

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 6575/2021

Date of Institution ... 21.06.2021

Date of Decision ... 22.09.2021

Dr. Majid Khan son of Razi Badshah, R/O village and Post Office Rehmat Abad,
Tehsil and District, Karak. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat,
Peshawar and two others. ... (Respondents)

Present.

Mr. Habib Anwar, Advocate ... For appellant.

Mr. Muhammad Adeel Butt,
Addl. Advocate General ... For respondents.

MR AHMAD SULTAN TAREEN ... CHAIRMAN
MRS. ROZINA REHMAN, ... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN: The appellant named above invoked the jurisdiction of this Tribunal through service appeal described above in the heading challenging thereby his transfer purporting the same being against the facts and policy on the subject.

2. The factual account as given in the memorandum of appeal is summed up as hereinafter follows. The appellant was serving as Coordinator LHW Program in the office of District Health Officer (DHO) Karak wherefrom he was singularly transferred vide order dated 25.06.2020 and posted as Incharge Type-C Hospital City Karak; one Dr. Afrasyab through separate order of even



date was posted as Coordinator at his place. He i.e. the appellant joined his assignment at Type-C Hospital City Karak and started to perform his duty but in the meantime, the Government through a subsequent order dated 13.08.2020, cancelled his earlier notification of posting as Incharge Type-C Hospital Karak without cancellation of the corresponding order of the transfer of Dr. Afrasiab at his place. Obviously, the appellant in consequence of cancellation of his transfer was to fall back to his earlier position as Coordinator LHW Program but the transfer of Dr. Afrasyab at the same post was kept intact and the appellant was left with no other option except to seek guidance from the Government as to place of his posting. So, he submitted his departmental representation on 14.10.2020 within a month from receiving the above order, which was not responded. On the other hand, through another notification dated 15.09.2020, one Dr. Mustafa was posted against the post of District Coordinator LHW Program. The fresh development constrained the respondent DHO to submit request to the Government vide letter dated 16.09.2020 for cancellation/withdrawal of the ibid notification/transfer order. On 06.10.2020, when respondent DHO issued an order for resolving the controversy raised through notification dated 13.08.2020, the appellant was posted as DMS without indicating place of posting. But copy of the order was sent to Type-C Hospital Karak presumably showing his transfer in the said Hospital. The respondent DHO issued another office order dated 17.11.2020, directing the appellant to hold the charge of the post of Medical Superintendent Type-C Hospital City Karak, where he was earlier posted as DMS, however, the said order was withdrawn vide another office order passed after two days on 19.11.2020 and the responsibilities of M.S were assigned to one Dr. Bashirullah



who was also posted there as Medical Officer in the same Hospital. The appellant was made a rolling stone for no good reason and he again submitted another representation to the competent authority for resolving the issue once for all but the respondent No. 1 turned a deaf ear to him. Having got encouragement from the obliviousness of the government towards the serious issue, the respondent No. 4 issued a fatal office order on 11.02.2021 against the appellant not only removing him from the position of DMS but also posted him as Medical Officer and one Dr. Zafar Mahmood was posted as DMS at appellant's place. The appellant again submitted another departmental representation on 04.03.2021. The Government while taking serious note of the matter issued letter dated 09.03.2021 followed by reminder dated 29.03.2021 but the appellant not find any response to his representation. Rather the respondent No. 1 vide order dated 31.03.2021 assigned the powers of Drawing and Disbursing Officer to respondent No. 4. The appellant due to the anomalous situation made for him approached to the Hon'ble Peshawar High Court, Bannu Bench vide Writ Petition No. 185-B/2021. The said Honourable Court suspended the operation of impugned order. In compliance with the directions of the Hon'ble High Court, respondents issued order dated 03.05.2021 followed by order dated 16.06.2021 declaring the appellant as DMS/Incharge as well as Drawing & Disbursing Officer for the Category-C City Hospital, Karak. However, on his assuming charge as such, the respondent No. 1 again withdrew the order dated 16.06.2021 just on next day of its issuance. According to copy of the judgment available on file, Writ Petition was withdrawn for want of jurisdiction. Ultimately, the appellant approached this Tribunal through Service Appeal at hands. After admission of the appeal for



regular hearing, the respondents were given notices. They after attending the proceedings have filed the written reply refuting the claim of the appellant.

3. We have heard the arguments and perused the record.

4. We have noted that the appellant, while holding the post of District Coordinator LHW Program, was transferred exclusively by an order dated 25.06.2020 from the said post and was posted as Incharge Type-C Hospital, City Karak, in the public interest. Through another order of even date one Dr. Afrasyab Medical Officer (BS-17) Type-C Hospital City Karak was posted as LHW Coordinator in the DHO Office Karak, in the public interest. Vide notification No. SOH(HD)/E-V/4-4/2020, dated 13.01.2020, the competent authority was pleased to cancel order of Dr. Majid Khan, Coordinator (BS-17) under transfer as Incharge Type-C Hospital City Karak as *ab-initio*, again in the public interest. However, the corresponding order of the posting of Dr. Afrasyab at place of the appellant was not withdrawn. Yet, vide another Notification No. SOH(HD)E-V/4-4/2020, dated 15.09.2020 regarding posting/transfer of doctors in the best public interest, Dr. Mustafa Medical Officer BHU Dabb District Karak one among the transferees under said order was posted as District Coordinator LHW DHO Office Karak against the vacant post. Obviously, the posting of Dr. Afrasyab was not cancelled on the said post and the appellant was already in a vacuum due to cancellation of his transfer order, the posting of Dr. Mustafa against the post of District Coordinator LHW Program speak a lot about inattention of respondents No. 1 & 2 towards state of affairs in the field offices under their control. The respondent No. 3 vide letter No. 4327/Admn dated 16.09.2020 addressed to the respondent No. 1 made a request for cancellation/withdrawal of posting of Dr. Mustafa as LHW

Coordinator Karak citing the reason that Dr. Afrasyab was already working as LHW Program Coordinator recently posted as such. However, the respondent No. 3 did not mention anything about cancellation of the transfer of the appellant from the same post. Subsequently, the appellant was adjusted against a vacant post as DMS BS-18 on his own pay and scale for smooth running of hospital activities and in the best interest of public, vide office order dated 06.10.2020 bearing No. 4623-28/Admn of even date issued by the respondent No. 3. According to notification dated 14.09.2020, issued by respondent No. 1, one Dr. Niaz Ali BS-18 DHO Karak was directed to look after the vacant post of DHO Karak due to transfer of the incumbent by the same notification. Vide office order dated 17.11.2020, the appellant was directed to hold the charge of the post of Medical Superintendent Type-C Hospital City Karak till posting of original incumbent of the post. The said order in view of the notification dated 14.11.2020 of the respondent No. 1 was issued by respondent No. 3 who was holding the look after charge only. The learned AAG when confronted with the position, he candidly admitted that respondent No. 3 with the look after charge was not competent to pass the order dated 17.11.2020. Anyhow, the respondent No. 3 with the same incompetency passed yet another order dated 19.11.2020 and assigned the duty of Medical Superintendent Type-C Hospital City Karak to Dr. Bashirullah instead of the appellant, who two days before vide order dated 17.11.2020 was assigned the similar duty in capacity of DMS. Dr. Bashirullah after getting the assignment vide order dated 19.11.2020 passed an order bearing No. 11.02.2021 with an observation in the said order about illness of the appellant and lack of his interest in the job description of DMS, and directed the appellant to take

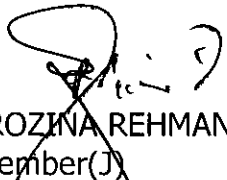


assignment of light duty of Medical Officer in the best interest of Public and of his health care. By the same order respondent No. 4 assigned the duty of DMS to Dr. Zafar Mahmood. Again it was an embarrassing position for the respondents to answer the question that how was the respondent No. 4 competent to make observations about illness of the appellant and to remove him from the post of DMS which was not failing in administrative competency of the respondent No. 4. With the position discussed before, there was no material with the learned AAG to argue the case in defense of orders/notifications issued from time to time after first transfer of the appellant from the post of District Coordinator LHW Program District Karak. The respondents also could not assist the learned AAG to show us the reason of expression of "public interest" in the orders/notifications discussed before. Although the appellant has alleged political maneuvering of respondent No. 4 in the scheme of things to keep the appellant in a quandary but whatever the reasons may be, the orders and the notifications subsequently issued after transfer of the appellant from the post of Coordinator LHW Program vide order dated 25.06.2020 are devoid of reasons and apparently lack the public interest. Let the respondents manage their abuse of authority in bring the smog after cancellation of the transfer order dated 25.06.2020 in respect of the appellant, the very order dated 13.08.2020 meant to cancel the transfer order of appellant is fit for implementation when the same has not been withdrawn by the respondent No. 1 by any subsequent order. Therefore, the appellant Dr. Majid Khan in view of the order dated 13.08.2020 being in field is entitled to take over the charge of the post of Coordinator LHW Program(BS-17) at the office of respondent No. 3. As far as status of Dr. Afrasyab is concerned, he






was posted as Coordinator LHW Coordinator in pursuance of transfer of the appellant from the said post but when the transfer of the appellant was cancelled, he was required to be suitably posted somewhere else by respondent No. 1 because his transfer as District Coordinator at LHW Program had become redundant due to cancellation of the transfer of the appellant from the said post ab-initio i.e. from the very beginning.

For what has been discussed above, the appeal of the appellant is accepted, consequently his posting as Coordinator LHW Programme District Karak is restored and he shall be allowed to complete his normal tenure on the said post. Parties are left to bear their respective costs. File be consigned to the record room.


(ROZINA REHMAN)
Member(J)

ANNOUNCED
22.09.2021


(AHMAD SULTAN TAREEN)
Chairman

S.No. of proceedin gs	Date of Order or proceeding s.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	22.09.2021	<p style="text-align: center;"><u>Present</u></p> <p>Mr. Habib Anwar, Advocate ... For appellant</p> <p>Mr. Muhammad Adeel Butt, Addl. Advocate General, ... For respondents</p> <p>Vide our detailed judgment of today and placed on file, the appeal of the appellant is accepted, consequently his posting as Coordinator LHW Programme District Karak is restored and he shall be allowed to complete his normal tenure on the said post. Parties are left to bear their respective costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  (ROZINA REHMAN) Member(J) </div> <div style="text-align: center;">  (AHMAD SULTAN TAREEN) Chairman </div> </div> <p><u>ANNOUNCED</u> 22.09.2021</p>

17.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional A.G alongwith Safi Ullah Section Officer (Litigation-II) for official respondents present. Counsel for private respondent No.4 present.

Arguments heard. Representative of official respondents after telephonic discussion with the Secretary concerned, apprised the Tribunal that the order in respect of adjustment of the appellant against the post of Coordinator will be produced positively. To come up on 22/09 2021 for orders before D.B.



(Rozina Rehman)
Member (J)



Chairman

28.07.2021

Appellant in person present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Habib Ullah S.O for respondents No.1 to 3 present. Private respondent No.4 with alongwith clerk of Qamar Zaman Khattak Advocate present and submitted Wakalat Nama on behalf of private respondent No.4 which is placed on file.

Private respondent No.4 submits that the interim injunctive order may be vacated. However, it requires pro & contra arguments as to whether the interim injunctive order may or may not be vacated. Lawyers are on general strike today. To come up for arguments and comments/written reply of respondents on 20.08.2021 before D.B.



(Rozina Rehman)
Member (J)


Chairman

20.08.2021

Due to summer vacations, case is adjourned to 03.09.2021 for the same as before.


READER

03.09.2021

Due to summer vacations, the case is adjourned to 17.09.2021 for the same as before.


READER

19.09.2027

Assistant present through counsel.

Mohammad Saif Uddin (learned Advocate) along with
Legal Section (Legal Litigation) for official respondents
(present) Counsel for private respondent (Not present)

Representative of official respondents after a brief
discussion with the Secretary of the Tribunal
that the issue in respect of adjustment of the appellant to the
the post of Coordinator will be resolved positively come up
on 20.09.2027.

(Rozina Akter)
Minister (A)

(Chairman)

09.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Although the factual account given in the memorandum of appeal related to posting/transfer of the appellant is rebuttable but the same on face, in absence of rebuttal for the time-being, is indicative of injudicious exercise of authority by the respondents. Let the respondents come up with written reply/comments. The appeal is admitted for regular hearing. 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 through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 28.07.2021 before the D.B.

Appellant Deposited
Security Process Fee

16/7/21

An application has been filed alongwith memorandum of appeal for suspension of order dated 17.06.2021 till the final conclusion of the appeal. Accordingly ad interim relief is granted and the order dated 17.06.2021 shall remain suspended till next date, subject to notice to the respondents.



Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6576 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/06/2021	<p>The appeal of Dr. Majid Khan presented today by Mr. Habib Anwar Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/07/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

URGENT FORM

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan Vs. Government of KPK etc.

1. Will you kindly treat the accompanying Service Appeal as urgent and in accordance with the provisions of Rules 9, Chapter 3-A, Rules orders of the High Court Peshawar Volume V.
2. That the respondents are bent upon to further issue transfer of the appellant in garb of political affiliations and thus to make the instant appeal infructuous, thus it is in the interest of justice to fix the instant appeal for early date.

Through

Appellant

Habib Anwar

Advocate High Court

Cell: 0336-9987282

Dated: 21.06.2021

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan

Vs.

Government of KPK etc.

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9.	<i>Copies of: Notification Dated 15/09/2020 Letter of Request By DHO Dated 16/09/2020</i>	D	19-21
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11.	<i>Copy of: Office Order by DHO dated 17/11/2020 & 19/11/2020 & 19/11/20.</i>	F	23-25.
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17.	<i>Wakalatnama</i>		

HABIB ANWAR
 Advocate High Court, Peshawar.
 0336-9987282

HAWAR

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. 6575/2021.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6634

Dated 21-6-2021

Dr. Majid Khan S/O Razi Badshah,
R/O Village & P.O Rehmat Abad, Tehsil & District Karak.

.....Appellant.

VERSUS

- 1. **Government of Khyber Pakhtunkhwa,**
Through Secretary Health, Civil Secretariat, Peshawar.
- 2. **Director General Health Services Khyber Pakhtunkhwa,**
Civil Secretariat, Peshawar.
- 3. **The District Health Officer, Karak.**
- 4. **Dr. Bashir Ullah, Medical Superintendent Type-C Hospital, City Karak.**

.....Respondents

Filed to-day

Service Appeal Under Section 4 of KP Service Tribunal Act.

Registrar

21/6/2021 Respectfully Sheweth,

Brief but relevant facts warranting this Appeal:

- 1. That the petitioner herein is doctor by profession and employed with the respondent department since 2012. The Appellant earned to his credit addition qualification with Masters in Public Health from a duly recognized institute and remained posted on various administrative positions almost throughout his career. The petitioner was serving as coordinator LHW Program in the office of Respondent DHO at Karak. Ever since appointment, the petitioner performed his duties to his utmost zeal and zest and never been complained of regarding his duties. (Copies of Detailed CV is Annex-A)

2. Subsequent thereto, the Respondent Government issued two transfer order on 25th of June 2020 whereby the Appellant was transferred and posted as in-charge Type-C hospital and posted Dr.Afrasiab as Coordinator at his place. In pursuance of above, the Appellant joined his new assignment and submitted his joining report. **(Copy of both the Notification of dated. 25/06/2020 is Annex- B)**

3. Though the things start running smoothly, however, the Respondent Government through a subsequent Notification on 13/08/2020, cancelled his earlier notification as In-charge Type-C Hospital Karak. Consequent thereto, the appellant revert back to his position as prevailing before 13th August, however, due to previous transfer of Dr. Afrasiab on the same very post, the petitioner being left with no other alternative except to seek guidance from the Respondent Government. Thus, constrained to submit Departmental representation before the Respondent Government on 14/10/2020, i.e. within month from receiving the above order as received later on and evident from the letter of DHO to the Respondent Government. It is a matter of record that the said representation has not yet been responded till date. **(Copy of Notification Dated. 13/ 08/ 2020, Departmental Representation dated 14/10/2020 is Annex- C)**

4. The Respondent Government yet issued another Notification on 15/09/2020 whereby another doctor namely Dr. Mustafa was posted against the Post of District Coordinator LHW Program in the office of respondent government. This fresh development constrained the Respondent DHO to submit request on 16/09/2020, to the Government for cancellation/ withdrawal of the ibid notification/ transfer order. **(Copy of Notification dated 15/09/2020 and letter/ request by DHO on 16/09/2020 is Annex- D)**

5. That it was later on on 06/10/2020 when the Respondent DHO issued an order for resolving controversy raised through Notification dated 13/08/2020, by issuing posting



order of the Appellant as DMS without indicating the place of posting vide Office Order dated 06/10/2020. However, copying the ibid order to the concerned of Type-C Hospital Karak, showing his transfer at the said Hospital. **(Copy of Office Order of DHO dated 06/10/2020 is Annex-E)**

6. That soon after, when no head was paid to the above departmental representation of the appellant and the subsequent request, the Respondent DHO, who is Deputy DHO by designation, having look after charge as stop-gap arrangement of DHO office ever since transfer of his predecessor in office Dr. Sadiq Shah, as evident from Notification of 14/11/2020 issued by Respondent Government, the Respondent DHO issued yet another Office Order on 17/11/2020 by directing the Appellant to hold the post of Medical Superintendent Type-C Hospital where he was earlier order as DMS. However, the order was soon illegally withdrawn vide another office just after two days on 19/11/2020 by canceling the earlier order of the Appellant and assigning the responsibilities of MS to one Dr. Bashir Ullah, who was also posted as Medical Officer in the same hospital. **(Copy of Notification dated 14/11/2020 & Office Order Dated 17/11/2020 & that of 19/11/2020 is Annex-F).**

7. As the Appellant was made a rolling stone for no good reasons, and posting Dr. Bashir Ullah as MS at his place, due to his strong affiliating with Political Wing of the Doctors (Insaf Doctor Forum hereinafter referred to as IDF), as he is not only holding the portfolio of General Secretary of IDF South Region, KP but is also a notified member of Provincial Coordination Council of IDF Khyber Pakhtunkhwa. This again constrained the Appellant to submit yet another representation to the competent authority for resolving the issue once for all. However, the Respondent No. 1 turned a deaf ear to it. **(Copy of Dr. Bashir Ullah Notification by IDF Pakistan & Representation on 4/01/2020 is Annex-G)**



8. That as the Respondent Government has not taken any notice of such glaring serious issue this encourage the respondent MS to issue a fatal Office Order on 11/02/2021 against the appellant by not only removing the petitioner from the position of DMS and posting him as Medical Officer but also, posting Dr. Zafar Mehmood as DMS at his place. This further resulted in reduction of his Health Professional Allowance. This again foster the appellant to submit another departmental representation on 4/03/2021. The extracts of Office Order dated 11/02/2021 are reproduced for easy reference.

MEDICAL SUPREINTENDENT TYPE C HOSPITAL CITY KARAK (KPK)

OFFICE ORDER

Due to the suffering from chronic illness and lake interest of his work i.e. Job Description of DMS, Dr. Majid Khan is hereby directed to assign light duty of Medical Officer in the best interest of public as well as of his health care.

Subsequently Dr. Zafar Mehmood DMS is well aware, qualified and taken keen interest in his job as hereby directed to continue work as DMS for smooth running of hospital activities as already assign to him.

-----sd-----

Medical Superintendent

Type C Hospital City Karak.

(Copy of Office Order Dated 11/02/2021 & Departmental Appeal Dated 04/03/2021 is Annex-H)

9. This time, the Respondent Government while taking serious note of the matter, issued letter to the Respondent DHO vide letter dated 9/03/2020 followed by a reminder on 29th March, however, while flagrantly violating the express letter of Respondent Government, the appellant has not been able to find any response to is representation. It is pertinent to mention here that that Respondent No. 1 vide Order dated 31/03/2021 assigned the



powers of Drawing and Disbursement (DDO) to Respondent No. 4. **(Copy of Letter Dated 09/03/2021 & Reminder dated 29/03/2021, Order dated 31/03/2021 is Annex-D)**

10. In this anomalous situation, the appellant having been left with no other option except to move Hon'ble Peshawar High Court, Bannu Bench vide Writ Petition No. 185-B/2021. The Hon'ble Court suspended the operation of impugned orders vide order dated 27/04/2021. Thus, in compliance of the directives of the Hon'ble High Court, Respondents issued order on 03/05/2021 followed by order dated 16/06/2021 declaring the Appellant as In-charge/ DMS as well as Drawing and Disbursing Officer for the said Type-C Hospital City Karak. However, on assuming charges as such, the Respondent No. 1 yet again withdrawn the order of 16th June illegally just on the following date of its issuance. ***(Copy of Order dated 03/05/2021, 16/06/2021, Order Sheet dated 27/04/2021 and Final Judgment dated 26/05/2021 is Annex-J)***

11. That the Respondents are well within statutory obligation to decide departmental appeal of the appellant, however, their inaction left the petitioner with no other option except to file the instant Appeal before this Hon'ble Court inter alia on the following grounds:

Ground:

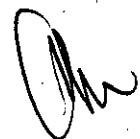
- a. ***Because*** the Respondent. No. 1 has impugned Notification of 13th August is wrong, illegal, unlawful and in violating the transfer policy so framed by the Respondent Government.
- b. ***Because*** the Notification of 13th August is illegal, unlawful and against fact on record as cancellation of earlier Notification dated 25th June created financial complications revert the appellant back to a single sanction post position already retained by one Dr. Afrasiab.



- c. **Because** not only the respondent Government failed to decide departmental Appeal of the Appellant despite lapse of sufficiently long time, but also the issuance of impugned notification when juxtaposed with the earlier notification of 25th June, this leads to administrative and financial complications as the same very single sanctioned post is not vacant.
- d. **Because** the Respondent DHO was holding the position as stop-gap arrangement on look after charge basis, without any valid administrative qualification and without being deputy DHO.
- e. **Because** the Respondent DHO is not competent to transfer the Appellant as per KP Civil Servants (Appointment, Promotion and transfer) Rules 1989, as such powers falls within the jurisdiction of Respondent No. 1.
- f. **Because** all the orders so issued by Respondent DHO (soon after issuance of his Notification as DHO on look after charge) are politically motivated as evident from Notification of IDF KP. thus, all his orders so issued including but not limited to Office Order Dated. 17/11/2020 & 19/11/2020.
- g. **Because** the orders reiterated in the preceding para are against the terms of his notification of his look after charge, thus, illegal, unlawful, politically motivated, ultra vires and liable to be set at naught.
- h. **Because** the orders so issued by respondent MS, are passed in the tone and tenor of inflicting punishment, depriving the Appellant from his due remunerations and making him as scapegoat, thus, cannot be allowed to remain in the field anymore.



- i. **Because** the treatment so inflicted upon the Appellant including but not limited to all orders of the Respondent MS concerning the Appellant, are covered by victimization, personal vendetta and colorful exercise of powers.
- j. **Because** a junior doctor without any Management qualification and experience has been appointed against a post of Medical Superintendent of a hospital due to his political influence as General Secretary of IDF, South Region and as Member of Provincial Coordination Council duly notified on 24/08/2020 & 13/02/2021.
- k. **Because** the MS is not competent authority to issue any transfer posting transfer order of a duly appointed doctor and thus reduce any of the pay otherwise admissible under the rules.
- l. **Because** the order dated 11/02/2021 has been passed by Respondent MS with mala fide intention only to pressurize the Appellant for withdrawing his departmental representations.
- m. **Because** even the other senior officers have been ignored while posting a junior doctor as MS who is overall in-charge of the Hospital. thus, the such order are perverse, arbitrary, fanciful and as a result of political interference.
- n. **Because** the Appellant has been made a tumbling stone by Respondents repeatedly by recalling his legal and justifiable orders as in-charge/ DMS without any cogent reasons and without giving him sufficient time to deliver in such capacities against a candidates on political basis.
- o. **Because** the Appellant seek leave to furnish further grounds at the main hearing of the instant Service Appeal.



In view of the aforesaid submissions, it is very humbly prayed that on acceptance of this Appeal, this Hon'ble Tribunal may graciously be pleased to:

Declare: The order of Respondent No. 1 including but not limited to Order dated 13/08/2020 as illegal, unlawful, void ab initio and of no legal effect and thus struck down the same and thus,

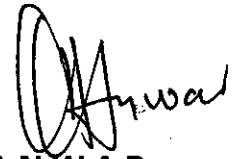
To allow the departmental Appeal of the Appellant dated 04/01/2021 & 4/03/2021 in his favour by directing Respondent No. 1 to appoint and Post the Appellant as Incharge/ DMS as ruled by the Hon'ble Peshawar High Court, Bannu Bench in Writ Petition No. 185-B/2021.

Grant: Any other relief, not specifically prayed, may also graciously be granted, if appears just, necessary and appropriate.

Cost throughout


PETITIONER

Through



HABIB ANWAR

Advocate High Court, Peshawar.

0336-9987282

CERTIFICATE

It is certified that no such Appeal has earlier been filed by the petitioner on this subject matter before this or any other Hon'ble Court.

Take note that the Writ Petition so filed before the hon'ble Peshawar High Court at Bannu Bench, on same subject, has now been withdrawn on the functioning of KP Service Tribunal. As such, the Writ Petition has been dismissed as withdrawn for filling the instant Service Appeal.


Counsel

9

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan

Vs.

Government of KPK etc.

AFFIDAVIT

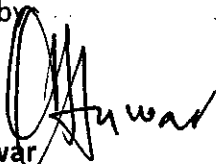
I **Dr. Majid Khan S/O Razi Badshah, R/O Village & P.O Rehmat Abad, Tehsil & District Karak**, do hereby solemnly affirm on Oath that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been kept concealed from this honorable tribunal.

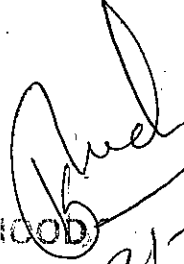
~~DEPONENT~~

CNIC: 19202-6179295-9

CELL: 03339718861

Identified by


Habib Anwar
Advocate High Court,
Peshawar


KHALID MAHMOOD
ADVOCATE
Oath Commissioner
Peshawar High Court

21-6-21

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan

Vs.

Government of KPK etc.

Addresses of the Parties:

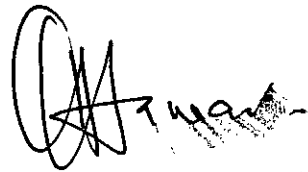
A. Appellant:

Dr. Majid Khan S/O Razi Badshah,

R/O Village & P.O Rehmat Abad, Tehsil & District Karak.

B. Respondents:

- 1. Government of Khyber Pakhtunkhwa,
Through Secretary Health, Civil Secretariat, Peshawar.**
- 2. Director General Health Services Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.**
- 3. The District Health Officer, Karak.**
- 4. Dr. Bashir Ullah, Medical Superintendent Type-C Hospital, City Karak.**



HABIB ANWAR

Advocate High Court, Peshawar.

0336-9987282

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan

Vs.

Government of KPK etc.

Application for suspension of Office Order dated 17/06/2020 till the final conclusion of instant Service Appeal.

Respectfully Sheweth,

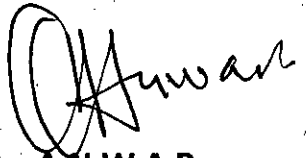
1. That the appellant submitted the instant service appeal before the hon'ble court where no date has been fixed at yet.
2. That all the illegal acts of Respondents as impugned in this Service Appeal, were impugned before the Hon'ble Peshawar High Court, Bannu Bench, vide Writ Petition No. 185-B/2021, being politically motivated.
3. That even during hearing of the said Writ Petition, the Respondents were issuing Orders including in issuing of order on 31/03/2021. Thus, the Hon'ble High Court, while taking notice of the same, suspended the operation of Order dated 19/11/2020 & 11/02/2021. Thus, the respondents were constrained to issue order dated 03/05/2021 & 16/06/2021 in his favour.
4. It was just on assuming his charges, when the Respondent No. 1 yet again withdrawn his earlier order of 16th June just on the following date of its issuance.



5. That as the appellant called in question the very domain of Respondent No. 3 DHO by appointing Respondent No. 4 and all his subsequent orders so issued while working at such.
6. That as all the order are politically motivated hence, cannot be allowed to remain in the field anymore.
7. That the contents of appeal may be taken as integral part of instant appeal.

It is therefore respectfully prayed that by way of Interim Relief, this august Tribunal may very graciously be pleased to suspend the operation of impugned order so issued by Respondent on 17/06/2021 till the final conclusion of this service appeal.


Petitioner

Through 
HABIB ANWAR
Advocate High Court, Peshawar.
0336-9987282

11-B

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan

Vs.

Government of KPK etc.

AFFIDAVIT

I **Dr. Majid Khan S/O Razi Badshah, R/O Village & P.O Rehmat Abad, Tehsil & District Karak**, do hereby solemnly affirm on Oath that the contents of this Application are true and correct to the best of my knowledge and belief and that nothing has been kept concealed from this honorable tribunal.


Dr. Majid Khan

Through

Counsel


HABIB ANWAR

Advocate High Court, Peshawar.

**KHALID MAHMOOD,
ADVOCATE
Oath Commissioner
Peshawar High Court**

0336-9987282

CURRICULUM Vitae

Annex - A

DR. MAJID KHAN

Village & PO Rehmat Abad Tehsil & District Karak
Cell: 03339718861

12

PERSONAL BIO-DATA:

- ❖ Father's Name : Razi Badshah
- ❖ Date of Birth : 15.03.1988
- ❖ Domicile : Karak (KPK)
- ❖ Religion : Islam
- ❖ Nationality : Pakistani
- ❖ Marital Status : Married
- ❖ Email address : dr.majidkhan19@yahoo.com

ACADEMIC QUALIFICATION

S.No	Certificate/Degree	Subject	Obtain Marks	Board/ University
1	SSC	Science	709 / 850	BISE Kohat
2	F.Sc	Science	910 / 1100	BISE Kohat
3	MBBS		1239 / 2000	KMU Peshawar (Ayoub Medical College Abbottabad)

ADDITIONAL QUALIFICATION

MPH Gandahara University Peshawar Session 2017-2019

EXPERIENCE

1. Appointed as Medical Officer BPS-17 by the Govt of KPK Peshawar. 04.12.2013 at DHQ hospital Karak
2. Worked as DMS in Women and Children Hospital karak w.e.f. 14.12.2014 till 6th April 2016 in addition to own duties.
3. Worked as Coordinator LHW Program District Karak w.e.f. 7th April 2016 till 25th June 2020.
4. Also worked as Coordinator IDSRS
5. Focal Person IHP Focal person Project KP.
6. Focal Person Health Care Commission Karak.
7. Acting Medical Superintendent Type C Hospital City karak.

LANGUAGES

Pashto, Urdu & English .

Attested
[Signature]



Government of Khyber Pakhtunkhwa,
Health Department

Dated Peshawar the 25th June, 2020

NOTIFICATION

13

Annex-B.

NO. SOH(HD)/E-V/4-4/2020

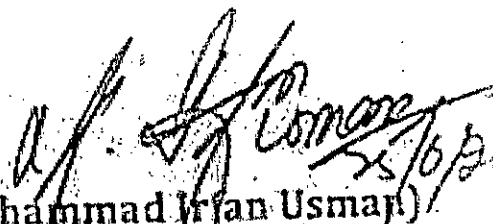
The competent authority is pleased to transfer Dr. Majid Khan, Coordinator, LHW Coordinator (BS-17) at office of the District Health Officer, Karak and post him as Incharge Type-C Hospital City Karak, in the public interest, with immediate effect.

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. District Health Officer, Karak.
4. DAO, Karak.
5. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
8. Doctor concerned.


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

Attested




Annex-A



Government of Khyber Pakhtunkhwa,
Health Department

14

Dated Peshawar the 25th June, 2020

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

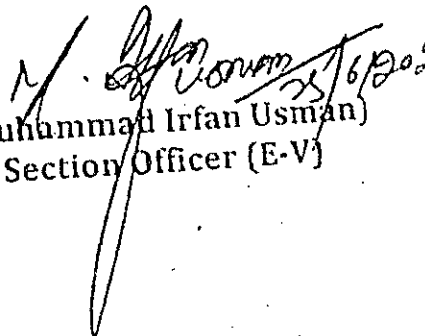
The competent authority is pleased to transfer Dr. Afrasyab, Medical Officer (BS-17) Type-C Hospital City Karak and post him as LHW Coordinator DHO Office Karak in his own pay & scale, in the public interest, with immediate effect.

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. District Health Officer, Karak.
4. DAO, Karak.
5. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
3. Doctor concerned.


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

Attested


PF Dr. Majid

15



**MEDICAL SUPERINTENDENT TYPE C HOSPITAL CITY
KARAK**

(Khyber Pakhtunkhwa)
Phone ☎ Fax ☎ # +92-927-290551

No. 1270-73/KK

Date: 10 /07/2020

To

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: - CERTIFICATE OF TRANSFER OF CHARGE.
Sir,

Reference Govt: of Khyber Pakhtunkhwa Notification No.SOH(HD)/4-4/2020 dated 25.06.2020.

The undersigned submitted transfer of charge as Incharge Medical Superintendent Type C hospital city karak on dated 27.06.2020. My arrival report is hereby enclosed in duplicate for favour of your information and further necessary action please.

(DR, MAJID KHAN)
(Medical Superintendent)
Type C Hospital City Karak

Even No & date

Copy to the:-

1. District Accounts Officer Karak for information
2. Accounts Section local office for necessary action
3. Personal File concerned Doctor.

Attested
[Signature]

[Signature]
(Medical Superintendent)
Type C Hospital City Karak



Government of Khyber Pakhtunkhwa,
Health Department

Dated Peshawar the 13th August, 2020

NOTIFICATION

Annex-C. (16)

NO. SOH(ED)/E-V/A-1/2020

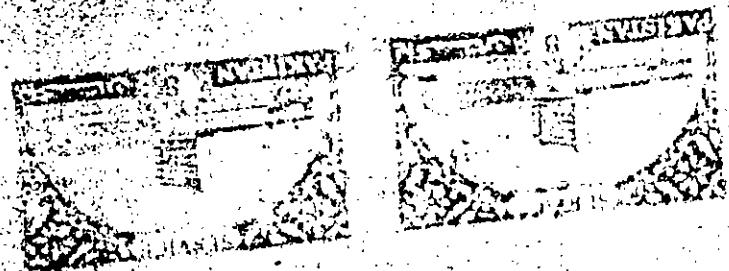
The competent authority is pleased to cancel order of Dr. Majid Khan, Coordinator (BS-17) under transfer as Incharge Type-C Hospital City Karak as ab-initio, in the public interest.

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. District Health Officer, Karak.
4. DHO, Karak.
5. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
8. Doctor concerned.



(Signature)
(Muhammad Irfan Usman)
Section Officer (E-V)
13/8/20

Arrested

Section Officer (E-V)
Health Department
Khyber Pakhtunkhwa

(Signature)
13/8/20

BETTER COPY OF THE PAGE NO. 16

Government of Khyber Pakhtunkhwa,
Health Department

Dated Peshawar the 13th August 2020

NOTIFICATION

No. SOH(HD)/E-V/4-4/2020. The competent authority is pleased to cancel order of Dr. Majid Khan, Coordinator (BS-17) Under transfer as Incharge Type C Hospital City Karak as ab-initio in the public interest.

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. District Health Officer, Karak.
4. DAO, Karak.
5. Deputy Director (IT), Health Department, with direction to upload the notification of official website.
6. PS to Minister for Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
8. Doctor concerned.

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



Section Officer (EV)
Health Department
Khyber Pakhtunkhwa

Majid Khan

(17)

The Secretary Govt of
Khyber Pakhtunkhwa Health Dept
Peshawar.

DAIRY NO. 12536
DATE 14/10/20
HEALTH DEPARTMENT.

Subject: Request for retaining as Incharge Type-c hospital city Karak

Respected Sir,

It is stated that I Dr Majid Khan (BPS-17) posted
as Incharge Type-c hospital city Karak by Govt of
Khyber Pakhtunkhwa Health Dept Notification NO
No. SOH(HD)/E-V/4-4/2020 dated 25th June 2020.
But on 13th August 2020 vide Health Dept
Notification NO SOH(HD) E-V/4-4/2020 dated 13th
August 2020 cancelled the order as Incharge
Type-c hospital city Karak. (Both orders attached for
Reads Reference)
The hospital activities is running smoothly and
besides this I have done MPH from PMDC Recursion
institute and throughout my service I worked
on various administrative posts i.e. Coordinator and DMS.
Therefore, it is requested to retain me as Incharge
Type-c hospital city Karak vide Health Dept
Notification issued on 25th June 2020 for the

continuation of the hospital activities on

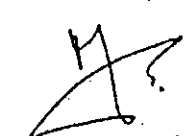
Attested

Scanned by CamScanner

Interest of public service.

Thanks

Dated 14/10/2020


Dr. Majid Khan

Type-c Hospital City

Mob: 0333 9718861

Attested




Government of Khyber Pakhtunkhwa,
Health Department

Dated Peshawar the 15th September, 2020

NOTIFICATION

Annex-D

19

NO. SOH(HD)/E-V/4-4/2020

The competent authority has been pleased to order posting/ transfer of the following doctors in the best public interest, with immediate effect:-

Sr#	NAME	FROM	TO
1.	Dr. Tajdar Alam Khan	DMS Sifwat Ghayur Shaheed Memorial Hospital, Peshawar	Services placed at the disposal of Director General Health Services, Khyber Pakhtunkhwa for further adjustment against the vacant post of Deputy Director (Admin) BS-18 in his own pay & scale
2.	Dr. Sajjad Ur Rehman, Surveillance Officer	District Health Office, Swat	Deputy Medical Superintendent, THQ hospital Matta District Swat in his own pay & scale against the vacant post
3.	Dr. Mustafa, MO (BS-17)	BHU Dabb District Karak	District Coordinator LHW (BS-18) DHO Office, Karak in his own pay & scale against the vacant post
4.	Dr. Tufail Afridi, SMO (BS-18)	Liaqat Memorial /Women & Children Hospital Kohat	District Coordinator LHW (BS-18) DHO Office Kohat against the vacant post as per NOC
5.	Dr. Imtiaz Ali, MO (BS-17)	Type-D Hospital Katlang District Mardan	District Coordinator (EPI) BS-18 DHO Office Mardan against the vacant post
6.	Dr. Wazir Zada, MO (BS-17)	District Coordinator (EPI) DHO Office Mardan	Services placed at the disposal of DHO Office Dir (Upper) for further adjustment against the vacant post of Medical Officer (BS-17).
7.	Dr. Shams Ur Rehman, DMS (BS-18)	DHQ Hospital Lakki Marwat	Deputy District Health Officer, Betani FR Lakki Marwat vice S.No.08.
8.	Dr. Kifayat Ullah, Medical Officer (BS-17)	Deputy Health Officer, Betani FR Lakki Marwat	Sub Jail Dasu District Kohistan (Upper) against the vacant post of Medical Officer (BS-17)
9.	Dr. Rahat Ali Khan, Medical Officer (BS-17)	District Coordinator (EPI) DHO Office Dir (Upper)	Surveillance Officer DHO Office Swat
10.	Dr. Farman Ali, SMO (BS-18)	Incharge/ MS Cat-D Hospital Khattak District Nowshera	Report to Directorate General Health Services, Khyber Pakhtunkhwa

[Handwritten signature]

Attested



20


11.	Dr. Khalil ur Rehman, SMO, BS-18	DHQ Hospital Bajaur	Services placed at the disposal of DHO Nowshera for further posting against the vacant post of SMO, BS-18
12.	Dr. Javed Khan s/o Muhammad, MO, BS-17	THQ Hospital Dargai Malakand	Deputy Medical Superintendent (BS-18), THQ Hospital Dargai Malakand in his own pay and scale.

**Secretary to Government of Khyber Pakhtunkhwa
Health Department**

Endst. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Inspector General, Prison, Khyber Pakhtunkhwa.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. District Health Officer, Malakand, Lakki Marwat, Kolai Palas District Kohistan (Upper/ Lower/ Kolai Palas), Karak, Swabi, Nowshera, Dir (Upper), Mardan, Kohat & Swat.
5. Medical Superintendent, Sifat Ghayur Shaheed Memorial hospital, Peshawar, Liaqat Memorial (Women & Children) Hospital Kohat, Lakki Marwat.
6. Superintendent, Sub Jail Dassu Kohistan.
7. DAO, Malakand, Lakki Marwat, Kolai Palas District Kohistan (Upper/ Lower/ Kolai Palas), Karak, Swabi, Nowshera, Dir (Upper), Mardan, Kohat & Swat.
8. Deputy DHO, Bettani FR Lakki Marwat.
9. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
10. PS to Minister for Health Department, Khyber Pakhtunkhwa.
11. PS to Secretary Health Department, Khyber Pakhtunkhwa.
12. Doctors concerned.


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

Attested




[Handwritten Signature]

[Handwritten Number: 275]

OFFICE OF DISTRICT HEALTH OFFICER
KARAK
(Khyber Pakhtunkhwa)
Phone ☎ || Fax ☎ ||: 0927-290537

No. 4327 /Admn:

Dated: 16 /09/2020

To
The Secretary Health,
Govt: of Khyber Pakhtunkhwa, Peshawar.

Attention: Section Officer E-V

Subject: **REQUEST FOR CANCELLATION/WITHDRAWAL OF POSTING OF DR. MUSTAFA MO BHU DABB AS LHW COORDINATOR KARAK VIDE HEALTH DEPARTMENT NOTIFICATION NO. SOH(HD)/E-V/4-4/2020 DATED: 15th SEPTEMBER 2020**

Respect Sir,

Reference to the Govt. of Khyber Pakhtunkhwa Health Department Notification No. SOH(HD)/E-V/4-4/2020 dated: 15-09-2020, Dr. Mustafa Medical Officer BPS-17 attached to BHU Dabb posted as LHW Coordinator Karak in his own pay & scale against the vacant post of LHW Program Coordinator(copy enclosed).

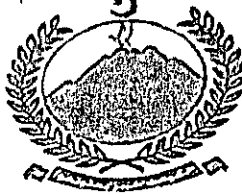
It is pertinent to mention here that Dr. Afrasiab BSP-17 is already working as LHW Program Coordinator and he is recently posted as LHW Program Coordinator LHW vide Health Department Notification No. SOH(HD)/(E-V)4-4/2020 , dated: 25/06/2020(copy enclosed).

Furthermore, the undersigned is satisfied with the performance of Dr. Afrasiab LHW Program Coordinator and all the activities of LHW Program are going smoothly and also Dr. Afrasiab is actively involved in Polio and Dengue related activities.

Therefore the undersigned requested to cancel/withdrawn the posting/transfer of Dr. Mustafa Medical Officer BHU Dabb as LHW Program Coordinator and retain Dr. Afrasiab BPS-17 as LHW Coordinator Karak for the smooth running of the LHW Program as well as polio and dengue related activities please.

[Handwritten Signature]
District Health Officer
Karak

Attested



(Answer - E) (14)
OFFICE OF DISTRICT HEALTH OFFICER
KARAK
(Khyber Pakhtunkhwa)
Phone ☎ # Fax ☎ #: 0927-290537

(29)

OFFICE ORDER:

Reference to the Govt. of Khyber Pakhtunkhwa Health Department Notification No. SOH(HD)E-V/4-4/2020 dated: 13th August 2020, Dr. Majid Khan BPS-17 is adjusted against the vacant post of DMS BPS-18 in his own pay & scale for the smooth running of the hospital activities and in the best interest of public services.

-----sd-----
District Health Officer
Karak

No. 4623-28 /Admn:

Dated: 06/10/2020

Copy to:

1. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Health Govt. of Khyber Pakhtunkhwa Health Department, Peshawar.
3. Dr. Majid Khan DMS Type-C Hospital City Karak.
4. District Accounts Officer Karak.
5. Account Section Type-C Hospital city Karak.
6. Office record.

For information and necessary action


District Health Officer
Karak

Attested




Government of Khyber Pakhtunkhwa,
Health Department

Annex - F

23

Dated Peshawar the 14th November, 2020

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2020

The Competent Authority has been pleased to transfer Dr. Sadiq Shah (BS-19), District Health Officer, Karak and direct him to report to Directorate General Health Services, Khyber Pakhtunkhwa Peshawar with immediate effect, in public interest.

Consequent upon the above, Dr. Niaz Ali (BS-18), Deputy District Health Officer, Karak is hereby directed to look after the vacant post of District Health Officer Karak as a stop-gap arrangement till the posting of a proper incumbent.

**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. Deputy Commissioner, Karak.
4. District Health Officer, Karak.
5. DAO, Karak.
6. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
7. PS to Minister for Health Department, Khyber Pakhtunkhwa.
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. Doctors concerned.

Attested

Section Officer (E-V)

OFFICE OF DISTRICT HEALTH OFFICER

KARAK

Khyber Pakhtunkhwa
Phone: 0922 220531

Annex - F

24

OFFICE ORDER

Dr Majid Khan Deputy Medical Superintendent attached to Type-C Hospital Karak is hereby directed to hold the charge of the post of Medical Superintendent Type-C Hospital City Karak till the posting of the original incumbent of the post of Medical Superintendent in the interest of public service.

District Health Officer
Karak

No. *1000* Admn.

Dated: 17/11/2020

Copy to:

- 1 PS to Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar
- 2 PA to Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 3 Dr. Majid Khan Deputy Medical Superintendent Type -C Hospital City Karak for information and compliance.
- 4 District Accounts Officer Karak.
- 5 Local Accounts.
- 6 Office copy for record.

Attested
[Signature]

[Signature]
District Health Officer
Karak

OFFICE OF THE DISTRICT HEALTH OFFICE
KARAK

OFFICE ORDER:

Dr. Majid Khan Deputy Medical Superintendent attached to Type-C Hospital Karak is hereby directed to hold the charge of the post of Medical Superintendent Type-C Hospital City Karak till the posting of the original incumbent of the post of Medical Superintendent in the interest of public service.

Sd/-
District Health Officer
Karak

No. _____ Admn

Dated: 17.11.2020

Copy to:

1. PS to Secretary to Govt of Khyber Pakhtukhwa Health Department Peshawar.
2. PA to Director General Health Services, Khyber Pakhtunkhwa, Peshawar .
3. Dr. Majid Khan Deputy Medical Superintendent Type-C Hospital City Karak for information and compliance.
4. District Accounts Officer Karak.
5. Local Accounts
6. Office Copy for record.

Sd/-
District Health Officer
Karak





[Handwritten Signature]



OFFICE OF DISTRICT HEALTH OFFICER
KARAK

(Khyber Pakhtunkhwa)
Phone # Fax # 0927-290537

25

OFFICE ORDER:

This office order No. 5614-19 dated: 17-11-2020 is hereby withdrawn.

The undersigned has been please to assign the duty of Medical Superintendent Type-C Hospital City Karak to Dr. Bashir Ullah DMS Type-C Hospital City Karak in the interest of public.

---sd---
District Health Officer
Karak

No. 5614-33 /Admn:

Dated: 17 /11/2020

Copy to:

1. PS to Secretary Health Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
2. PA to Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Dr. Bashir Ullah DMS Type-C Hospital City Karak.
4. District Accounts Officer Karak.
5. Local Account Section.
6. Office copy for record.

For information and necessary action.

Attested
[Handwritten Signature]

[Handwritten Signature]
District Health Officer
Karak



Annex-G

26

Insaf Doctors Forum South Region, KP

Office of the Secretary General

Notification # IDF / KP / 001 / 2020

Date : 24 / 08 / 2020

NOTIFICATION

On Recommendation of "Regional Council" Insaf Doctors Forum that following are members of cabinet of IDF Karak

Dr, Zafar, Mehmood	President
Dr, Asad Zahoor	GS
Dr, Qudrat Ullah	SVP
Dr, Mutasim Rasheed	VP
Dr, Najam Shehbaz	Spoke Person and health Policy Incharge

Attested

We wish Them Best of Luck and hope that they will work hard towards the progress of IDF

Dr. Bashir Khattak;
Secretary General



27

Insaf Doctors Forum Pakistan
Office of The Secretary General

Notification # CGC/11/2021

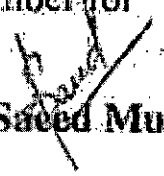
February 13, 2021

Notification

On recommendations of Central Governing committee Insaf Doctors Forum (IDF) Pakistan, following Provincial Coordination Council KP, is being notified.

- | | |
|----------------------|-----------------|
| 1. Dr Sajjad Dawar | Chairman |
| 2. Dr Zeeshan Afzal | Deputy Chairman |
| 3. Dr Munawar Afridi | Member |
| 4. Dr Sherbaz Sahil | Member |
| 5. Dr Ziauddin | Member |
| 6. Dr Bashir Ahmad | Member |
| 7. Dr Pervez Khan | Member |
| 8. Dr Noor Habib | Member |

This council is authorized to assign special tasks to any IDF member for effective management of provincial affairs.


Dr. Saeed Mustafa
Secretary General

Attested


To

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

Attention: SECTION OFFICER (V)

Subject: GRIEVANCES REGARDING ILLEGAL POSTING/TRANSFER OF DOCTORS
BY ACTING DHO KARAK DR. NIAZ ALI BY EXERCISING THE
ADMINISTRATIVE POWER OF COMPETENT AUTHORITY (SECRETARY
HEALTH)

Respected sir,

It is stated that I Dr. Majid Khan presently working as DMS at Type-C Hospital City Karak. My initial date of appointment is 13/12/2012, throughout my service I worked on various administrative posts i-e DMS in the same hospital previously Women and Children Hospital Karak during the year 2014-2015, Coordinator LHW Programme from 7th April 2016 till 25th June 2020, Integrated Disease Surveillance and Response System Project Focal Person of District Karak for 02 years and also Health Care Commission Focal Person District Karak for 1 year. Besides this I also possess required qualification(MPH) for Management Cadre positions. Furthermore, I have completed 02 months' mandatory promotion training for promotion from 17 to 18 and have submitted all the requirements of promotion to Director General Health Services Khyber Pakhtunkhwa Peshawar.

Sir, I was posted as Incharge Type C Hospital City Karak by the Government of Khyber Pakhtunkhwa Health Department vide Notification No NO.SOH(HD)E-v/4-4/2020, dated 25th June upon the recommendation of EX DHO Karak Dr. Sadiq Shah due to my previous administrative experience and also possess required qualification for management position and Dr. Afrasiab was posted as LHW Coordinator in my place. (DHO recommendation along with both Orders of Health Deptt: attached as Annexure-A)

Attested

After taking charge as Incharge Type C Hospital City Karak, District Account Officer Karak raised observation on the word Incharge in the notification instead of MS therefore EX DHO karak sent letter to Health Deptt: with the request to issue corrigendum/ partial modification in the Notification NO.SOH(HD)E-V/4-4/2020 dated 25th June 2020 (letter of DHO Karak as attached as **Annexure-B**)

But after few months in October 2020 I received another Notification of Health Deptt: regarding the cancellation of my order as Incharge Type C Hospital City Karak (Office Order attached as **Annexure-C**)

After the cancellation of my order as Incharge Type C Hospital City Karak, I was adjusted against the vacant post of DMS at Type C Hospital City Karak as my previous post of Coordinator LHW Programme was occupied by Dr. Afrasiab in my place as already mentioned in Office Orders attached in **Annexure-A**.

After this, I submitted request to the competent authority (Secretary Health sb) on dated 14th October 2020 vide dairy no 12536 file already put-up to placement committee meeting to retain me as Incharge Type C Hospital City Karak till the posting of original incumbent of the post as already working as DMS Type C Hospital City Karak. During my few months tenure as Incharge, I improved the comprehensive EmONC services by motivating/encouraging District Gynaecologists/ WMO's and also issue necessary orders regarding the utilisation of qualified Medical Officers to work as acting consultants vide DGHS kp letter no 6002-82/E-Idated 08/05/2020 and also to meet MHSDP criteria for Category C Hospital.

I also arranged Doppler ultrasound on donation basis by doctors including myself and public to utilize the services of qualified MO Dr. Danish having FCPS in radiology and also to provide specialist services to the public in the government hospital according to government rates.

Besides this, hospital OPD increased till approximately average 16-18 thousand per month, laboratory revenue that was only 30-40 thousand increased to

Attested



(21)

(30)

above 1 lakh 50 thousand, Radiology X ray revenue that was 50 thousand increased to 80-90 thousands per month and ultrasound revenue now reached to 1 lakh 50 thousands per month.

Above all revenue increased due to strict monitoring and I also established central counter by nominating honest technician who collect all the fee receipt of laboratory and radiology Deptt: avoid irregularities. Sir I am liver transplant recipient using immunosuppressant's drugs despite of this I improved the services of the hospital during this Corona pandemic within short time.

After the transfer of EX DHO Karak Dr. Sadiq Shah, look after charge was assigned to Deputy DHO (BPS 18 SMO) Dr. Niaz Ali, he issued Office Order that Dr. Majid Khan DMS to hold the charge of MS Type C Hospital City Karak on dated 17th November 2020 but just after 2 days Dr. Niaz Ali acting DHO Karak withdrawn my order and assigned the charge of MS to Dr. Bashir MO (BPS 17) working as DMS on dated 19th November 2020 only for his vested interests (both orders attached as Annexure-D).

Sir it is pertinent to mention here that there are two sanctioned posts of DMS at type c hospital city karak one is occupied by me and other one is Dr. Muntajeeb Farooq BPS 18.(both orders attached as Annexure-E).

Sir despite of the fact that already two designated DMS(Dr. Majid Khan BPs 17 and Dr. Muntajeeb Farooq BPS 18) one senior dental surgeon BPS-18 Dr.Hanif having also administrative experience and also worked as acting MS for 3 months in the same hospital during the year 2018 and also the most senior management cadre doctor Dr. Fakhre Alam(BPS-19) working in the same hospital but Dr. Niaz Ali acting DHO Karak assigned the charge of MS to Dr. Bashirullah MO who has only 3-4 years service, having no administrative experience, having no additional qualification(MPH/MHA)and despite of the fact that Dr. Niaz Ali acting DHO Karak himself has look after charge(BPS 18) and also in look after charge he exercises the administrative power of the competent authority (Secretary Health).

Attested



92

32

Besides this, if it was necessary to assign the duty of MS to some one why not to senior doctors i-e Dr. Muntajeeb Farooq DMS BPS 18, DR FAKHR ALAM Management Cadre BPS 19 and Dr. Hanif senior dental surgeon BPS 18. Interestingly Dr. Fakhr Alam BPS 19 management cadre was given the duty of night supervisor and also despite of the fact that already three DMS working, another order issued on the direction of DHO Karak regarding the duty of DMS admin to another junior doctor Dr. Zafar MO casualty unit with even no copy to designated DMS's only for his vested interests. (duty roster and office order of DMS admin attached as Annexure-F)

Besides this, Dr. Bashir MS has been assigned the duty of sampling of COVID 19 and also he is UPEC chairman for polio campaigns therefore the hospital activities are badly suffering as this hospital is located in the main karak city having high patients flow than DHQ hospital karak.

Therefore in view of all the above , it is requested to look into the matter as per rules and requested to direct acting DHO Karak to immediately withdraw his order regarding the charge of MS to Dr. Bashirullah MO BPS 17 as he is junior ,having only 3-4 years service, no administrative experience, no additional qualifications (MPH/MHA) and also he is always busy in COVID 19 sampling and also he is UPEC chairman for polio campaigns so it is requested to retain me as Incharge type c hospital city karak till the posting of original incumbent of the post as already I submitted my application to health department on 14th October 2020 along with details through online app and also in hard form OR post one of the senior doctor as Incharge Type C Hospital City Karak mentioned above already working in the hospital having also administrative experience for the smooth running of the hospital activities and in the interest of public service please.

Agreed with Dr Majid DMS

Dr Majid Khan DMS
 TYPE C HOSPITAL CITY KARAK

Dr Fakhri Alam (BPS-19) Agreed with the performance of under Dr. Majid as MS

Attested



MEDICAL SUPERINTENDENT TYPE C HOSPITAL

CITY KARAK

(Khyber Pakhtunkhwa)
Phone ☎ Fax ☎ # +92-927-290551

Annex- H

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OFFICE ORDER

Due to the suffering from chronic illness and lack interest of his work i.e. Job Description of DMS, Dr. Majid Khan is hereby directed to assigned light duty of Medical Officer in the best interest of public as well as of his health care.

Subsequently Dr. Zafar Mehmood DMS is well aware, qualified and taken keen interest in his job as hereby directed to continue work as DMS for smooth running of hospital activities as already assigned to him.

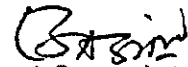
*****Sd*****
Medical Superintendent
Type C Hospital City Karak

No 146-50

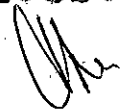
Dated // 10/2/2021

Copy to the:-

1. District Health Officer Karak for information and verbal discussion please
2. District Accounts Officer karak for information and necessary action please.
3. Dr. Zafar Mehmood DMS for information
4. Dr. Majid Khan Medical Officer for information
5. Accounts Clerk for information and with direction to prepare Source-II immediately.


Medical Superintendent
Type C Hospital City Karak

Attested



To

The Secretary Government of Khyber Pakhtunkhwa Health Department
Peshawar

Attention

SO BUDGET 1

Subject:-

ILLEGAL REDUCTION /CONVERSION OF HPA FROM 96000/MONTH TO 82000/MONTH DESPITE OF WORKING AGAINST THE SANCTIONED POST OF DMS AND ILLEGAL DRAWAL OF HPA@96000/MONTH TO MEDICAL OFFICERS AGAINST THE SANCTIONED POSTS OF MEDICAL OFFICERS BASED ON MALAFIDE INTENTIONS(VIOLATION OF FINANCE DEPT KP NOTIFICATION NO . DATED 7/1/2016)

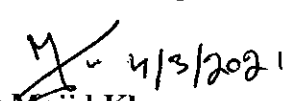
Respected sir, it is stated that I(Dr. Majid Khan) working as DMS against the sanctioned post of DMS at Type-C Hospital City Karak vide office order no 4623-28/Admn dated 6/10/2020 in compliance of health department notification dated 13th august 2020.(office order attached as Annexure A)

Sir due to my genuine appeal/request to the health department already submitted vide diary no 125-36 dated 14/10/2020 to retain me as Incharge Type-C Hospital City Karak and also detailed grievances application including other senior doctors against the illegal orders of doctors issued by acting DHO Karak only for his vested interests submitted to your good office vide diary no 125. Dated: 6/1/2021 .

Now acting DHO Karak are pressurizing me through various means by issuing various illegal orders and letters against me due to which I was compelled to submit writ petition in Peshawar high court Bannu Bench against his illegal orders. Now acting DHO Karak has illegally reduced /converted my health professional allowance from 96000/month to 82000/ month despite of the fact that I am working against the sanctioned post of DMS and entitled to receive health professional allowance @96000/month as health manager as per Finance Department notification No .FD(SOSR-11)8-18/2016. dated 7/1/2016 vide terms and conditions no 02.(Finance Department notification attached as Annexure B).

Whereas Two medical officers namely Dr. Zafar Mehmood medical officer working against the sanctioned post of MO not posted against the sanctioned post of DMS is authorized by Dr. Niaz Ali acting DHO Karak to draw health professional allowance @96000/month from the month of Feb 2021 by stopping my legal allowance from February 2021. Another medical officer Dr. Bashir Ullah who is also working against the sanctioned post of MO drawing HPA @ 96000/ month since long which is against the Finance Department notification as health professional allowance @ 96000 per month is claimed/ drawn when health manager working against the sanctioned post and 82000 per month for medical officers working against the sanctioned post of medical officers as per rules but Dr. Niaz Ali (BPS 18) acting DHO Karak doing these illegal practices only for his vested interests and he has look after charge as stop gap arrangement since 14/11/2020(salary slip of Dr. Majid Khan DMS attached as Annexure C, Dr. Zafar Mehmood MO attached as Annexure D, Dr. Bashir Ullah MO attached as Annexure E).

Therefore based on above facts and record, it is requested to direct acting DHO Karak to immediately release my health professional allowance and stop illegal health professional allowances @ 96000 per month paid against the sanctioned posts of medical officers. Furthermore, it is requested to direct acting DHO Karak to withdraw his illegal orders as mentioned in detailed grievances application already submitted to your good office vide diary no 125 . dated: 6/1/2021 for the smooth running of the hospital activities and in the interest of public service please.


Dr. Majid Khan
DMS Type-C Hospital Karak.

Copy to

1. Director General health Services Khyber Pakhtunkhwa, Peshawar.
2. Section officer (E-V) for information and with reference to detailed grievances application vide diary no 125. Dated: 6/1/2021 please.

Amex I



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

374

No.SOB-II/HD/5-7/Allowances/2020-21/Vol-VIII

Dated Peshawar the, 9th March, 2021

To

The District Health Officer,
Karak

**SUBJECT: ILLEGAL REDUCTION / CONVERSION OF HPA FROM 96000/- TO 82000/-
DESPITE OF WORKING AGAINST THE SANCTIONED POST OF DMS AND
ILLEGAL DRAWAL OF HPA @96000/- TO MP AGAINST THE SANCTIONED
POSTS OF MOS BASED ON MALAFIDE INTENTIONS [VIOLATION OF FD
NOTIFICATION**

I am directed to refer to an application dated nil on the subject noted above received from Dr. Majid Khan, DMS Type-C Hospital Karak (copy enclosed for ready reference).

Your input is required on the mentioned points. Your reply should reach within one week.

Encls: As above.

Section Officer (Budget-I)

Endst: No. & date even

Copy forwarded for information to the:

1. Section Officer (E-II), Health Department Peshawar.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
3. PA to Additional Secretary (Dev), Health Department Peshawar.

Section Officer (Budget-I)

Attested

Reminder-I



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No.SOB-I/HD/5-7/Allowances/2020-21/Vol-VIII Dated Peshawar the, 29th March, 2021

To

✓ The District Health Officer,
Karak

**SUBJECT: ILLEGAL REDUCTION / CONVERSION OF HPA FROM 96000/- TO 82000/-
DESPITE OF WORKING AGAINST THE SANCTIONED POST OF DMS AND
ILLEGAL DRAWAL OF HPA @96000/- TO MP AGAINST THE SANCTIONED
POSTS OF MOS BASED ON MALAFIDE INTENTIONS (VIOLATION OF FD
NOTIFICATION**

I am directed to refer to this Department letter number of even dated 09.03.2021 on the subject noted above and to state that the requisite reply is still awaited which may kindly be expedited at the earliest please

Section Officer (Budget-I)

Endst: No. & date even

Copy forwarded for information to the:

1. Section Officer (E-V), Health Department Peshawar.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
3. PA to Additional Secretary (Dev), Health Department Peshawar.

Section Officer (Budget-I)

Attested



36

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 31st March, 2021

ORDER

No. SOB-II/HD/1-4/DDO Powers

In pursuance of powers conferred under Rule-3 of General Financial Rules (GFR), the competent authority has been pleased to declare Dr. Bashir Ullah, Medical Officer (BPS-17) Incharge MS of the Category-C City Hospital Karak as drawing & disbursing officer for the financial affairs of the Category-C City Hospital Karak with immediate effect, till further order.

Secretary Health
Govt. of Khyber Pakhtunkhwa

Endst: of even No. & Date

Copy forwarded to:

1. The District Health Officer, Karak.
2. The District Accounts Officer, Karak.
3. PS to Secretary Health, Khyber Pakhtunkhwa.
4. PS to Special Secretary (Esttab) Health Khyber Pakhtunkhwa.
5. Doctor concerned.
6. Master File.


SECTION OFFICER (BUDGET-II)


Attested

2

IN THE HONOURABLE PESHAWAR HGIH COURT
BANNU BENCH, BANNU.

37

Writ Petition No. ----- of 2021

Dr. Majid Khan S/O Razi Bad Shah Resident of Rehmat Abad
Tehsil & District Karak----- (Petitioner)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat, Peshawar.
2. Director General Health Service Khyber Pakhtunkhwa, Peshawar
3. District Health Officer, Karak.
4. Medical Superintendent Type-C Hospital City, Karak. (Respondents).

The Addresses of the parties mentioned above are sufficient for proper service.

=====

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

=====

Respectfully Sheweth:-


Facts of the case are as under:-

1. That petitioner was performing his duty as Coordinator LHW Program at the office of District Health Officer, Karak and the Govt: of Khyber Pakhtunkhwa Health Department transferred the petitioner to Type-C Hospital City, Karak as Incharge vide notification No.SOH(HD)/E-V/4-4/2020 Dated Peshawar 25th June, 2020 whereas Dr. Afrasyab, medical Officer (BS-17) was performing his duty as Medical Officer (BP-S-17) at Type-C Hospital City, Karak was transferred as LHW Coordinator Program to DHO Office, Karak vide Notification No. SOH(HD)/E-V/4-4/2020 dated 25th June, 2020. In compliance of the above mentioned notifications, the petitioner and Dr. Afrasyab assumed their respective charge of their duty in respective duty stations and since then performing their duty. (Photocopy of notifications dated 25/06/2020 are annexed as Annexure "A")

A
Famy

Attested 

2. That respondent No. 1 (Secretary Health KP, Peshawar) cancelled the office order of petitioner under transfer as Incharge Type-C Hospital City, Karak as ab initio vide Notification SOH(HD)/E-V/4-4/2020 dated 13th August, 2020. ----- (Photocopy of notification dated 13/08/2020 is annexed as **Annexure "B"**). 38
3. That respondent No. 1 (Secretary Health KP, Peshawar) vide notification SOH(HD)/E-V/4-4/2020 dated Peshawar the 15th September, 2020 transferred and posted Dr. Mustafa Medical Officer (BS-17) as LHW Coordinator at the office of District Health Officer, Karak despite of the fact that the said post was not vacant but was already filled by Dr. Afraysab (BS-17) in place of petitioner vide earlier notification dated 25/06/2020. The above mentioned position was already clarified by the then District Health Officer, Karak vide written letter dated 16/09/2020 to the worthy Secretary Health. (Photocopy of notification dated 15/09/2020 and letter dated 16/09/2020 are annexed as **Annexure "C & D"**).
4. That the post of LHW Coordinator at DHO Office, Karak was already occupied by Dr. Afrasyab dated 25/06/2020 and then transferred Dr. Mustafa dated 15/09/2020 thus complex situation was created, therefore, the petitioner was remained in hanging position hence the order dated 13/08/2020 was not properly compliance by the petitioner and to pull out from the complex situation, the District Health Officer, Karak has adjusted the petitioner against the vacant sanctioned post of Deputy Medical Superintendent (BS-17) in his own pay & scale for the smooth running of the Type-C Hospital City, Karak activities vide office order No. 4623-28/Admin dated 06/10/2020. (Photocopy of office order dated 06/10/2020 is annexed as **Annexure "E"**).
5. That in the above mentioned circumstances, the petitioner submitted an appeal before the respondent No. 1 (Secretary Health KP, Peshawar) with the request to retain the petitioner as Incharge Type-C Hospital City, Karak vide appeal dated 14/10/2020. (Photocopy of appeal dated 14/10/2020 is annexed as **Annexure "F"**).
6. That the petitioner being DMS attached to Type-C Hospital, Karak was directed by the present acting District Health Officer, Karak vide office order No. 5614-19 dated 17/11/2020 to hold the charge of the post of Medical superintendent Type-C Hospital City, Karak till the proper posting of original incumbent of the post of Medical Superintendent. ----- (Photocopy of letter dated 17/11/2020 is annexed as **Annexure "G"**).

Attested 

8. That the above motioned office order dated 17/11/2020 was withdrawn by the present acting DHO, Karak and the duty of M.S Type-C Hospital City, Karak was given to Dr. Bashir Ullah DMS Type-Hospital City, Karak vide office order No. 5628-33/Admin dated 19/11/2020. It is worth mentioning here that said Dr. Bashir Ullah is Medical Officer not posted against the sanctioned post of DMS . -----(Photocopy of order dated 19/11/2020 is annexed as **Annexure H**)".
9. That against the above mentioned withdrawal order dated 19/11/2020 issued by the acting DHO, Karak and his pending appeal about notification dated 13/8/2020 the petitioner submitted appeal to the respondent No. 1 (Secretary Health KP, Peshawar) vide application dated 06/01/2021 s. -----(Photocopy of appeal dated 06/01/2021 is annexed as **Annexure "I"**).
10. That respondent No. 4 (M.S Type-C Hospital City, Karak on the directions of respondent No. 3 (acting DHO, Karak) issued office order No. 146-50 dated 11/02/2021 to change the designation of the petitioner as DMS to Medical Officer with the direction to account section to immediately stop the health professional allowance paid to petitioner against the sanctioned post of DMS as health manager as per rules despite of the fact that Respondent no 4 not being competent authority and the same is based on malafide intentions. (Photocopy of office order dated 11/02/2021 is annexed as **Annexure "J"**).
11. That the appeals against the office order dated 13/08/2020 and office order dated 19/11/2020 filed by the petitioner before the respondent No. 1 (Secretary Health KP, Peshawar) are still pending for final decision, respondent No. 4 (M.S Type-C Hospital, Karak) is not the competent authority under the law to issue office order dated 11/02/2021 with the directions to the petitioner to work as Medical Officer despite of the fact that the petitioner was adjusted against the sanctioned post of DMS vide office order dated 06/10/2020.
12. That the petitioner is aggrieved from office order dated 11/02/2021 issued by the respondent No. 4 (M.S Type-C Hospital, Karak) and office order dated 19/11/2020 issued by the respondent No. 3 (acting DHO, Karak) whereas departmental appeals are still pending for final decision against the office order dated 13/08/2020 and office order dated 19/11/2020 hence the instant writ petition before this Hon'able Court on the following

GROUND.

- a. That impugned notification dated 13/8/2020 issued by Respondent no 1 (secretary health) received to the

Attested

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petitioner and Ex district health officer Karak on dated 24/9/2020 is against the facts and record as the petitioner has already assumed charge as Incharge type c hospital city Karak on 27/6/2020 and submitted compliance report to the government of Khyber Pakhtunkhwa Peshawar vide letter no dated 10/7/2020

- (48)
- b. That complex situation has been created for petitioner as on one side the worthy Secretary Health has issued notification dated 13/08/2020 through which the order of petitioner dated 25/06/2020 as Incharge Type-C Hospital City, Karak has been cancelled but on the other side the post of LHW Coordinator has been filled by transfer of Dr. Afrasyab in place of petitioner vide notification dated 25 June 2020 and then Dr. Mustafa has been transferred as LHW Coordinator at District Health Office, Karak against the vacant post vide notification dated 15th September 2020. In these circumstances, the Ex-DHO, Karak has adjusted the petitioner against the vacant post of DMS BPS-18 in his own pay & scale for the smooth running of the hospital activities vide office order dated 06/10/2020 as the petitioner was already drawing salary from the vacant post of DMS vide notification dated 25/06/2020. .
- c. That Dr. Afrasyab MO (BPS 17) posted as coordinator LHW program in place of petitioner vide notification dated 25 June 2020 is still working as coordinator LHW program at DHO office Karak but the petitioner was not allowed to work as Incharge type c hospital city Karak despite of the fact that there is no Incharge/medical superintendent posted by the competent authority .
- d. That impugned order dated 19/11/2020 issued by Acting DHO Karak (respondent no 3) is based on malafide intentions and also despite of the facts that petitioner is senior in service ,eligible for promotion to higher grade as per rules and policy and also petitioner has administrative experience, worked on various administrative posts throughout his service while the respondent no 4 is junior than the petitioner even not possess the minimum prescribed length of service (5 years regular service) for promotion to next higher grade as per service rules and policy.
- e. That petitioner is working as DMS Type-C Hospital City Karak vide office order dated 6/10/2020 against the sanctioned post of DMS in compliance to government of Khyber Pakhtunkhwa health department notification dated 13/8/2020 while the respondent no 4 is working as medical officer not posted against the sanctioned post of DMS and Medical superintendent .

Attested

- f. That respondent no 3 is presently working as Acting DHO Karak vide notification dated 14/11/2020 having assigned the look after charge of the vacant post of DHO Karak (BPS-20) as stop gap arrangement till the posting of original incumbent of the post. (41)
- g. That impugned order dated 11/2/2021 issued by Respondent no 4 (MS type c hospital city Karak) on the direction of Respondent no 3 (Acting DHO Karak) is illegal, not based on facts, not being competent authority, based on malafide intentions and also to pressurize the petitioner to withdraw his already submitted grievances application / appeal to the competent authority against the notification dated 13/8/2020 and office order dated 19/11/2020.
- h. That the political interference cannot be ruled out in the above mentioned office orders and notifications and the petitioner thus sustained mental agony.
- i. That any other point will be pressed at the time of argument with permission of this honourable court.

=====

Prayer

So it is, therefore, most humbly and respectfully prayed on acceptance of the instant writ petition this honourable court may very graciously be pleased to declare the impugned office order dated 11/02/2021 is illegal and unlawful and this Hon'able Court may also be issued writ directing to competent respondents to decide the appeal dated 14/10/2020 against the notification dated 13/08/2020 and appeal dated 06/01/2020 against the office order dated 19/11/2020.

Interim Relief.

This Hon'able Court may very graciously be pleased to suspend the operation of office order dated 11/02/2021 and office order dated 19/11/2020 issued by the incompetent authority till final decision of the main writ petition.

=====

Dated:- 22/02/2021 **Petitioner Dr. Majid Khan**

Through *Ahmad Farooq Khattak*
ASC.

Certificate

Certified that no such like petition has been filed on similar ground before this honourable court of any other court.

M
Petitioner Dr. Majid Khan

Law Books.

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Case law according to need.

Attended

FORM OF ORDER SHEET

42

Date of order or proceedings	Order or other proceedings with signatures of Judge (s).
------------------------------	--

(1)

27.04.2021

(2)

CM No.138-B of 2021 and
 CM No.119-B of 2021 in
 W.P No.185 -B of 2021



Present:-
 M/S Ahmad Farooq Khattak and Yasir Rauf advocates for petitioner.

CM No.138-B of 2021

Notice be issued to the other side.
 Meanwhile operation of the impugned orders are suspended and the case be fixed in next available DB.

CM No. 119-B of 2021

SAHIBZADA ASADULLAH, J.--- Through instant application, the petitioner wants to withdraw the instant writ petition with permission to file to file appeal before the service tribunal.

2. But today, the learned counsel for petitioner appeared and submitted that as the Provincial Service Tribunal is not functional and that he cannot approach the same being the proper forum, so in that eventuality, this court has the jurisdiction to proceed

M. Atam P.S. (D.B) Hon'ble Mr. Justice Sahibzade Asadullah and hon'ble Mr. Justice Muhammad Naeem Arwar.

ATTESTED

[Signature]
 Attested

43

with the matter and that he does not want to withdraw the instant writ petition, and is not pressing for the same.

3. The submissions made by the learned counsel for the petitioner are genuine and he is permitted to withdraw the instant CM application No. 119-B of 2021 which is dismissed as withdrawn.

Announced.
27.04.2021.
Azam/P.S

Sd/ Mr. Justice Sahibzada Asadullah, J
Sd/ Mr. Justice Muhammad Naeem Anwar, J

CERTIFIED TO BE TRUE COPY

28 ⁴/₂₁

Examiner
Peshawar High Court Bannu Bench
Authorised Under Article 27 of
The Qanun-e-Shahadat Ordinance 1984

[Signature]
Attested

ANNOUNCED

44

To

The Secretary to Government of Khyber Pakhtunkhwa,
Health Department, Peshawar.

Attention: **SO BUDGET 2**


Subject: **HONORABLE PESHAWAR HIGH COURT BANNU BENCH ORDER**
DATED 27/4/2021

Respected sir, it is stated that honorable Peshawar High Court Bannu Bench in CM no 138-B (WP no 185-B/2020) case titled Dr.Majid Khan VS Government of Khyber Pakhtunkhwa Health Department, **suspended** the office order dated 19/11/2020 in respect of Dr.Bashir Medical Superintendent of the category C hospital city Karak issued by DHO Karak and also office order no dated 11/2/2021 issued by Dr.Bashir Medical Superintendent in respect of Dr.Zafar Mehmood as DMS Type-c Hospital City Karak(Attested copy of high court order along with W.P No 185-B/2021 with CM no 138-B /2021 and impugned orders are attached for ready reference.).

Therefore in view of the above orders suspended by Honorable Peshawar High Court Bannu Bench Dr.Bashir is no more Incharge/ MS of the Category C Hospital City Karak. Therefore, it is requested to withdraw the Health Department order no NO.SOB-11/HD/1-4/DDO powers dated 31/3/2021 in respect of Dr. Bashir as DDO for the financial affairs of the Category C Hospital City Karak as he is no more MS of the Category C Hospital City Karak (order dated 31/3/2021 is attached for ready reference).

Furthermore it is requested to assign me the DDO power under rule 3 of the general financial rules for the financial affairs of the Category C Hospital City Karak in the interest of public service (office order attached for ready reference).

Dated: 03-05-2021


03/05/2021
Dr. Majid Khan (Petitioner)
Incharge/DMS Type-C Hospital
City, Karak

Copy forwarded to:

1. Director General Health Services Khyber Pakhtunkhwa Peshawar
- ✓ 2. SO LITIGATION 1
3. SO BUDGET 1 for information and with the reference to his both letters dated 9/3/2021 and dated 29/3/2021


Attested



OFFICE OF DISTRICT HEALTH OFFICER

KARAK

(Khyber Pakhtunkhwa)

Phone ☎ # Fax ☎ #: 0927-290537

45

Court Matter

No 1838-43 /Admn/KK

Dated: 03/05/2021

To,

The Secretary to Govt of Khyber Pakhtunkhwa
Health Department Peshawar.

ATTENTION: SECTION OFFICER LIT: -1

**SUBJECT: LEGAL OPINION ABOUT W.P NO. 185-B OF 2021 AND CM
NO 138 B AND CM NO 119-B 2021.**

R/Sir,

The Honorable High Court Bannu Bench by its short order issued on 27/04/2021 suspends the operation of the impugned orders which are as follow:

1. Copy of order sheet dated: 27/04/2021 Page: 1-2
2. Copy of CM No: 138-B of 2021. Page : 3-5
3. Order No. 5628-33/Admin dated 19/11/2020 (Copy attached) Page: 06
4. Order No. 146-50 dated 11/02/2021 (Copy attached) Page: 07

In the light of Honorable High Court Bannu Bench order dated 27/04/2021, the operation of the orders No. 146-50 dated 11/02/2021 has been suspended with office order No. 350-54 dated 03/05/2021 by In-charge/MS Type C Hospital City Karak. (Copy attached) Page: 08

Whereas the Order No. 5628-33/Admin dated 19/11/2020 (Copy attached) is already of no effect as the competent authority as Secretary Health to Govt. of Khyber Pakhtunkhwa Health Department in pursuance of the power conferred under Rule-3 of the General Financial Rules (GFR) has declared Dr Bashir Ullah Medical Officer Incharge MS of the Category- C City Hospital Karak vide No SOB-II/HD/1-4/ DDO powers dated 31/03/2021. (Copy attached) Page: 09

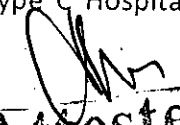
Now legal Opinion of the litigation Department is requested on the legal effects of all the orders given by the Honorable High Court Bannu Bench given dated 27/04/2021.

ENCL:- As Above


District Health Officer
Karak

Copy of the above is forwarded to:

1. The Additional Registrar Peshawar High Court Bannu Bench Bannu along with all above enclosure for information please.
2. The DGHS Khyber Pakhtunkhwa along with all above enclosure for information please.
3. The Additional Advocate General Peshawar High Court Bannu Bench Bannu along with all above enclosure for information.
4. The Medical Superintendent Type C Hospital City Karak for information w/r. to his office letter No: 350-54 dated 03/05/2021.
5. Dr Majid Khan Medical Officer Type C Hospital City Karak for information w/r to his application dated: 29/04/2021.


Attested


District Health Officer
Karak

Dr. Majid



**MEDICAL SUPERINTENDENT TYPE C HOSPITAL
CITY KARAK**

(Khyber Pakhtunkhwa)

Phone ☎ Fax ☎ # +92-927-290551

46

OFFICE ORDER

An order sheet received to this office through Whatsapp today on 03.05.2021 (copy attached).

In this regard order of DMS issue vide this office order No. 146-50 dated 11.02.2021 is hereby suspended and HPA in favour of Dr. Majid Khan is hereby activated against the post of DMS through source-II immediately until further decision of honourable court.

*****Sd*****


Medical Superintendent
Type C Hospital City Karak

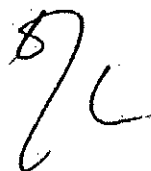
No 350-54

Dated 03/05/2021

Copy to the:-

1. Honourable High Court Bannu Bench Bannu vides WP No. 185-B of 2021.
2. District Health Officer Karak for information
3. District Accounts Officer Karak for information
4. Accounts section local office for necessary action
5. Doctor personal file.


Medical Superintendent
Type C Hospital City Karak




Attested

47

20/6/21



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 16th June, 2021

ORDER

No. SOB-II/HD/1-4/DDO Powers: In pursuance of powers conferred under Rule-3 of General Financial Rules (GFR), the competent authority has been pleased to declare Dr. Majid Khan, DMS/Incharge as drawing & disbursing officer for the financial affairs of the Category-C City Hospital Karak with immediate effect, till further order.


Note:- The previous order of even No. dated 31-03-2021 may be treated as withdrawn.

**Secretary Health
Govt. of Khyber Pakhtunkhwa**

Endst: of even No. & Date

Copy forwarded to:

1. The District Health Officer, Karak.
2. The District Accounts Officer, Karak.
3. PS to Secretary Health, Khyber Pakhtunkhwa.
4. PS to Special Secretary (Esttab) Health Khyber Pakhtunkhwa.
5. Doctor concerned.
6. Master File.


(Muhammad Israr)
SECTION OFFICER (BUDGET-II)


Attested



GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

Dated Peshawar the 17th June, 2021

48

ORDER

No.SOB-II/HD/1-4/DDO Powers

The competent authority of this Department has been pleased to cancel/withdraw this Department **ORDER** of even number dated 16.06.2021 regarding declaration of Dr. Majid Khan as DDO for Category-C City Hospital, Karak.

Consequent upon above, the previous order of even number dated 31.03.2021 in respect of Dr. Bashir Ullah as DDO, Category-C City Hospital, Karak may be treated as restored.

Secretary Health

Endst of even No. & Date

Copy forwarded to:

1. The District Health Officer, Karak.
2. The District Accounts Officer, Karak
3. The MS/Incharge, City Hospital Karak
4. Officers concerned.
5. PS to Secretary Health, Peshawar.

(Muhammad Israr)
SECTION OFFICER (BUDGET-II)

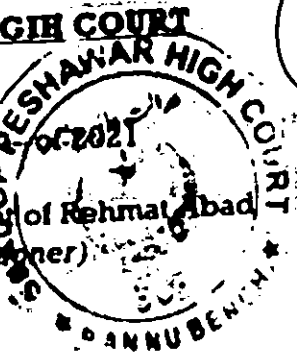

Attested

49

**IN THE HONOURABLE PESHAWAR HIGH COURT
BANNU BENCH, BANNU.**

Writ Petition No.

180-16



Dr. Majid Khan S/O Razi Bad Shah Resident of Rehmat Abad
Tehsil & District Karak..... (Petitioner)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat, Peshawar.
2. Director General Health Service Khyber Pakhtunkhwa, Peshawar
3. District Health Officer, Karak.
4. Medical Superintendent Type-C Hospital City, Karak. (Respondents).

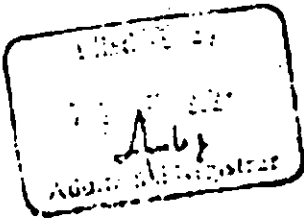
The Addresses of the parties mentioned above are sufficient for proper service

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

Respectfully Sheweth:-

Facts of the case are as under:-

1. That petitioner was performing his duty as Coordinator LHW Program at the office of District Health Officer, Karak and the Govt. of Khyber Pakhtunkhwa Health Department transferred the petitioner to Type-C Hospital City, Karak as Incharge vide notification No.SOH(HD)/E-V/4-4/2020 Dated Peshawar 25th June, 2020 whereas Dr. Afrasyab, medical Officer (BS-17) was performing his duty as Medical Officer (BP-S-17) at Type-C Hospital City, Karak was transferred as LHW Coordinator Program to DHO Office, Karak vide Notification No. SOH(HD)/E-V/4-4/2020 dated 25th June, 2020. In compliance of the above mentioned notifications, the petitioner and Dr. Afrasyab assumed their respective charge of their duty in respective duty stations and since then performing their duty. (Photocopy of notifications dated 25/06/2020 are annexed as Annexure "A")



ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

Attested

**PESHAWAR HIGH COURT,
BANNU BENCH**

50

FORM OF ORDER SHEET

Date of order or proceedings (1)	Order or other proceedings with signatures of Judge (s). (2)
26.05.2021	<p><u>W.P No. 185-B of 2021.</u> <u>Present:</u> Ahmad Farooq Khattak advocate for petitioner. ***** SABIBZADA ASADULLAH, J.— Learned counsel for petitioner when appeared he was confronted with the situation that as the Public Service Tribunal has become functional and as to whether in that eventuality we can further proceed with the matter. he candidly acceded and requested his willingness to withdraw the instant petition, however, requested that the respondents be directed to decide his departmental appeal as early as possible, so that he may proceed further to the service tribunal, in case his grievance is not redressed.</p> <p>In view of above, this writ petition is dismissed as withdrawn; with respect to ancillary request of petitioner, the respondents are under obligation to decide the departmental appeal/ grievance petition in either way under the law within a reasonable time.</p> <p><u>Announced.</u> 26.05.2021</p> <p><i>Sd/ Mr. Justice Sahibzada Asadullah, J</i> <i>Sd/ Mr. Justice Muhammad Naeem Anwar, J</i></p>

CERTIFIED TO BE TRUE COPY

[Signature]
Examiner
Peshawar High Court Bannu Bench
Authorized Under Article 87 of
The Quran-e-Shahadat Ordinance 1984

7 MAY 2021
[Handwritten notes]

(D. By Mr. Justice Sahibzada Asadullah and
Mr. Justice Muhammad Naeem Anwar.

[Signature]
Attested



OFFICE OF DISTRICT HEALTH OFFICER
KARAK

(Khyber Pakhtunkhwa)

Phone ☎ # Fax ☎ # 0927-290537

51
43

OFFICE ORDER:

The undersigned is pleased to cancel the order No. 5605-10 dated: 17-11-2020 with immediate effect in the best interest of public.

Subsequent upon the above, Dr. Afrasiab LHW Coordinator Karak is hereby directed to hold the additional charge of Medical Superintendent THQ Hospital-BD Shah in addition to his own duties with immediate effect in the best interest of public.

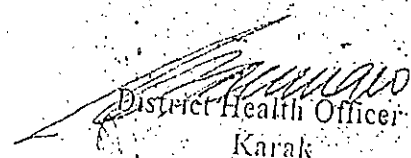
-----sd-----
District Health Officer
Karak

No. 511-44 /Admn:

Dated: 12/01/2021

Copy to:

1. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar for information please.
2. PA to Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Officer Concerned.
4. Office copy for record.


District Health Officer
Karak

Attested

الاؤنس زندینے پر ڈی ایچ او کرک سے جواب طلب

ڈی ایم ایس کے عہدے پر تعینات ڈاکٹر ماجد کی سیکرٹری ہیلتھ کو درخواست

پشاور (نیوز رپورٹر) ضلع کرک میں ایک ڈاکٹر کو مقررہ تناسب کے مطابق ہیلتھ پروفیشنل الاؤنس نہ دینے کی شکایات پر محکمہ صحت نے ڈسٹرکٹ ہیلتھ آفیسر کو ایک ہفتے میں جواب دینے کے احکامات جاری کر دیئے ہیں ذرائع کے مطابق کرک کے ٹائپ سی ہسپتال سٹی میں ڈی ایم ایس کے عہدے پر تعینات ڈاکٹر ماجد خان نے ہیلتھ سیکرٹری کو بھیجی درخواست میں موقف اختیار کیا ہے کہ محکمہ صحت نے انہیں ڈی ایم ایس کی منظور شدہ پوسٹ پر تعینات کیا ہے جس کا ہیلتھ پروفیشنل الاؤنس 96 ہزار روپے ماہوار ہے لیکن ڈسٹرکٹ ہیلتھ آفیسر کی جانب سے انہیں میڈیکل آفیسر کے طور پر مقرر 82 ہزار روپے ماہوار جاری کئے گئے ہیں۔ انہوں نے اپنی درخواست میں الزام لگایا ہے اور ناموں کے ساتھ ان میڈیکل آفیسرز کی نشاندہی کر دی ہے جو ایم او کی پوسٹ پر تعیناتی کے باوجود ڈی ایم ایس کیلئے مختص ایچ پی اے وصول کر رہے ہیں ذرائع نے بتایا کہ اس صورتحال پر گزشتہ روز محکمہ صحت کے بجٹ سیکشن نے سیکرٹری صحت کی ہدایات کی روشنی میں ڈسٹرکٹ ہیلتھ آفیسر کو سات دنوں میں جواب جمع کرانے کی ہدایت جاری کر دی ہے ذرائع نے بتایا کہ اس سلسلے میں ڈی ایچ او پر واضح کر دیا گیا ہے کہ ڈی ایم ایس سے ہیلتھ پروفیشنل الاؤنس کی کٹوتی سے متعلق مفصل جواب ارسال کیا جائے۔

Attested

Ohri

POWER OF ATTORNEY/VAKALATNAMA

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. _____/2021.

Dr. Majid Khan

Vs.

Government of KPK etc.

On behalf of APPELLANT.

I/ we the **APPELLANT** hereby appoint **Mr. Habib Anwar** Advocate in the above-mentioned case, to do all or any of the following acts, deeds things.

1. To appear, act, sign, record Statement and plead for me/us in the above-mentioned case in this court /Tribunal or any other Court /Tribunal in which the same may be tried or heard, and other proceedings arising out of or connected therewith.
2. To sign, verify compromise and file or withdraw all proceedings, petitions, appeals, affidavits, and any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the proceedings.

AND HEREBY AGREE:

- a. To ratify whatever the said advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of absence from the Court/Tribunal when it is called for hearing.
- c. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

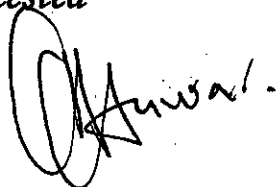
In witness whereof, I/We have signed this power of Attorney/ Vakalatnama hereunder, the contents of which have been read/ explained to me us and fully understood by me/ us this 09th day of **APRIL 2021**, at Peshawar.

Terms Accepted

Signature

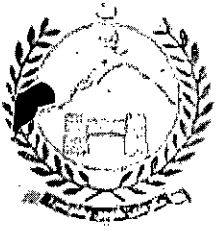
Accepted & Attested

Habib Anwar



Advocate Peshawar High Court, Peshawar





**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2030 /ST

Dated: 12/10 /2021

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

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

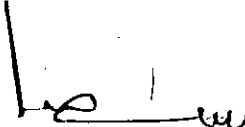
To

The Secretary Health,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 6575/2021, MR. MAJID KHAN

I am directed to forward herewith a certified copy of Judgement dated 22.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

قیمت
50 روپے

88686



ایڈریس:

بار کونسل/ ایسوسی ایشن نمبر:

رابطہ نمبر:

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

29/7/2021

بعدالت جناب: سرور سٹریٹ سنٹرل خیبر پختونخواہ پشاور

مخاطب: ریسپانڈنٹ برادر	دعویٰ: سروس ایبل 6575/2021
ڈاکٹر طاہرہ خان بنام گورنمنٹ ایجوکیشنل سروس ایبل 6575/2021	علت نمبر:
	مورثہ 29-07-2021
	جرم:
	تقاضا:

باعث تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کاروائی متعلقہ

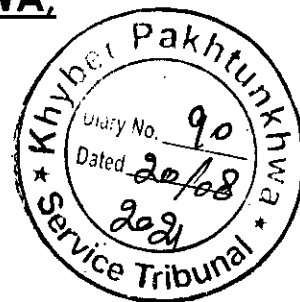
آن مقام پشاور کے محترم جج صاحب نے کوڈیکل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا، نیز ڈیکل صاحب کو راضی نامہ کرنے و تقریر نمائش و فیصلہ بر حلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کیلکٹرفہ یا ایبل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی پر کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور ڈیکل یا مختار ڈیکل کو اختیار ہوگا، نیز صاحب موصوف کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جاندا تو ائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو ڈیکل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سیدر پشاور

Accepted

المقام: _____
الع: _____

مقام کے لیے منظور ہے۔
ڈاکٹر بشیر اللہ (ریسپانڈنٹ نمبر 4)
نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR



6675/2021
Service Appeal No. 6675/2021

Dr. Majid Khan.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary Health & others.....Respondents

COMMENTS OF THE PRIVATE RESPONDENT NO.4

Respectfully Sheweth:-

Preliminary Objection:

- a. That the appellant has got no locus standi to file the present appeal.
- b. That the appellant is estopped by his own conduct to bring the petition in hand.
- c. That the appeal is barred by time.
- d. That the appellant has come to the court with unclean hands.
- e. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.

- f. That with due respect, the Honourable Court lacks jurisdiction to adjudicate upon the matter.
- g. That the appeal is not maintainable in its present form.

ON FACTS:-

1. Pertains to record and have no concern with private respondent No.4, almost relates to the respondent No.4; hence needs no reply.
2. Pertains to record and have no concern with private respondent No.4, therefore needs no reply.
3. That the Para No.3 is not relate to the private respondent No.4, hence needs no reply.
4. That the Para No.4 needs no reply while its have no concerns with private respondent No.4.
5. Pertains to record, needs no reply while its relate to respondent No.3.
6. Pertains to record and relates to the respondent No.3, that rest of the Para upto the extent of Dr. Bashir Ullah present private respondent No.4 is correct that duties and

responsibilities of MS of the said hospital assigned by the DHO.

7. Incorrect hence denied and also relates to respondent No.1, there is no political stigma being shown from any notification of the DHO or competent authority respondent No.1 regarding postings/transferring orders of the private respondent No.4 but at each step it shows that posting/transferring order of private respondent No.4 were made only and only in a public interest by the competent authority as well as DHO.
8. Para No.8 is incorrect that the appellant leveled false allegations against the private respondent No.4 while the private respondent No.4 is the MS of Type C Hospital City Karak is the administrative Incharge of the hospital and may judge his subordinate better, and utilize his services in a better way in the best of the public interest.
9. Para No.9 relates to respondent No.1. that the private respondent No.4 was rightly appointed by the competent authority as a drawing and Disbursing Officer by the respondent No.1 to

run to smoothly the financial matters of the said hospital under the rule-3 of GFR.

10. That para No.10 is also related with respondent No.1 and pertains to record. That respondent No.1 is the competent authority of both of the appellant as well as private respondent No.4. that the appellant concealed the material facts and mislead the competent authority and got fraudulently order dated 16.06.2021, whereby the competent authority the appellants were declared as drawing and Disbursing Officer but soon after the competent authority related the knows the facts the Hon'ble High Court Bannu Bench never suspend the posting/transferring order dated 31.03.2021 of the private respondent No.4, but the Hon'ble High Court Bannu Bench only and only suspend the order dated 19.11.2020 which were been issued by the DHO office of the Type-C Hospital City Karak for which the present respondent No.3 was not competent authority, hence the competent authority respondent No.1 rightly withdraw the invalid order dated 16.06.2021 of the appellant

through notification dated 17.06.2021 in the best public interest.

11. That para NO.11 is legal, hence need no reply.

GROUNDS

A to E Incorrect, does not relate to private respondent No.4, hence need no reply.

F. Para F is false fabricated, hence the replies already been made in the above paras.

G to N. That Para G to N are incorrect, false allegations been leveled by the appellant against the respondents. The reply of these paras are already given in the above paras of comments as a private respondent nthe respondents. The reply of these paras are already given in the above paras of comments as a private respondent No.4.

O. That Para O is legal hence need no reply.

PRAYER

It is humbly requested that the appeal with a prayer may be dismissed with cost in the best public interest.

INTERIM RELIEF

That the granted interim relief order dated 09.07.2021 of this Hon'ble Tribunal may very graciously be vacated in the best public interest.

Respondent No.4

Through

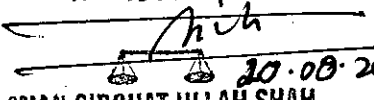

Qamar Zaman Khattak


Dated 20.08.2021

Advocate High Court

AFFIDAVIT

It is stated on oath that the contents of this **comment** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Attested
Shah

20.08.2021
MIAN SIBGHAT ULLAH SHAH
Sr. Advocate Oath Commissioner
Notary Public High Court
Peshawar


20/08/2021
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

6575

Service Appeal No. 6695/2021

Dr. Majid Khan

-----Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary

-----Respondent

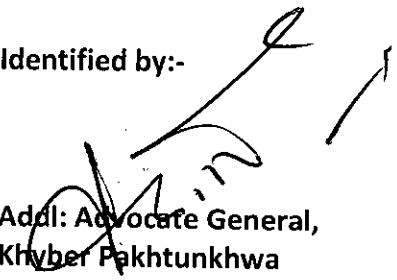
AFFIDAVIT.

I Habib Ullah Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No.6695/2021 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.



Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

Identified by:-



Addl: Advocate General,
Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 6575/2021

Dr. Majid Khan..... Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary and others..... Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3

Respectfully Sheweth :

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has been estopped by his own conduct to file the instant appeal.
7. That the Appeal is badly time barred.

8. That the Honourable Tribunal has no Jurisdiction to adjudicate upon the matter as the prayers of the appellant does not come within the terms & Condition of service of the appellant.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

FACTS

1. Subject to proof however it is the discretion of the competent authority to utilize services of any civil servant and a civil servant is bound to perform a duty assigned by the competent authority.
2. Pertains to record.
3. Pertains to record however the competent authority is empowered by law to utilise services of a Civil Servant and Civil Servant is legally bound to serve with devotion and punctuality any where he is posted.
4. Correct to the extent of Notification dated 15/09/2020 issued by the competent Authority rest the para is denied.
5. Pertains to respondent No 3, however, competent authority is respondent no 1 for issuing such order even otherwise he was assigned look after charge of the post of MS which does not create any right in favour of a civil servant.
6. Correct to the extent that order dated 17/11/2020 was withdrawn by respondent No 3 vide order dated 19/11/2020 rest of the para is denied.
7. Incorrect the answering respondents have not violated any provision of law, rules or any vested right of the appellant.
8. Correct to the extent that the MS of Type C Hospital City Karak has issued office order dated 11/02/2021 who is the administrative in charge of the hospital and may judge his subordinate better and utilize their services in better way in the public interest however it is worth

mentioning that the appellant has never been posted as DMS on regular basis hence he has no right to claim against the post.

9. Correct to the extent that the respondent No 1 being head of the department Under Rule 3 of GFR issued Order dated 31/03/2021 whereby Dr Bashir in charge MS of the hospital was declared as DDO. It is worth mentioning that granting DDO Ship dose not form part of terms and conditions of service. As per the R 3 the head of department have been authorise to declare any gazette officers subordinate to them to be the head of an office for the purpose of these financial rules of government.
10. Correct to the extent that the appellant filed WP No 185-B/2021 however the same was dismissed by the Honourable Court vide Judgment dated 26/05/2021 and the same treated as departmental appeal and forwarded to respondent No 1 for decision however the appellant malafidely concealed the material fact that his appeal has already been dismissed by the Honourable Court and fraudulently got order dated 16/6/2021 where by the competent authority declared appellant as DDO however when the competent authority came to know about the fraudulent act of the appellant, Respondent No 1 withdrawn order dated 16/06/2021 vide order dated 17/6/2021.
11. Incorrect no terms and condition of his service has been violated hence the appellant is not an aggrieved person therefore he is not entitled for any relief.

GROUND:

- A. Incorrect the Notification dated 13.08.2020 is in accordance with law, rules and Principal of natural justice.
- B. Incorrect the Notification has been issued in accordance with law and transfer posting policy of the Provincial Government.
- C. Incorrect the replying respondents acted as per law and rules.
- D. As per para mentioned above.


- E.. Incorrect. Detail reply has been given in paras above.
- F. The para is based on mala fide, misleading concocted hence denied. No clause of policy or law has been mentioned by the appellant which has been violated by respondents in fact respondents acted as per law, rules and policy. The IDF letter has nothing to do with the official business which runs according to law and rules.
- G. Incorrect. The impugned orders have been issued in accordance with law and Rules.
- H. Incorrect. No right of the appellant has been violated.
- I. Incorrect already replied above
- J. Incorrect the competent authority has been empowered by Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973 to transfer a civil servant at anytime to any other post even outside his cadre or province provided his terms & conditions of service is not affected. As per dictum, laid down by the apex court, in 2020 PLCCS 1207 Supreme Court,
PLACE of servicePrerogatives of employer...Government servant was required to serve any where his employer wanted him to serve; it was not a choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another Judgment reported as 2004 PLC (CS) 705 S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at anytime in exigencies of service or on administrative ground.

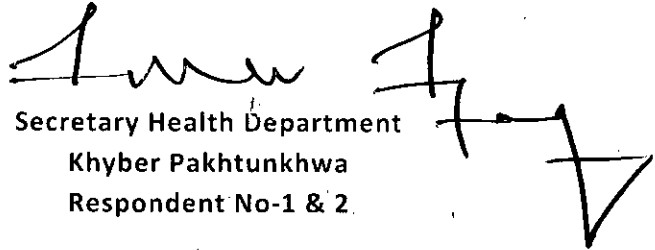
- K. As per para above.
- L. As per paras above.
- M. As per para J.
- N. Incorrect already replied in para 8 of the facts

O. Legal however the respondents also seek permission of this honorable tribunal to adduce other grounds during final hearing.

It is therefore requested that the appeal of the appellant may kindly be dismissed with cost.


Director General Health Services
Khyber Pakhtunkhwa
Respondent No-3

DS (UT-)


Secretary Health Department
Khyber Pakhtunkhwa
Respondent No-1 & 2.