

Service Appeal No. 522/2022


06.02.2023

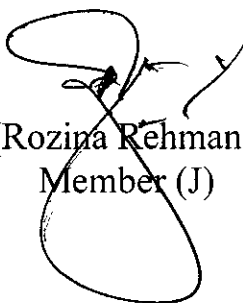
Bashir Khan Wazir, Advocate for the appellant present. Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Learned counsel for the appellant requested for withdrawal of the instant service appeal on the ground that the salaries of the appellant have been released and his grievances have been redressed. In this regard, his signature was obtained on the margin of the order sheet.

In view of the above, instant service appeal is dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.02.2023


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

I want to withdraw my case as the salaries of the appellant has been release by the competent authority



02.12.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

File to come up alongwith connected Service Appeal bearing No. 7803/2021 titled "Saleem Ullah Versus Director General Health Services, Khyber Pakhtunkhwa, Peshawar and 02 others", on 20.01.2023 before the D.B.



(Salah-Ud-Din)
Member (J)


20.01.2023

Counsel for the appellant present.


SCANNED
KPST
Peshawar

Muhammad Jan learned District Attorney for the respondents present.

File to come up alongwith connected Service Appeal No. 7803/2021 titled "Saleem Ullah Vs. Health Department" on 06.02.2023 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

SCANNED
KPST
Peshawar

Service Appeal No. 529/2022

Mr. Kifayat Ullah S/O Asmat Khan, Chowkidar (BPS-03), DHO Office North Waziristan.....(Appellant)

Versus

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. District Health Officer, District North Waziristan.

.....(Respondents)

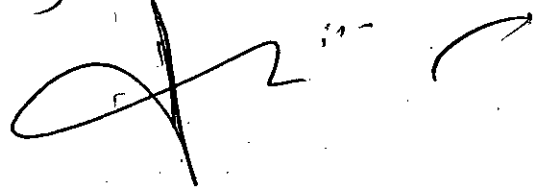
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S.#	Particulars	Annexure	Page
1	Para-wise Comments.		1-3
2	Letter No. 5083-165/ Personnel dated 04.04.2020.	A	4
3	Letter No.SOH (E-V)4-4/2021/Inquiry Report dated 22.04.2021.	B	5
4	Writ Petition No.270-B/2020.	C	6-8
5	Affidavit		9
6	Authority letter.		10

Respondent No. 2.

DHO North Waziristan

*Vetted in the light of S.A. No. 781/2021 do follow
the same instructions being identical matter*



①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 529/2022

Mr. Kifayat Ullah S/O Asmat Khan, Chowkidar (BPS-03), DHO Office North Waziristan.....(Appellant)

Versus

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
 2. District Health Officer, District North Waziristan.
-(Respondents)

Joint Para-wise comments on behalf of respondents No. 1 & 2.

Preliminary objections.

1. That the appellant has got neither cause of action nor did 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 and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention, hence liable to be dismissed.
6. That the appellant has not come to the Honorable Tribunal with clean hands.
7. That the Honorable Tribunal has no jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. That the appeal is badly barred by law and limitation.
10. That the appellant is not "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan by producing fake, bogus and fabricated appointment order.

ON FACTS:-

1. Correct:- That pertains to record and Para No.1 needs no comments.
2. Incorrect:- Neither advertisement for the post of Ward Orderly has been given by the respondents nor any interview has conducted due to complete

ban on recruitments. Moreover the appointment order of the appellant carry dispatch No.8256-60 /app: dated 08.03.2021 is also fake, bogus and fabricated, as verified from the dispatched Register of respondent No.2 (Ban letter is attached as Annexure-A).

- 3. Incorrect:- No official process for appointment has been initiated or carried out in the offices of the answering respondents for, the appointment of the appellant.
- 4. Incorrect:- The appellant has never been appointed by the respondents. As for as the complaint of Minister is concern that was received regarding the appointment of 71 persons. Name of the appellant was not included in those 71 appointees. Moreover, the fake, bogus and fabricated appointment order of the appellant has been issued on 02.07.2020, while complaint of the Minister was lodged on 17.02.2020 long before fake appointment of the appellant.
- 5. Incorrect and misleading, as the appellant has never been legally appoint by the answering respondents. Moreover his bogus appointment order was cancelled in compliance with Secretary to Government of Khyber Pakhtunkhwa Health Department letter No. SOH (E-V) 4-4/2021/Inquiry Report dated 22.04.2021 and Director General Health Services Khyber Pakhtunkhwa Peshawar endorsement No.7047-50/E-I dated 06.05.2021 (Attached as Annexure-B), in the light of enquiry conducted by Provincial Inspection Team.
- 6. Incorrect:- Salary of the appellant was stopped due to cancellation of his fake appointment order as explained in preceding Para. As far as the complaint is concerned, that pertained to order 71 employees and the appellant was not included. As far as directions of Peshawar High Court, Bannu Bench are concerned, name of the appellant was not included in Writ Petition No.270-B/2020 as Petitioner (Writ Petition No.270-B/2020 is attached as Annexure-C).
- 7. Incorrect, misleading as already explained in preceding Paras.
- 8. Incorrect:- That no Departmental appeal of the appellant has been received till date.
- 9. Incorrect and misleading:- The appellant had never been appointed lawfully and his fake appointment order was cancelled as explained in preceding Paras.
- 10. Needs no reply being formal.

ON GROUNDS:-

- A) Pertains to record.
- B) Incorrect:- Personal hearing opportunity was given to the appellant by inquiry committee of PIT.
- C) Incorrect:- The fake appointment order of the appellant was cancelled in the light of recommendation of enquiry committee of PIT as already explained in preceding Paras.
- D) Incorrect:- As explained in the above Paras.
- E) Incorrect:- Answering respondents never violated fundamental rights of the appellant, but action taken in connection with safeguarding Government Treasury from unlawful losses is lawful responsibility of all the respondents.
- F) Incorrect as already explained in the above Paras.
- G) Incorrect as already explained in the above Paras.
- H) Incorrect:- The appellant was never appointed lawfully.
- I) The answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may kindly graciously be dismissed with costs.

Shahen Afendi
Director General Health Services
Khyber Pakhtunkhwa Peshawar.
Respondent No.1

[Signature]
District Health Officer
North Waziristan Miranshah
Respondent No.2

49 January 10:22 am

4



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

(Annexure-A)

No. So.83/1651 Personnel Dated: 4/1/2020

To,

All District Health Officers
Merged Areas in Khyber Pakhtunkhwa.

All Medical Superintendents
DHO Hospital Merged Areas in Khyber Pakhtunkhwa.

All Deputy District Health Officers
MR Merged Areas Khyber Pakhtunkhwa.

Subject: **BAN ON RECRUITMENT.**

Reference to the subject noted above.

You are hereby directed that all kind of recruitment process in the merged areas in your control has been stopped with immediate effect till further order as approved by the Competent Authority.

The above instructions should be followed in letter & spirit.

Ali
DIRECTOR GENERAL HEALTH SERVICES, K.P. PESHAWAR

No. _____ / Personnel

Copy forwarded to the:-

1. PS to Minister for Health, Khyber Pakhtunkhwa
2. PS to Secretary to Government of Khyber Pakhtunkhwa Health Department, Peshawar
3. PA to Director General Health Services, Khyber Pakhtunkhwa

DIRECTOR GENERAL HEALTH SERVICES, K.P. PESHAWAR

Attested

District Health Officer,
Tribal Districts North Waziristan
W. Shah

Scanned with CamScanner



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P=9

(Annexure-B)

5

(Annexure-B)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NO. SOH(E-V)4-4/2021 Inquiry Report
Dated Peshawar the April 22nd, 2021

To: The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar

4136
27/4/21

Subject: **REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN**

Dear Sir, I am directed to refer to the subject noted above and state that the Establishment & Admin Department (Regulation Wing) has submitted Inquiry Report of Khyber Pakhtunkhwa Provincial Inspection Team regarding illegal appointment/regularization made by Dr. Hameedullah, Ex-DHO North Waziristan. The following recommendations may be implemented:-

1. Cancel/ withdraw all the irregular adjustments/ regularizations and appointment of the employees during the tenure of Dr. Hameedullah and Dr. Israr ul Haq, Ex-DHO, North Waziristan as indicated in the inquiry report.
2. The credentials/ antecedents of all the employees working under the administrative control of DHO, North Waziristan may be verified from the concerned Boards/ Universities/ Faculties under the prevailing rules.
3. The clerical staff working in the office of DHO, North Waziristan were found involved in concealment of the office record for their vested interest, therefore, they may be transferred out of District of North Waziristan and must never be posted in North Waziristan in future.

I am, further directed to state that the above mentioned recommendations may be implemented under intimation to this Department, please.

Yours faithfully,

(Signature)
(Latif Ur Rehman)
SECTION OFFICER (E-V)

E.I.
(Signature)

IMPORTANT/URGENT

OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

7047-50/E.I

Dated: 26/05/2021

Copy of the above is forwarded to the:-

1. Deputy Director Paramedics DGHS Office Khyber Pakhtunkhwa, Peshawar.
2. AD/In-charge (Personnel Section) DGHS KP, Office.
3. The District Health officer North Waziristan Merged District at Miranshah.

For information and immediate necessary action.

(Signature)
ADDL: DIRECTOR GENERAL (HRM) HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

(Signature)

To:- Secretary to Govt: of Khyber Pakhtunkhwa Health Department for inform

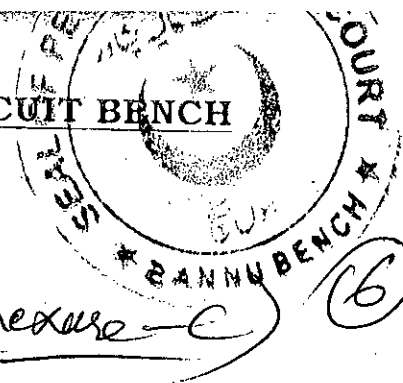
(Signature)

(Signature)

(Signature)
District Health Officer,
Tribal District North Waziristan
Miranshah

(Signature)
District Health Officer,
Tribal District North Waziristan
Miranshah

**BEFORE THE PESHAWAR HIGH COURT, CIRCUIT BENCH
BANNU**



Writ Petition No 270-B of 2020

1. Yasir Iqbal S/o Habib Nawaz R/o Village Hurmaz, Tehsil Mir Ali, District North Waziristan.
2. Ali Johar Iqbal S/o Muhammad Iqbal R/o Village Hurmaz, Tehsil Mir Ali, District North Waziristan.
3. Zubair Ali S/o Hazrat Ali R/o Village Hurmaz, Tehsil Mir Ali, District North Waziristan.
4. Miss. Sania Bibi D/o Arsala Jan R/o Village Hurmaz, Tehsil Mir Ali, District North Waziristan.
5. Nasir Ahmad Khan S/o Zafar Ali R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
6. Asif Ali S/o Noor Ali Jan R/o Village Karamkot, Tehsil Miran Shah, District North Waziristan.
7. Miss. Nothia Bibi D/o Ameer Ullah R/o Village Ghazlamai, Tehsil Datta Khel, P.O Boya, District North Waziristan.
8. Fida Hussain S/o Mir Ghulam R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
9. Muhammad Imran S/o Atta Ullah Jan R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
10. Wasiq Ullah S/o Muhammad Abdul Hai R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
11. Miss. Bas Niaza D/o Muhammad Noshar Khan R/o Village Mussaki, Tehsil Mir Ali, District North Waziristan.
12. Hussain Ahmad S/o Haider Ali R/o Village Hurmaz, Tehsil Mir Ali, District North Waziristan.

Filed Today
25/1/2022
Additional Registrar

Attested
District North Officer,
Tribal District North Waziristan

ATTESTED

- 13. Muhammad Israr S/o Saadullah Jan R/o Village Hamzoni, Patti Khel, Tehsil Miran Shah, District North Waziristan.
- 14. Niamat Ullah S/o Syed Khan Majan R/o Village Danday, Saidgai, Zakir Khel, Tehsil Ghulam Khan, District North Waziristan.
- 15. Tahir Iqbal S/o Malik Zaman R/o Village Mussaki, Tehsil Mir Ali, District North Waziristan.
- 16. Asad Aziz S/o Muhammad Farooq R/o Village Tappi, Tehsil Miran Shah, District North Waziristan.
- 17. Muhammad Abdullah S/o Muhammad Shahid R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
- 18. Muhammad Zamin S/o Abdul Sattar R/o Village Issori, Tehsil Mir Ali, District North Waziristan.
- 19. Miss. Hajra Naz D/o Latif Ullah R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
- 20. Akmal Khan S/o Abdullah Qayyum R/o Village Darpa Khel, Tehsil Miran Shah, District North Waziristan.
- 21. Shoukat Ullah S/o Yaqoob Khan R/o Village Zirraki, Tehsil Mir Ali, District North Waziristan.
- 22. Wali Rehman S/o Pir Rehman R/o Village Khushali, Tehsil Mir Ali, District North Waziristan.
- 23. Azmat Ullah S/o Raees Khan R/o Village Khushali Malik Khel, Tehsil Mir Ali, District North Waziristan.
- 24. Muneeb Rehman S/o Zari Jan R/o Village Hassu Khel, Tehsil Mir Ali, District North Waziristan.
- 25. Wali Ullah S/o Muhammad Rafiq R/o Village Hamzoni Ali Khel, Tehsil Miran Shah, District North Waziristan.
- 26. Nasir Azam S/o Noor Azam Jan R/o Village Danday Bora Khel, Tehsil Miran Shah, District North Waziristan.

Attested

District Health Officer,
 Tribal District North Waziristan
 Miran Shah
 Filed Today
 25 FEB 2020

ATTESTED

27. Miss Rizwana Sadiq D/o Muhammad Sadiq R/o Village Dawar Tappi, Tehsil Miran Shah, District North Waziristan.
28. Muhammad Alim Shah S/o Muhammad Karim Shah R/o Village Edak Khadi, Tehsil Mir Ali, District North Waziristan.
29. Ameer Mehmood S/o Hayat Khan R/o Village Dawir Banda, Tehsil Miran Shah, District North Waziristan.

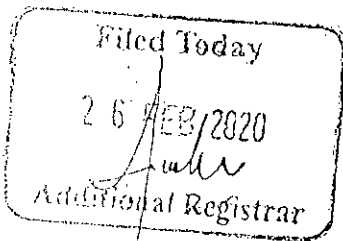
.....PETITIONERS

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Director Health Services, Merged Areas, Peshawar.
2. District Health Officer, District North Waziristan.
3. District Accounts Officer, District North Waziristan.
4. Muhammad Iqbal Khan Wazir, DDAC Chairman/Member, Provincial Assembly PK-111.

.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 AS
AMENDED UP-TO DATE.



Attor

Respectfully Sheweth:-

The Petitioners humbly submit as under:-

District Health Officer,
Tribal District North Waziristan
Miran Shah

ATTESTED

EXAMINER

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

Service Appeal No. 529/2022

Mr. Kifayat Ullah S/O Asmat Khan, Chowkidar (BPS-03), DHO Office North Waziristan.....(Appellant)

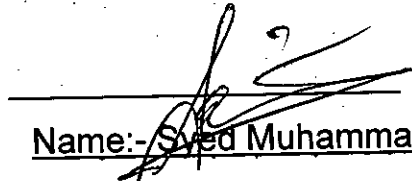
Versus

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. District Health Officer, District North Waziristan.(Respondents)

AFFIDAVIT.

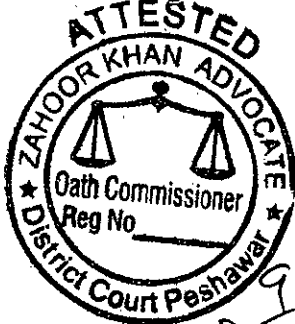
I Mr.Syed Muhammad Litigation Assistant do affirm & declare on oath on behalf of the respondents that the contents of the Para wise comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this honourable Court.

Deponent


Name:- Syed Muhammad.
Designation:- Litigation Assistant.
CNIC #. 21506-4089120-5
Mob:0333-1901113

Attested

Oath Commissioner
Advocate High Court



Handwritten signature/initials

(10)

OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH.

Tel: (0928) 300788 FAX: (0928) 311662 Email: agencyurgeonwtd2019@gmail.com

No. /Litigation/Court Case, Dated Miranshah the 23/08/2022.

AUTHORITY LETTER.

Mr. Syed Muhammad Litigation Assistant attached to this office is hereby fully authorized to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned as representative of Health Department North Waziristan Tribal District in Service Appeal No. 528/2022.

N.B:- TA/DA will be paid by this office as per Government rules.

SD/x x x
District Health Officer,
North Waziristan Tribal District.

No. 7554-55 /Litigation/Court Case,
Copy forwarded to:-

1. The Additional Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Mr. Syed Muhammad Litigation Assistant of this office.

District Health Officer,
North Waziristan Tribal District.




07.04.2022

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was appointed as Radiographer (BS-12) on recommendations of Departmental Selection Committee vide office order dated 31.12.2019. On a complaint received in the respondent-department, an enquiry was conducted against DHO North for 71 illegal appointments in Tribal District of North Waziristan. As a result thereof pay of the appellant was initially stopped verbally and cancelled/withdrawn his appointment order vide impugned order dated 06.08.2021 but communicated to the appellant on 23.11.2021. He preferred departmental appeal on 25.11.2021 which was not decided within the stipulated statutory period, hence, the instant service appeal was filed on 25.03.2022.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 09.06.2022 before S.B.



(Mian Muhammad)
Member(E)

09.06.2022

Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Usman Assistant for respondents present.

File to come up alongwith connected Service Appeal No.424/2022 titled Mst. Sadia Vs. Government of Khyber Pakhtunkhwa on 26.07.2022 before S.B.


(Rozina Rehman)
Member (J)

Rs-400/-
Appellant Deposited
Security & Process Fee

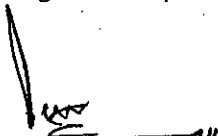
A. M. M. M. M.
13/4/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ **430/2022**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/03/2022	<p>The appeal of Mr. Nasir Ahmad presented today by Mr. Bashir Khan Wazir 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 Single Bench at Peshawar for preliminary hearing to be put up there on _____.</p> <p style="text-align: right;">CHAIRMAN</p>
2-		

The appeal of Mr. Kifayat Ullah, Chowkidar, DHO Office North Waziristan received today i.e. on 25.03.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Counsel for the appellant has impugned the order dated 06-08-2021 wherein appointment have been withdrawn/cancelled of those employees who were appointed during the period of Dr. Hamid Ullah and Dr. Israr Ullah Haq, Ex-DHO (s) North Waziristan while appellant was appointed by Dr. Ikram Ullah meaning thereby that there is no impugned cancellation order in respect of present appellant, proper impugned order be placed on file.

No. 807 /S.T,

Dt. 30-3- /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Bashir Khan Wazir Adv. Pesh.

objection Removed

In response of objection no-1 it is submitted that though the impugned order dated 06-08-2021 was issued by the respondent no-2, in the light of an inquiry, whereby the services of the employees appointed during the tenure of doctor Israr-ul-haq and doctor Hameed ulah, though the appointment of the appellant was not issued by the above mentioned doctors however the respondent no-2 with mala fide intention considered the appellant being dismissed from service in the light of impugned order while stopped salaries of the appellant.


08-04-2022

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Case Title: علاجی CHECK LIST vs کمیٹی ایف

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

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

Name: Bashir Khan adv.
 Signature: [Signature]
 Dated: 25/3/2022

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

Service Appeal No 522/2022

**Kifayat Ullah.....Appellant
VERSUS**

Director General Health Services & others ...Respondents

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
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2.	Affidavit	-	5
3.	Application for Suspension	-	6
4.	Affidavit	-	7
5.	Copy of the Appointment Order	A	8
6.	Copies of the Order and Complaint	B	9-10
7.	Copy of letter dated 26.08.2020	"C"	11
8.	Copy of the order dated 05.08.2021	"D"	12
9.	Copy of the Impugned Order dated 06.08.2021	"E"	13
10.	Copy of Departmental Appeal along with receipts	"F"	14-15
11.	Wakalat Nama		16

کفایت اللہ

Appellant

Through:

(BASHIR KHAN WAZIR)

Advocate,
High Court, Peshawar

Dated:- 24.03.2022

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

Service Appeal No 522/2022

Kifayat Ullah.....Appellant

VERSUS

Director General Health Services & others ...Respondents

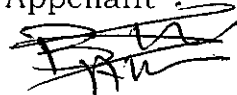
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10.	Copy of Departmental Appeal along with receipts	"F"	14-15
11.	Wakalat Nama		16



Appellant

Through:



(BASHIR KHAN WAZIR)

Advocate,

High Court, Peshawar

Dated:- 24.03.2022

①

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

Service Appeal No 522/2022

Disty No. 489

Kifayat Ullah S/o Asmat Khan, Chowkidar (BPS-03), DHO Office North
Waziristan

Dated 25/3/2022

.....Appellant

VERSUS

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Health Officer, District North Waziristan.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST
THE IMPUGNED ORDER DATED 06.08.2021, VIDE OFFICE
ORDER NO 13024/DHO NWTD WHICH WAS RECEIVED TO
THE APPELLANT ON 23.11.2021, ISSUED BY THE
RESPONDENT NO 2 WHEREBY THE APPOINTMENT OF THE
APPELLANT HAS BEEN CONSIDERED CANCEL /
WITHDRAWN AND CONSEQUENTLY THE SALARIES OF THE
APPELLANT HAS BEEN STOPPED / WITHHOLD AGAINST
WHICH THE DEPARTMENTAL APPEAL VIDE DATED
25.11.2021 FILED, BUT INSPIE OF THE COMPLETION OF
MANDATORY PERIOD OF THE DEPARTMENTAL APPEAL,
NO ORDER HAS BEEN PASSED.**

Prayer in Appeal:

On acceptance of the instant Appeal, the Impugned Orders when initially the salaries of the Appellant was stopped/withheld since 1st August 2021 verbally and later on a written impugned Order No. 13024/DHO NWTD dated 06.08.2021, which was communicated to the Appellant on 23.11.2021, issued by the Respondent No 2 on the basis of which the Appointment of the Appellant being considered cancelled / withdrawn, the impugned order dated 06.08.2021 and withholding of salaries of the Appellant may kindly be set aside and consequently the Appellant may kindly be reinstated / restored into his service with all back benefits.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

That the Appellant is peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973..

2. That briefly stated the fact relevant for the purpose of this Appeal are that, the Respondents had advertised number of posts, which were laying vacant in District Health Office, North Waziristan, the Appellant was being qualified and eligible candidate applied for the post as per his qualifications.
3. That after fulfillment of all codal formalities, as the vacant posts were advertised and invited applications from the eligible and suitable Applicants, the Appellant accordingly submitted his Application as well as his academic qualifications and as per the prevailing SOPs of the provincial Government for making

Filed to-day
W.
Registrar
25/3/2022

inductions in respect of the subject posts, the process for selection was initiated by verification of the degrees of the candidates who applied for these posts. In this respect a property selection Committee was constituted. The Committee so constituted duly interviewed the candidates and after following the process of law/ rules, the successful candidates were issued the Appointment letters. **(Copy of the Appointment Order is attached as annexure A)**

4. That whenever the competent authority as well as the Selection Committee have been appointed the Appellant on his respective posts, after adopting all the codal formalities, meanwhile the political figure as Minister for Relief and Rehabilitation MR. Iqbal Khan Wazir while using his good office forwarded a letter with the subject **“Complaint against illegal appointments made by DHO North Waziristan without fulfilling of codal formalities / bogus diploma holders”**, and directed the District Account Officer District North Waziristan to stop the salaries of 71 Appointees in the DHO North Waziristan Office and it was alleged that their appointments have been made without compliance of codal formalities and the appointees are holding bogus degrees vide letter dated 20.02.2020, the District Account Officer has been requested for the investigation of the matter in question and further the pay and allowances of the Appellant has been requested to be stopped till the finalization of the complaint filed by the Minister Concerned. **(Copies of the Order and Complaint are attached as annexure B)**
5. That some of the aggrieved employees approaches the Hon'ble Peshawar High Court Bannu Bench, whereby the salaries those employees have been ordered to be released forthwith, thereafter the political person as mentioned above Minister for Relief and Rehabilitation again interfered in the same matter, while issued another letter from his letter head to the Minister of Health, whereby he has requested for interference in the official work and the Minister of Health has been compelled to constitute another inquiry on the subject matter vide letter dated 26.08.2020. **(Copy of letter dated 26.08.2020 is attached as annexure C)**
6. That the Respondent No 2 without keeping in view the above mentioned record once again stopped the salaries of the Appellant on the personal grudges with the collusion of Minister concerned, thereafter the Appellant along with others preferred a combined Appeal to the Respondent No 2 which was forwarded through his endorsement letter dated 05.07.2021 to the Respondent No 1, accordingly the Respondent No 1 accepted the Appeal of the Appellant vide letter dated 05.08.2021 and realized that the case of the Appellant does not fall in the capacity of the letter mentioned above and the Respondent No 2 was directed to implement the judgment of the Hon'ble Peshawar high Court Bannu Bench, vide which the salaries of the Appellant was ordered to be release. **(Copy of the order dated 05.08.2021 is attached as annexure D)**
7. That it is pertinent to mention here that as per the above mentioned direction issued by the Respondent No 1, the Respondent No 2 is bound to act accordance with the directions

issued by Respondent No 1, but he despite of the clear cut directions issued by the Respondent No 1 refused to implement the same and issued the impugned order dated 06.08.2021, which was even not communicated to the Appellant and the Appellant was kept unaware about the said letter, thereafter when the Appellant insisted for release of his salaries the Respondent No 2 while given the impugned order to the Appellant on 23.11.2021. **(Copy of the Impugned Order dated 06.08.2021 is attached as annexure E)**

8. That thereafter the Appellant filed Departmental Appeal, wherein statutory period had been elapsed and no order whatsoever has been issued. **(Copy of Departmental Appeal along with receipts are attached as annexure F)**
9. That inspite of the clear cut direction of the competent authority as Respondent No 1, the Respondent No 2 having personal grudges and for ulterior motives not following the order of the Respondent No 1 and due to which the salaries of the Appellant is being stopped without any lawful authority.
10. That feeling aggrieved from the act of Respondents, having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUNDS:-

- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That even the impugned Order has been issued without given personal hearing opportunity to the Appellant, the same act of the Authority is illegal, unlawful and without lawful authority.
- C) That no show cause notice was issued to the Appellant and due to the malaifde intention of the Respondent NO 2 the impugned order was issued just to deprive the Appellant from his valuable service.
- D) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective posts the competent authority should have in retaliation to delivered remuneration to the employee as accordance his service, while in the instant case the respondents have not yet been considered the case of the Appellantss, is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- E) That the fundamental rights of the Appellants has blatantly violated by the Respondents and the Appellants has been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- F) That the Appellants is appointed according to rules and on adopted procedure but the respondents and after his appointments he has never ever given an opportunity of any complaint to the respondents and performed his duties with full devotions, the Appellants being eligible for releasing of outstanding salaries which was illegally been retained by the respondents is illegal and violation of natural justice, because of

the fundamental rights/entitlement of the Appellants has been denied to them by the Respondents.

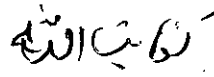
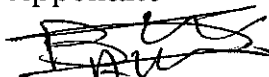
- G) That according to the articles 23 & 24 (1) of the constitution of Pakistan the property of every citizens of the Pakistan have been protected and no one could be deprived from their due rights and property, hence the entire due salaries being the fundamental right of the Appellants and the respondents is liable to be directed for releasing of the entire due salaries of the Appellants.
- H) That once the Appellants was duly appointed/posted and was allowed to join the service, after thorough verifications entries was also made in his service books, since then he is performing his duties, and after having performed his duties, he is certainly entitled to be paid his salaries, but all of sudden the respondents have been stopped the salaries of the Appellants, these acts of the respondents are illegal unlawful and liable to be declared so.
- I) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

PRAYER:-

It is, therefore, most humbly prayed that, On acceptance of the instant Appeal, the Impugned Orders when initially the salaries of the Appellant was stopped/withheld since 1st August 2021 verbally and later on a written impugned Order No. 13024/DHO NWTB dated 06.08.2021, which was communicated to the Appellant on 23.11.2021, issued by the Respondent No 2 on the basis of which the Appointment of the Appellant being considered cancelled / withdrawn, the impugned order dated 06.08.2021 and withholding of salaries of the Appellant may kindly be set aside and consequently the Appellant may kindly be reinstated / restored into his service with all back benefits.

Any other relief, not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Through:


 Appellant

(BASHIR KHAN WAZIR)
 Advocate,
 High Court, Peshawar

Dated:- 24.03.2022

CERTIFICATE:

It is certified that no such like Appeal has earlier been filed before this Hon'ble Tribunal.


DEPONENT

(5)

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

Service Appeal No _____/2022

**Kifayat Ullah.....Appellant
VERSUS**

Director General Health Services & others ...Respondents

AFFIDAVIT

I, Kifayat Ullah S/o Asmat Khan, Chowkidar (BPS-03), DHO Office North Waziristan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Kifayat Ullah
DEPONENT

(H)
Humaira Rehman Advocate
Oath Commissioner
Endst. No. 3370-75

24.10.2022

(7)

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

Service Appeal No _____/2022

**Kifayat Ullah.....Appellant
VERSUS**

Director General Health Services & others ...Respondents

AFFIDAVIT

I, Kifayat Ullah S/o Asmat Khan, Chowkidar (BPS-03), DHO Office North Waziristan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Kifayat Ullah
DEPONENT

14
Humaira Rehman Advocate
Oath Commissioner
Endst. No. 3370-75

24/03/2022

A
⑧

**OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT AT MIRANSHAH**

Tel: (0928) 300788 FAX: (0928) 311662

Email:agencyurgonnwa2019@gmail.com

OFFICE ORDER:

On the recommendation of Departmental Selection committee, Mr. Kifayat Ullah S/O Asmat Khan resident of village Mussaki Tehsil & P/O Mirali NWTD is hereby appointed as Chowkidar in BPS-03 (9610-390-21310) plus usual allowances as admissible under the rules against the existing vacant post at **Type-C Hospital Mirali** North Waziristan Tribal District in the best interest of Public services with immediate effect.

His appointed shall be on the following terms and conditions.

- 1- He is declared medically fit for this job.
- 2- His appointed shall be for a permanent basis from the date of his joining in service.
- 3- He shall be bound to serve for at least 3 years in North Waziristan Agency.
- 4- He shall not indulge in any trade, business and any other activity what so ever which has been declared prohibited for the Government Servant in Civil Servant Act: 1973.
- 5- If he wishes to resign the services a prior notice of 30 days will be submitted, otherwise one month pay should be deposited in Government treasury through challan.
- 6- He will have to serve anywhere in North Waziristan Tribal District.
- 7- Salaries should be released after the verification of all the documents by the concerned Board/Faculty etc.
- 8- He will not be entitled for any TA/DA for joining the service.
- 9- If he accepts the above terms and condition he have to report for duty to the **Type-C Hospital Mirali** within 15 days of the receipt of this offer, otherwise the order will be considered as cancelled.

Sd:XXXXXXXXXXXXXXXXXX

(Dr. Ikram Ullah)

District Health Officer

North Waziristan Tribal District

No. 4256-60 app:

dated: the 8/2 /2021

- 1- Director Health Services Merged Areas Peshawar for information please.
- 2- Deputy Commissioner North Waziristan Tribal District North Waziristan.
- 3- District Account officer Tribal District North Waziristan Miranshah.
- 4- Accounts/pay Bill Clerk of this office.
- 5- Incharge Type-C Hospital Mirali.
- 6- Official concerned.

A/C
⑧

District Health Officer
North Waziristan Tribal District



OFFICE OF THE DISTRICT ACCOUNTS OFFICER
NORTH WAZIRISTAN (TRIBAL DISTRICT) MIRAN SHAH
No. DAO/MIR/NWTD/2019-20 Dated 20/02/2020

B
(9)

①

To,

*complaint and
list of the employees*

The District Health Officer
NWTD Miran Shah.

**SUBJECT:- COMPLAINT AGAINST ILLEGAL APPOINTMENT MADE BY
DHO NORTH WAZIRISTAN WITHOUT FULFILLING CODAL
FORMALITIES/BOGUS DIPLOMA HOLDER.**

Memo,

Please refer to the letter issued by Mr. Muhammad Iqbal Khan Wazir, Minister for Relief (DDAC) chairman/Member Provincial Assembly PK 111 vide No. DDAC /MPA-PK111/2020/Health/dated 17/02/2020 on the subject cited above.

In this connection it is requested that the matter may be investigated at your end and computer change profarma may send to this office for stoppage of pay & Allowance of the employees as per list attached till the complaint to be set a side.

2. It is also pertinent to mention that as per the verbal directions of the worthy Minister that before processing fresh appointment/recruitment of any kind and of any department prior permission may be obtained from the Minister concerned.

AAH
[Signature]
District Accounts Officer
NW (Tribal District) Miran Shah

Copy forwarded to:

1. The Accounts officer (C&M) O/O the Accountant General Khyber Pakhtunkhwa Peshawar with the request to guide this office for appropriate action in the subject case please.
2. The Deputy Commissioner NWTD Miran Shah for information and necessary action please.

[Signature]
District Accounts Officer

Scanned with CamScanner



MUHAMMAD IQBAL KHAN WAZIR
(DDAC) CHAIRMAN/MEMBER
PROVINCIAL ASSEMBLY PK-111

No. DDAC/MPA-PK-111/2020/Health
Dated: The Peshawar February 17, 2020

Subject: COMPLAINT AGAINST ILLEGAL APPOINTMENTS MADE BY DHO NORTH WAZIRISTAN WITHOUT FULFILLING CODAL FORMALITIES/BOGUS DIPLOMA HOLDER

My Dear

I hope this letter of mine will find you in the best of your health.

I would like to say that District Health Officer, North Waziristan, recently made almost 73 appointments of bogus degree holders on taking bribe and without fulfilling of codal formalities.

In view of the above, the salaries of 73 appointees (list attached) may be stopped till the inquiry report is not furnished.

(Muhammad Iqbal Wazir)

District Accounts Officer,
District North Waziristan

CC

1. Deputy Commissioner, North Waziristan with the request to look into the matter personally
2. DHO North Waziristan

ATC

Handwritten marks and scribbles in the top right corner, including circled numbers and illegible scribbles.

MINISTER
RELIEF, REHABILITATION
DEPARTMENT KHYBER PAKHTUNKHWA

MOJIBAL WAZIR

Doc No: M/RS/KP/2020/1654th
Date: 12/05/2020

Subject: **REQUEST FOR INQUIRY**

My Dear,

Hope this letter of mine will find you in the best of your health.

I would like to enclose herewith a letter addressed to your good self with regard to conduct inquiry against DHO North for 71 illegal appointments in Tribal District North Waziristan (appointees list attached). It is also mention here that Mr. Amid Salim Junior Clerk is also involved in all these illegal activities and in taking bribe from these appointees.

It is also pointed out that the present DHO North Waziristan again made illegal appointments in Tribal District North Waziristan (copies attached).

In view of the above, it is requested to kindly direct the quarter concerned to conduct inquiry against DHO North Waziristan on top priority basis, please.

Yours Sincerely,

SOV

Handwritten signature and initials, including "AS (Both)" and "16/5".

Handwritten notes and signatures on the right side, including "At request of" and "with one week".

Mr. Taimoor Saleem Khan Jhagra,
Minister for Health, Khyber Pakhtunkhwa.

Copy forwarded for similar action to:-

- 1. The Secretary Health, Govt. of Khyber Pakhtunkhwa.
- 2. The Director General Health, Khyber Pakhtunkhwa.
- 3. The Director Merged Area Health, Khyber Pakhtunkhwa.
- 4. The Director Anti corruption, Khyber Pakhtunkhwa.

Handwritten signature at the bottom of the list.

ADDRESS 2ND FLOOR MINISTERS BLOCK CIVIL SECRETARIAT PESHAWAR
KHYBER PAKHTUNKHWA PH 2021 9210142



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

Office Ph# 091 - 9210269 Exchange# 091 - 9210187, 091 - 9210196. Fax #091 - 9210230
All communications should be addressed to the Director General Health Services Peshawar and not to
any official by name.

No 11864 /EV

Dated 5/8/2021

To

District Health Officer
North Waziristan (Disst: Miranshah)

Subject: REQUEST FOR IMPLEMENTATION OF THE HONORABLE PESHAWAR HIGH
COURT BANNU BENCH DECISION UNDER WP NO.270- OF 2020 DATED
18.01.2021 YASIR IQBAL ETC VS GOVT OF KHYBER PAKHTUNKHWA ETC.

Kindly reference to your letter No.11134-35 /Court Case dated 05.07.2021
on the subject noted above and to direct to implement the decision of the Honorable
Court, under intimation to this Directorate.

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

E (13)

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

**OFFICE OF THE DISTRICT HEALTH OFFICER
TRIBAL DISTRICT AT MIRANSHAH**

Tel: (0928) 300788 FAX: (0928) 311662
No. 13024 /DHO NWTD

Email: agency Surgeon nwa2018@gmail.com

Dated

06 / 08 / 2021

**The Director General Health Services
KP, Peshawar**

Subject: R/Sir,

REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN.

In compliance to your office endorsement No. 7047-50/E.I dated 06/05/2021 in response to Secretary Health Office Letter No. SOH (E-V) 4/20201/Inquiry Report dated Peshawar the April 22nd, 2021, the undersigned is pleased to cancel/withdraw all the irregular adjustment/regularization and appointment of the employees during the tenure of Dr. Hamid Ullah and Dr. Israr Ul Haq EX-DHO North Waziristan as indicated in the inquiry report with immediate effect.

[Signature] 06/08/2021
District Health Officer
Tribal District Miranshah
Dated the: 06/08/2021

No. _____ /DHO NWTD

Copy forwarded to the:

1. Deputy Commissioner Tribal District Miranshah.
2. PA to Secretary Health KP, Peshawar.
3. HQ-7 Dive Camp Area Miranshah.
4. All Officials Concerned.

ACK
[Signature]

District Health Officer
Tribal District Miranshah

The inquiry was conducted against 72 employees.

To,

Director General
Health Services
Khyber Pakhtunkhwa
Peshawar

Subject: APPEAL FOR RELEASE OF SALARIES STOPPED/WITHHELD SINCE AUGUST 2021 DESPITE OF THE FACT THAT I PERFORMING MY DUTY TILL DATE AND AGAINST THE ORDER DATED 06.08.2021 IS BEING INTIMATED AND RECEIVED THE SAME FROM THE OFFICE OF DHO NWTB ON DATED 23.11.2021.

Respected Sir,

I have been appointed in the office DHO NWTB by the competent authority after fulfillment of all codal formalities and working as *Ch. Wahab BPS* District North Waziristan Agency, Miran Shah, since my appointment I performing my duties with full devotion and great zeal and zest.

That I have been appointed under the proper advertisement and after appointment I assume the charge of the subject post, the present District Health Officer without issuance of any show cause notice, initially stopped my salaries since August 2021, inspite of the fact that I was working and still I am working on the subject post, but my salaries have been stopped / withheld, I visited to the office of DHO and asked about my salaries, he replied that the salaries will be released soon after. I along with my other colleagues when disregarded by the DHO intimated the matter to your good office, in response of your good office the DHO was directed to release of the Appellant along with other colleagues.

The concerned DHO even then neither released the salaries nor he has in position to release the same and lastly the order dated 06.08.2021 was handed over to the Appellant which was duly received on 23.11.2021, therefore I preferred this Appeal that neither the same order has been issued after fulfilling prerequisite requirements nor any intimation in respect of the said order has been given to me.

It is therefore, on acceptance of this Appeal, the entire salaries of the Appellant may kindly be order to release w.e.f withholding and the order dated 06.08.2021 may kindly be set aside.

Yours Sincerely

Dated: 25.11.2021

Ch. Wahab BPS
Ch. Wahab BPS



TRUST & LEASER TO DELIVER

15

Sales Tax Invoice

Acci / Coupon

Consignment Note No.

Org.

Dest.

470 99872539

REW

Call: 111-123-456
GST NO.
12-00-9808-002-73

Mode of Payment

Insured

Dimension

Wt. (kgs)

Pcs.

Coupon FOC COO
 Account Cash

Yes No

L(cm) W(cm) H(cm)

0.5 1

From (Shipper)

To (Consignee)

Service Type

UNI Office
DHO MRN

Kafayatulla
C.H

Overnight Holiday

Extra Sp. Same Day

Second Day

Service Charges

Phone

Phone

E-mail

Description

Weight

Handling

Other

GST

INSURANCE PREMIUM

PICKUP INFORMATION

Courier Code

Date

Time

TOTAL

350

Shipper's Copy

I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment note is proper legal evidence of the conclusion of contract between Shippers & TCS (PVT) LTD.

Shipper's Signature
XIC

AS PER P.O. ACT 1988, TCS WILL NOT CARRY LETTER/POST CARDS

Any suspension / complaints about services may be notified to PO Box 9 2942, Karachi-75400