

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 529/2019

Date of Institution ... 12.04.2019
Date of Decision ... 28.06.2022

Mr. Noor Islam, Class-IV (BPS-1), District Headquarter Hospital Bajaur
at Khar. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Health
Department, Khyber Pakhtunkhwa Peshawar and six others.

... (Respondents)

Noor Muhammad Khattak,
Advocate ... For appellant.

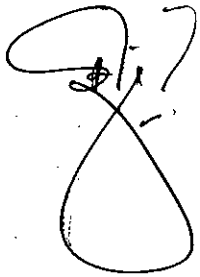
Asif Masood Ali Shah,
Deputy District Attorney ... For respondents.

Salah Ud Din ... Member (J)
Rozina Rehman ... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

“On acceptance of this appeal the respondents may kindly be directed to amend the paramedics service structure notified on 10.05.2016 to the extent of allocation of proper promotion quota for those Class-IV employees including the appellant who have the requisite qualifications for the post of Clinical Technician (BPS-12) Or the respondents may kindly be directed to adjust the appellant against the post of Clinical Technician (BPS-12) in the light of judgment of Honorable Peshawar High Court passed in W.P No.102/2011 and in light of the Notification dated 28.02.2012 issued by the respondent Department with all back benefits.”



2. Brief facts of the case are that appellant was initially appointed as Class-IV (BPS-01) in the respondent Department on the recommendation of Departmental Selection Committee vide order dated 20.07.2003. During the course of service, he acquired EPI Training Certificate and also passed Bachelor Degree from the University of Malakand. But despite having higher educational qualification, there was no prospect of promotion in the field of paramedics and for the purpose of promotion, he and his other colleagues who had Diploma in the relevant fields, requested for promotion/adjustment against the post of Clinical Technician but to no avail. His colleagues filed writ petition in the august Peshawar High Court and vide judgment dated 13.10.2011, the respondents were directed to redress the grievance within a period of one month and lastly, they were adjusted against the post of Clinical Technician vide Notification dated 28.02.2012. That the appellant being similarly placed employee of the Department also requested for his adjustment but fiasco. He, therefore, filed departmental appeal but to no avail, hence, the present service appeal.

3. We have heard Mr. Noor Muhammad Khattak Advocate, learned counsel for the appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Noor Muhammad Khattak Advocate learned counsel appearing on behalf of appellant inter-alia submitted that by not adjusting the appellant on the relevant post of Clinical Technician in the light of Notification dated 28.02.2012 is against, law facts and norms of natural justice; that the appellant was not treated by the respondent

Department in accordance with law and rules governing on the subject and as such they clearly violated Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was contended that in the light of Notification dated 28.02.2012 the appellant is fully eligible and entitled to be promoted on the post of Clinical Technician and is fully entitled to be benefitted from the said notification in the light of various judgments passed by the Apex Court. Lastly, he submitted that just like the case of those petitioners who were adjusted in the light of directions of the august Peshawar High Court, the Department may be directed to decide the departmental appeal of the appellant.

5. Conversely, learned Deputy District Attorney submitted that the appellant got Certificate of EPI Training without NOC of the Department being regular employee of the Health Department and that as per new service structures for paramedics, Diploma from the Medical Faculty of the Khyber Pakhtunkhwa is required for the post of EPI Technician, hence, the appellant being a certificate holder, is not entitled for the same post. He submitted that the Government has promulgated the rules of promotion of Class-IV employees to the post of Junior Clerk on seniority basis but there are no such rules for promotion of Class-IV Employees in the field of EPI having pay scale of BPS-12. He, therefore, requested for dismissal of instant service appeal.

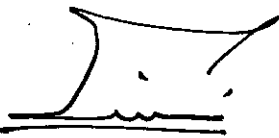
6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that appellant was appointed as Class-IV (BPS-01) and during the course of his service, he acquired the EPI Training Certification and also passed Bachelor Degree

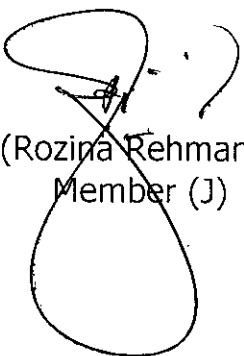
examination from the University of Malakand. It is the case of the appellant that the appellant despite having higher educational qualification as well as professional qualification of EPI Training Certificate from the Expanding Program of Immunization, Peshawar, have no prospects of promotion in the field of paramedics and according to the Paramedics Service Rules notified on 10.05.2016, no promotion quota has been allocated for those Class-IV employees who had acquired the requisite diploma from Medical Faculty of Khyber Pakhtunkhwa.

7. In the peculiar circumstances of the present case, where the grave grievances of the appellant require urgent redressal, we send the case to the departmental authority to decide the departmental appeal of the appellant for decision in writing rendering valid reasons thereof to be made within a period of two months from the date of receipt of copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

28.06.2022


(Salah Ud Din)
Member (J)


(Rozina Rehman)
Member (J)

ORDER

28.06.2022

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney

for respondents present.

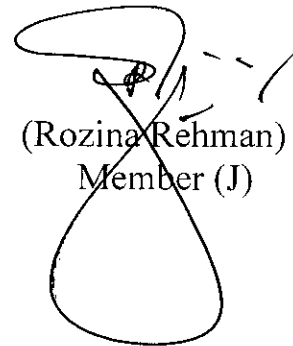
Vide our detailed judgment of today of this Tribunal placed on file, we send the case to the departmental authority to decide the departmental appeal of the appellant for decision in writing rendering valid reasons thereof to be made within a period of two months from the date of receipt of copy of judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

28.06.2022




(Salah Ud Din)
Member (J)



(Rozina Rehman)
Member (J)

10-3-22

Due to retirement of the Honorable
Chairman the case is adjourned to come
up for the same as before on 27-6-2022


Reader

27.06.2022

Appellant alongwith his counsel present. Mr. Asif Masood
Ali Shah, Deputy District Attorney for the respondents present.

Arguments heard. To come up for order on 28.06.2022
before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

24.11.2020

Due to non-availability of D.B, the case is adjourned to 04.02.2021 for the same as before.


Reader

04.02.2021

Due to COVID-19, the case is adjourned for the same on 03.05.2021 before D.B.


READER

3.5.2021

Due to COVID-19, the case is adjourned to 1-9-2021 for the same.


Reader

01.09.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Jaffar Ali, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that due to some domestic engagements, he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 30.11.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

30.11.2021

Due to non-availability of DB, the case is adjourned to 10-03-2022.


Reader

12.5.2020

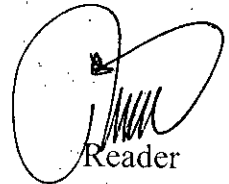
Due to COVID19, the case is adjourned to

4/8/2020 for the same as before.


Reader

04.08.2020

Due to summer vacation case to come up for the same on
05.10.2020 before D.B.


Reader


05.10.2020


Junior counsel for appellant present.

Mr. Muhammad Jan learned Deputy District Attorney
for respondents present.

Former requests for adjournment as senior counsel
for appellant is indisposed.

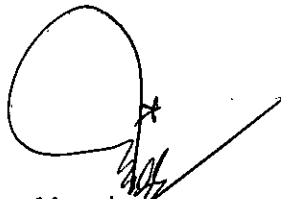
Adjourned to 24.11.2020 for arguments before D.B


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

12.03.2020

Junior to counsel for the appellant present. Asst:
AG-for respondents present. Junior to counsel for the
appellant seeks adjournment. Adjourned. To come up
for arguments on 12.05.2020 before D.B.



Member



Member

27.11.2019

Junior to counsel for the appellant and Addl. AG alongwith Danyal Ahmad, Store Keeper respondents No. 1, 4, 5, 6 and 7 and Sajid Superintendent No. 3 present.

Representative of respondents No. 1, 4, 5, 6 and 7 has furnished reply/comments on behalf of the said respondents. Representative of respondent No. 3 relies on the same. Respondent No. 2 has not furnished the requisite reply despite last opportunity. To come up for arguments on 22.01.2020 before D.B. The appellant may furnish rejoinder, within one month, if so advised.


Chairman



22.01.2020

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 12.03.2020 for further proceedings/arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

26.09.2019

Junior to counsel for the appellant present. Addl: AG alongwith Mr. Danyal Ahmad, Store Keeper for respondent no. 1,4,5,6 and 7 and Mr. Sajid, Supdt for respondent no. 3 for respondents present. Written reply on behalf of respondent no. 1,4,5,6 and 7 submitted while representative of respondent no.3 rely on the same. None present on behalf of respondent no.3. Notice be issued to him. To come up for written reply/comments of respondent no.3 on 22.10.2019 before S.B.


Member

22.10.2019

Counsel for appellant and Mr. Kabirullah Khattak, Additional AG alongwith M/S Naqeebullah, Senior Scale Stenographer on behalf of respondent No. 2 and Sohail, Assistant on behalf of respondent No. 3 present.

Written reply on behalf of respondents No. 1, 4 to 7 already submitted. Representative of respondents No. 2 requests for further time to file requisite reply/comments.

Adjourned to 27.11.2019 but as a last chance.


CHAIRMAN

24.06.2019

Counsel for the appellant and Addl: AG for respondents present. Written reply/comments on behalf of respondent not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 09.08.2019 before S.B.


(Ahmad Hassan)
Member

09.08.2019

Counsel for the appellant and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Shah Nawaz Litigation Asstt. and Muhammad Sajid, Supdt. for the respondents present.

Representatives of respondents state that the requisite reply has been prepared but is yet to be signed by the respondents. They, therefore, request for adjournment.


Adjourned to 26.09.2019 on which date the requisite reply shall positively be submitted.


Chairman

07.05.2019

Counsel for the appellant Noor Islam present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Cook (BPS-1) vide order dated 20.07.2003. It was further contended that during service he acquired diploma in Clinical Technician. Having requisite educational qualification, he made a request for adjustment/promotion to the post of Clinical Technician but of no avail. In the meanwhile new service rules notified on 10.05.2016 had not earmarked quota for promotion of Class-IV employees including the appellant. The colleagues of the appellant filed Writ Petition in the Peshawar High Court, Dar-ul-Qaza Bench, Swat and vide order dated 13.10.2011 respondent No. 3 was directed to redress the grievance of the petitioners within a period of one month. Subsequently, they were promoted as Clinical Technician (BPS-12) vide notification dated 28.02.2012. Appellant being similarly placed person was ignored by the respondents. Felling aggrieved, he filed departmental appeal (undated) which was not responded hence, the instant service appeal. It was further contended that the appellant was discriminated.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 24.06.2019 before S.B.

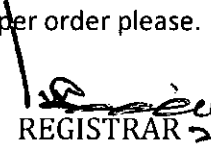


(Muhammad Amin Khan Kundi)
Member

Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 529/2019

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 25/04/2019 | <p>The appeal of Mr. Noor Islam resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/4/19</p> |
| 2- | 26/04/19 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/05/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> |

Bench of 4/1/19
087220001

The appeal of Mr. Noor Islam Class-IV District Headquarter Hospital District Bajaur at Khar received today i.e. on 12.04.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of appointment order mentioned in para-1 of the memo of appeal (Annexure-A) is not attached with the appeal which may be placed on it.
- 2- In the memo of appeal places have been left blank which may be filled up.
- 3- Departmental appeal having no date be dated.

No. 759 /S.T,

Dt. 15/4 /2019.

Noor Muhammad
Mr. Zartaj Anwar Adv. Pesh.


REGISTRAR 15/4/19
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Note:

Sir,

*All objections have been removed
hence re-submitted today dated 25/4/2019.*

[Signature]
25/4/2019.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 589 /2019

NOOR ISLAM

VS

HEALTH DEPTT:

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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 529 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 613

Dated 12/4/2019

Mr. NOOR ISLAM, Class-IV (BPS-1),
District Headquarter Hospital, District Bajaur at Khar

..... **APPELLANT**

VERSUS

- ✓1. The Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- ✓4. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- ✓5. The Director Health Services Merged Isas, Warsak Road, Peshawar.
- ✓6. The District Surgeon/Health officer, District Bajaur at Khar.
- ✓7. The Medical Superintendent, District Headquarter Hospital, Bajaur.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ADJUSTING THE APPELLANT AGAINST THE POST OF CLINICAL TECHNICIAN (BPS-12) AND AGAINST THE IMPUGNED PARAMEDICS SERVICE RULES OF THE RESPONDENT DEPARTMENT NOTIFIED VIDE DATED 10.5.2016 WHEREBY NO PROMOTION QUOTA HAS BEEN ALLOCATED FOR THE IN SERVICE CLASS-IV EMPLOYEES/APPELLANT OF THE RESPONDENT DEPARTMENT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

Filed to-day
Registrar
12/4/19

PRAYER:

That on acceptance of this Service appeal the respondents may kindly be directed to amend the paramedics service structure Notified on 10.5.2016 to the extent of allocation of proper promotion quota for those class-iv employees including appellant who have the requisite qualifications for the post of Clinical Technician (BPS-12) **OR** the respondents may kindly be directed to adjusted the appellant against the post of Clinical Technician (BPS-12) in light of the Judgment of Honorable Peshawar High Court passed in W.P No.102/2011 and in light of the Notification dated 28.2.2012 issued by the respondent Department with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

FACTS:

Brief facts which give rise to the instant appeal is as under:-

1. That appellant is the employee of the Health Department and was appointed as Class-IV (BPS-01) vide order dated 20.7.2003. Copy of the appointment order is attached as annexure **A.**
2. That the appellant is serving the respondents Department since 2003 as per their job description and during the course of his service the appellant acquired the EPI Training Certification and have also passed Bachelor Degree from the University of Malakand. Copy of Educational Testimonials is attached as annexure **B.**
3. That appellant inspite of having higher educational qualification as well as professional qualification of EPI Training Certificate from the Expanded Program on Immunization Khyber Pakhtunkhwa Peshawar have no prospects of promotion in the field of paramedics. That for the purpose of promotion the appellant and other colleagues of the appellant who have diploma in the relevant fields time and again requested for their promotion/adjustment against the post of Clinical Technician (BPS-12) but of no avail.
4. That according to the impugned paramedics service Notified on 10.5.2016 no promotion quota has been allocated for those class-iv employees including the appellant who have acquired the requisite diploma from medical faculty of Khyber Pakhtunkhwa and that is why the appellant and other CLASS-IV employees have continuously been deprived from promotion. Copy of the impugned service Rules are attached as annexure **C.**
5. That colleagues of the appellant finally knocked the door of august Peshawar High Court Dar Ul Qaza Bench in writ petition No.102/2011 titled Aziz Ur Rehman VS Govt: of Khyber Pakhtunkhwa. That vide judgment dated 13.10.2011 the august High Court Dar Ul Qaza Bench directed the respondents to redress the grievance within a period of one month. That where after those employees filed COC petition and during the pendency of the said COC petition the respondents adjusted the class-IV employees against the posts of Clinical Technician (BPS-12) vide Notification dated 28.2.2012. Copies of the judgment and memo of COC petition and Notification/letter are attached as annexure **D, E and F.**
6. That appellant being similarly placed person/employee of the respondent Department also requested the respondents for his adjustment/promotion but no reply has been received so far. That feeling aggrieved the appellant filed Departmental against the

Rules notified vide dated 10.5.2016 and against the inaction of the respondents by not adjusting the appellant against the post of Clinical Technician (BPS-12) in light of the august Peshawar High Court judgment and Notification of the respondent department. Copy of the Departmental appeal is attached as annexure **G**

7. That the appellant having no other efficacious, adequate and alternate remedy, approach this Honourable Tribunal on the following grounds amongst others.

GROUND:-

- A. That by not adjusting the appellant on the relevant post of clinical Technician (BPS-12) in light of the notification dated 28.2.2012 is against the Law, Facts, norms of natural justice and materials available.
- B. That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents are clearly violating Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C. That the respondents have not acted in accordance with law and the rules governing on the subject by not adjusting/promoting the appellant to his respective paramedic post for which he is fully eligible and entitle.
- D. That according to the notification dated 28.2.2012 already issued by the respondents the appellant is fully eligible and entitled to be adjusted/ promoted on the post of Clinical Technician (BPS-12).
- E. That, the petitioner is fully entitled to be benefited from the Notification dated 28.2.2012 in the light of various judgments passed by the Apex Supreme Court of Pakistan especially reported in **2009 SCMR page 01**.
- F. That the appellant has served the Department for a long period with unblemished service record, therefore, they have the right to be adjusted according to his qualification.
- G.** That the inaction of the respondent by not adjusting the appellant according to his qualification and not allocating proper promotion quota in the impugned service Rules dated 10.5.2016 is against Article-38 (e) of the constitution of Pakistan which enshrines **" that the state shall reduce disparity in the income and earnings of the individual including persons in the service of Pakistan"**.

H. That any other grounds will be raised at the time of arguments with prior permission of this Honourable Tribunal.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 5.4.2019

Appellant


NOOR ISLAM

Through


NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI

&

SHAH ZULLAH KHAN
Advocates High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

C.M. NO. _____/2019

IN

APPEAL NO. _____/2019

NOOR ISALM

VS

HEALTH DEPTT.

APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM APPOINTMENT ON THE
POSTS OF CLINICAL TECHNICIAN (BPS-12) TILL
THE DISPOSAL OF THIS APPEAL

R/SHEWETH:

- 1- That the appellant filed above mentioned appeal before this august service Tribunal in which no date is fixed till now.
- 2- That appellant has filed the above mentioned appeal for adjustment against the post of Clinical Technician (BPS-12).
- 3- That the respondent Department advertised the said post in daily newspaper "Aaj" vide dated 09.04.2019 in violation of law and rules.
- 4- That all the three ingredients necessary for the stay is in favor of the petitioner.
- 5- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore, humbly prayed that on acceptance of this application the respondents may very kindly be restrained from appointment against the post of Clinical Technician (BPS-12) till the disposal of this appeal.

APPELLANT


NOOR ISLAM

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

OFFICE OF THE AGENCY SURGEON BAJAUR AT KHAR

Appointment letter

Consequent upon the approval of Departmental selection committee held on 7/7/2003 and 8.7.2003.

Mr/Miss: Noorul Islam S/O Sultan Muhammad
Resident of: Bai China Tehsil Khar, Bajaur Agency.

Is hereby appointed as Cook (BPS No.01) plus usual allowances as admissible under the rules.

His/Her appointment will be subject to the following terms and conditions:-

- 1- That your appointment is on contract baiss for period of three years and your services are liable to be terminated at any time with out any notice or resign being assigned.
- 2- That you are declared medically fit for Govt: service.
- 3- The post is not transferable, and you must serve for three years on the said post.
- 4- That you will be governed by such and orders as may be issued by the government of NWFP, from time to time for the category of the Government servant to which he/she belong.
- 5- That if you wish to resign, at any time, your will resign in written within 30 days notice or you will be forfeit one month pay in lieu thereof and will continue to serve the government till the acceptance of your resignation by the competent authority.
- 6- That you will be posted any where in Bajaur Agency.
- 7- That you will not be entitled to any TA/DA for Medical examination and joining the first appointment.
- 8- The offer subject is subject to the availability of vacant post.
- 9- The offer is subject to the availability of vacant post. If you accept the post the post on above terms and conditions you should report to the Office of Agency Surgeon Bajaur at Khar within 15 days. The offer will be cancelled if you fail to report for duty.

Sd/-
AGENCY SURGEON
BAJAUR AT KHAR

No. 3162-66/C-9/BJR.
Copy is forwarded.

Dated: 20/7/2003

**OFFICE OF THE AGENCY SURGEON BAJAUR
AT KHAR**

1 (6)

Appointment letter

is made upon the approval of Departmental Selection Committee -1d on 7/12/93 and

Name: Noorul Islam S/O Sultan Mohammad
 of: Bai China Tehsil: Khar Bajaur Agency
 hereby appointed as Cook (BPS No. 01) plus usual allowances as admissible under
 rules.

Her appointment will be subject to the following terms and conditions:-

1. That your appointment is on contract basis for period of three years and your services are liable to be terminated at any time without any notice of return being assigned.
2. That you are declared medically fit for Government service.
3. The post is not transferable, and you must serve for three years on the said post.
4. That you will be governed by such and orders as may be issued by the government of NWFP, from time to time for the category of the Government servants to which he/she belong.
5. That if you wish to resign, at any time, you will resign in written within 30 days notice or you will be forfeit one month pay in lieu thereof and will continue to serve the government till the acceptance of your resignation by the competent authority.
6. That you will be posted any where in your agency.
7. That you will not be entitled to any DA for medical examination and post of the first appointment.
8. This offer is subject to the availability of vacant post.
9. If you accept the post on above terms and conditions you should report to the Office of Agency Surgeon Bajaur at Khar within 15 days. The offer will be cancelled if you do not report for duty.

AGENCY SURGEON
BAJAUR AT KHAR

-66- JE-1/BJS

Principal Agency Surgeon Chairman Departmental Selection Committee
 Deputy Director (Admin Directorate Health Services) FATA NWFP
 PMS HQ Hospital Khar
 Agency Account Officer Bajaur at Khar
 (Medical Personnel)

For information please.

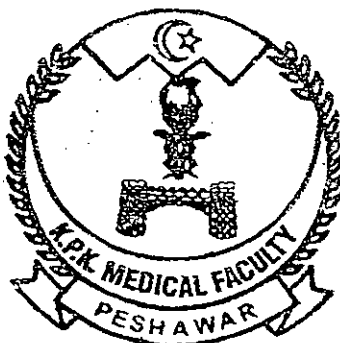
AGENCY SURGEON
BAJAUR AT KHAR

A B ~~7~~ (7)

Serial No 102

Roll No 32836

KHYBER PAKTUNKHWA MEDICAL FACULTY PESHAWAR PAKISTAN



Diploma In Health Technology

SESSION 6-2012

This is to certify that Mr. Miss. Mrs. Near Islam Son / Daughter of

Mr. Sultan Muhammad Of Batch No. 8th Bearing

Registration No MR/472/EP/ENVI/32836 Has passed the examination of Two years diploma

In the year 6-2012 He / She obtained 783 Marks out of 1400

He / She has been Placed in B Grade.

Prepared by: Daniel

Checked by: [Signature]

Verified by: _____

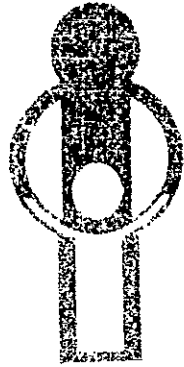
[Signature]
Head Master
G.H.S. Saduh Abad,
Bajaur Agency

[Signature]
Secretary,
Khyber Pakhtunkhwa Medical Faculty
Peshawar Pakistan

**EXPANDED PROGRAMME ON IMMUNIZATION
NWFP, PESHAWAR.**

No. _____

Date: _____



**DEPARTMENT OF HEALTH
Government of NWFP (Pakistan)
EPI TRAINING CERTIFICATE**

Attested

This is to Certify that Mr./ Mrs. NOOR ISLAM S/o, D/o, W/o SULTAN MUHAMMAD

resident of INAYAT KILLI

P.O. INAYAT KILLI

Tehsil MAMUND

District BAJOUR AGENCY

Has successfully completed EPI Training, From 01.07.2005 to 30.06.2006

at EPI Centre AHQ HOSPITAL BAJOUR AT KHAR. at his own cost and risk.

Prepared by: _____

Attested
Asst. Master
G. H. S. Sahib Abad
Bajour Agency.

19/12/06
**DEPUTY DIRECTOR
EXPANDED PROGRAMME ON IMMUNIZATION
NWFP, PESHAWAR.**

UNIVERSITY OF MALAKAND

PAKISTAN



44

S.No 627895

B/A

G.D.C Khar Bajaur Agency

DETAILED MARKS CERTIFICATE

B.A Part-II Annual Examination 2006

Name NOOR ISLAM

Father's Name SULTAN MUHAMMAD

Registration No 2004590121

Roll Number 7224

| Subject Code | Subject Name | Total Marks | Marks Obtained | REMARKS |
|--------------|--------------------|-------------|----------------|---------|
| BA002 | ISLAMIC STUDIES(E) | 75 | 36 | PASSED |
| BA010 | ENGLISH(C) | 75 | 24 | PASSED |
| BA013 | H.P.E | 75 | 38 | PASSED |
| G0003 | PAK. STUDY | 40 | 22 | PASSED |
| ZBA003 | BA PART-I MARKS | 285 | 154 | PASSED |
| | | 550 | 274 | |

Errors and Omissions are subject to subsequent rectification

Examination Held in June-July, 2006

Examination was taken as a whole/in parts

Allesster
Agarwal
Head Master
G.H.S. Sahib Abad
Bajaur Agency

[Signature]
Controller of Examinations
University of Malakand

Result Declared on 25-Sep-2006

Date of Issue 25-Sep-2006

① Appointment
Order

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

C-9

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 10TH MAY, 2016

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NOTIFICATION

Peshawar dated the 10th May, 2016.

No. SOH-III/HD/3-5/2014 - In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all Notifications issued in this behalf by the Health Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the Appendix to the posts of Paramedical Staff in the Health Department specified in column 2 of the said Appendix.

APPENDIX

| S. No. | Nomenclature of the post. | Qualification for appointment by initial recruitment. | Age limits. | Method of recruitment. |
|--------|---|---|-------------|--|
| | 2 | 3 | 4 | 5 |
| 1 | <u>Principal Technologist</u> (BS-20) (i) Principal Clinical Technologist Dental; (ii) Principal Clinical Technologist Pharmacy; (iii) Principal Clinical Technologist Radiology; (iv) Principal Clinical Technologist Pathology; | | | By promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technologists and Chief PHC Technologists with five years service in BS-19 or seventeen years service in BS-17 and above as such in the relevant technology. |

ATTESTED

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| | <p>(v) Principal Clinical Technologist Anesthesia; (vi) Principal Clinical Technologist Cardiology; (vii) Principal Clinical Technologist Surgical; (viii) Principal Clinical Technologist Dialysis; (ix) Principal Clinical Technologist Physiotherapy; (x) Principal Clinical Technologist Pulmonology; (xi) Principal Clinical Technologist Gastroenterology; and (xii) Principal Clinical Technologist Ophthalmology / otorhinolaryngology; and</p> <p><u>Principle PHC Technologist</u></p> <p>(i) Principal PHC Technologist (Multi Purpose); and (ii) Principal PHC Technologist (MCH).</p> | | | |
| <p>2</p> | <p><u>Chief Technologist</u> <i>CS-18</i></p> <p>(i) Chief Clinical Technologist Dental; (ii) Chief Clinical Technologist Pharmacy; (iii) Chief Clinical Technologist Radiology; (iv) Chief Clinical Technologist Pathology; (v) Chief Clinical Technologist Anesthesia; (vi) Chief Clinical Technologist Cardiology; (vii) Chief Clinical Technologist Surgical; (viii) Chief Clinical Technologist Dialysis; (ix) Chief Clinical Technologist Physiotherapy; (x) Chief Clinical Technologist Pulmonology; (xi) Chief Clinical Technologist Gastroenterology; and (xii) Chief Clinical Technologist Ophthalmology/ Otorhinolaryngology; and</p> | | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Senior Technologists and Senior PHC Technologists with seven years service in BPS-18 or twelve years service in BPS-17 and above as such in the relevant technology.</p> <p style="text-align: center;">ATTACHED</p> |

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| | <p><u>Chief PHC Technologist</u></p> <p>(i) Chief PHC Technologist (Multi-Purpose); and (ii) Chief PHC Technologist (MCH).</p> | | | |
| 3 | <p><u>Senior Technologist (BS-18)</u></p> <p>(i) Senior Clinical Technologist Dental; (ii) Senior Clinical Technologist Pharmacy; (iii) Senior Clinical Technologist Radiology; (iv) Senior Clinical Technologist Pathology; (v) Senior Clinical Technologist Anaesthesia; (vi) SCT Senior Clinical Technologist Cardiology; (vii) Senior Clinical Technologist Surgical; (viii) Senior Clinical Technologist Dialysis; (ix) Senior Clinical Technologist Physiotherapy; (x) Senior Clinical Technologist Pulmonology; (xi) Senior Clinical Technologist Gastroenterology; and (xii) Senior Clinical Technologist Ophthalmology/Otorhinolaryngology; and</p> <p><u>Senior PHC Technologist</u></p> <p>(i) Senior PHC Technologist (Multi-Purpose); and (ii) Senior PHC Technologist (MCH).</p> | <p>At least Second Class Master's Degree or B.SC Honours/ BS (04-years) in the relevant technology or equivalent qualification from a recognized University/ Institution.</p> | <p>20-35 years</p> | <p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Technologists and PHC Technologists with five years service as such in the relevant technology; and (b) fifty percent by initial recruitment.</p> |
| 4 | <p><u>Technologist (BS-17)</u></p> <p>(i) Clinical Technologist Dental; (ii) Clinical Technologist Pharmacy; (iii) Clinical Technologist Radiology; (iv) Clinical Technologist Pathology; (v) Clinical Technologist Anaesthesia;</p> | <p>At least Second Class Bachelor's Degree in the relevant Technology from a recognized University/ Institution.</p> | <p>18-32 years</p> | <p>(a) Forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians and Chief PHC Technicians with three years service as such in the relevant technology;</p> |

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| <ul style="list-style-type: none"> (vi) Clinical Technologist Cardiology; (vii) Clinical Technologist Surgical; (viii) Clinical Technologist Dialysis; (ix) Clinical Technologist Physiotherapy; (x) Clinical Technologist Pulmonology; (xi) Clinical Technologist Gastroenterology; and (xii) Clinical Technologist Ophthalmology / Otorhinolaryngology); and <p>PHC Technologist</p> <ul style="list-style-type: none"> (i) PHC Technologist (Multi-Purpose); and (ii) PHC Technologist (MCH). | | <p>(b) twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology.</p> <p><u>Note:</u> For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column No. 3:</p> <p>Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials; and</p> <p>(c) forty percent by initial recruitment.</p> |
| <p>5 Chief Technician CBS-165</p> <ul style="list-style-type: none"> (i) Chief Clinical Technician Dental; (ii) Chief Clinical Technician Pharmacy; (iii) Chief Clinical Technician Radiology; (iv) Chief Clinical Technician Pathology; (v) Chief Clinical Technician Anesthesia; (vi) Chief Clinical Technician Cardiology; (vii) Chief Clinical Technician Surgical; (viii) Chief Clinical Technician Dialysis; (ix) Chief Clinical Technician Physiotherapy; (x) Chief Clinical Technician Pulmonology; (xi) Chief Clinical Technician Gastroenterology; and | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Technicians and Senior PHC Technicians with at least two years service as such in the relevant technology.</p> |

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|---|---|---|-------------|---|
| | (xii) Chief Clinical Technician Ophthalmology, (Otorhinolaryngology); and <u>Chief PHC Technician</u> | | | |
| | (i) Chief PHC Technician (Multi-Purpose); and (ii) Chief PHC Technician (MCH) | | | |
| 6 | <u>Senior Technician (BS-14)</u> (i) Senior Clinical Technician Dental; (ii) Senior Clinical Technician Pharmacy; (iii) Senior Clinical Technician Radiology; (iv) Senior Clinical Technician Pathology; (v) Senior Clinical Technician Anesthesia; (vi) Senior Clinical Technician Cardiology; (vii) Senior Clinical Technician Surgical; (viii) Senior Clinical Technician Dialysis; (ix) Senior Clinical Technician Physiotherapy; (x) Senior Clinical Technician Pulmonology; (xi) Senior Clinical Technician Gastroenterology; and (xii) Senior Clinical Technician Ophthalmology/Otorhinolaryngology); and <u>Senior PHC Technician</u> (i) Senior PHC Technician (Multi-Purpose); and (ii) Senior PHC Technician (MCH). | | | By promotion, on the basis of seniority-cum-fitness, from amongst the Technicians and PHC Technicians with at least two years service as such in the relevant technology. |
| 7 | <u>Technician (BS-12)</u> (i) Clinical Technician Dental; (ii) Clinical Technician Pharmacy; (iii) Clinical Technician Radiology; (iv) Clinical Technician Pathology; (v) Clinical Technician Anesthesia; (vi) Clinical Technician Cardiology; (vii) Clinical Technician Surgical; (viii) Clinical Technician Dialysis; (ix) Clinical Technician Physiotherapy; (x) Clinical Technician Pulmonology; (xi) Clinical Technician Gastroenterology; and | (i) <u>Technician/PHC Technician</u> : At least Second Division Secondary School Certificate with Science from a recognized Board with Diploma in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical Faculty or Diploma in the relevant Paramedical technology from any recognized institution; provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar; and | 18-30 years | By initial recruitment |

952 - KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 10th MAY, 2016

| | | | |
|---|---|--|--|
| <p><u>PHC Technician</u></p> <p>(i) PHC Technician(Multi-Purpose); and (ii) PHC Technician (MCH).</p> | <p>(ii) <u>PHC Technician (MCH):</u> Secondary School Certificate with at least Second Division in Science from a recognized board and Diplomas of LHV and Midwifery from recognized Nursing Examination Board.</p> | | |
|---|---|--|--|

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
HEALTH DEPARTMENT.

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

APPROVED

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OFFICE OF THE SECRETARY TO GOVT. OF PAKHTUNKHWA DEPARTMENT HEALTH DEPARTMENT

Ends No. & Date given

Ends No: SOH-III/B-60/2016 (Paramedics/Nurses/Service Rules)

Dated Peshawar, 17/05/2016

Copy forwarded for information and necessary action to:-

1. The Director General Health Services Khyber Pakhtunkhwa.
2. The Director Provincial Health Services Academy, Khyber Pakhtunkhwa
3. All District Health Officers, Khyber Pakhtunkhwa.
4. The Registrar Khyber-Medical University, Peshawar.
5. The Director Health Services FATA.
6. All Hospital Directors/Medical Directors of Autonomous Institutions in Khyber Pakhtunkhwa.
7. All Medical Superintendents DHO/THQ Hospitals of Khyber Pakhtunkhwa
8. All the Principals of Medical Colleges in Khyber Pakhtunkhwa.
9. The Dean PAU Peshawar.
10. The Chief HSRU Health Department Khyber Pakhtunkhwa
11. The Director Information Khyber Pakhtunkhwa.
12. The Deputy Director (I.T) Health, Khyber Pakhtunkhwa.
13. The Secretary, Medical Faculty, Khyber Pakhtunkhwa, Peshawar.
14. The Principal, Post Graduate Paramedical Institute, Peshawar.
15. The Principal, Post Graduate College of Nursing, Hayatabad Peshawar.
16. The Controller, Nursing Examination Board, Peshawar.
17. PSD to Chief Secretary Khyber Pakhtunkhwa.
18. PS to Additional Chief Secretary (FATA) Peshawar.
19. PS to Secretary to Governor Khyber Pakhtunkhwa
20. PS to Secretary to Chief Minister Khyber Pakhtunkhwa.
21. PS to Secretary to Government of Establishment Department.
22. PS to Secretary to Government of Finance Department
23. PS to Secretary to Government of Law Department.
24. PS to Secretary, Public Service Commission, Khyber Pakhtunkhwa.
25. PS to Senior Minister for Health Department
26. The Manager, Government Printing Press, Peshawar.

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(Asfandyar Khattak)
Deputy Secretary-II

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the
Secretary
to
Government
of
Khyber
Pakhtunkhwa

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GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 15th May, 2018

NOTIFICATION.

No. SOH-III/8-60/2018. The competent authority has been pleased to approve the proposal to enhance the ratio/restructuring of Paramedics staff of Health Department in the higher grades for availing promotion due to anomalous allocation in different scales as per following tables.

| Scale-wise Existing ratio of posts of Paramedical Staff | | | Scale-wise Proposed ratio of posts of Paramedical Staff | | | Number of Posts |
|---|-----------------|------------|---|-----------------|------------|-----------------|
| Sr.No. | BPS | Percentage | Sr.No. | BPS | Percentage | |
| 1. | Posts in BPS-12 | 80% | 1. | Posts in BPS-12 | 40% | 5818 |
| 2. | Posts in BPS-14 | 12% | 2. | Posts in BPS-14 | 30% | 4362 |
| 3. | Posts in BPS-16 | 3.5% | 4. | Posts in BPS-16 | 20% | 2908 |
| 4. | Posts in BPS-17 | 2.5% | 5. | Posts in BPS-17 | 8.0% | 1164 |
| 5. | Posts in BPS-18 | 1.85% | 6. | Posts in BPS-18 | 1.95% | 284 |
| 6. | Posts in BPS-19 | 0.09% | 7. | Posts in BPS-19 | 0.04% | 05 |
| 7. | Posts in BPS-20 | 0.04% | 8. | Posts in BPS-20 | 0.01% | 01 |
| | | 100% | Total: | | 100% | 14542 |

13700/-
400
340
177
12

2. The expenditure involved shall be debatable to function cum object classification: 07-Health-076-Health-Administration-0761-Administration-076101-Administration current Financial Year 2017-18.

3. The Administrative Department will amend service rules through SSRC accordingly.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst: No. SO(FR)FD/7-3/2018/17401/H

Dated: 11-05-2018

Copy forwarded to Accountant General, Khyber Pakhtunkhwa Peshawar for information & necessary action.

Section Officer (FR)
Finance Department

Dated: 15-05-2018

No. SOH-III/8-60/2018.

Copy forwarded to:-

1. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. The Secretary FATA, Governor's Secretariat Peshawar.

MAILED
15 MAY 2018

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BEFORE THE PESHAWAR HIGH COURT BENCH
AT MINGORA/DARUL QAZA SWAT

D-17



W.P.No. 102 2011

- 1) Aziz Ur Rahman Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 2) Muhammad Khan Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 3) Bakht Munir Sweeper D.H.Q-Hospital Timergara, Dir Lower.
- 4) Taj Muhammad Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 5) Bakht Said Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 6) Anjad Ali Khan Mali D.H.Q Hospital Timergara, Dir Lower.
- 7) Javed Khan Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 8) Umar Sadiq Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 9) Munawar Sajid Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 10) Noor Khitab Ward Attendant D.H.Q Hospital Timergara, Dir Lower.

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...Petitioners

VERSUS

- 1) The Govt. of Khyber Pukhtoonkhwa through Secretary Health Civil Secretariat, Peshawar.
- 2) Director General Health Services, Khyber Pukhtoonkhwa, Peshawar.
- 3) Executive District Officer (Health) Dir Lower.
- 4) District Account Officer Dir Lower.
- 5) Medical Superintendent DHQ Hospital Timergara Dir Lower.
- 6) Nasir Ali S/o Nadar Khan R/o Village Sajawro, P.O Tehsil Timergara, District Dir Lower.
- 7) Zubair Ali S/o Muhammad Rasool Khan R/o Village Danwa, Tehsil Timergara, District Dir Lower.

...Respondents

73/
TODAY

Dist. Registrar
23 2011

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Judgment Sheet

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA),
SWAT.

JUDICIAL DEPARTMENT

W.P. No. 102 of 2011

JUDGMENT

Date of hearing 13.10.2011

Appellant/Petitioner: (Aziz ur Rehman & others) by Mr. Sultan Muhammad Ullah
Respondent: (Govt. of PPK) by Mr. Ghulamullah Khan Advocate
MC

YAHYA AFRIDI, J.: Azizur Rehman

alongwith his nine other petitioners have sought the constitutional jurisdiction of this Court seeking that;

"for the aforementioned reasons, it is, therefore, respectfully prayed that on acceptance of this writ petition this august may graciously be pleased to declare the acts and actions of the respondents and the impugned appointment order dated 28.7.2011 and 9.7.2011 as without lawful authority and hence of no legal effect and this august Court may further pleased to set aside the same and direct respondents No.1 to 5 to act in the matter in accordance with law and to adjust petitioners against posts announced."

2. The petitioners may be categorized in two groups; petitioner No.1 to petitioner No.6, who are presently serving as sweepers (BPS-1) at DHQ Hospital Timergara, Dir Lower ("Group-1") and petitioner No.7 to petitioner No.10, who are serving as

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Ward Attendance (BPS-2) at (BPS-1) at DHQ Hospital Timergara, Dir Lower ("Group-2").

3. The grievance of the petitioners in Group-1 is that the policy decision determined by the Government in its high powered meeting dated 12.7.2006 to resolve the problems of paramedic employees of the province have not been complied with and thus adversely affected the petitioners prospects of promotion to 'Ward Orderlies', 'Chokidar', 'Malis' and other class-IV posts. It is further asserted that eight persons had been appointed on the said posts without even fulfilling the essential cordial formalities provided under the law. Thus they have a two fold grievance;

Firstly, the petitioners be appointed to the upgraded post on seniority basis and

Secondly, the illegal appointments made to the said posts be set aside.

4. Now moving on to the petitioners in Group-2; their grievance is that they have not been promoted to the post of Junior Clerk (BPS-7) on seniority basis on the 33% quota determined under Rule 3 of the N.W.F.P. Civil Servants (Appointment, Promotion

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and Transfer) Rules, 1989 ("Rules") as amended vide notification dated 4.2.2009. These petitioners further urged that other Naib Qasids and Sweepers, similarly placed as the petitioners, have been promoted to the post of Junior Clerk (BPS-7), while the petitioners have been discriminated against. In addition there to, they further urged that the government has recently advertised fresh appointments to the post of Junior Clerks in complete violation of the Rules.

5. Lest this Court passes any findings on the merits of the present case so as to prejudice the case of the parties, suffice to it to state that the petitioners are aggrieved of being not considered for promotion to the higher grade and their grievance needs to be first considered, addressed and resolved by the government.

6. As far as the jurisdiction of this constitutional Court to entertain matters seeking to be considered for promotion of a civil servant, we are afraid Article 212 of the Constitution bars our jurisdiction to entertain the said matter and the same exclusively falls within the domain of the Services Tribunal. Guidance is

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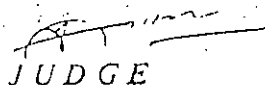
(21)

sought from the judgment of the Apex Court in Muhammad Anees's case (PLD 2006 SC 539).

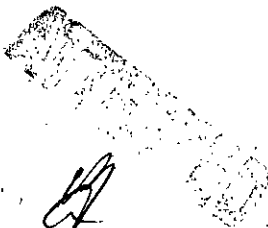
6. In the peculiar circumstances of the present case where the grave grievances of the petitioners require urgent redressal, we instead of dismissing the present petition, treat the same as a representation before the departmental authority and direct the office to send this case to the Secretary Health, Government of Khyber Pukhtoon Khwa for decision in writing rendering valid reasons thereof to be made within a period of one month, if not earlier, from the receipt of this judgment. It is further directed that the decision so made should be sent to the Additional Registrar PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT.

7. This petition is disposed of in the above terms.

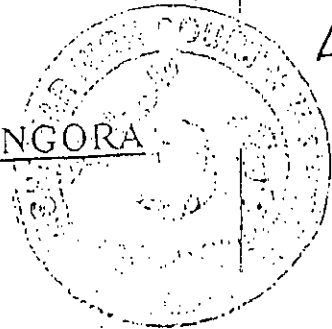

JUDGE


JUDGE

Announced.
Dt.13/10/2011.



BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH AT MINGORA SWAT



E-22

- 1) Aziz-Ur-Rehman Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 2) Muhammad Khan Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 3) Bakht Munir Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 4) Taj Muhammad Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 5) Bakht Said Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 6) Anjad Ali Khan Mali D.H.Q Hospital Timergara, Dir Lower.
- 7) Javed Khan Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 8) Umar Sadiq Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 9) Munawar Said Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 10) Noor, Khitab Ward Attendant D.H.Q Hospital Timergara, Dir Lower.

ATTESTED
[Signature]
Registrar, Peshawar Bench

..... Petitioners

VERSUS

1. Secretary Health, Govt of Khyber-Pakhtoonkhwa, Civil Secretariat, Peshawar.
2. Director General Health services Khyber Pakhtoonkhwa.
3. District Coordination Officer Dir Lower at Timargara.
4. Executive District Officer (Health) Dir Lower.
5. Medical Superintendent D.H.Q Hospital Timergara, Dir Lower.

..... Respondents

Application Under Article 204 Constitution
Of the Islamic Republic of Pakistan, 1973

Respectfully Sheweth:

- 1) That a Writ Petition No. 102 of 2011 was decided by this Honorable Court vide order dated 13-10-2011 wherein it was held "in the peculiar

P.T.O

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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, MINGORA
BENCH
(DAR-UL-QAZA), SWAT.
(Judicial Department)



C.O.C. No.01/2012 in W.P. No.102/2011

JUDGMENT

Date of hearing: 11.01.2012.

Appellant-Petitioner (Azzur Rehman and others) by Mr. Asghar Ali Advocate
Respondent Secretary Health and others by Mr. Javedullah Khan A.A.G.

MAZHAR ALAM KHAN MIANKHEL, J.- The petitioners through instant petition seek implementation of the judgment dated 13.10.2011 of this Court by initiating contempt proceedings against the respondents.

2. The learned counsel for the petitioners was heard and record of the case was perused.

3. The learned A.A.G, present in the Court in some other case, accepted the notice of this petition and thereafter sought some time to inquire about the matter involved in this petition from the concerned authorities. Later on, the learned A.A.G. informed the court that the appeal of the present petitioner is under consideration before the competent authority

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Deputy Clerk Bench
Peshawar High Court

ATTESTED

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and within a short span of time, the same would be decided. He also produced Photostat copy of a letter dated 29.12.2011. When this, being the situation, we once again would direct the respondents to do the needful at their earliest, but not later than one month.

This C.O.C. is thus disposed of in above terms.

Announced
Di: 11.01.2012.

sd
Judge

S.No. 207
 Name of Katim Bateh
 Date of 14.1.12
 Date of 19.1.12
 No. of 3 P
 Fee Chg. 6/-
 Date of 19.1.12

office
16.1.12

Certified to be true copy

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 19/01/12
 19/01/12

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[Signature]
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MOST IMMEDIATE
COURT MATTER.

GOVERNMENT OF KHYBER PAKHTUNKHWA.

HEALTH DEPARTMENT.

No. SOH(LIT.I)12(1)-47/2011

Dated Peshawar the 29th December, 2011

25

To

1. The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.
2. The Executive District Officer-Health,
Dir Lower.

Subject: ORDER/JUDGMENT DATED 13/10/2011 PASSED BY THE PESHAWAR HIGH COURT MINGORA BENCH (DARUL QAZA) SWAT IN WRIT PETITION NO. 102/201 MR. AZIZ UR REHMAN ETC VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.

I am directed to refer to this Department letter of even number dated 28/11/2011 and your letter 10788, dated 22/12/2011, and letter No. 10521/EDO-Health Dir Lower, dated 01/12/2011, on the subject noted above and to state that your comments/report do not cover the requirements as per promotion, posting/transfer rules, 1989, therefore you are once again requested to prepare report as per rules/policy so that the issue could be placed before the Hon' able Secretary Health Khyber Pakhtunkhwa for necessary decision.

Meanwhile no action be taken/initiate and do not disturb the petitioners till the final decision of the Secretary Health in the matter/final decision of the Peshawar High Court Mingora Bench Swat, otherwise, any adverse orders passed by the Peshawar High Court Mingora Bench Swat your office will be held responsible.

SECTION OFFICER (LIT.I)

Endst. No. and date a.a.

Copy forwarded to:-

1. The Section Officer-III, Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar with the request to direct the Executive District Officer-Health, Dir Lower to submit report as per rules/policy and placed before the Hon' able Secretary Health to decide the case on merit.
2. The Addl. Advocate General, Peshawar High Court Mingora Bench Swat.
3. The P.S to Secretary Health, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (LIT.I)



Government of Khyber Pakhtunkhwa
Health Department

F-26

No.SOH(Lit.I)12(1)-47/2011.

Dated Peshawar, the 25th February, 2012.

To

1. The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar
2. The Executive District Officer-Health,
Dir Lower

SO II
Compliance of County
Order as per

Subject:-

COMPLIANCE OF PESHAWAR HIGH COURT'S ORDER IN WP NO.102/11 & PROCEEDINGS IN CONTEMPT PETITION NO.01/2012.

I am directed to refer to the Peshawar High Court's orders passed in WP No.102/11 titled Azizar Rehman etc. Versus Government of Khyber Pakhtunkhwa Health Secretary and others dated 13/10/11 and subsequent orders of the apex court in contempt petition No. 01/2012 dated 11/01/2012 wherein the apex court has directed the Provincial Government, Health Department to resolve the issue within a period of one month positively. Copies of the aforesaid orders are enclosed.

13/3

To comply the superior court's orders in letter and spirit, the competent authority has been pleased to approve the adjustment of petitioners as under:-

| S.No. | S.No., name & designation of petitioners in WP No.102/11. | Required adjustment against the posts | Remarks/Justification |
|-------|---|---------------------------------------|---|
| 1. | Petitioners at S.No.1 to 5 (excluding S.No.2) are Muslim Sweepers in BPS-01 | Ward Attendant (BPS-02) | Adjustment/appointment to be made on the basis of Establishment & Admn:Deptt. Notification No.SOIV/4(4)89/Vol.II dated 13/5/90. Copy enclosed for ready reference. |
| 2. | Petitioner at S.No.2 also a Muslim Sweeper in BPS-01. | Driver (BPS-01) | Petitioner is in possession of a valid driving licence plus experience/ commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Driver for the last one year. |
| 3. | Petitioner at S.No.6 Amjid Ali Khan Mali(BPS-01) | Junior Clerk (BPS-07) | Petitioner is in possession of 'A' certificate plus experience certificate awarded by MS DHQ Hospital Dir Lower and also working as Junior Clerk for the last one year. |
| 4. | Petitioner at S.No.7(Javed Khan) is Ward Attendant (BPS-02) | Dental Technician (BPS-09) | Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Dental Technician for the last 03 years. |
| 5. | Petitioner at S.No.8 Umar Sadiq Ward Attendant (BPS-02) | Laboratory Technician (BPS-09) | Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as such for the last one year. |
| 6. | Petitioner at S.No.9 Munawar Saeed Ward Attendant (BPS-02). | Anesthesia Technician (BPS-09) | Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Anesthesia Technician for the last two years. |
| 7. | Petitioner at S.No.10 Noor Khirab Ward Attendant (BPS-02) | Health Technician (BPS-09) | Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Health Technician for the last one year. |

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27

This competent authority desires to adjust/appoint the aforesaid petitioners against the posts mentioned in Col. 03 of the table above under intimation to this department enabling us to apprise the Hon'ble Peshawar High Court Mingora Bench (Darul Quza), Swat without further loss of time.

SECTION OFFICER (LIT.) - 9/02/2012

Enlist. No. & Date: EVEN

- Copy forwarded to the:
1. Additional Registrar, Peshawar High Court, Mingora Bench Swat with reference to his letter No. 910/Judl
 2. Additional Advocate General, Peshawar High Court Mingora Bench, Swat.
 3. PS to Secretary Health, Khyber Pakhtunkhwa Peshawar.
 4. Deputy Secretary-II, Health Department, Peshawar.

SECTION OFFICER (LIT.)

RECEIVED

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Handwritten signature

پشاور ایسٹ آباد اور اسلام آباد سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشنی کی شہادت، آج کا نصب العین

روزنامہ

پشاور
پاکستان



ایڈیٹر
عبدالواحد یوسفی

صفحات 12

جلد 30 منگل 9 اپریل 2013 3 شعبان المعظم 1440۔ قیمت 20 روپے سالانہ ای آر ٹی 92 شماره

27/A

آسامیاں خالی ہیں

حکومت باجوڑ کے مختلف ہسپتالوں میں ذیل آسامیاں خالی ہیں جن کو پر کرنے کیلئے خواہشمند حضرات سے درخواستیں مطلوب ہیں درخواست سادہ کاغذ پر بعد تصدیق شدہ اسٹامپ فرمڈ 25 اپریل 2013 تک پہنچ جانی چاہئیں۔

| نمبر شمار | نام آسامی | سکیل | تعلیمی قابلیت | عمر |
|-----------|-----------------------------|------|--|------------------|
| 1 | اسٹنڈرڈ یا ٹیچنگ | 12 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 2 | سر جیکل ٹیچنگ | 12 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 3 | پتھالوجی ٹیچنگ | 12 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 4 | ریڈیالوجی ٹیچنگ | 12 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 5 | (بی ایچ سی) ای پی آئی ٹیچنگ | 2 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 6 | سنیور کیپر | 12 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 7 | لیڈی ہیلتھ وزیٹر | 12 | میڈیکل فیلڈی خیر بختوخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ | 18 سال سے 33 سال |
| 8 | وائی | 04 | وائی کورس | 18 سال سے 40 سال |

1۔ شارٹ لسٹ امیدواروں کو انٹرویو کیلئے بلایا جائیگا۔

2۔ لوکل امیدواروں کو ترجیح دی جائیگی۔

3۔ ہر امیدوار کو اپنا موبائل نمبر دینا ضروری ہوگا۔

ڈاکٹر وزیر صفائی ڈسٹرکٹ ہیلتھ آفیسر (باجوڑ ٹرانسبل ڈسٹرکٹ)

9

پروفیسر صاحب ڈیپارٹمنٹ آف ایجوکیشن، سندھ یونیورسٹی، لاہور

G-28

ذرا احتیاط سے لکھیں اور پتہ لکھیں

میں نے اپنی طرف سے اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔

اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔
 اس کے علاوہ اس کے ساتھ ساتھ ایک کاپی بھی لکھی ہے اور اسے آپ کے پاس بھیج رہا ہوں۔

پروفیسر صاحب
 ڈیپارٹمنٹ (BPS-01)
 ڈیپارٹمنٹ آف ایجوکیشن
 سندھ یونیورسٹی، لاہور

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

No. _____/2019

Noor Islam

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt.

(RESPONDENT)
(DEFENDANT)

I/We *Noor Islam*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____/_____/2019

Noor Islam
CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH KHAN YOUSAFZAI

[Signature]
&
MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391.

BEFORE THE SERVICES TRIBUNAL

KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 529 / 2019

Mr. Noor Islam Class-IV (BPS-1)
DHQ Hospital, Bajaur at Khar----- Appellant

VERSES

Govt of Khyber Pakhtunkhwa, and others----- Respondents

Reply / comments on behalf of the Respondents No.

Respected Sheweth

Preliminary objections

1. That the appellant has no Diploma required for the post of EPI Technician.
2. That the appellant has not yet submitted his appeal in the department.
3. That the appellant has no registration with KPK Medical Faculty and has no experience in the field of EPI Technology.
4. That inspite of the above facts, the appellant has got no locus standi to file the instant appeal.
5. That the appellant has not come to this Honorable Court with clean hands.
6. That the appellant has got no cause of action to file the instant appeal.
7. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.

FACTS

1. Correct.
2. Correct to the extent of appointment as Class-IV (BPS-1) in DHQ Hospital Khar Bajaur. It is pertinent to mention here that (i) the appellant has got Certificate of EPI Training without NOC of the Department being regular employee of the Health Department (ii) As per new service structure for Paramedics, diploma from the Medical Faculty of Khyber Pakhtunkhwa is required for the post of EPI Technician. Hence, the appellant being a certificate holder, is not entitled for the same post.


3. Incorrect, the Govt: has promulgated the rules of promotion of Class-IV employees to the post of Junior Clerk on seniority basis but there are no such rules of promotion of Class-IV employees in the field of EPI / Health Technology having pay scale BPS-12. Any one will apply and contest when the post is advertised. As far as acquiring of EPI Training Certificate is concerned, so it is stated that the appellant has got it without NOC of the Department. Furthermore, the appellant has not yet submitted departmental appeal in this regards. As per new service structure for Paramedics, diploma from the Medical Faculty of Khyber Pakhtunkhwa is required for the post of EPI Technician. Hence, the appellant being a certificate holder, is not entitled for the same post.
4. Correct. But it is stated that the impugned service structure dated 10.05.2016 was approved and notified by the higher authorities wherein, qualification (Diploma) and appointment in BPS-12 on initial basis, has been mentioned very clearly. As far as acquiring of EPI Training Certificate is concerned, so it is stated that the petitioner has got Certificate without NOC of the department.
5. Correct to the extent of court order dated 13.10.2011 and adjustment of some Ward Attendants upon the posts of Technicians BPS-12 by the Health Department Khyber Pakhtunkhwa vide Notification dated 28.02.2012. But as per remarks of the said Notification, the concerned Ward Attendants had got diplomas and they were already working on the posts of Technicians for the last one or two years and due to the said experience, the petitioners were adjusted against the posts of Technicians, As far as the plea of the appellant to be adjusted against the post of BPS-12 without Diploma and experience, is not justified, therefore, the appeal of the appellant is not maintainable. Furthermore, it is pertinent to mention here that the Service Structure of Paramedics dated 10.05.2016 has superseded the Notification of Health Department dated 28.02.2012.
6. Incorrect, the appellant has not yet submitted his departmental appeal.
7. Incorrect, the appellant before submission of his departmental appeal preferred to file the instant appeal, hence, the appeal is not maintainable.

GROUND

- A- Incorrect. The demand of the appellant to be adjusted against the post of BPS-12 without Diploma and experience is not justified. Hence, the appellant is not coming in the ambit of Notification dated 28.02.2012.


- B- Incorrect, there is no violation from the Article 4 and 25 of the constitution because the appellant has no Diploma and experience.
- C- Incorrect, as stated in Para 1 to 7 above.
- D- Incorrect, as stated in Para –A above.
- E- Incorrect, as stated in Para-A, above.
- F- Correct to the extent of serving as Class-IV in DHQ Hospital Khar Bajaur since 2003 but there are no such rules / regulation regarding promotion of a Class-IV of BPS-1 to the post of Technician of BPS-12 without diploma and clinical experience.
- G- Correct to the extent of Article-38 (e) of the constitution of Pakistan but there are no such rules / regulation regarding promotion of a Class-IV of BPS-1 to the post of Technician of BPS-12 without Diploma and clinical experience.
- H- The Department will also raise other grounds at the time of arguments.

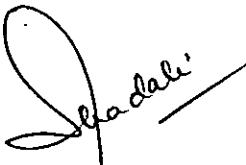
In light of the above, it is humbly prayed that the appeal has no legal footing; therefore, it may please be dismissed.


Secretary To Govt. of
Khyber Pakhtunkhwa
Health Department
Director Health Services,
Merged Areas Peshawar.

Respondent No. 5




Medical Superintendent,
DHQ Hospital Khar,
District Bajaur
For Respondent No. 6 & 7.


Director General Health Services,
Khyber Pakhtunkhwa Peshawar

Respondents No. 4