G & H.**

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 the appellant may be accepted as prayed for.

Dated: 20-09-2021

APPELLANT



DR. AYUB KHAN

THROUGH:



NOOR MOHAMMAD KHATTAK

ADVOCATE, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

DR, AYUB KHAN

VS

HEALTH DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



Ayub Khan
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

Ayub Khan
CERTIFICATION

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

DR. AYUB KHAN

V/S

HEALTH DEPTT:

APPLICATION FOR SUSPENSION OF OPERATION OF
THE IMPUGNED NOTIFICATION DATED 23-08-2021
TILL THE DISPOSAL OF THE ABOVE MENTIONED
APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned Notification dated 23-08-2021.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned Notification dated 23-08-2021 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the impugned Notification dated 23-08-2021 may very kindly be suspended to the extent of private respondent No.4 and appellant till the disposal of the above mentioned appeal.

Dated: 20-09-2021

APPLICANT

Ayub Khan

DR. AYUB KHAN

THROUGH:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK
ADVOCATE

Posting-Transfer of BS-18 and abov...



ANNEXURE A

6

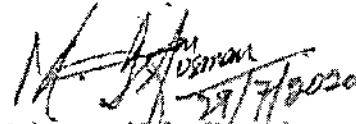
Government of Khyber Pakhtunkhwa,
Health DepartmentDated Peshawar the 29th July, 2020**NOTIFICATION**

NO. SOH(HD)/E-V/4-4/2020. The competent authority has been pleased to transfer Dr. Ayub Khan, Senior Medical Officer (BS-18) THQ Hospital Dogra Pickett Khyber and post him as ADHO Khyber against the vacant post, in the best public interest and with immediate effect.

Secretary Health
Government of Khyber Pakhtunkhwa**Endst. Of even No. & Date.**

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Services, Merged Areas.
4. Deputy Commissioner, Khyber.
5. District Health Officer, Khyber.
6. DAO, Khyber.
7. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
8. PS to Minister for Health Department, Khyber Pakhtunkhwa.
9. PS to Secretary Health Department, Khyber Pakhtunkhwa.
10. Doctor concerned.


(Muhammad Irfan Usman)
Section Officer (E-V)

ATTACHED

Government of Khyber Pakhtunkhwa,
Health DepartmentDated Peshawar the 29th July, 2020**NOTIFICATION**



ANNEXURE B (7)
GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the August 23, 2021

NOTIFICATION

NO. SOH (E-V)4-4/2021

Consequent upon the Up-gradation of Member of Service (BS-17) to (BS-18) vide this Department Notification dated 15.07.2021, the Competent Authority is pleased to order posting/ actualization of the following Management Cadre doctors, in the public interest, with immediate effect:-

S/NO	NAME OF DOCTOR	FROM	TO
1	Dr. Abdul Qayyum	DD IMU Health	DD IMU Health, Peshawar
2	Dr. Hamid Muhammad Afridi	Deputy DHO, FR Peshawar	Deputy District Health Officer, FR Peshawar
3	Dr. Mehreen Aziz Awan	PHSA Peshawar	Coordinator (Public Health) DHO Office, Charsadda.
4	Dr. Shams-Ur-Rehman	N-STOP officer/ MO at the disposal of DHO, Khyber	Assistant District Health Officer BS-18 for actualization of Up-gradation and report back as N-STOP Officer, Khyber
5	Dr. Attaullah	Deputy Chief, HSRU	Deputy Chief, HSRU, Health Department, Peshawar
6	Dr. Kifayatullah	N-STOP officer, Swat/ DMS THQ Matta Swat.	DMS THQ Hospital Matta Swat BS-18 for actualization of Up-gradation and report back as N-STOP Officer, Swat
7	Dr. Inayat ur Rehman	DHO, Kurram (Lower)	DHO, Kurram (Lower)
8	Dr. Fahad Iqbal	DHIS Coordinator, DHO, Office, Mardan.	DMS, Type-D Hospital Toru, Mardan for actualization of Up-gradation and then work as MS of the said Hospital in OPS
9	Dr. Hamza Abbas Khan	DMS, DHQ Mardan	Deputy Medical Superintendent, DHQ Hospital, Mardan

ATTN: [Signature]

(8)

10.	Dr. Liaqat Ali	EPI.Coordinator, Swat	EPI Coordinator, Swat
11.	Dr. Muhammad Bilal Khan	DD Public Health DGHS	DMS, Type-D Hospital Ghazi, Haripur
12.	Dr. Shaima Malik	Instructor PGMI Peshawar	Vice Principal ZAB-PGPI, Peshawar
13.	Dr. Hafizullah Khan	Provincial Officer N-STOP	Deputy Medical Superintendent, DHQ Hospital, Lakki Marwat BS-18 for actualization of Up-gradation and report back as Provincial N-STOP Officer
14.	Dr. Shabnum Khawas	TSO NSTOP, Peshawar / DMS Maulvi Ji, Hospital Peshawar	DMS Moulvi Ameer Shah Ji, Hospital Peshawar BS-18 for actualization of Up-gradation and report back as TSO N-STOP, Peshawar
15.	Dr. Muhammad Hayat	DHO, Mohmand	District Health Officer, Mohmand
16.	Dr. Fazal Qayum	MO, THQ Hospital Samar Bagh Dir Lower	Deputy Medical Superintendent, THQ Hospital Samar Bagh, Dir Lower
17.	Dr. Pir Zada	Coordinator EPI, Kohistan	Coordinator EPI, Kohistan Upper
18.	Dr. Muhammad Sohail Farooqi	DD Public Health DGHS	DMS, Cat-C Hospital Lahore, Swabi and then work as MS, of the said Hospital in OPS
19.	Dr. Faisal Malik	MO, HMC MTI	Deputy Medical Superintendent, Type-D Hospital Manki Sharif, Nowshera for actualization of promotion and then work as MS of the said hospital in OPS
20.	Dr. Shumaila Malik	DMS, Moulvi Ameer Shah Memorial Hospital Peshawar	Deputy Medical Superintendent (Admin), Moulvi Ameer Shah Memorial Hospital, Peshawar
21.	Dr. Makhdoom Safdar	DD EPI, DGHS Office, Peshawar	Deputy Director (EPI) DGHS
22.	Dr. Tanveer Inam	DD MNCH, DGHS Office, Peshawar	DD MNCH, DGHS Office, Peshawar

ATTACHED

9

23.	Dr. Tariq Hayat Taj	Waiting for posting	He will actualize his upgradation against the post of DMS, Cat-C Hospital Swabi for acutalization of Up-gradation and then work as MS of the said Hospital in OPS
24.	Dr. Majid Khan	N-STOP officer, Kohat / attached to DHO Bajaur	Coordinator DHO office Hangu BS-18 for actualization and report back as N-STOP Officer, Kohat
25.	Dr. Saira Jabeen	DD PHSA	DMS, THQ Hospital Shabqadar, Charsadda
26.	Dr. Majid Saleem	TSO RDSU, D.I.Khan / attached to DHO D.I.Khan	Coordinator (EPI) DHO Office D.I.Khan
27.	Dr. Muhammad Israr ul Haq	Attached to DHO Bannu	Coordinator (LHW) DHO Office Bannu
28.	Dr. Adnan Khan	DHO, Orakzai	District Health Officer Orakzai
29.	Dr. Humerea Semab	DHIS Coordinator Mansehra	DHIS Coordinator District Mansehra
30.	Dr. Muhammad Muddasir Iqbal Khan	DD Public Health DGHS	DMS, Type-D Hospital Khanpur, Haripur
31.	Dr. Attaullah	DHO, Kurram Uper	District Health Officer, Kurram (Upper)
32.	Dr. Ikramullah	DDHO, Mardan.	Coordinator DHO Office Mardan for actualization of post and report back as Deputy DHO, Mardan
33.	Dr. Irfanuiddin	DMS, DHQH, Batkhela	He will actualize his upgradation against the post of Deputy Medical Superintendent THQ Hospital Dargai and then work as MS in the said Hospital in OPS
34.	Dr. Muhammad Kashif Shahid Khan	Demonstrator, Gajju Khan Medical College, Swabi.	DHIS Coordinator DHO office Swabi
35.	Dr. Naseeb Gul	DMS, AHQH, Bajaur.	Deputy Medical Superintendent, Cat-D Hospital Mayar Dir Lower BS-18 for one day actualization and then work as MS in the said Hospital in OPS

ATTACHED

36.	Dr. Fayyaz Ali Roomi	DD EPI DGHS	He will actualize his upgradation against the post of Coordinator (EPI) Chitral Upper for one day and then work as Deputy DHO, Chitral Upper in OPS
37.	Dr. Zeeshan	N-STOP Type-D Madyan Swat Mardan/ Hospital	Deputy Medical Superintendent, Civil Hospital Madyan Swat BS-18 for actualization of Up-gradation and report back as N-STOP Officer, Mardan
38.	Dr. Sherin Muhammad	MO, Attached to DHO L/Dir	Deputy Medical Superintendent, THQ Hospital Chikdara Dir Lower
39.	Dr. Fakhre Alam	Incharge MO, Cat-D Hospital, Barikot Swat	Deputy Medical Superintendent, Cat-D Hospital Barikot, Swat for actualization of Up-gradation and then work as MS of the said Hospital in OPS
40.	Dr. Muhammad Alamgir	Attached to DHO, Charsadda	DHIS Coordinator DHO office Charsadda
41.	Dr. Khalid Khan	DMS, DHQH, U/Dir.	Deputy Medical Superintendent, DHQ Hospital Dir Upper
42.	Dr. Muhammad Arif Khan	Attached to DHO Swabi.	Coordinator EPI DHO Office, Swabi
43.	Dr. Saleem Khan	DD, AMC, Abbottabad.	Coordinator EPI DHO office Abbottabad for actualization of Up-gradation and then report to AMC (MTI) Abbottabad for further posting
44.	Dr. Irshad Ali	DDHO, Dir Lower	Coordinator DHO Office Dir Lower for actualization of post and report back as Deputy DHO, Dir Lower in OPS
45.	Dr. Muhammad Sajjad	MO, DHQ Alpurai, Shangla.	Deputy Medical Superintendent, THQ Hospital Puran Shangla
46.	Dr. Noor Islam	MO, DHQ Swabi.	Deputy Medical Superintendent, DHQ Hospital, Swabi

Handwritten signature/initials

ATTACHED

11

47	Dr. Syed Rahmat Ali	Coordinator DHO office, Swat	Public Health Coordinator DHO office Swat
48.	Dr. Waqar Ahmad	Coordinator LHW Programme Swabi.	DMS, Cat-C Hospital Kalu Khan, Swabi
49.	Dr. Shafqat Ullah	Attached to Lakki Marwat	Coordinator (LHW) DHO office Lakki Marwat
50.	Dr. Syed Irfan Ali Shah	DD DGHS	Deputy Director/ EOC, COVID DGHS

**Secretary Health
Government of Khyber Pakhtunkhwa**

Endst. of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director General Health, Ministry of National Health Services, Regulations & Coordination, Islamabad
4. Provincial Coordinator EOC, Khyber Pakhtunkhwa.
5. All Director Health Officers, Khyber Pakhtunkhwa.
6. All Medical Superintendent, DHQ Hospitals, Khyber Pakhtunkhwa.
7. All Distinct Accounts Officers, Khyber Pakhtunkhwa.
8. Assistant Director (IT), Health Department, with the direction to upload the notification on official website.
9. PS to Minister for Health Department, Khyber Pakhtunkhwa.
10. PS to Secretary Health Department, Khyber Pakhtunkhwa.
11. Doctors concerned.
12. Personal Files of the doctors concerned.


(Latif-Ur-Rohman)
SECTION OFFICER (E-V)

23/8/21

ATTACHED

ANNEXURE

C

12

To

Chief Secretary,
Govt of Khyber Pakhtunkhwa
Peshawar.

Subject: APPEAL FOR CANCELLATION OF TRANSFER ORDER

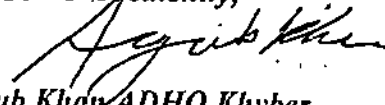
Sir,

Reference your office order No. SO (E-V)2-2021 dated 23 rd August, 2021 under which my services have been placed at the disposal of the Director General Health Khyber Pakhtunkhwa for further posting (copy attached on Annex "A").

1. While I am working as ADHO Khyber on the basis of Spouse Policy as my wife Dr. Fozia Begum is working as Women Medical Officer at the strength of THQ Hospital Dogra Picket Bara District Khyber vide Director General Health Services Khyber Pakhtunkhwa Peshawar letter No. 8532-39/E.1 dated 18.04.2017 (Nikah Nama and posting order attached on Annex "B"&"C").
2. I belong to the tribe of Bara Khyber District, therefore I have right to perform my duty at Khyber District on rationalization basis.(CNIC attached on Annex "D").
3. My tenure has not yet been completed because I have been posted as ADHO Khyber vide your good office Notification No. SOH(HD)/E-V4-4/2020 dated 2⁹th July 2020 (copy attached on Annex "E").
4. Dr.Shams Ur Rehman SMO (BPS-18) has been to draw his pay against the post of Assistant District Health Officer Khyber and he will work as N.Stop Office Khyber in Polio Control Programme in Khyber District (copy attached on Annex "F") while the post of ADHO is a full time job and due to this posting the healthcare services in the Khyber District will be affected too.
5. I am working hard in the best public interest and there is no complaint against me.

Keeping in view the above facts it is requested to reconsider my transfer order and allow me to continue my work as ADHO Khyber in the best public interest and for the smooth running of healthcare activities in the areas of Khyber District.

Yours obediently,



Dr, Ayub Khan ADHO Khyber

Dated:25.8.2021

ATTACHED



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

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

ATTACHED

- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

Added vide Urdu circular letter No. SOR-VI (E&AD)/1-1/2005, dated 9-9-2005.

ATTACHED

15



xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.

✓ (ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
{Authority: Letter No: SOR-VII/E&AD/1-4/2003 dated 24-6-2003}.

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

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

ATTACHED



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

16

All communications should be Addressed to The Director General
Health Services Peshawar and not to any official by name

Office Ph: 091 - 9210269 Exchange: 091 - 9210187 Fax: 091 - 9210230

No. _____/E-I

Dated. ____/____/2017

ANNEXURE - E

NOTIFICATION:-

On her 1st appointment as WMO (B-17), on Adhoc basis for a period of one year by the Govt: vide Notification No. SO (E)H-II/3-18/2016/538-1(A) dated 17.02.2017, Dr. Fozia Begum D/O Muhammad Azam Khan assumed charge of her duties as WMO (BS-17) in THQ Hospital Dogra Picket Bara Khyber Agency on 06/03/2017 (FN).

DEPUTY DIRECTOR (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA

The Manager,
Govt: Printing Press Khyber Pakhtunkhwa, Peshawar,
For Publication in Govt: Gazette.
No. 8539-39 /E.I

Dated. 18/04/2017

Copy forwarded to the:-

1. Secretary to Govt: of KPK, Health Deptt: Peshawar.
2. DHS FATA, Peshawar.
3. A/S Khyber at Jamrud.
4. AAO Khyber at jamrud. (Original Health & Age Certificate attached).
5. AE-IV DGHS KPK Peshawar.
6. P.A to DGHS KP, Peshawar.
7. DHIS DGHS Office:
8. Officer concerned.

For information & necessary action.

DEPUTY DIRECTOR (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA

18/4/17

ATTACHED



حکومت پاکستان

21201-4118718-5

نام: ایوب خان

پیدائش: 09/02/1972

09/02/1972

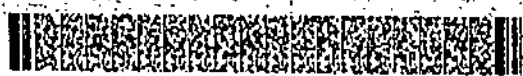


Y3P88T

21201-4118718-5

30/08/2022

30/08/2012



AT

[Handwritten signature]

18



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN
Fazma
Fozia Ayub



Husband Name
Ayub Khan

Gender: F Country of Stay: Pakistan

Identity Number: 17301-2142444-6 Date of Birth: 06.06.1977

Date of Issue: 20.02.2018 Date of Expiry: 20.02.2028



Holder's Signature

17301-2142444-6

گمشدہ کارڈ ملنے پر قریبی ایڈریس میں ڈال دیں

فوزیہ ایوب

تاریخ پیدائش: 06.06.1977

تاریخ جاری: 20.02.2018

تاریخ ختم: 20.02.2028

17301-2142444-6

17301-2142444-6

17301-2142444-6

17301-2142444-6

گمشدہ کارڈ ملنے پر قریبی ایڈریس میں ڈال دیں

AT

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

Dr Ayub Khan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt (RESPONDENT)
(DEFENDANT)

I/We Dr Ayub Khan

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. ____/____/2021

Ayub Khan

CLIENTS

ACCEPTED

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

UMER FAROOQ MOHMAND

&

Said Khan
SAID KHAN
ADVOCATES

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, D.B
PESHAWAR.

No.

Appeal No. 7437 of 20 21

D8: Ayub Khan Appellant/Petitioner

Versus

The Courts of KPK Chief Secy. Respondent

Respondent No. 4

Notice to: —

Mr. Shams ul Rehman Medical Officer (BPs-17) presently posted in stop officer DHO Office Distt: 18

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 10/11/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 20th

Day of Oct 20 21

(for Reply)



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. **D.B**

No.

Appeal No. 7437 of 20 21

Dr. Ayub Khan Appellant/Petitioner

Versus
The Govt. of KPK Chief Secy Respondent

Respondent No. 3

Notice to: —

The Director General Health Services KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 10/11/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 20th

Day of Oct 20 21

(For Reply)



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

No.

Appeal No. 7437 of 20 21
Dx: Ayub Khan Appellant/Petitioner

The Court: CF KPK Chief Secy: Respondent

Notice to:

Shams vs Rehman, Medical Officer
(BPS-17) Presently posted as N. Stop Officer
DHO Office Distt: Khyber.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal ^{20/12/21} on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Dec 20 21

Day of.....20.....

(for Reply)



Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7437/2021

Dr. Ayub Khan.....(Appellant)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
3. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. The Principal Gajju Khan Medical College, Swabi.....(Respondents)

Para-wise reply on behalf of the respondents 01 to 03

Respectfully Sheweth,

Preliminary Objections:

- i. That the appellant has got no cause of action to file the appeal in hand.
- ii. That the appeal is badly time barred.
- iii. That the appeal of the appellant is not maintainable in its present form.
- iv. That appellant has not come to this Hon'ble Tribunal with clean hands.
- v. That the appellant estopped by his conduct to file the instant appeal.
- vi. That the appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
- vii. That the Honorable court has no jurisdiction to adjudicate the matter.

FACTS:


1. Pertains to record.
2. Pertains to record, However, it is added that the appellant is of General Cadre and not of the Management cadre he was posted as stop-gap arrangement till the arrival of the incumbent of Management cadre. So, the competent authority issued a transfer order of the appellant to report to Director General Health Services for further posting.
3. Para-3 is misleading the impugned Notification dated August 23, 2021 is issued after due course and accordance with Law & Rules, the impugned Notification reveals that consequent upon the up-gradation of the member of services from BS-17 to BS-18 vide Notification dated 15.07.2021, the competent authority was pleased to posting/actualization of the members of the Management cadre in public interest and respondent No. 04 at serial No. 04 of the impugned Notification shown as officer of BS-18.
4. In reply to Para-4 it is submitted that the appellant is not an aggrieved person within the meaning of Civil Servant Act 1973. Furthermore, the appellant Departmental appeal is duly considered and regretted on grounds mention therein (**Annexure-A**).

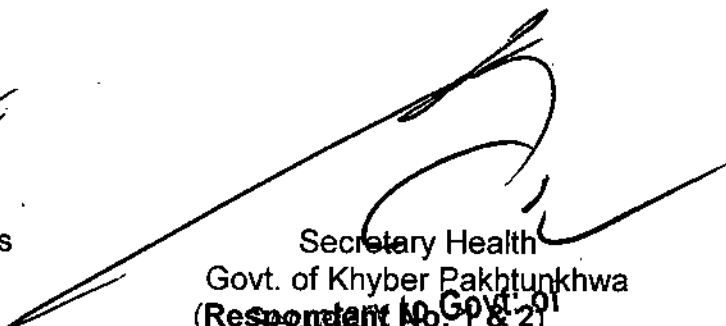
5. Para-5 is incorrect, it is added that the appellant does not exhausted the statutory period for filling of appeal before this Honorable Tribunal and the instant appeal has been filed prematurely.

GROUND:

- A. Para-A is wrong and incorrect and hence denied. The Notification dated 23.08.2021 is in accordance with Law, Rules and is tenable in the eyes of Law and Natural Justice.
- B. Para-B is wrong and incorrect and hence denied. The appellant has been treated by the respondent Department in accordance with Law. Being a general Cadre doctors no right of the appellant has been violated.
- C. Para-C is wrong and incorrect and hence denied. The respondent did not act in arbitrary and mala-fide manner and issued the Notification dated 23.08.2021 in accordance with Law and Rules.
- D. In reply to Para-D which is submitted that the appellant belongs to General Cadre and was posted as stop-gap arrangement hence no right of the appellant has been violated.
- E. In reply to Para-E it is submitted that the duty of ADHO was assigned to the appellant on need basis as stop-gap arrangement and not on the basis of domicile or spouse policy.
- F. Para-F the respondents also seek the same permission to advance other grounds and proof at the time of hearing.

It is therefore, mostly humbly prayed that the appeal may be dismissed on the above grounds.


Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 03
DIRECTOR GENERAL
HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR


Secretary Health
Govt. of Khyber Pakhtunkhwa
(Respondent No. 01 & 2)
Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7437/2021

Dr. Ayub Khan.....(Appellant)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
3. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. The Principal Gajju Khan Medical College, Swabi.....(Respondents)

Para-wise reply on behalf of the respondents 01 to 03

Respectfully Sheweth,

Preliminary Objections:

- i. That the appellant has got no cause of action to file the appeal in hand.
- ii. That the appeal is badly time barred.
- iii. That the appeal of the appellant is not maintainable in its present form.
- iv. That appellant has not come to this Hon'ble Tribunal with clean hands.
- v. That the appellant estopped by his conduct to file the instant appeal.
- vi. That the appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
- vii. That the Honorable court has no jurisdiction to adjudicate the matter.

FACTS:

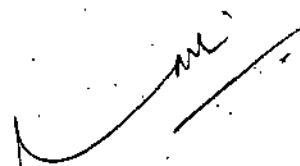
1. Pertains to record.
2. Pertains to record, However, it is added that the appellant is of General Cadre and not of the Management cadre he was posted as stop-gap arrangement till the arrival of the incumbent of Management cadre. So, the competent authority issued a transfer order of the appellant to report to Director General Health Services for further posting.
3. Para-3 is misleading the impugned Notification dated August 23, 2021 is issued after due course and accordance with Law & Rules, the impugned Notification reveals that consequent upon the up-gradation of the member of services from BS-17 to BS-18 vide Notification dated 15.07.2021, the competent authority was pleased to posting/actualization of the members of the Management cadre in public interest and respondent No. 04 at serial No. 04 of the impugned Notification shown as officer of BS-18.
4. In reply to Para-4 it is submitted that the appellant is not an aggrieved person within the meaning of Civil Servant Act 1973. Furthermore, the appellant Departmental appeal is duly considered and regretted on grounds mention therein (**Annexure-A**).

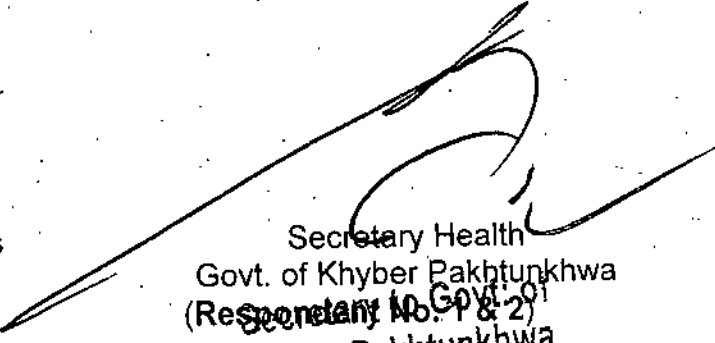
5. Para-5 is incorrect, it is added that the appellant does not exhausted the statutory period for filing of appeal before this Honorable Tribunal and the instant appeal has been filed prematurely.

GROUND:

- A. Para-A is wrong and incorrect and hence denied. The Notification dated 23.08.2021 is in accordance with Law, Rules and is tenable in the eyes of Law and Natural Justice.
- B. Para-B is wrong and incorrect and hence denied. The appellant has been treated by the respondent Department in accordance with Law. Being a general Cadre doctors no right of the appellant has been violated.
- C. Para-C is wrong and incorrect and hence denied. The respondent did not act in arbitrary and mala-fide manner and issued the Notification dated 23.08.2021 in accordance with Law and Rules.
- D. In reply to Para-D which is submitted that the appellant belongs to General Cadre and was posted as stop-gap arrangement hence no right of the appellant has been violated.
- E. In reply to Para-E it is submitted that the duty of ADHO was assigned to the appellant on need basis as stop-gap arrangement and not on the basis of domicile or spouse policy.
- F. Para-F the respondents also seek the same permission to advance other grounds and proof at the time of hearing.

It is therefore, mostly humbly prayed that the appeal may be dismissed on the above grounds.


Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 03
DIRECTOR GENERAL
HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR


Secretary Health
Govt. of Khyber Pakhtunkhwa
(Respondent No. 01 & 2)
Khyber Pakhtunkhwa
Health Department