

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 620/2019

Date of Institution ... 09.04.2019

Date of Decision ... 16.07.2019

Dr. Shehla Shabnam Wazir Ex-WMO (BPS-17) Provincial Health Department,
Peshawar. ... (Appellant).

VERSUS

Secretary Health Department Government of Khyber Pakhtunkhwa and one
others. ... (Respondents)

Present.

Mr. Aimal Khan Barkandi,
Advocate.

... For appellant

MR. HAMID FAROOQ DURRANI,

... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 21.07.2005 passed by respondent No. 1, whereby, major penalty of removal from service was imposed upon her on account of prolonged absence from duty.
2. Learned counsel for the appellant heard and available record gone through.
3. The record suggests that the appellant had joined service as WMO BPS-17 on 28.05.1991 on regular basis. During the course of her service she was posted at different stations. She was granted Ex-Pakistan leave for 365 days on 21.04.2003 which expired on 20.04.2004. Departmental proceedings were undertaken against a number of doctors including the appellant who was

considered absent w.e.f. 21.04.2004. During the course of proceedings under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 notice was sent to the home address of the appellant. Show cause notices were also published in Daily "Aaj" and Daily "Nation" on 19.02.2005 and 20.02.2005, respectively. The appellant failed to resume her duty, therefore, the impugned order was passed on 21.07.2005. She preferred a departmental appeal for her reinstatement on 10.12.2018 which remained un-responded till date.

4. There is nothing on record, including the memorandum of appeal, which could suggest that in the period interregnum 21.04.2004 and the submission of departmental appeal by the appellant she ever made any attempt to appear for resumption of duty or extension of Ex-Pakistan leave initially granted in her favour on 21.04.2003. The indolence of appellant for more than 14 years also indicates that she remained away from her duty for the said period. The departmental appeal of appellant was clearly barred by enormous period of time, therefore, the appeal in hand is also meritless for its admission to regular hearing. The same is, therefore, hereby dismissed in limine. Guidance on the subject is sought from judgments reported as 2006-SCMR-453 and 2012-SCMR-195.

File be consigned to the record room.






(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
16.07.2019

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 620/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/05/2019	<p style="text-align: center;">The appeal of Dr. Shehla Shabnam Wazir resubmitted today by Mr. Aimal Khan Barkandi 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 13/5/19</p>
2-	15/05/19	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	14.06.2019	<p style="text-align: center;">Nemo for appellant.</p> <p style="text-align: center;">Issue notice to appellant/counsel for preliminary hearing on 16.07.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Dr. Shehla Shabnam Wazir Ex WMO Health Department received today i.e. on 09.04.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 6- For more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 730 /S.T,


Dt. 10-4- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


Mr. Aimal Khan Barkandi Adv. Pesh.

Sir,

the time may kindly be extended to do the above needful.


 22/4/19
Aimal Khan Barkandi
Adv. Pesh.

⑩ days time further extended.



22/4/19

Sir,

The appellant is out of city, therefore, the file cannot be completed. Please the time may kindly be further extended to make the needful.

 2/5/19
Aimal Khan Barkandi
Adv. Pesh.

⑩ days time further extended.


2/5/19

Sir,

this file is re-submitted after completion.
Moreover, charge sheet, statement of allegations,
show cause notice and reply were not provided
to the appellant.

Amal 13/5/19

Amal Khan Baskandi
Adv. Pesh.

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 620 /2019

Dr. Shehla Shabnam Wazir..... Appellant

Versus

Secretary Health Department & another..... Respondents

INDEX

S. No.	Description of documents	Annexure	Page
1.	Memo of appeal		1-3
2.	Verification		4
3.	Copy of the Certificate of Transfer of Charge dated 28.05.1991.	A	5
4.	Copy of the dismissal order dated 21.07.2005 and Service Certificate	B, B-1	6-8-A
5.	Copy of departmental appeal dated 12.12.2018	C	9
6.	Wakalat Nama		10

Appellant

Dr. Shehla Shabnam Wazir

Through


Aimal Khan Barkandi

&


Faiz Bukhsh

Advocates High Court,
Peshawar

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 620 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 597

Dated 09-4-2019

Dr. Shehla Shabnam Wazir, Ex-WMO (BPS-17), Provincial
Health Department, Peshawar..... Appellant

Versus

1. Secretary Health Department, Govt. of Khyber
Pakhtunkhwa, Peshawar
2. Chief Secretary, Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar..... Respondents

Service Appeal u/s 4 of the Khyber
Pakhtunkhwa Service Tribunals Act, 1974
against the office order No. SO(E)H-II/10-
25/2005, dated 21.07.2005 of respondent No.
1 whereby the appellant was dismissed from
service.

PRAYER

On acceptance of this appeal the impugned
order dated 21.07.2005 of respondent No. 1
may kindly be set aside and the appellant be
reinstated to her post of W.M.O (BPS-17) with
all back benefits admissible under the law
and rules.

Respectfully submitted;

1. That the appellant was appointed as Woman Medical
Officer (WMO), BPS-17 in the health department on
28.05.1991 after going through all the codal formalities.

Filed to-day
Registrar

Re-submitted to-day
and filed.

Registrar
20/5/19

2. That the appellant was serving in the health department till 20.04.2003 and thereafter took one year Ex-Pakistan leave and went abroad.
3. That when the appellant came back to Pakistan it was revealed that the appellant has been dismissed from service by respondent No. 1 vide order No. SO(E)H-II/10-25/2005, dated 21.07.2005. (Copy of the dismissal order and Service Certificate is annexure B & B-1)
4. That the appellant filed departmental appeal to respondent No. 2 on 12.12.2018 against the dismissal order but the same was not responded. (Copy of the department appeal is annexure "C")
5. That the appellant is feeling aggrieved from the impugned dismissal order dated 21.07.2005 of respondents No. 1 and is now filing this service appeal on the following grounds;

GROUNDS

- A. That the impugned order of respondent No. 1 is against the law and facts of the case, hence, is not tenable.
- B. That no proper inquiry has been conducted in the case to ascertain about the actual cause of absence of the appellant from service.
- C. That no show-cause notice, charge sheet and statement of allegation has been issued to the appellant. All the proceedings have been conducted in absence of the appellant.
- D. That the appellant has not absented herself intentionally nor has been willful to avoid duty. The appellant due to multiple family issues could not join the service back after Ex-Pakistan leave.

- E. That the appellant was abroad as explained above and had no knowledge of the departmental proceedings initiated against her, hence, the question of limitation is condonable. The appellant filed department appeal immediately when the appellant came to know about the dismissal from service, hence, the departmental appeal is well within time. The absence period can be considered as leave without pay.
- F. That the appellant has been condemned unheard. No opportunity of hearing has been provided to the appellant, which is against the natural justice.
- G. That the major penalty imposed on the appellant is too harsh and severe which does not commensurate with the facts of the case.

It is, therefore, prayed that On acceptance of this appeal the impugned order dated 21.07.2005 of respondent No. 1 may kindly be set aside and the appellant be reinstated to her post of W.M.O (BPS-17) with all back benefits admissible under the law and rules.

Appellant *Shehla*
Dr. Shehla Shabnam Wazir

Through

Aimal Khan 8/4/19
Aimal Khan Barkandi

&

Faiz
Faiz Bukhsh
Advocates, Peshawar

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____/2019

Dr. Shehla Shabnam Wazir..... Appellant

Versus

Secretary Health Department & another..... Respondents

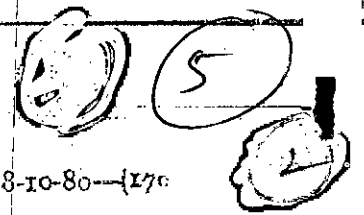
VERIFICATION

I, Dr. Shehla Shabnam Wazir, Ex-WMO (BPS-17), (Appellant) do hereby verify that the contents of the accompanying service appeal are true and correct to the best of my knowledge and belief which has been drafted as per my instructions and nothing has been concealed from this hon'ble Tribunal.



Shehla
Deponent

annex
"A"



CS&PD. NWFP. —2271 FS—2,000 P. of 100—8-10-80—(170

CERTIFICATE OF TRANSFER OF CHARGE.

1. Certify that we have on the fore/afternoon of this day respectively made over and received charge of the Office of the
W.M.O. A.H.C. Hospital Miransul.

2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:—

Signature of relieved Government servant.....

Designation

Station. Miransul

Signature of relieving Government servant..... Sheela
(DR. Sheela)

Designation... WMO

Dated... 28/5/91.....

Forwarded to file.....

N.W.F.P., Acctt. Try. No. 42.

ATTESTED

6

annex

"B"

GOVERNMENT OF NW F.P.
HEALTH DEPARTMENT

Dated Peshawar, the 21st July, 2005.

ORDER

No. SC(DH-I/MO-25/2005) WHEREAS, disciplinary proceedings under Removal from Service (Special Powers) Ordinance, 2000, were initiated against the following Medical Officers (BS-17) for their willful absence from duty:

Sr. No.	Name of doctor	Date of absence
1	Dr. Humeera Gilani D/O Zafar Ali Gilani, Ex-WMO RTH Pesh.	20.5.1998.
2	Dr. Parveen Akhtar D/O Wali Ullah Khan, Ex-WMO RHC Shatial, Konistan	27.2.2002
3	Dr. Rohina Anwar D/O Malik Muhammad Arif, Ex-WMO RTH Peshawar.	1.7.1996
4	Dr. Rabia Nabi D/O Sardar Muhammad Afsar Ex-WMO Zanana Hospital, Abbottabad.	13.8.1990.
5	Dr. Ruksana Rauf D/O Abdur Rauf, Ex-WMO Civil Hospital Ghar Khan Khel Kohat.	27.9.1988
6	Dr. Rahmat Afridi S/O Gul Zamir, Ex-MO THQH E-D Shah Karak.	13.8.1997
7	Dr. Lubna Rauf D/O Muhammad Abdur Rauf, Ex-WMO Health Department.	16.6.2002
8	Dr. Muhammad Saeed Sarwar S/O Sarwar Jan, Ex-MO RHC Spin Wami.	20.9.1997
9	Dr. Muhammad Ali Majeed S/O Abdul Majeed Khan, Ex-MO RHC Timter Khel.	1.12.2001
10	Dr. Sahibzada Ahmad S/O Altaf Hussain, Ex-MO Central Jail Hospital Peshawar.	3.3.2001
11	Dr. Altaf Ullah Jan S/O Muhammad Shah, Ex-TMO PGMI Pesh.	1.12.2003
12	Dr. Naveed Khan Sherwani S/O Abdul Hamid Khan, Ex-MO Health Department.	1.6.2001
13	Dr. Shezia Afridi D/O Shah Wali Khan, Ex-WMO Health Department.	9.9.1999
14	Dr. Farhat Sherin D/O Gul Roz Khan, Ex-WMO Health Deptt.	8.6.1995
15	Dr. Nizam Wahid D/O Fazal Wahid Khan, Ex-WMO AHQH Bafkheh Malakand Agency.	3.4.1990.
16	Dr. Muhammad Fiaz Khan S/O Muhammad Khan, Ex-MO SHS Kohat.	1.9.1997

ATTESTED

	Abbottabad,	
2	Dr. Muhammad Tariq Qureshi S/O Mohibur Rehman, Ex-MO DHQ Hospital Haripur.	1.11.2002
3	Dr. Ghazi Sultan Salahudeen S/O Mukaram Khan, Ex-MO BHU Barah Kohat.	2.1.2004
4	Dr. Romana Bashir D/O Muhammad Bashir Ex-WMO DHQH Abbottabad.	8.8.1992
15	Dr. Samina Tariq D/o Muhammad Yaqub, Ex-Dental Surgeon, RHC Badban Abbottabad.	24.9.2003
16	Dr. Muhammad Saeed ullah Shah S/O Malik Qalandar Shah Dawar, Ex-MO BHU Kot.	25.2.1993
37	Dr. Gohar Zaman S/O Aman Khan, Ex-Demonstrator KMC Peshawar.	14.3.1999
38	Dr. Ziaullah Khan S/O Ahmadullah, Ex-MO LRH Peshawar.	1.10.2004
39	Dr. Saima Alam D/O Muhammad Alam, Ex-WMO Health Deptt.	8.10.2000
90	Dr. Qasim Mehmood S/O Raham Zad, Ex-MO BIU Shamsaki	12.7.2001
91	Dr. Shehla Shabnam Wazir D/O Attaullah Wazir, Ex-WMO HMC Peshawar.	21.4.2004
92	Dr. Saadia Mustafa D/O Ghulam Mustafa, Ex-WMO RHC Badabher Peshawar.	16.12.1999
93	Dr. Seema Ijaz D/O Attaullah, Ex-WMO DHQH Abbottabad.	4.11.1996
94	Dr. Iqbal Ahmad Qureshi S/O Khaliq Ahmad Qureshi, Ex-TMO PGMI Peshawar.	1.5.2001
95	Dr. Kaniz Fatma Zuhra D/O Shahzada Mohi ud Din, Ex-WMO DHQH Chitral.	4.7.2001
96	Dr. Saadia Shafiq D/O Muhammad Shafiq, Ex-WMO ESH Pabbi District Nowshera.	1.12.2001
97	Dr. Arshad Rehan S/O Muhammad Rehan, Ex-MO Kota Khat Mardan.	25.4.2001
98	Dr. Naila Saadullah Jadoon D/O Saadullah Khan, Ex-MO DHQH Abbottabad.	16.12.2001
99	Dr. Muhammad Abidullah S/O Haji Ajab Gul, Ex-MO EDO (H) Office Mansehra.	16.11.2002
100	Dr. Mushtaq Ahmad S/O Fida Muhammad Ex-MO Mental Hospital, Peshawar.	14.7.2002
101	Dr. Umer Gul Nasir S/O Nasir Ali Jan, Ex-MO THQII Darosh Chitral.	18.12.1999
102	Dr. Dad Mir Afridi S/O Dilwar Khan Ex-MO DHQII Kohat.	20.9.1999
103	Dr. Muhammad Ilyas Khattak S/O Khan Badshah, Ex-MO KTH Peshawar.	1.10.1999
104	Dr. Salma Mona Alam D/O Alam Khan, Ex-WMO KMC Peshawar.	4.8.2002
105	Dr. Muhammad Ayaz, Ex-MO BHU Jabari Manshra.	8.1.2001

ATTESTED

106	Dr. Muhammad Munir S/O Darvez Ex-MO BHU Ghanori Dir Upper.	30.6.2002
107	Dr. Farhana Rahim D/O Rahim Shah, Ex-WMO KTH Peshawar.	21.6.2003
108	Dr. Abdul Ghafoor S/O Abdul Hameed, Ex-MO LRH Peshawar.	1.1.2004
109	Dr. Muhammad Shahid S/O Mohib Jamal, Ex-MO KTH Pesh.	21.6.1997
110	Dr. Wisal Muhammad S/O Noor Muhammad, Ex-TMO PGMI Peshawar.	26.6.2002
111	Dr. Mustafa Ali S/O Sadiq Ali, Ex-MO RHC Lora Abbottabad.	12.8.2004
112	Dr. Faridoon Shah S/O Muhammad Humayun Shah, Ex-MO DHQH Abbottabad.	1.8.2004

AND WHEREAS, show cause notices under Section-5(4) of NWFP Removal From Service (Special Powers) Ordinance 2000 were served upon them through their home addresses as well as through newspapers published in "Daily Aaj" and "Daily the Nation" on 19.2.2005 and 20.2.2005 respectively.

NOW THEREFORE, the Competent Authority, after having considered evidence on record, their long absence and replies, in exercise of powers conferred under Section-5 of the NWFP Removal from Service (Special Powers) Ordinance 2000, has been pleased to impose the major penalty of "Removal from Service" upon the above mentioned Medical Officers with immediate effect.

SECRETARY HEALTH.

Endst. No. and date even.

Copy to the:-

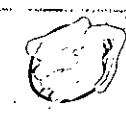
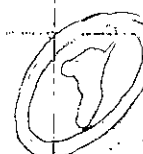
1. Director General, Health Services, NWFP, Peshawar.
2. AG NWFP Peshawar.
3. Director FATA Health Services.
4. EDOs (H) Concerned.
5. Chief Executives concerned.
6. MS Concerned.
7. Agency Surgeons concerned.
8. DAOs/AAOs Concerned.
9. Doctors concerned.

(Hamid Khan Khattak)
Section Officer - II.

ATTESTED

Annex
"B-1"

S-A

DIRECTORATE GENERAL HEALTH,
SERVICES, N.W.F.P. PESHAWAR.TO WHOM IT MAY CONCERN.

No 18824/12

dt: 26/07/2007

SERVICE CERTIFICATE.

Certified that Dr. Shehla Shabnam Wazir had joined the Provincial Health Department as W.M.O. B-17 since 28-05-1991 on regular basis.

Her history of Service is as under :-

S.No.	Post Held	From	To.
1)	WMO BS-17 AHQ ^H Miranshah	28-05-91	11-11-91
2)	WMO AHQH Ghallanai Mohmand Agency.	12-11-91	09-05-93
3)	WMO LRH Peshawar.	10-05-93	16-07-95
4)	WMO C.H. Dogra Picket Bara(Khyber Agency)	17-07-95	28-02-96
5)	WMO LRH Peshawar.	29-02-96	06-06-97
6)	WMO H.M.C. Peshawar.	07-06-97	31-10-2000
7)	Deputation to PGMI Lahore	01-11-2000	31-02-2002
8)	WMO H.M.C Peshawar.	01-11-2002	20-04-2003
9)	On 365-days Ex-Pak: EOL	21-04-2003	20-04-2004
10)	Terminated from Service w.e.f.	21-04-2004.	

FCR/ DIRECTOR GENERAL HEALTH,
SERVICES, N.W.F.P. PESHAWAR.

26/7/07

V: 16 P: 16

ATTESTED

annex
"C"

091-9210124
Ex: 205

9

12/12/18

ASE 7834
14-112

To,

The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar

Subject: Appeal for re-instatement of service

I, Dr. Shehla Shabnam Wazir was removed from service/post of W.M.O (BPS-17) in the year 2005. This letter is formal request for my reinstatement on the said post of W.M.O (BPS-17) in provincial health department. Due to multiple family issues I couldn't resume my duty after 1 year X-Pakistan leave in 2003. I sincerely regret my decision by not joining my duty in time. I want nothing more than to reinstate my job and consider my long absent period as a leave without pay.

Thank you for taking the time to consider my request. I hope to receive a positive reply from you soon.

I am attaching the relevant documents including service record and list (including my name) of removal from service.

Sincerely,

Shehla

Dr. Shehla Shabnam Wazir

Cell: 0335-0663598

shehla_wazir@hotmail.com

Dated: 10.12.2018

ATTESTED

ATTES: LU

بعدالت سروکس ٹریبونل، خلیفہ مختونخوا، شہاد

قیمت ایک روپیہ	سروکس ایپل ہنز	کورٹ فیس
----------------	----------------	----------

موزہ 2019-4-6
 مقدمہ (ڈاکٹر شہلا شبنم وزیر بناج سکریٹری ہیلتھ پروگرام)
 دعویٰ
 حتمہ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی و کل کاروائی متعلقہ آن مقام شہادہ کے اعلیٰ جان بارکندی و جینس بخش ایڈووکیٹس شہادہ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل احتیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند ہے

Shahida
 ڈاکٹر شہلا شبنم وزیر (ایڈووکیٹ)

المقوم
 گواہ شہادہ العبد
 Accepted
 Accepted
 Faiz Bukhsh
 Adv. Pesh
 Aimal Khan Barakandi
 Adv. Pesh