

30.10.2019

Nemo for petitioner. Addl. AG alongwith Amjad Ali, Assistant and Jaffar Ali, Senior Clerk for the respondents present.

As the departmental appeal of petitioner stands decided through order dated 30.09.2019 the judgment of Tribunal dated 27.02.2018 appears to have been implemented. On the last date the petitioner requested for time to seek legal opinion from his learned counsel in view of the developments. He, however, is not represented today.

In the circumstances, instant proceedings are consigned to record. The petitioner may apply for restoration of the proceedings in accordance with law, if need be.

Chairman



02.10.2019

Petitioner in person present. Addl:AG alongwith Mr. Sadaqat Ullah, Deputy Secretary, Mr. Saleem Javed, Litigation Officer and Mr. Amjad Ali, Assistant for respondents present.

The representative of respondent No.1 has produced copy of officer order dated 30.09.2019, whereby the departmental appeal of the petitioner has been rejected. A copy of the order has also been handed over to the petitioner, who requests for time to seek legal aid regarding the issue.

Adjourned to 30.10.2019 before S.B.

  
Chairman

E.P. No. 349/2018.

22.08.2019

Present

Not present

Petitioner in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Arshed Javed, Litigation Officer for the respondents present. Implementation report not submitted. Representative of the department seeks further time to furnish implementation report. Adjourned to 04.09.2019 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

04.09.2019

Petitioner in person and Mr. Usman Ghani, District Attorney present.

In the instant case this Tribunal, while deciding Appeal No. 1050/15, directed the departmental appellate authority to decide the appeal of petitioner with clear order within a period of two months. The judgment was announced on 27.02.2018, however, till date the departmental appeal has not been decided hence the decision of the Tribunal disregarded.

The respondent No. 1/Secretary Health Department Government of Khyber Pakhtunkhwa Peshawar shall be issued notice for next date of hearing requiring the submission of implementation report or else, to appear in person in order to explain the position as departmental appellate authority.


Adjourned to 02.10.2019. The office shall enclose a copy of instant order alongwith notice to be sent to the concerned respondent.

Chairman



14.05.2019

Petitioner in person and Mr. Usman Ghani learned District Attorney alongwith Hazrat Shah Superintendent present. Representative of the respondents stated that Essa Khan SO-III of the office of Secretary Health Khyber Pakhtunkhwa has to process the case in connection with the implementation of the judgment of this Tribunal. Secretary Health Khyber Pakhtunkhwa/appellate authority is directed to decide the departmental appeal in compliance with the judgment dated 27.02.2018 of this Tribunal passed in Service Appeal No.1050/2015. Essa Khan SO-III of the office of Secretary Health Khyber Pakhtunkhwa is also directed to expedite the process of the implementation of judgment of this Tribunal. Adjourn. To come up for further proceedings/implementation report on 01.07.2019 before S.B.

  
Member

01.07.2019

Petitioner in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Saleem, Litigation Officer for the respondents present. Implementation report not submitted. Representative of the department requested for adjournment. Last chance is granted. To come up for implementation report on 22.08.2019 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

01.01.2019

Petitioner in person present. Notice be issued to the respondents for implementation report for 05.03.2019 before S.B.



**Muhammad Amin Khan Kundi**  
Member

05.03.2019

Petitioner in person present. Implementation report not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish implementation report on the next date fixed as 10.04.2019 before S.B



Member

10.04.2019

Petitioner in person present. Mr. Usman Ghani learned District Attorney alongwith Hazrat Shah Superintendent for the respondents present.

Representative of the respondents states that process of implementation of judgment under execution has already been started which is likely to be concluded in near future. He, therefore, requests for adjournment for submission of implementation report.

Adjourned to 14.05.2019 before S.B



Chairman

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 349/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1	01.10.2018	<p>The execution petition of Mr. Sakhi Ullah submitted by him may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 11/10/18</p>
2-	2-10-18	<p>This execution petition be put before S. Bench on <u>13-11-2018</u></p> <p style="text-align: right;">MEMBER</p> <p><i>13-11-2018</i> Due to Retirement of Honorable chairman the Tribunal is non functional therefore the cases adjourned to come up for the same on 1-1-2019</p> <p style="text-align: right;"><i>[Signature]</i> Registrar</p>

بخدمت جناب چیئر مین سروس ٹریبونل خیبر پختونخواہ پشاور

Execution Petition no. 349/18

درخواست بمراد ادرسی فرمانے

و عمل درآمد کرنے فیصلہ عدالت حضور مورخہ 27.02.2018 در اپیل نمبر 1050/15

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

یہ کہ مورخہ 18.09.2015 کو اپیل نمبر 1050/15 کے تحت اپیل دائر کی گئی تھی جس کا تقریباً 4 سال بعد فیصلہ آیا ہے کہ تین ماہ میں مذکورہ Department جواب دے۔ محکمہ نے نہ تو معزز عدالت کو جواب دیا اور نہ ہی من سائل کو بتایا گیا جو کہ توہین عدالت ہے۔ (نقل عدالتی فیصلہ لف ہے)

یہ کہ اس کے علاوہ ہیلتھ ڈیپارٹمنٹ میرے ساتھ سو تیلی ماں کا سلوک کر رہی ہے اور میرے ساتھ ساتھ جنہوں نے عدالت میں اپیل کی تھی ان کو ہیلتھ ڈیپارٹمنٹ نے BPS-17 دے دیا ہے جبکہ اس میں عمر خان میری طرح ریٹائرڈ ہو چکا ہے۔ سیکرٹری ہیلتھ اور ڈی جی ہیلتھ صاحبان کے آرڈرز درخواست ہذا کے ساتھ لف ہیں۔

لہذا آپ صاحبان سے التماس ہے کہ من سائل کو بھی BPS-17 اور ان کی طرح مجھے بھی بقایا جات کی ادائیگی کئے جائیں۔ سائل تازہ دست دعا گو رہے گا۔

المرقوم: 27.09.2018

ارض \_\_\_\_\_ Sakhiullah \_\_\_\_\_

سخی اللہ (سابقہ: کلینکل ٹیکنیشن، خیبر ٹیچنگ ہسپتال) پشاور

رابطہ نمبر: 0304-5272679



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**APPEAL NO. 1050/2015**

K.P. Province  
Service Tribunal  
Entry No. 1091  
Dated 18-9-15

Mr. Sakhiullah, Ex: Clinical Technician (Pharmacy),  
R/O House No.804, Sector F-8, Phase No.6, Hayatabad, Peshawar.

**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 15.3.2010 WHEREBY JUNIORS TO APPELLANT HAS BEEN PROMOTED TO THE POST OF CLINICAL TECHNOLOGIST (BPS-17) WHILE THE APPELLANT THE APPELLANT HAS BEEN IGNORED INSPITE OF ELIGIBILITY AND SENIORITY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

Filed to-day

18/9/15

**PRAYER:**

That on acceptance of this appeal the impugned order dated 15.3.2010 may very kindly be modify to the extent that the appellant may also be allowed pro forma promotion to the post of Clinical technologist (BPS-17) from that vary date i.e. 15.3.2010. Any other remedy which this august Tribunal deems fit may also be awarded in favor of appellant.

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant having the requisite qualification for the post of Technician was appointed in the respondent Department as Dispenser/Technician (BPS-05) on the recommendations of proper Departmental Selection Committee vide order dated 25.3.1974. That in response to the appointment order



Sr. No. Date of order/proceeding

2

Order or other proceedings with signature of Judge or Magistrate

3



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**Appeal No. 1050/2015**

Date of Institution ... 18.09.2015

Date of Decision ... 27.02.2018

Mr. Sakhi Ullah, Ex: Clinical Technician (Pharmacy), R/O House No.804, Sector F-8, Phase No.6 Hayatabad, Peshawar.

**Appellant**

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa Peshawar.
2. The Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Khyber Pakhtunkhwa, Peshawar.
4. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

**Respondents**

27.02.2018

**JUDGMENT**

**MUHAMMAD HAMID MUGHAL, MEMBER:** Learned

counsel for the appellant present. Mr. Zia Ullah, learned Deputy District Attorney for the respondents present.

2. The appellant has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 for proforma promotion to the post of Clinical Technologist (BS-17) from the date 15.03.2010 when juniors to the appellant were promoted to the post of Clinical Technologists (BS-17).

3. Learned counsel for the appellant contended that earlier in the year 2010 the appellant filed service appeal bearing No.1696/2010 for promotion to BS-16 from the date his juniors were promoted and

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

on the acceptance of the said service appeal vide judgment dated 19.01.2012 the appellant was promoted to the post of Chief Clinical Technician (Pharmacy) BS-16 w.e.f 11.03.1998 vide order dated 12.12.2013. Further argued that on 14.03.2011 the appellant attained the age of superannuation, however on 15.03.2010 juniors to the appellant were promoted to the post of Clinical Technologist (BS-17), hence the appellant has every right of proforma promotion to the said post of BS-17. Further argued that respondent No.4 also prepared working paper and sent the case to respondent No.1 for consideration of promotion case of the appellant from BS-16 to BS-17 from retrospective date from where erstwhile juniors to the appellant were promoted, but the same was not responded and finally the appellant filed departmental appeal dated 26.05.2015 which appeal was also not replied. Learned counsel for the appellant stressed with vehemence that the appellant is entitled to proforma promotion to BS-17.

4. As against that learned DDA resisted the present service appeal and argued that the appellant has not preferred any departmental appeal for promotion to BS-17. Further argued that the appellant in his earlier service appeal bearing No.1696 of 2010 had not made any prayer for promotion to BS-17 and then at the belated stage, after attaining the age of superannuation, the appellant has filed the present service appeal for promotion to BS-17.

5. Nothing found available on record that the departmental appeal dated 26.05.2015 of the appellant for promotion from BS-16 to BS-

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar.

17 was examined by the departmental authority as no order of the departmental authority is available on file.

6. In the stated circumstances this Tribunal is of the considered view to remit the case of the appellant to the appellate authority with the direction to examine the case of the appellant and to decide his departmental appeal dated 26.05.2015 with speaking order within a period of three (03) months of the receipt of this judgment. The present appeal is disposed of accordingly. Parties are left to bear their own costs. Copy of record of the present case, including the departmental appeal of the appellant dated 26.05.2015, working paper prepared by respondent No.4 along with covering letter of respondent No.4 dated 13.01.2015 and copy of this judgment be sent to appellate authority/respondent department. File be consigned to the record room.

ANNOUNCED  
27.02.2018

SD/- M. Hamid Mughal  
Member

SD/- Gulzeb Khan  
Member

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 13-03-2018  
Number of Words 1600  
Copying Fee 10.00  
Urgent 2.00  
Total 12.00  
Name of Copyist [Signature]  
Date of Completion of Copy 13-03-2018  
Date of Delivery of Copy 13-03-2018

**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR.**

All communications should be addressed to the Director General  
Health Services Peshawar and not to any official by name.  
Exchange-Ph: 091-9210187 - Fax: 091-9210130 Web: www.healthkp.gov.pk



No. 7670 /AE-VI Dated 19 /06/2017

To,

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

Subject: PROMOTION TO THE POST OF CLINICAL  
TECHNOLOGIST (PHARMACY) BS-17.

Dear Sir,

Kindly refer to the subject noted above and to submit four (4) copies of  
working papers alongwith its relevant document regarding promotion of Mr.  
Sakhiullah Ex-Chief Clinical Technician (BS-16) to the post of Clinical  
Technologist (Pharmacy) BS-17 from the retrospective date i-e-w-e-f 15-03-2010  
to 14-03-2011.

*Shabina*  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

*27/6/17*

*u/a* *pl*  
*HD*

*DS-11*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar the 29<sup>th</sup> August, 2016

**NOTIFICATION.**

**No. SOH-III/1-45/2016.** In pursuance of decision of the meeting held on 07-04-2016 and verification of the availability of the posts from Director General, Health Services, the following PHC Technician (M.P) BS-12 & 14 are upgraded to the post of Chief PHC Technician (M.P) BS-16 & PHC Technologist (M.P) BS-17 respectively w.e.from 11-05-2012 with pay protection in the public interest.

S.No.	Name with Father's Name	Upgraded	Remarks
1	Mr. Umar Khan PHC Technician (M.P) BS-14	PHC Technologist (M.P) BS-17	Now retired from service on 19-12-2014.
2.	Mr. Zari Badshah	Chief PHC Technician BS-16	-do-
3	Mr. Jamil-ur-Rehman PHC Technician (M.P) BS-12.	Chief PHC Technician (M.P) BS-16	-do-

**SECRETARY HEALTH  
KHYBER PAKHTUNKHWA**

**Endst: Even No & Date.**

Copy to the:-

1. The Director General, Health Services, Khyber Pakhtunkhwa, Peshawar with the direction to post them against the vacant positions under intimation to this department at the earliest.
2. The District Accounts Officers, concerned.
3. The District Health Officers, concerned.
4. The Section Officer-II, Health Khyber Pakhtunkhwa.
5. Deputy Director (IT), Health Department, Peshawar.
6. PS to Minister for Health, Khyber Pakhtunkhwa.
7. PS to Secretary Health, Khyber Pakhtunkhwa.
9. Officials concerned.

**(MUHAMMAD TARIQ)**  
Section Officer (E-III)



**GOVT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

Dated Peshawar the 30<sup>th</sup> September, 2019

**Office Order**

**No. SOH-III/10-4/2018** WHEREAS Mr. Sakhiullah Ex-Chief Clinical Technician BS-16 filed a departmental appeal requesting for his promotion to BS-17 dated 26-05-2015, which was processed and regretted.

2. AND WHEREAS feeling aggrieved the appellant filed service appeal before Khyber Pakhtunkhwa Service Tribunal vide appeal No. 1050/2015.

3. AND WHEREAS the Honorable Service Tribunal remanded the case of the appellant with the direction to examine the case of the appellant and to decide to department appeal dated 26-05-2015 within period of 3 months of the judgment.

4. AND WHEREAS the same appeal was processed again and regretted being hopelessly time barred as the appellant got retired on 14-3-2011 while requesting for his promotion in 2015 and accordingly the same was conveyed to Director General Health Services vide Health Department letter of even No. 21<sup>st</sup> March, 2018.

5. Now therefore, in implementation of execution petition No. 349/18 the subject appeal of the petitioner stand regretted being time barred and devoid of merit.

**SECRETARY HEALTH  
Govt. of Khyber Pakhtunkhwa**

**Endst even No & date.**

Copy forward to the:

1. Director General Health Services Khyber Pakhtunkhwa.
2. Registrar Service Tribunal, Khyber Pakhtunkhwa.
3. Additional Advocate General Service Tribunal, Khyber Pakhtunkhwa.
4. Deputy Secretary Litigation, Health Department.
5. Section Officer-II, Health Department.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. PA to Additional Secretary Health Khyber Pakhtunkhwa.
8. PA to Deputy Secretary (Drug) Health Department.
9. Officers concerned

  
Section Officer-III



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

No. SOH-III/10-4/2018(Sakhiullah)  
Dated the Peshawar. 21<sup>st</sup> March, 2018

To

The Director General,  
Health Services Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: **PROMOTION TO THE POST OF CLINICAL TECHNOLOGIST (PHARMACY)  
BS-17.**

I am directed to refer to your letter No. 7670/AE-VI, dated: 14-06-2017 on the subject noted above and to state that subject case in respect of Mr. Sakhiullah, Ex-Chief Clinical Technician (Pharmacy) BS-16, MTI, KTH, Peshawar has been regretted by the competent authority on the following grounds:-

1. The official concerned has already retired from service w.e.from 14-3-2011 on attaining the age of superannuation.
2. The subject case is hopelessly time barred.

  
Section Officer-III

**Endst: even no & date.**

Copy forwarded to:-

1. Mr. Sakhiullah, Ex- Chief Clinical Technician (Pharmacy) BS-16, MTI, KTH, Peshawar w/r to his application for information.
2. PS to Secretary Health, Khyber Pakhtunkhwa.
3. PS to Special Secretary Health, Khyber Pakhtunkhwa.

  
Section Officer-III