

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	31.07.2019	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 86/2019</p> <p style="text-align: center;">Date of Institution 21.01.2018 Date of Decision 31.07.2019</p> <p>Dr. Abdul Wakeel District Specialist Surgery Matta, Swat. Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. Government of Khyber Pakhtunkhwa, through Chief Secretary. 2. Secretary Health Government of Khyber Pakhtunkhwa, Peshawar. 3. Director General Health Services Khyber Pakhtunkhwa, Peshawar. 4. District Health Officer Swat. 5. District Health Officer, Mansehra. <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Ahmad Hassan-----Member(E)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Appellant present. Learned counsel for appellant and Mr. Usman Ghani learned District Attorney present.</p> <p>2. The appellant (District Specialist) has filed the present service appeal being aggrieved against the order dated 23.10.2018 whereby he was transferred from THQ Hospital Matta Swat and his services were placed at the disposal of DHO Mansehra for his further adjustment</p>

31.7.2019

against the vacant post of District Specialist Surgery. The appellant has also assailed the order dated 11.01.2019 through which his departmental appeal against the posting transfer order dated 23.10.2018 was regretted.

3. Learned counsel for the appellant argued that consequent upon Notification dated 27.03.2017, the appellant has been performing his duties as District Specialist Surgery at THQ Hospital Hospital Matta, Swat.; that after having served just for round about one (01) year, the appellant was transferred to District Mansehra vide impugned order dated 23.10.2018 issued by Secretary Health Khyber Pakhtunkhwa; that the impugned posting transfer order is malafide and politically motivated which fact is clear from office letter dated 13.09.2018 of the Minister for Agriculture, Livestock, Fisheries and Cooperative Department, Khyber Pakhtunkhwa addressed to the Minister for Health Khyber Pakhtunkhwa; that the impugned posting transfer order is also premature as the appellant has not yet completed his normal tenure as District Specialist Surgery at THQ Matta, Swat; that the departmental appeal of the appellant was regretted for no good grounds.

4. As against that learned District Attorney while resisting the present service appeal, argued that the appellant remained posted at Tehsil Matta, District Swat for sufficient time; that vide order dated 06.11.2015, the appellant was transferred from C.H Matta, Swat to MMC Mardan however the appellant got cancelled his posting transfer order to District Mardan through office order dated 27.01.2016. Further argued that every civil servant of the Provincial Cadre is liable to serve

31.7.2019

anywhere in the province and that the appellant has no right to claim posting of his choice and that too for indefinite period. Further argued that the impugned posting transfer order remained under suspension and now the appellant has also completed his normal tenure as District Specialist Surgery at THQ Hospital Matta, Swat.

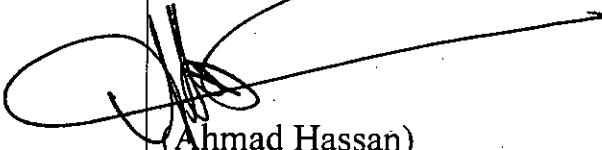
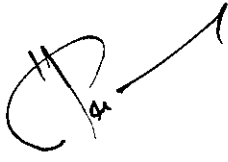
5. Arguments heard. File perused.

6. Copy of letter dated 13.09.2018, of the Minister for Agriculture, Livestock, Fisheries and Cooperative Department, Khyber Pakhtunkhwa addressed to Minister of Health Khyber Pakhtunkhwa is available on file and perusal of the same would show that the Minister of Health was asked for transfer and posting of the appellant at DHQ Hospital D.I.Khan. When the said letter was confronted to the learned District Attorney, he could not rebut the stance of the appellant that the impugned posting transfer order is politically motivated.

7. In the given circumstance, the impugned posting transfer order could not withstand. It may however be observed that the appellant was posted at Tehsil Matta District Swat in the year 2003 and still he is serving at the same Tehsil.

8. As a sequel to above, the respondent department is directed to issue fresh posting transfer order of the appellant as per in vogue posting transfer policy on domicile/rationalization basis within 15 days of the receipt of this judgment. The quarter concerned shall also examine the conduct of the Secretary concerned for having succumbed to the whims and wishes of the Minister. The present service appeal is accepted in the above terms. Parties are left to bear their own costs. File

31.7.2018

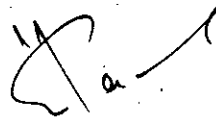
		be consigned to the record room.	
		(Ahmad Hassan) Member	
		<u>ANNOUNCED.</u> 31.07.2019	(Muhammad Hamid Mughal) Member

31.07.2019

Appellant present. Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney present. Vide separate judgment of today of this Tribunal placed on file, the respondent department is directed to issue fresh posting transfer order of the appellant as per in vogue posting transfer policy on domicile/rationalization basis within 15 days of the receipt of this judgment. The quarter concerned shall also examine the conduct of the Secretary concerned for having succumbed to the whims and wishes of the Minister. The present service appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
31.07.2019

15.07.2019

Appellant alongwith his counsel present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Hazrat Shah, Superintendent for the respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Adjourned to 30.07.2019 for arguments before D.B. The restraint order shall continue till the date fixed.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

30.07.2019

Appellant present. Junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned by way of last chance. To come up for arguments on 31.07.2019 before D.B.

Member


Member

Appeal No. 86/2019
Dr. Abdul Wakeel vs Govt

17.06.2019

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Hazrat Shah, Superintendent for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for adjournment. Adjourned to 01.07.2019 for written reply/comments before S.B. The restraint order already granted shall continue till the date fixed.



(Muhammad Amin Khan Kundi)
Member

01.07.2019

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Hazrat Shah, Superintendent for the respondent No. 3 & 4 present and submitted written reply. Representative of the respondents 3 & 4 stated that respondents No. 1 & 2 rely on the same. None present on behalf of respondents No. 5 & 6 hence placed ex-party. Granted. To come up for rejoinder/arguments on 15.07.2019 before D.B. The restraint order shall continue till the date fixed.



Member

14.05.2019

Appellant in person and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Hazrat Shah Superintendent present and seeks adjournment to furnish reply.

It was brought to the notice of this Tribunal that Mr. Tasleem S.O-III of the office of Secretary Health has to process the case for submission of reply. Notice be issued to the respondents No.4, 5 & 6 alongwith Mr. Tasleem SO-III of office of Secretary Health for reply/comments. Adjourn. To come up for reply/comments on 29.05.2019 before S.B.


Member

29.05.2019

Appellant with counsel and Addl. AG for the respondents present.

Learned counsel for the appellant has submitted an application for placing on record some additional documents dated 09.04.2019, 18.04.2019, 14.05.2019 and 24.05.2019. The application is allowed and the documents are placed on record to form a part thereof.

The representative of respondents is not in attendance today, therefore, the requisite comments/reply has not been submitted. Learned AAG is directed to procure the requisite reply till next date of hearing. The matter will be proceeded with irrespective of availability of reply on the adjourned date.

Adjourned to 17.06.2019 before S.B. The order of maintenance of status quo dated 27.02.2019 shall remain operative till next date of hearing.


Chairman

17.04.2019

Appellant with counsel present. Written reply not submitted. Hazrat Shah Superintendent representative of respondent No.3 absent. He be summoned with direction to furnish written reply. Fresh notice be issued to remaining respondents with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 19.04.2019 before S.B

Member

18.04.2019

Appellant with counsel present. Written reply not submitted. M/S Hazrat Shah Superintendent and Amjid Ali Assistant representatives of the respondent department absent. Notice be issued to the said representatives as well as respondents to furnish written reply/comments. Adjourn. To come up for written reply/comments on 24.04.2019 before S.B.

Member


24.04.2019

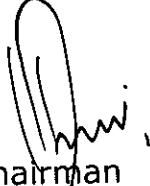
Appellant in person and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Appellant submitted an application for implementation of the order dated 27.02.2019 in the instant appeal and initiating contempt of court proceedings against the respondents, copy of which is placed on file. Notice of the said application be also issued to the respondents. Case to come up for written reply/comments on main appeal as well as reply/arguments on application on 14.05.2019 before S.B. Till next date status quo be maintained by the parties.


(Ahmad Hassan)
Member

notices be issued to the respondents. To come up for written reply/comments on 18.03.2019 before S.B.


The memorandum of appeal is accompanied by an application for suspension of impugned order dated 13.10.2018. Notice of application be also given to the respondents for the date fixed. Till next date status quo be maintained by the parties.


Appellant Deposited
Security & Process Fee


Chairman


18.03.2019

Appellant with counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Notices has not been issued to the respondents. Notices be issued to the respondents for submission of written reply/comments. Case to come up for written reply/comments on 07.04.2019 before S.B.


Member
(Ahmad Hassan)

02.04.2019


Appellant with counsel present. Mr. Kabirullah, Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 17.04.2019 before S.B. Till date status quo be maintained by the parties.


(Ahmad Hassan)
Member

27.02.2019

Counsel for the appellant present.

Contends that the appellant was performing duties at THQ Hospital, Matta District Swat since 05.09.2017 having been regularized there on 27.03.2018. On 23.10.2018 he was transferred to DHO Mansehra for adjustment against a vacant post of District Specialist Surgery (BPS-18). The said transfer was on account of a letter sent by Minister for Agriculture, Livestock, Fisheries and Cooperative Department Khyber Pakhtunkhwa on 13.09.2018. The said fact clearly indicated that the impugned transfer of appellant was motivated through political consideration. The appellant where-after preferred a Writ Petition before the Honourable High Court in which interim relief was granted on 08.11.2018. The Writ Petition was disposed of on the said date. There-after, the departmental appeal of the appellant against the impugned transfer order was regretted on 11.1.2019. A copy of the order rejecting the appeal was again duly endorsed to P.A to Minister, Health Khyber Pakhtunkhwa which was not at all necessary in the ordinary course of business. The said endorsement was also suggestive of the fact that the case of appellant was being treated under political influence.

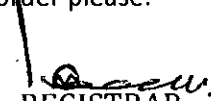

 In view of the above the appeal in hand is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter,

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____ 86/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/1/2019	<p style="text-align: center;">The appeal of Dr. Abdul Wakeel presented today by Mr. Saghir Iqbal Gulbella 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 <u>21/1/19</u> </p>
2-		<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/2/19</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In Re S.A. 86 /2019

Dr. Abdul Wakeel

VERSUS

Govt. of Khyber Pakhtunkhwa and others

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3.	Application of suspension alongwith Affidavit		10-11, 11-A.
4.	Addresses of Parties.		12.
5.	Copy of the charged report	"A & A1"	13-14.
6.	Copy of Notification dated 27/03/2018 while the Charge Report of regular BPS-18	"B & C"	15-17.
7.	Copy of the impugned transfer order dated 23/10/2018	"D"	18.
8.	Copy of Malicious letter dated 13/09/2018	"E"	19.
9.	Copy of writ petition No. 5301-P/2018 and order /judgment dated 08/11/2018	"F & G"	20-32.
10.	Copies of departmental appeal & its Dismissal office order SOH-I/HD/3-11/18	"H" & "H-1"	33-40.
11.	Copies of notification SOH-I/HD/7-53/2018 dated 20/11/2018 and notification No. SOH-I/HD/7-53/2018 dated 23/11/2018	"I" & "J"	41-42.
12.	Other Documents	"K" & "L"	43-54.
13.	Wakalat Nama		55.

Dated: 18/01/2019


Appellant

Through


SAGHIR IQBAL GULBELA

JAVED IQBAL GULBELA

Advocate High Court
Peshawar.

Off Add: 9-10A Al-Nimrah Centre, Govt College Chowk Peshawar

(1)

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

In Re S.A. 86 /2019

Diary No. 82
Dated 21-1-2019

Dr. Abdul Wakeel District Specialist Surgery
Matta, Swat.

-----**(Appellant)**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Chief Secretary at Civil Secretariat Peshawar.
3. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Director General Health Services Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
5. Director Health Officer Swat.
6. District Health Officer Mansehra.

-----**(Respondents).**

Filed to-day

Registrar

21/1/19

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE IMPUGNED OFFICER ORDER NO. SOH-I/HD/3-11/2017 DATED 23/10/2018 WHEREBY THE APPELLANT WAS ILLEGALLY TRANSFERRED FROM THE HOSPITAL MATTA SWAT TO DHO MANSEHRA AND DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ABOVE IMPUGNED OFFICE ORDER WAS DISMISSED IN A CLASSICALLY CURSORY AND WHIMSICAL MANNER VIDE OFFICE ORDER NO. SOH-I/HAD/3-11/18 DATED 11/01/2019.

Respectfully Sheweth:

1. That the Appellant is a naturally born bonafide citizen of the Islamic Republic of

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Pakistan and hails from a respectable family of District Swat.

2. That infact the Appellant is performing his duties as Doctor by profession who got inducted into service as Medical Officer (BPS-17) via Public Service Commission and after going through the mandatorily required test and interview on 04/02/2002 and posted at Basic Health Unit (BHU) Charbagh.
3. That after getting onto the roles of health department and posted at BHU Charbagh, the Appellant was transferred to Tehsil Headquarters Hospital (THQ) Matta, Swat in the year 2003. It was at this juncture that the Appellant joined PIMS Islamabad on Deputation basis for doing his Masters Specialization in General Surgery in January 2006.
4. That after completion of MS General Surgery from PIMS Islamabad, the Appellant reported back and was posted at his place of posting i.e. THQ Hospital Matta.
5. That it was at this juncture that the Appellant applied against and appointed as District Specialist Surgery (BPS-18) and was posted at THQ Matta on 30/08/2017. **(Copy of the changed report is annexed as annexure "A")**
6. That initially the Appellant was appointed, as usual, on adhoc basis which was later on

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regularized vide notification dated 27/03/2018 and thus since then the Appellant is performing his duties as regular District Specialist (BPS-18) in THQ Matta Swat. **(Copy of Notification dated 27/03/2018 is annexed as annexure "B" while the charge report of regular BPS-18 is annexed as annexure "C")**

7. That after having served just for round about one year as District Specialist (BPS-18) the Appellant was, out of the blue transferred from THQ, Matta Swat to District Mansehra and the services of the Appellant were placed at disposal of DHO Mansehra vide impugned Notification No.SOH-I/HD/3-11/2017 dated 23/10/18 **(Copy of the impugned transfer order dated 23/10/2018 is annexed as annexure "D")**.
8. That it is pertinent to mention here that the impugned Notification is never ever a fair and bonafide one or rather in Public Interest, but is rather a politically motivated one, as clear from office letter No. D.O No.MIN./ALF & C/1-7/2018, dated 13/09/2018 of the Office of Minister for Agriculture, Live Stock, Fisheries and Cooperatives Khyber Pakhtunkhwa, addressed to Minister for Health, Khyber Pakhtunkhwa. **(Copy of the Malicious letter dated 13/09/2018 is annexed as annexure "E")**
9. That besides being a politically motivated transfer order, the same impugned transfer order is also violative of the normal tenure

of transfer and posting policy and is thus illegal.

10. That the Appellant has moved Writ Petition before Hon'ble Peshawar High Court Peshawar because at that time, this Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar was dysfunctional, which was disposed off with direction to Respondent No.1, "To decide the fate of departmental appeal of the petitioner expeditiously, but surly in accordance with law, the Hon'ble Peshawar High Court Peshawar suspended the impugned notification No. SOH-I/HD/3-11/2017 dated 23/10/2018." (Copy of writ petition No. 5301-P/2018 and order /judgment dated 08/11/2018 are annexed as annexure "F" & "G" respectively).

11. That the Respondent in spite of clear direction of Peshawar High Court Peshawar "to decide the fate of departmental appeal of the appellant in accordance with law", but even then, the respondents dismissed the departmental appeal of the Appellant in a classical, cursory and whimsical manner, vide office order No. SOH-I/HD/3-11/18 dated 11/01/2019 which is not only illegal, unlawful, void ab-initio but also against the rules and policy of the Government and is ineffective upon the rights of the appellant. (Copies of departmental appeal & its Dismissal office order SOH-I/HD/3-11/18 are annexed as annexure "H" & "H-1")

12. That feeling aggrieved and having no other expeditious remedy available, the Appellant approaches this Hon'ble Tribunal for recognition, enforcement and acknowledgment of his fundamental rights upon the following grounds inter alia:-

Grounds:

A. That there exist no other expedient-cum-expeditious and adequate remedy available to the Appellants, hence the instant petition under the extraordinary jurisdiction of this August court.

B. That the Appellant is a the naturally born bonafide citizen of the Islamic Republic of Pakistan and are fully and equally, on equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws of the land and discrimination alongwith unfettered exercise of discriminatory powers by an authority or office is always been deplored, deprecated and depreciated by superior Courts of the land.

C. That the impugned transfer order is void abinitio, illegal, unlawful, coram non iudice and is liable to be cancelled.

D. That the impugned transfer order is certainly a politically motivated transfer order and has been issued on the behest of minister for Agriculture, which rendered the very

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impugned transfer order as void and against the well established law.

E. That the normal tenure of nay posting is 03 years, while the Appellant has served just for round about one year after being appointed as District Specialist (BPS-18) at THQ Matta, which is a glaring and bold violation of transfer and posting policy of Government of Khyber Pakhtunkhwa and is a nullity in the eyes of law.

F. That besides above, the very impugned transfer order is malicious on its very surface for the reason that a District Specialist from THQ Hospital Matta Swat has been transferred from the territorial limits of DHO Swat to far flung District of Mansehra with a General remarks that "His services are placed at the disposal of DHO Mansehra for his further adjustment against the vacant post of District Specialist Surgery (BPS-18) in the public interest with immediate effect". Now bare reading of the same would manifest that he Appellant has only been penalized and has been shown to have been transferred against the vacant post, which vacant post does not find any mention in the same order that whether that alleged vacant post is available at DHQ Hospital Mansehra or any other Hospital of that District Which shows that the same is never been issued in the pubic interest.

G. That it is also pertinent to mention here that there already exist vacant posts of District Specialist Surgery not only at DHQ Mingora

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but as well as in other Tehsil Headquarter Hospital of District Swat, so where vacant posts are available at his home District then why and how and under what law the Appellant is posted to such a far flung District, away from home Town and that too under the alleged notion of against vacant post" & in "Public Interest"?

- H. That interestingly, no one is transferred against the post of Appellant, which means that the very post of District Specialist (BPS-18) at THQ Hospital Matta Swat would remain vacant because of the transfer of the Appellant, which also means that the impugned transfer order have never been issued in public interest.
- I. That since inducting into service, the performance of the Appellant has remained excellent and there exists no complaint, what so ever, moved against the Appellant and the same is reflected from his ACR's and different certificates.
- J. That from every corner, the impugned transfer order is illegal, void, and the same is liable to be set aside.
- K. That it is pertinent to mention here that the respondent through notification SOH-I/HD/7-53/2018 dated 20/11/2018 and notification No. SOH-I/HD/7-53/2018 dated 23/11/2018 re-transfer the doctors mentioned in the above notification but strangely, discriminately treated the appellant and dismissed the departmental appeal of the appellant, which

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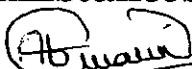
is not only against the law, but is also illegal, unlawful, void ab-initio and ineffective upon the rights of the appellant and liable to be set aside. (Copies of notification are annexed as "I" & "J")

L. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

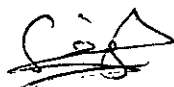
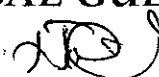
It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned transfer Notification No. SOH-I/HD/3-II/2017 dated 23/10/2018 of the office of Secretary Health Departmental Khyber Pakhtunkhwa and office order No. SOH-I/HAD/3-11/18 dated 11/01/2019 may very graciously be declared as void and illegal and be set aside and cancelled and by doing so, the Appellant be allowed to serve at his own place of posting i.e. District Specialist Surgery (BPS-18) at THQ Hospital Matta Swat.

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

Dated: 18/01/2019



Appellant

Through


SAGHIR IQBAL GULBELA
& 
JAVED IQBAL GULBELA
Advocate High Court
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

 Advocate.

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In Re S.A _____/2019

Dr. Abdul Wakeel


VERSUS

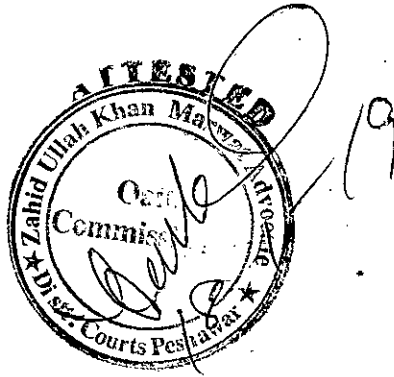
Govt. of Khyber Pakhtunkhwa and others

AFFIDAVIT

I, **Dr. Abdul Wakeel District Specialist Surgery Mata Swat**, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DEPONENT
15601-8600052-5

Identified By: 
Javed Iqbal Gulbela
Advocate High Court
Peshawar.



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2019

Dr. Abdul Wakeel

VERSUS

Government of Khyber Pakhtunkhwa Through Chief
Secretary & Others

**PETITION FOR SUSPENSION OF
ORDER NO. SOH-I/HD/3-11/2017
DATED 23/10/2018, 11-01-2019 OF
THE APPELLATE AUTHORITY.**

RESPECTFULLY SHEWETH,

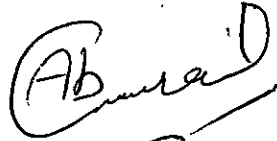
1. That the petitioner/ appellant has submitted the attached appeal the grounds of which mentioned therein may be perused as ground of this petition also.
2. That the petitioner/ appellant has been transferred from THQ Hospital Matta Swat to DHO Mansehra which is illegal, unlawful and against the rights of the appellant/ petitioner.
3. That the transfer of the petitioner/ appellant is the result of use of political interference as clear from office letter No. D.O No. MIN/ALF & C/1-7/2018 dated 13/09/2018. (Copy of malicious letter dated 13/09/2018 is already annexed as annexure "E" with the main appeal).
4. That when this Hon'ble' Tribunal was dysfunctional and the appellant/ petitioner had

moved a writ petition against the impugned office order then, the August Peshawar High Court Peshawar suspended the impugned notification in the best interest of justice and the petitioner/appellant prayer for the same relief to this Hon'ble Tribunal. (Copy of writ petition & order of High Court are already annexed as "F" & "G" with the main appeal).

It is, therefore, humbly prayed that on acceptance of this petition, the impugned office order No. SOH-I/HD/3-11/2017 Dated 23/10/2018, may very graciously be suspended the order dated 11/01/2019 of the Appellate Authority till the final disposal of accompanying appeal.

Dated: 18/01/2019

Appellant



Through

SAGHIR IQBAL GULBELA

&

JAVED IQBAL GULBELA

Advocate High Court
Peshawar.

11-A

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In Re S.A _____/2019

Dr. Abdul Wakeel

VERSUS

Govt. of Khyber Pakhtunkhwa and others

AFFIDAVIT

I, **Dr. Abdul Wakeel District Specialist Surgery Mata Swat**, do hereby solemnly affirm and declare that all the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DEPONENT
15601-8600052-5

Identified By :

Javed Iqbal Gulbela
Advocate High Court
Peshawar.



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In Re S.A _____/2019

Dr. Abdul Wakeel

VERSUS

Govt. of Khyber Pakhtunkhwa and others

ADDRESSES OF PARTIES

APPELLANT.

Dr. Abdul Wakeel District Specialist Surgery Matta,
Swat.

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Chief Secretary of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Chief Secretary at Civil Secretariat Peshawar.
3. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Director General Health Services Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
5. Director Health Officer Swat.
6. District Health Officer Mansehra..

Dated: 18/01/2019


Appellant

Through


SAGHIR IQBAL GULBELA

& JAVED IQBAL GULBELA

Advocate High Court
Peshawar.

(5)

(13)

Am-A
2

**GOVERNMENT OF KHYBER PAKHTUN KHWA PROVINCE
CERTIFICATE OF TRANSFER OF CHARGE.**

Certified that 1. Dr.Abdul Wakil District specialist Surgery BPS-18.
have this day Before Noon Taking Over Charge of the District Specialist Surgery BPS-18,at
ZKS:THQ:Hospital Matta Swat, with reference to the Government of Health Department Notification
NO.SOH-I/(HD)3-5/2015,Dated.30.8.2017.

Mr /Dr.....

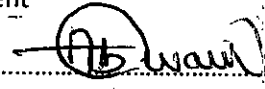
To:.....

2-Particulars of Cash and important/Secret/Confidential documents handed over/taken over are noted
on the reverse.

Station. ZKS:THQ:Hospital Matta Swat.

Signature of relieved
Government Servant.....

Designation;-

Signature of Government
Servant receiving
Charge 

Dated. 31/8/2017 .Before Noon.

Designation;-District Specialist surgery BPS-18

Endst No..... Dated.....201

From
.....
.....

- To;-
- 1- The Accountant General
K.P.K.Province ,Peshawar
 - 2-.....
 - 3-.....

The charge of the office of.....
was transferred from Mr/Dr.....
to Mr/Dr.....
on the fore noon of the.....201
after

Signature.....
Designation.....



(14)
DISTRICT HEALTH OFFICER
SWAT AT GULKADA.
Phone No. 0946-9240139,
Fax No. 0946-9240215
Email. edohswat@yahoo.com

NO. _____ /PF/M.I.
To,

Dated. 05/9/2017.

The Director General Health Services
Khyber Pakhtunkhwa Peshawar.

Subject:- CHARGE REPORT.
R/Madam,

Reference to the Government of Khyber pakhtunkhwa Health Department Notification NO.SOH-I(HD)3:5/

2015, Dated.30.8.2017.

I have the honour to enclose herewith Chargé report (Arrival) in respect of Dr.Abdul Wakil District Specialist Surgery BPS-18, attached to ZKS: THQ:Hospital Matta Swat.

Submitted for information and necessary action Please.

DISTRICT HEALTH OFFICER
DISTRICT SWAT AT GULKADA.

12770-02
NO. _____ /PF/M.I.

Copy alongwith Copy of charge report is forwarded to the;

1. District Accounts Officer District Swat.
2. Divisional Monitoring Officer District Swat.
3. Medical Officer Incharge ZKS:THQ:Hospital Matta Swat
4. Doctor concerned.
5. Account /DIHS Section of this office..

for information and necessary action Please.

DISTRICT HEALTH OFFICER,
DISTRICT SWAT AT GULKADA.

SHARIF.



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

(15)

Amir B
2

NOTIFICATION

Peshawar, dated the 27th March 2018

No.SOH-I/HD/7-53/2017:- In pursuance of clause (iii) of sub-section (1) section 3 of the Khyber Pakhtunkhwa employees (Regularization of Services) Act; 2018, the following District Specialists (BS-18), appointed on adhoc basis, shall stand regularized with immediate effect against the posts which they are holding at the time of commencement of the Act Ibid.

S.No.	Name of doctor	Speciality
1.	Dr. Qurat ul Ain D/O Muhammad Rehman	Gynaecology (BS-18)
2.	Dr. Asma Zahir D/O Mohammad Zahir	-do-
3.	Dr. Najma Ayub D/O Ayub Khan	-do-
4.	Dr. Sadaf Sarwar D/O Mohammad Farooq	-do-
5.	Dr. Robina Pervaiz D/O Mohammad Pervalz	-do-
6.	Dr. Mehnaz Akhtar D/O Sakhi Badshah	-do-
7.	Dr. Hassina Shabir D/O Shabir Hussain	-do-
8.	Dr. Azhar Yaqoob S/O Dr. Mohammad Yaqoob	Pathology (BS-18)
9.	Dr. Sher Badshah S/O Behramand Khan	-do-
10.	Dr. Rafiq Ahmad S/O Haji Gul	-do-
11.	Dr. Milan Mohammad Naveed S/O Mian Said Karam	-do-
12.	Dr. Mehwish Noshad D/O Noshad Khan	-do-
13.	Dr. Mohammad Younas S/O Yaqoob Khan	Psychiatry (BS-18)
14.	Dr. Mohammad Riaz S/O Azam Khan	-do-
15.	Dr. Waqar ul Mulk S/O Mukhtar ul Mulk	Anaesthesia (BS-18)
16.	Dr. Usman Rafiq S/O Mohammad Rafiq	Dermatology (BS-18)
17.	Dr. Niaz Akbar S/O Muhammad Akbar	-do-
18.	Dr. Rozi Afsar S/O Hanid Gul	Dentistry (BS-18)
19.	Dr. Tanveer Hussain S/O Yousaf Hussain	-do-
20.	Dr. Fazal Malik S/O Shah Wali	Medicine (BS-18)
21.	Dr. Sahibzada Imtiaz Ahmad S/O Sahibzada Javed Iqbal	-do-
22.	Dr. Mohammad Ikram S/O Khan Afsar	-do-
23.	Dr. Fazli Rehman S/O Jalat Khan	-do-

(16)

24.	Dr. Allauddin s/O Badshah Khan	-do-
25.	Dr. Murad Ali S/O Amanullah	-do-
26.	Dr. Abdul Wakeel S/O Mohammad Ibrahim	General Surgery (BS-18)
27.	Dr. Asif Mehmood S/O Abdul Khaliq	-do-
28.	Dr. Ahmad Ali S/O Karim Shah	-do-
29.	Dr. Said Zaman S/O Gran Said	Cardiology (BS-18)
30.	Dr. Shamshad Khan S/O Saddullah Khan	Radiology (BS-18)
31.	Dr. Mir Raza Shah S/O Khalid Badshah	-do-
32.	Dr. Andaleeb Fakhar D/O Qazi Kamal ud Din	-do-
33.	Dr. Hameedullah S/O Haji Ramzan	Gastroenterology (BS-18)

2. The inter-se-seniority will be determined as per rules.

**SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA**

Endst No and date even

C.C

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Hospital/Medical Director MTI concerned.
4. DHOs concerned.
5. Medical Supdt: DHQH/AHQH concerned.
6. Medical Supdt: Malvi Ameer Shah Memorial Hospital, Peshawar/BKMC, Swabi/Women & Children Hospital, Kohat/Abbottabad.
7. Medical Supdt:/Incharge IHQH/Category 'D' Hospitals concerned.
8. Distt: Accounts Officer concerned.
9. Manager Govt. Printing Press Peshawar with the request to publish 100 copies in the gazettee notification.
10. PS to Minister Health
11. PS to Secretary Health Department.
12. Doctors concerned.
13. Personal files of the doctors concerned.


(Tasbeem Khan)
Section Officer-I

(17)
Am-C

To

The DHO Swat

Through;

Proper Channel

Subject;

CHARGE/ARRIVAL REPORT

Respected Sir,

Reference to the government of Khyber pakhtunkhwa Health Department Notification No. SOH-I/HD/7-53/2017, Dated 27th march 2018.

I have the honor to submit my Charge Report as a District Specialist Surgery BPS- 18, on **Regular Basis, on 27th march 2018**, at ZKS THQH Matta, where I am performing my duty as a District Specialist Surgery BPS-18, on Adhoc Basis since, 31 August 2017.

Therefore you are requested to accept my charge/arrival report for further necessary action please.

Thanks

Your s Obediently,



Dr Abdul Wakil
District Specialist Surgery
ZKS THQH Matta.

Dated; 27th march 2018.



(18)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Annexure - D

Dated Pesh: the 23rd October, 2018

NOTIFICATION:

No. SOH-II/HD/3-11/2017: The competent authority is pleased to transfer Dr. Abdul Wakeel, District Surgeon (BS-18) from THQ Hospital Matta Swat and his services are placed at the disposal of DHO Mansehra for his further adjustment against the vacant post of District Specialist Surgery (BS-18) in the public interest, with immediate effect.


SECRETARY HEALTH DEPARTMENT

Endst: No & date even

To:

1. Director General Health Services Khyber Pakhtunkhwa.
2. District Health Officers Swat and Mansehra.
3. Medical Superintendent / Incharge THQ Hospital Matta Swat.
4. District Accounts Officers concerned.
5. Doctor concerned.
6. Personal file of the doctor concerned.


Section Officer (E-I)


JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501



(19)
MINISTER FOR AGRICULTURE,
LIVESTOCK, FISHERIES & COOPERATIVES,
KHYBER PAKHTUNKHWA.

Amir
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D.O No. MIN./ALF&C/1-7/2018
Dated Peshawar the 13th September, 2018.

SUBJECT:- POSTING/TRANSFER.

Dear Sir,

Assalam-o-Aliakum

Hope that you will find this letter of mine in your good health.

Dr. Wakil Khan, District Specialist, who is presently working at THQ Hospital Matta District Swat. He may be transferred and posted at DHQ Hospital, D.I Khan, in the best public interest.

With regards,

(MOHIBULLAH KHAN)

Dr. Hisham Inamullah Khan,
Hon'ble Minister for Health,
Khyber Pakhtunkhwa

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(20)

Amended - F



BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR.

In Re W.P. 5301-F/2018

Dr. Abdul Wakeel District Specialist Surgery
Mata.

-----*(Petitioner)*

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Chief Secretary at Civil Secretariat Peshawar.
3. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Director General Health Services Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
5. Director Health Officer Swat.
6. District Health Officer Mansehra.

....Respondents

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

Respectfully Sheweth;

1. That the petitioner is a naturally born bonafide citizen of the Islamic Republic of Pakistan and hails from a respectable family of District Swat.

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WP5301-2018- Dr. Abdul Wakeel vs Govt KP Full PG 42

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(2)

2. That infact the Petitioner is performing his duties as Doctor by profession who got inducted into service as Medical Officer (BPS-17) via Public Service Commission and after going through the mandatorily required test and interview on 04/02/2002 and posted at Basic Health Unit (BHU) Charbagh.
3. That after getting onto the roles of health department and posted at BHU Charbagh, the Petitioner was transferred to Tehsil Headquarters Hospital (THQ) Matta, Swat in the year 2003. It was at this juncture that the Petitioner joined PIMS Islamabad on Deputation basis for doing his Masters Specialization in General Surgery in January 2006.
4. That after completion of MS General Surgery from PIMS Islamabad, the Petitioner reported back and was posted at

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his place of posting i.e. THQ Hospital
Matta.

5. That it was at this juncture that the
Petitioner applied against and appointed as
District Specialist Surgery (BPS-18) and
was posted at THQ Matta on 30/08/2017.

**(Copy of the changed report is annexed as
annexure "A")**

6. That initially the Petitioner was appointed,
as usual, on adhoc basis which was later on
regularized vide notification dated
27/03/2018 and thus since then the
Petitioner is performing his duties as
regular District Specialist (BPS-18) in THQ
Matta Swat. **(Copy of Notification dated
27/03/2018 is annexed as annexure "B"
while the charge report of regular BPS-18
is annexed as annexure "C")**

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7. That after having served just for round
about one year as District Specialist (BPS-
18) the Petitioner was, out of the blue

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transferred from THQ, Matta Swat to District Mansehra and the services of the Petitioner were placed at disposal of DHO Mansehra vide impugned Notification No.SOH-I/HD/3-11/2017 dated 23/10/18 (Copy of the impugned transfer order dated 23/10/2018 is annexed as annexure "D").

8. That it is pertinent to mention here that the impugned Notification is never ever a fair and bonafide one or rather in Public Interest, but is rather a politically motivated one, as clear from office letter No. D.O No.MIN./ALF & C/1-7/2018, dated 13/09/2018 of the Office of Minister for Agriculture, Live Stock, Fisheries and Cooperatives Khyber Pakhtunkhwa, addressed to Minister for Health, Khyber Pakhtunkhwa. (Copy of the Malicious letter dated 13/09/2018 is annexed as annexure "E")

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Peshawar High Court

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9. That besides being a politically motivated transfer order, the same impugned transfer order is also violative of the normal tenure of transfer and posting policy and is thus illegal.

10. That feeling aggrieved and having no other expeditious remedy available, the Petitioner approaches this August Court for recognition, enforcement and acknowledgment of his fundamental rights upon the following grounds inter alia:-

Grounds:

A. That there exist no other expedient-cum-expeditious and adequate remedy available to the Petitioners, hence the instant petition under the extraordinary jurisdiction of this August court.

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B. That the petitioner is a the naturally born bonafide citizen of the Islamic Republic of Pakistan and are fully and equally, on.

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equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws of the land and discrimination alongwith unfettered exercise of discriminatory powers by an authority or office is always been deplored, deprecated and depreciated by superior Courts of the land.

C. That the impugned transfer order is void abinitio, illegal, unlawful, corum non iudice and is liable to be cancelled.

D. That the impugned transfer order is certainly a politically motivated transfer order and has been issued on the behest of minister for Agriculture, which rendered the very impugned transfer order as void and against the well established law.

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E. That the normal tenure of nay posting is 03 years, while the Petitioner has served just for round about one year after being appointed as

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District Specialist (BPS-18) at THQ Matta, which is a glaring and bold violation of transfer and posting policy of Government of Khyber Pakhtunkhwa and is a nullity in the eyes of law.

F. That besides above, the very impugned transfer order is malicious on its very surface for the reason that a District Specialist from THQ Hospital Matta Swat has been transferred from the territorial limits of DHO Swat to far flung District of Mansehra with a General remarks that "His services are placed at the disposal of DHO Mansehra for his further adjustment against the vacant post of District Specialist Surgery (BPS-18) in the public interest with immediate effect". Now bare reading of the same would manifest that the Petitioner has only been penalized and has been shown to have been transferred against the vacant post, which vacant post does not find any mention in the same order that whether that alleged vacant post is available

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(3)

at DHQ Hospital Mansehra or any other Hospital of that District Which shows that the same is never been issued in the public interest.

G. That it is also pertinent to mention here that there already exist vacant posts of District Specialist Surgery not only at DHQ Mingora but as well as in other Tehsil Headquarter Hospital of District Swat, so where vacant posts are available at his home District then why and how and under what law the Petitioner is posted to such a far flung District, away from home Town and that too under the alleged notion of against vacant post" & in "Public Interest"?

H. That interestingly, no one is transferred against the post of Petitioner, which means that the very post of District Specialist (BPS-18) at THQ Hospital Matta Swat would remain vacant because of the transfer of the Petitioner, which also means that the

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impugned transfer order have never been issued in public interest.

- I. That since inducting into service, the performance of the Petitioner has remained excellent and there exists no complaint, what so ever, moved against the Petitioner and the same is reflected from his ACR's and different certificates.
- J. That from every corner, the impugned transfer order is illegal, void, and the same is liable to be set aside.
- K. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant writ petition, the impugned transfer Notification No. SOH-I/HD/3-II/2017 dated 23/10/2018 of the office of Secretary Health Departmental Khyber Pakhtunkhwa may very graciously be declared as void and illegal and be set aside and cancelled and by doing so, the Petitioner be allowed to serve at his own place of posting i.e. District Specialist Surgery (BPS-18) at THQ Hospital Matta Swat.

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

INTERIM RELIEF:

By way of interim relief, the operation order dated 23/10/2018 of the Secretary Health Khyber Pakhtunkhwa may graciously be suspended till the final disposal of the instant writ petition.

Dated: 26/10/2018

Through
PETITIONER
Saghir Iqbal Gulbela
&
Javed Iqbal Gulbela
Advocates, High Court
Peshawar.

NOTE:-

No such like petition for the same petitioner upon the same subject matter has earlier been moved by me before this Hon'ble Court and the instant case pertains to Hon'ble Double Bench of this August Court. It is further submitted that as the Hon'ble Services tribunal is De-funct and the matter in hand requires expeditious disposal, hence the instant petition before this August Court.

Advocate.

LAW BOOKS:-

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

Advocate.

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Anhemte - G



JUDGMENT SHEET

PESHAWAR HIGH COURT, PESHAWAR.

JUDICIAL DEPARTMENT

W.P No. 5301-P/2018 with C.M No-2096-P/2018.

JUDGMENT

Date of hearing 08-11-2018

Petitioner (s) (Dr. Abdul Wakeel) By Mr. Javed Iqbal
Gulbela, Advocate.

Respondent (s) (Government of Khyber Pakhtunkhwa through
Chief Secretary, KPK etc) By Mr. Rab Nawaz,
AAG.

ISHTIAQ IBRAHIM.J:- Dr. Abdul Wakeel,

the petitioner, has invoked the Constitutional
jurisdiction of this Court under Article-199 of the
Constitution of Islamic Republic of Pakistan, 1973,
praying that:

*"It is, therefore, most humbly prayed that on
acceptance of the instant writ petition, the
impugned transfer Notification No.SOH-
I/HD/3-11/2017 dated 23.10.2018 of the office of
Secretary Health Departmental Khyber
Pakhtunkhwa may very graciously be declared
as void and illegal and be set aside and
cancelled and by doing so, the petitioner be
allowed to serve at his own place of posting i.e
District Specialist Surgery (BPS-18) at THQ
Hospital Matta Swat.*

*Any other relief not specifically asked
for may also graciously be extended in favour of
the petitioner in the circumstances of the case."*

2. In essence, the grievance of the petitioner is
that he has been transferred prematurely by the
respondents THQ Hospital Matta Swat and that his

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services are placed at the disposal of DHO Mansehra for his further adjustment against the vacant post of District Specialist Surgery (BS-18); and that he has filed Departmental appeal against the said order, which is pending before the Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.

3. Today, Mr. Rab Nawaz Khan, Additional Advocate General, present in Court in different matters, accepts notice, and stated at the bar that the instant matter relates to terms and conditions of service and thus, in view of embargo placed by Article-212 of the Constitution, this Constitutional Court was barred to exercise its jurisdiction. The worthy AAG further stated that the Departmental appeal of the petitioner pending adjudication before the worthy Chief Secretary, would be disposed of expeditiously.

4. In view of the statement rendered by the worthy AAG, this Court would not pass any findings, lest it may prejudice the claim of the petitioner before the competent forum.

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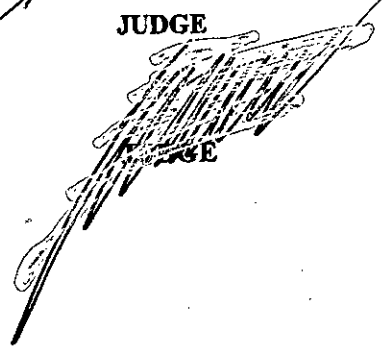
5. Since the Service Tribunal is dysfunctional due to the retirement of the Chairman, we therefore, disposed of the writ petition with direction to the respondent No.1 to decide the fate of departmental appeal of the petitioner expeditiously, but surely in accordance with law. However, till the decision of the Departmental appeal of the petitioner, the impugned Notification bearing Ednst: No.SOH-I/HD/3-11/2017 dated 23.10.2018 is suspended.

6. Through C.M No.2096-P/2018, the petitioner prayed for placement of additional documents, which are necessary for just and proper decision of the writ petition. The petition is supported by an affidavit. In the interest of justice and parties this CM is allowed and the documents annexed therewith is to be treated as part and parcel of the writ petition.

Announced:
Dated. 08.11.2018



JUDGE



(D.B)
Hon'ble Mr. Justice Ikramullah Khan,
Hon'ble Mr. Justice Ishtiaq Ibrahim.
(K.Ali PS)

EC

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
The Qanun-e-Shahadat Order 1984

12 NOV 2018

No.....
Date of Presentation of Application.....
No of Pages.....
Copying Fee.....
Urgent Fee.....
Total.....
Date of Preparation of Copy.....
Date of Delivery of Copy.....

No. 12986
Date of Presentation of Application 9-11-58
No of Pages 137
Copying Fee _____
Urgent Fee _____
Total 52
Date of Preparation of Copy 12-11-58
Date of Delivery of Copy 12-11-58
Received By [Signature]

RECEIVED FOR

NO. 13

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To


The Chief Secretary,
Govt. of KPK, Peshawar.

Annexure - H

SUBJECT:- Appeal against office order No. SOH I/HD/3-11/2017, dated 23.10.2018, of the worthy Secretary Health, Whereby appellant District Specialist Surgery was transferred from THQH Matta to District Mansehra at the disposal of DHO Mansehra for further posting, politically motivated transfer through proposal of minister of agriculture, livestock, fisheries and cooperatives, KPK, D.O No. MIN./ALF&C/1-7/2018, dated 13.9.2018, addressed to Health Minister KPK.

Respected Sir,

1. That the appellant is a naturally born bonafide citizen of the Islamic Republic of Pakistan and hails from a respectable family of District Swat.
2. That infact the appellant is performing his duties as Doctor by profession who got inducted into service as Medical Officer (BPS-17) via on contract in 04.2.2002, posted at Basic Health Unit (BHU) Charbagh and passed Public Service Commission, after going through the mandatorily required test and interview in 2004.


JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501


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3. That after getting onto the roles of health department and posted at BHU Charbagh, the appellant was transferred to Tehsil Headquarters Hospital (THQ) Matta, Swat in the year 2003. It was at this juncture that the appellant joined PIMS Islamabad on Deputation basis for doing his post-graduation in General Surgery in January 2006.

4. That after completion of MS General Surgery from PIMS, SZAB MU Islamabad, the appellant reported back and was posted at his place of posting i.e. THQ Hospital Matta.

5. That it was at this juncture that the appellant applied against and appointed as District Specialist Surgery (BPS-18) and was posted at THQH Matta on 30/08/2017. (Copy of the charged report is annexed as annexure "A")

6. That initially the appellant was appointed, as usual, on adhoc basis which was later on, regularized vide notification dated 27/03/2018 and thus since then the appellant is performing his duties as regular District Specialist Surgery (BPS-18) in THQH Matta Swat. (Copy of Notification dated 27/03/2018 is annexed as annexure "B" while the charge report of regular BPS-18 is annexed as annexure "C")


JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501


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7. That after having served just for round about one year as District Specialist (BPS- 18) the appellant was, out of the blue transferred from THQH Matta Swat to District Mansehra and the services of the appellant were placed at disposal of DHO Mansehra vide impugned Notification No.SOH-I/HD/3-11/2017 dated 23/10/18 (Copy of the impugned transfer order dated 23/10/2018 is annexed as annexure "D").

8. That it is pertinent to mention here that the impugned Notification is never ever a fair and bonafide one or rather in Public Interest, but is rather a politically motivated one, as clear from office letter, D.O No.MIN/ALF&C/1-7/2018, dated 13/09/2018 of the Office of Minister for Agriculture, Live Stock, Fisheries and Cooperatives Khyber Pakhtunkhwa, addressed to Minister for Health, Khyber Pakhtunkhwa. (Copy of the Malicious letter, dated 13/09/2018 is annexed as annexure "E")

9. That besides being a politically motivated transfer order, the same impugned transfer order is also violate of the normal tenure of transfer and posting policy and is thus illegal.

10. That the transfer order is issued in ban period, Notification No.E&A/Health/1-1/2017, dated 07.09.2018. (copy of the notification annexed as annexure "E-1")


JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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11. That feeling aggrieved and having no other expeditious remedy available, the appellant approaches this August Court for recognition, enforcement and acknowledgment of his fundamental rights upon the following grounds inter alia:-

Grounds:

A. That there exist no other expedient-cum- expeditious and adequate remedy available to the appellant, hence the instant petition under the extraordinary jurisdiction of this August court.

B. That the appellant is a the naturally born bonafide citizen of the Islamic Republic of Pakistan and are fully and equally, on equality basis, entitled to all basic and fundamental right as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws of the land and discrimination alongwith unfettered exercise of discriminatory powers by an authority or office is always been deplored, deprecated and depreciated by superior Courts of the land

C. That the impugned transfer order is void abinitio, illegal, unlawful, corum non judice and is liable to be cancelled.


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Advocate High Court Peshawar
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D. That the impugned transfer order is certainly a politically motivated transfer order and has been issued on the behest of minister for Agriculture, which rendered the very impugned transfer order as void and against the well established law.

E. That the normal tenure of nay posting is 03 years, while the appellant has served just for round about one year after being appointed as District Specialist (BPS 18) at THQH Matta, which is a glaring and bold violation of transfer and posting policy of Government of Khyber Pakhtunkhwa and is a nullity in the eyes of law.

F. That besides above, the very impugned transfer order is malicious on its very surface for the reason that a District Specialist Surgery from THQ Hospital Matta Swat has been transferred from the territorial limits of DHO Swat to far flung District of Mansehra, with a General remarks that "His services are placed at the disposal of DHO Mansehra for his further adjustment against the vacant post of District Specialist Surgery (BPS-18) in the public interest with immediate effect". Now bare reading of the same would manifest that he appellant has only been penalized and has been shown to have been transferred against the vacant post, which vacant post does not find any


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mention in the same order that whether that alleged vacant post is available at DHQ Hospital Mansehra or any other Hospital of that District Which shows that the same is never been issued in the public interest.

G. That it is also pertinent to mention here that there already exist vacant posts of District Specialist Surgery not only at DHQH swat but as well as in other Civil hospital and Tehsil Headquarter Hospital of District Swat, so where vacant posts are available at his home District then why and how and under what law the appellant is posted to such a far flung District, away from home Town and that too under the alleged notion of against vacant post" & in "Public Interest"?

H. That interestingly, no one is transferred against the post of appellant, which means that the very post of District Specialist (BPS- 18) at THQ Hospital Matta Swat would remain vacant because of the transfer of the appellant, which also means that the impugned transfer order have never been issued in public interest, Which made Vacant Five out Six district specialist surgery posts in district swat under the control of DHO swat.

I. That since inducting into service, the performance of the appellant has remained excellent and there exists no complaint,


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what so ever, moved against the appellant and the same is reflected from his ACR's and different certificates.

J. That from every corner, the impugned transfer order is illegal, void, and the same is liable to be set aside.

K. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned transfer Notification No. SOH-I/HD/3-11/2017 dated 23.10.2018 of the office of Secretary Health Departmental Khyber Pakhtunkhwa may very graciously be declared as void and illegal and be set aside and cancelled and by doing so, the appellant be allowed to serve at his own place of posting i.e. District Specialist Surgery (BPS-18) at THQ Hospital Matta Swat.

THANKS


JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

Yours thankful,

Dr Abdul WAKil
Distirict Specialist Surgery
ZKS THQH Matta Swat, at
the disposal of DHO Mansehra.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No.SOH-I/HD/3-11/18

Dated Pesh: the 11th January, 2019

Annexure - H-1

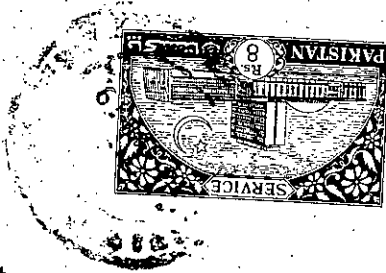
To

Dr. Abdul Wakeel,
District Surgeon, THQ Hospital Matta,
Swat.

Subject:- **DEPARTMENTAL APPEAL.**

I am directed to refer to your Appeal dated 02-11-2018 regarding cancellation of transfer order from THQ Hospital Matta Swat to office of DHO Mansehra was forwarded to the Appellate Authority for his orders.

2- It is to inform you that the Appellate Authority has regretted your Departmental Appeal.



Section Officer (E-I)

Endst: No & date even

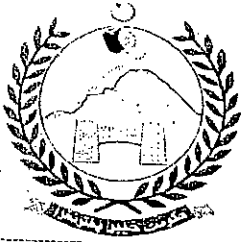
Cc to:

1. District Health Officer Swat.
2. Medical Superintendent THQ Hospital Matta Swat.
3. District Accounts Officer Swat.
4. PS to Minister Health Khyber Pakhtunkhwa.
5. PS to Secretary Health Department, Khyber Pakhtunkhwa.

HEALTH DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWA

Section Officer (E-I)

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501



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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Annexure - "I"

Dated Pesh: the 20th November 2018

Notification

No.SOH-I/HD/7-53/2018

The Competent Authority is pleased to order the postings/transfers of the following Distt: Specialists (BS-18) in the hospitals noted against their names with immediate effect in the public interest:-

S.No.	Name of doctor	From	To
1.	Dr. Abda Gul, Distt: Specialist Gynaecology (BS-18)	Category 'D' Hospital Banna Ali Battagram	Against the vacant post of SMO (BS-18) at DHQH Battagram.
2.	Dr. Khurshid, Distt: Specialist Eye (BS-18)	THQH Matta	Civil Hospital Khawazakhela Swat
3.	Dr. Abdul Kabir Distt: Specialist Eye (BS-18)	Civil Hospital Khawazakhela Swat	THQH Matta Swat

SECRETARY HEALTH

Endst No and date even

C.C

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar
2. DHOs, Swat/Battagram
3. Medical Supdt; DHQH Battagram.
4. Medical Supdt/Incharge THQH Matta/Civil Hospital Khawazakhela Swat.
5. Distt: Accounts Officer Swat/Battagram.
6. PS to Special Secretary, Chief Minister's Secretariat, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department.
8. Doctors concerned.
9. Personal files of the doctors concerned.

Section Officer-I

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

No. 10/11/18



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TO BE SUBSTITUTED BEARING THE SAME NO AND DATE
GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annexure - "J"

Dated Pesh: the 23rd November 2018

Notification

No.SOH-I/HD/7-53/2018

The Competent Authority is pleased to order the postings/transfers of the following Distt: Specialists (BS-18) in the hospitals noted against their names with immediate effect in the public interest:-

S. No.	Name of doctor	From	To
1.	Dr. Ameer Zeb, Distt: Specialist Medicine (BS-18)	THQH Matta, Swat	Civil Hospital Madyan Swat
2.	Dr. Muhammad Yaqoob, Distt: Specialist Medicine (BS-18)	Civil Hospital Madyan, Swat	THQH Matta Swat

SECRETARY HEALTH

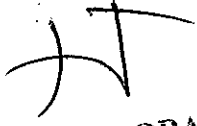
Endst No and date even

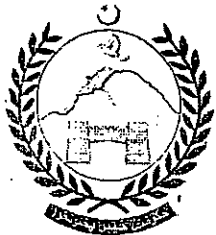
26TH Nov; 2018

C.C

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar
2. District Health Officer Swat.
3. Medical Supdt/Incharge THQH Matta/Civil Hospital Civil Hospital Madyan, Swat.
4. Distt: Accounts Officer Swat.
5. PS to Special Secretary, Chief Minister's Secretariat, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department.
7. Doctors concerned.
8. Personal files of the doctors concerned.


Section Officer-I


JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501.



No. 15411 / PF.

(1)

(43)

(20)

Amir

DISTRICT HEALTH OFFICER
SWAT AT GULKADA.
Phone No. 0946-9240139,
Fax No. 0946-9240215
Email. edohswat@yahoo.com

Annexure - "K"
25

Dated. 1/10/2017.

PERFORMANCE CERTIFICATE.

Certified that Dr. Abdul Wakil District specialist Surgery adhoc BPS-18, is regularly/satisfactory Performing his duties under the control of the Undersigned at ZKS:THQ:Hospital Matta Swat, Since ,31.8.2017, till date..

J. Ahmad
(DISTRICT HEALTH OFFICER)
DISTRICT SWAT AT GULKADA.

SF

JT
JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501



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CERTIFICATE

Certified that I Dr. ABDUL WAKIL General Cadre - 17
(Name of Officer) (Group / Service) (BPS)

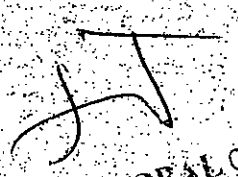
have on 15.01.2017 submitted my Performance Evaluation Report to
(Date)

Dr. GHULAM SUBHANI, DHO SWAT
(Name / Designation of Countersigning Officer)

My countersigning officer is DE SWAT
(Name / Designation of Countersigning Officer)


Name / Designation / Department of Officer
Dr. Abdul Wakil Mo Bps-17
ZKSTH Matla Swat

Note: This certificate is required to be dispatched by the officer being reported upon to the officer incharge entrusted with the maintenance of his/her C.R. Dossier on the same date the PER is forwarded to his/her reporting officer.


JAVED IQBAL Gul Bala
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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[Handwritten signature]

ZAKIR KHAN SHAHEED THQ HOSPITAL MATTA

No. 1625 /ZKS/THQH/Matta.

Dated: 19/10/2018

CHARACTER CERTIFICATE

It is certified that Dr. Abdul Wakil S/O Muhammad Ibrahim has been working as **District Specialist surgery** in the General Surgical Unit Zakir Khan Shaheed THQH Matta Swat since 31/08/2017 till date.

I found Dr. Abdul Wakil as hard working, intelligent, punctual, obedient and to the best of my knowledge; he bears good moral and ethical character.

His relation and team work with hospital administration, colleagues, nursing staff as well as with the patients and their attendants were good.

In fact Dr. Abdul Wakil has proved to be an asset for the public and health profession.

I wish him good luck in all his future assignment.

[Handwritten signature]
19/10/2018

Medical Superintendent
ZKS THQH Matta swat

[Handwritten signature]
JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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(Handwritten mark)

ZAKIR KHAN SHAHEED THQ HOSPITAL MATTA

No. 1625 /ZKS/THQH/Matta.

Dated; / 9/10/2018

CHARACTER CERTIFICATE

It is certified that Dr.Abdul Wakil S/O Muhammad Ibrahim has been working as **District Specialist surgery** in the General Surgical Unit Zakir Khan Shaheed THQH Matta Swat since 31/08/2017 till date.

I found Dr.Abdul Wakil as hard working, intelligent, punctual, obedient and to the best of my knowledge; he bears good moral and ethical character.

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In fact Dr.Abdul Wakil has proved to be an asset for the public and health profession.

I wish him good luck in all his future assignment.

(Handwritten signature)
19.10.2018

Medical Superintendent
ZKS THQH Matta swat

(Handwritten signature)
JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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(24)

**NINE MONTHS PROGRESS REPORT OF DEPARTMENT OF GENERAL SURGERY ZKS
THQH MATTA SWAT (From, 01.01.2018 TO 30.09.2018)**


	Jan	Feb	March	April	May	June	July	Aug	Sept	Total Operations
Open Cholecystectomy	09	05	07	03	09	04	06	02	04	49
Herniorrhaphy/her- niotomy	19	16	18	24	13	11	17	16	12	146
Haemorrhoidectomy/ Fistulectomy	04	08	07	07	04	12	12	07	08	69
TV.Prostectomy	0	0	0	0	01	0	01	0	0	02
T.A.Hysterectomy	0	02	04	04	0	01	01	0	01	13
Pyelolithotomy	0	0	0	0	0	0	0	01	0	01
Appendectomy/ Exp. Laparotomy	73	83	92	84	89	70	65	70	68	694
Laminectomy/ VP shunt	0	0	01	01	0	0	01	0	0	03
Total Admissions	222	187	246	236	223	196	222	200	213	1945
Surgical OPD	1406	1148	1985	2481	2706	1537	2263	3030	2254	18810
Total Major Operation done from, January 2018 to September 2018.										977
Perioperative and Postoperative Mortality										NIL


MINOR OPERATIONS

	Jan	Feb	march	April	May	June	July	August	Sept	Total
Circumcision	07	18	63	30	18	18	04	0	30	188
Lumps/Cysts/Ganglion	41	91	64	38	29	26	45	45	35	414
Burn cases/Lacerated wounds/Abscess/Diabetic foot, etc	38	64	68	37	30	28	32	85	90	472
Total										1074


OT Incharge
ZKS THQH Matta


District Specialist Surgery
ZKS THQH Matta


Medical Superintendent
ZKS THQH Matta


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- Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(48)

(25)

ZAKIR KHAN SHAHEED THQ HOSPITAL MATTA SWAT

No; 1626 /ZKS/THQH/Matta.

Dated; / 9 / 10 / 2018.

To,

The DHO Swat at Gulkada

SUBJECT; CERTIFICATE OF APPRECIATION

It is to certify that **Surgeon Dr Abdul Wakil S/O Mr. Muhammad Ibrahim** working as a District Specialist Surgery in the General Surgery Unit of ZKS THQ Hospital Matta District Swat KPK, since 30.08.2018 till date.

The department has 20 beds in surgical ward with back up of 12-bedded private ward and 12 bedded emergency ward. Besides Major General Surgery, Colorectal, Breast & Endocrine, Vascular, Upper GI, urology, gynecology, neurosurgery, Hepatobiliary surgeries are performed by him and his team, a copy of the detail nine months progress report of General Surgery Unit attached, from 1st January 2018 to 30th September 2018.

His efforts toward excellent preoperative, perioperative and postoperative management of the patients, in General Surgery Unit, Accident and Emergency Department is highly appreciated. Dr Abdul Wakil attended surgical emergencies and actively performed major emergency and elective operations to my entire satisfaction and **no such mortality** is occurred during and after operation during above mentioned period. He made presentations in ward rounds, in clinical meetings regularly and conducted our out-patients clinics.

Dr Abdul Wakil is an intelligent Surgeon with abundant enthusiasm for professional growth and achievements. His conduct and performance during this period remained very good. I would be pleased to request the higher authority to issue him letter of appreciation.

I wish him every success in his future.

Medical Superintendent
ZKS THQH Matta

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19/10/2018
JT
JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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**NINE MONTHS PROGRESS REPORT OF DEPARTMENT OF GENERAL SURGERY ZKS
THQH MATTA SWAT (From, 01.01.2018 TO 30.09.2018)**

	Jan	Feb	March	April	May	June	July	Aug	Sept	Total Operations
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Herniorrhaphy/her- niotomy	19	16	18	24	13	11	17	16	12	146
Haemorrhoidectomy/ Fistulectomy	04	08	07	07	04	12	12	07	08	69
TV.Prostectomy	0	0	0	0	01	0	01	0	0	02
T.A.Hysterectomy	0	02	04	04	0	01	01	0	01	13
Pyelolithotomy	0	0	0	0	0	0	0	01	0	01
Appendectomy/ Exp. Laparotomy	73	83	92	84	89	70	65	70	68	694
Laminectomy/ VP shunt	0	0	01	01	0	0	01	0	0	03
Total Admissions	222	187	246	236	223	196	222	200	213	1945
Surgical OPD	1406	1148	1985	2481	2706	1537	2263	3030	2254	18810
Total Major Operation done from, January 2018 to September 2018.										977
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Lumps/Cysts/Ganglion	41	91	64	38	29	26	45	45	35	414
Burn cases/Lacerated wounds/Abscess/Diabetic foot, etc	38	64	68	37	30	28	32	85	90	472
Total										1074

OT Incharge
ZKS THQH Matta

District Specialist Surgery
ZKS THQH Matta

19/10/2018

Medical Superintendent
ZKS THQH Matta

JT
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Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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Amir

Annexure - L
CONFIDENTIAL

FOR OFFICERS IN BPS 17 & 18

اسکیل ۱۷ اور ۱۸ کے افسران کے لیے

بصیفہ راز

GOVERNMENT OF KHYBER PAKHTUNKHWA

حکومت خیبر پختونخواہ

Department/Office Health

Service/Group General Cadre

محلہ / دفتر

سروس / گروپ

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 01.01.2017 TO 31.05.2017

۱۷

۱۷

2017

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PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(مستقلہ افسر خود پُر کریں)

1. Name (in block letters) DR. ABDUL WAKIL
نام (واضح حروف میں)
 2. Personnel number 00076238
انفرادی نمبر
 3. Date of birth 04.02.1971
تاریخ پیدائش
 4. Date of entry in service 04.02.2002
ملازمت اختیار کرنے کی تاریخ
 5. Post held during the period (with BPS) MEDICAL OFFICER BPS-17
پیش نظر عرصہ میں عہدہ (مع اسکیل)
 6. Academic qualifications MBBS, MS, General Surgery
تعلیم
 7. Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and writing (W))
زبانوں کا علم
(بولنے (ب)، پڑھنے (پ)، اور لکھنے (ل) کی صلاحیت)
- PUSHTO, URDU, ENGLISH (S.R.W)

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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Brief account of performance on the job during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated.

پیش نظر عرصہ میں کارکردگی کو اعداد و شمار کے ساتھ مختصر بیان کریں۔ دیئے گئے اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف تکمیل رہ جانے کی وجہ بھی بیان کریں

- Total Surgical OPD = 4108
- Total Admission in surgical ward = 994
- Major elective Surgeries = 201
- Major Emergency Surgeries = 407
- Minor Surgeries = 413
- Mortality Peri-operative and Post-operative = NIL
- MLCs = 38

PART III

Ab
Cowan

حصہ سوم

(EVALUATION BY THE REPORTING OFFICER)

(رپورٹنگ افسر کا جائزہ)

The rating in Part III should be recorded by initialing the appropriate box.


The ratings denoted by alphabets are as follows:

'A' Very Good, 'B' Good, 'C' Average, 'D' Below Average

حصہ سوم میں کارکردگی اندراج متعلقہ خانے میں مختصر دستخط سے کیا جائے۔ حرف کے لحاظ سے درجہ بندی حسب ذیل ہے:

الف: اعلیٰ ب: اچھا ج: اوسط د: اوسط سے کم

For uniform interpretation of qualities, two extreme shades are mentioned against each quality. بہت کے لئے ہر صفت کے دو انتہائی درجوں کا ذکر کیا گیا ہے۔

	A الف	B ب	C ج	D د	
1. Intelligence ذہانت Exceptionally bright; excellent comprehension انتہائی ذہین اور محال فہم					Dull; slow گندہ ذہن، سست فہم

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	A الف	B ب	C ج	D د	
8. Ability to decide routine matters روزمرہ معمولات کے فیصلے کرنے کی صلاحیت Logical and decisive منطقی اور فیصلہ کن	/				Indecisive; vancillating متذبذب اور ڈانواں ڈول
9. Knowledge of relevant laws, rules, regulations, instructions and procedures متعلقہ قوانین، قواعد و ضوابط، ہدایات اور طریق کار سے واقفیت Exceptionally well informed, keeps abreast of latest developments. قواعد و ضوابط پر غیر معمولی طور پر تازہ ترین صورت حال سے آگاہ	/				Ignorant and uniformed لاعلم اور ناواقف

PART IV

حصہ چہارم

(REPORTING OFFICER'S EVALUATION)

(رپورٹنگ افسر کا جائزہ)

1. Please comment on the officer's performance on the job as given in Part II(2) with special reference to knowledge of work, quality and quantity of output. How far was the officer able to achieve targets? Do you agree with what has been stated in Part II(2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ کام سے متعلق افسر کے علم اور کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کس حد تک کامیاب رہا/رہی؟ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

The officer under reporting
is committed to his
job

5

JAVED IQBAL, Gul Bata
Daudzai Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

6. Overall grading

مجموعی درجہ

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		Exaggerated رپورٹنگ آفسر	Countersigning officer کاؤنٹرسائنگ آفسر
(i)	Very Good اعلیٰ		
(ii)	Good اچھا		
(iii)	Average اوسط		
(iv)	Below Average اوسط سے کم		

7. Fitness for promotion

ترقی کے لیے ماسبیت

		Reporting Officer رپورٹنگ آفسر	Countersigning Officer کاؤنٹرسائنگ آفسر
(i)	Fit for promotion ترقی کے لیے موزوں		
(ii)	Recently promoted/appointed. Assessment premature حال میں ترقی ہو چکی ہے / مزید ترقی قبل از وقت ہے		
(iii)	Not yet fit for promotion ترقی کے لیے ابھی موزوں نہیں		
(iv)	Unlikely to progress further مزید ترقی کے قابل نہیں		

Name of the reporting officer

Signature

(Capital letters)

رپورٹنگ آفسر کا نام (دو صحیح حروف میں)

Designation

Date

عہدہ

تاریخ

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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(Signature)

PART VI

حصہ ششم

REMARKS OF THE SECOND COUNTERSIGNING OFFICER (IF ANY)

دوسرے کاؤنٹر سائننگ افسر (بشرط موجودگی) کی رائے

Name _____ Signature _____
نام دستخط

Designation _____ Date _____
عہدہ تاریخ

JAVED IQBAL Gul Bela
Daudzal Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

55

وکالت نامہ

بعدالت حنیرہ بنتو خخواہ سروس ٹریوٹیل سٹور
13 کٹر عدالو کیں نام گورنمنٹ حنیرہ بنتو خخواہ
 منجانب Petitioner / Appellant تاریخ 29/02/2019

باعث تحریر آئٹک

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام پشاور کے لئے
صغیر اقبال گلبلیدہ ایڈوکیٹ ہائی کورٹ پشاور / حیا وید اقبال گلبلیدہ

کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا اگر پیشی پر سن مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچھری کے اوقات کے آگے پیچھے پیش ہونے پر سن مظہر کو کوئی نقصان پہنچنے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروا ساختہ صاحب موصوف مشل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعوی و جواب دعوی اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دہ خط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور پرتائش و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعوی دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتنا ہی یا قرتی یا گرفتاری قبل ازا اجراء ڈگری بھی موصوف کو بشرط ادا نیگی علیحدہ مختیار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے مورخہ 29/02/2019۔ مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

ATTESTED & ACCEPTED

صغیر اقبال گلبلیدہ ایڈوکیٹ پشاور ہائی کورٹ پشاور

JAVED IQBAL
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

18/01/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 0086/2019

Dr. Abdul Wakeel

..... Appellant

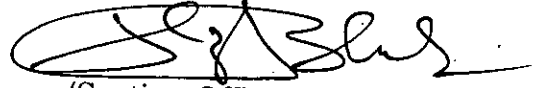
VERSUS

Secretary to Govt: of Khyber Pakhtunkhwa, Health Department &
Others.

..... Respondents

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(Section Officer (Lit-II))
Govt. of Khyber Pakhtunkhwa
Health Department.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.86/2019

Dr. Abdul Wakeel District Specialist Surgery Matta Swat

Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa and others

Respondents

Respectfully Sheweth:
Preliminary Objections

- i. That the appellant has got no cause of action to file the appeal in hand.
- ii. That the appeal of the appellant is not within time.
- iii. That the appellant has not come to this Hon'ble Tribunal with clean hands.
- iv. That the appellant estopped by his conduct from filing the instant appeal.
- v. That the appeal is bad for miss-joinder and non-joinder of parties.
- vi. That the appellant has got no cause of action.
- vii. That the appellant being a Civil Servant liable to serve anywhere in the province in the interest of the public and has no vested right to remain at a certain posts.

Facts

1. Correct.
2. Correct.
3. Correct.
4. Correct.
5. Correct.
6. Correct.
7. In-correct. In terms of section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, "Every Civil Servant shall be liable to serve anywhere within or outside the Province in any post under the Federal government, or any Provincial Government or local authority, or a corporation or body set up or set up or established by any such Government" hence the appellant has legal right to raise a grievance against his posting and transfer or remain at a certain posts for certain period.
- 8-9 In correct. As explained at para-7 above. Moreover the impugned notification was issued with the approval of the competent authority in the interest of the public after considering all the pros and cons.
- 10-11 Incorrect. The Departmental Appeal of the appellant was regretted and duly communicated to the appellant after approval of the competent authority (**Annex-A**).
12. Being legal would be argued at the time of hearing.

Grounds

- A-E The impugned notification has been passed strictly in accordance with Section 10 of Khyber Pakhtunkhwa Civil

Servants Act 1973. A Civil Servant is not entitled to claim posting at a certain post for a period of his choice.

F-K Incorrect. It is not the legal right of the appellant to be posted at his home town especially when he has already served there for more than 02 years prescribed tenure **(Annex-B)**. The Competent Authority is duty bound to post the appellant at any station in the interest of the public without adversely affecting his terms and condition as to pay only under the Act *ibid*.

L the respondent also request permission to raise additional grounds at the time of arguments

It is, therefore, mostly humbly prayed that the appeal may be dismissed with cost.



Secretary Health
Khyber Pakhtunkhwa Peshawar
For Respondent No (3 & 4).



Director General
Health Services
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH-I/HD/3-11/18
Dated Pesh: the 11th January, 2019

To

Dr. Abdul Wakeel,
District Surgeon; THQ Hospital Matta,
Swat.

Subject:- **DEPARTMENTAL APPEAL.**

I am directed to refer to your Appeal dated 02-11-2018 regarding cancellation of transfer order from THQ Hospital Matta Swat to office of DHO Mansehra was forwarded to the Appellate Authority for his orders.

2- It is to inform you that the Appellate Authority has regretted your Departmental Appeal.

Section Officer (E-I)

Endst: No & date even

Cc to:

1. District Health Officer Swat.
2. Medical Superintendent THQ Hospital Matta Swat.
3. District Accounts Officer Swat.
4. PS to Minister Health Khyber Pakhtunkhwa.
5. PS to Secretary Health Department Khyber Pakhtunkhwa.

Section Officer (E-I)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

4
312

Dated Pesh: the 30th Aug; 2017

Notification


No.SOH-I/(HD)3-5/2015 Consequent upon his appointment as District Specialist Surgery (BS-18 adhoc) vide this department Notification of even No dated 30th Aug; 2017, the competent authority is pleased to post Dr. Abdul Wakil, District Specialist Surgery (BS-18) against the vacant post of District Specialist Surgery (BS-18) at ZKS Category 'C' Hospital Matta Swat with immediate effect in the public interest.

2. He is directed to report to DHO Swat and assume charge within 30 days after issuance of this notification failing which his appointment shall be treated as cancelled.

SECRETARY HEALTH

Endst No and date even

- C.C
1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
 2. DHO, Swat.
 3. Medical Supdt;/Incharge ZKS Category 'C' Hospital Matta Swat.
 4. District Accounts Officer, Swat.
 5. Doctor concerned.
 6. Personal file of the doctor concerned.


(Taslem Khan)
Section Officer-I

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 86/2019

Dr. Abdul Wakeel

Versus


Government of Khyber Pakhtunkhwa, and Others

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2	Affidavit	4

Through


Appellant


Javed Iqbal Gulbela,

&


Saghir Iqbal Gulbela,
Advocates, High Court,
Peshawar

Dated: 04/07/2019

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 86/2019

Dr. Abdul Wakeel

Versus

Government of Khyber Pakhtunkhwa, and Others

REJOINDER ON BEHALF OF THE
APPELLANT TO THE COMMENTS
FILED BY THE RESPONDENTS

Respectfully Sheweth,

Reply to Preliminary objection;

1. Incorrect and Denied.
2. Incorrect and denied.
3. Incorrect and denied.
4. Incorrect and denied.
5. Incorrect and denied.
6. Incorrect and denied.
7. Misleading and hypocritical as laid down hence denied.

On facts

1. No Comments.
2. No Comments.
3. No Comments.
4. No Comments.
5. No Comments.
6. No Comments.
7. Misleading and hypocritical as laid down, hence denied. True picture is given in the main appeal.
8. Incorrect and denied.
9. Incorrect and denied.
10. Incorrect and denied.
11. Incorrect and denied.
12. No Comments.

On Grounds:-

A to E. incorrect and denied. The impugned transfer order is illegal, void, being against the transfer and posting policy of Provisional Government , a

politically motivated one as well as against the
spirit of Sec-10 of the Civil Servant Act 1973.

F to K. incorrect and denied.

L. No comments.


*It is, therefore, most humbly prayed
that on acceptance of instant rejoinder, the
appeal of the appellant may graciously be
allowed, as prayed for therein.*

Through


Appellant

Javed Iqbal Gulbela,

&


Saghir Iqbal Gulbela,
Advocates, High Court,
Peshawar.

Dated: 04/07/2019

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 86/2019

Dr. Abdul Wakeel

Versus


Government of Khyber Pakhtunkhwa, and Others

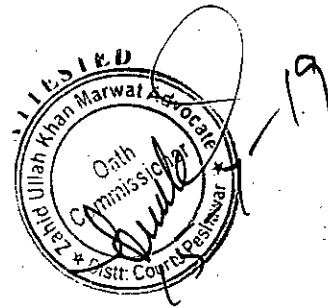
AFFIDAVIT

I, **Abdul Wakeel**, do hereby solemnly affirm and declare on oath that contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


Deponent

Identified By:-


Javed Iqbal Gulbela
Advocate High Court
Peshawar



IN THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR

In Re CM # _____/2019

In SA # 86/2019

Dr. Abdul Wakeel

VS

Government of KPK etc

I N D E X

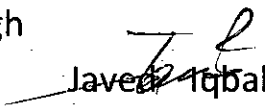
S#	Description of Documents	Annexure	Page#
1	Application		1
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3.	Documents		3-6

Dated 29-05-2019



Applicant/ Appellant

Through



Javed Iqbal Gulbela
Advocate
High Court Peshawar

①

IN THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR

In Re CM # _____/2019

In SA # 86/2019

Dr. Abdul Wakeel

VS

Government of KPK etc

APPLICATION FOR PLACING ON FILE THE ANNEXED
DOCUMENTS

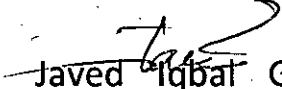
Respectfully Sheweth,

1. That the captioned case is pending adjudication before this Honorable Court, which is fixed for today i.e 29-05-2019.
2. That the placing on file the annexed documents is indispensable for proper adjudication for the instant appeal.

It is, therefore, humbly prayed that on acceptance of the instant application, the annexed documents may graciously be placed on file.


Applicant/ Appellant

Through


Javed Iqbal Gulbela
Advocate
High Court Peshawar

(2)

IN THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR

In Re CM # _____/2019

In SA # 86/2019

Dr. Abdul Wakeel

VS

Government of KPK etc

AFFIDAVIT

I, Dr. Abdul Wakeel Applicant/Appellant do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




Deponent

3

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**



No. SOH-I/HD/3-11/17
Dated Pesh: the 09th April, 2019

To District Health Officer,
Swat.

Subject:- **RELIEVING OF DR. ABDUL WAKEEL, DISTRICT SURGEON (BS-18) FROM
THQ HOSPITAL MATTA, SWAT.**

I am directed to refer to the subject cited above and to state that Dr. Abdul Wakeel Khan, District Surgeon (BS-18) was transferred from THQ Hospital Matta Swat to office of DHO Mansehra vide this Department's Notification bearing No. SOH-I/HD/3-11/2017 dated 23-10-2018 (copy enclosed). Moreover, his Departmental Appeal has already been regretted by the Competent Authority but it has come into the notice that he has yet not join his duty in Mansehra which is a gross negligence on the part of doctor and DHO concerned.

2- You are therefore directed to relieve the doctor concerned from THQ Hospital Swat immediately and direct him to report to DHO Office Mansehra for duty, failing which strict disciplinary action under E&D Rules, 2011 will be initiated against him.

Encls: As above


Section Officer (E-1)

Endst: No. & date even.

CC:-

1. Director General Health Services Khyber Pakhtunkhwa.
2. District Health Officer Mansehra
3. PS to Secretary Health Department, Peshawar.


Section Officer (E-1)



4

DISTRICT HEALTH OFFICER
SWAT AT GULKADA.
Phone No. 0946-9240139,
Fax No. 0946-9240215
Email. erohswat@yahoo.com

NO. 10074 /M.I./PF.
To,

Dated. 18 / 4 /2019.

The Secretary,
Government of Khyber Pakhtunkhwa
Health Department Peshawar.

Attention- SECTION OFFICER, (E-I).

Subject RELIEVING OF DR.ABDUL WAKIL DISTRICT SURGEON(BPS-18)
FROM THQ; HOSPITAL MATTA SWAT.

R/Sir,

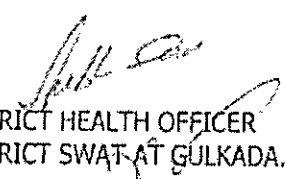
Reference Section Officer (E-I) NO.SOH-I/HD/3-11/17, Dated.9.4.2019.

In this connection, I have the honour to state that Dr.Abdul Wakil District Surgeon BPS-18, attached to THQ; Hospital Matta Swat was transferred to DHO, Mansehra vide Notification NO.SOH-I/HD/3-11/2017, Dated.23.10.2018.

The concerned Doctor submitted a writ Petition before the Honorable Peshawar High court on 27.10.2018. The honorable High court disposed off writ petition and the impugned order NO.5301-P/2018, Dated.8.11.2018, was held in abeyance.

Later on the Doctor Concerned submitted appeal in Service tribunal which was admitted and subsequently, status quo was maintained as per attached Order sheet Dated.27.2.2018 and 17.4.2019 has been fixed as next date for hearing.

Submitted for information and advise Please.


DISTRICT HEALTH OFFICER
DISTRICT SWAT AT GULKADA.

NO. _____ /PF/M.I.,

Copy forwarded to the Director General Health Services Khyber Pakhtunkhwa Peshawar for information Please.

DISTRICT HEALTH OFFICER
DISTRICT SWAT AT GULKADA.

SHARIF.

(S)



REMINDER

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No.SOH-I/HD/3-11/2017

Dated Pesh: the 14th May 2019

To

Distt: Health Officer,
Swat.

**SUBJECT: RELIEVING OF DR. ABDUL WAKEEL, DISTRICT SURGEON BS-18 FROM THE
HOSPITAL, MATTA, SWAT**

I am directed to refer to this department letter of even No dated 9th April 2019 on the above subject and to state to kindly confirm as to whether Dr. Abdul Wakeel, Distt: Surgeon (BS-18) has been relieved of his duty or otherwise. In case he has not been relieved so far, he may be relieved immediately of his duty from Matta Swat and his pay for stopped under intimation to this department on priority basis.

slc 
Section Officer-I

Endst.No and date even

C.C

Director General Health Services, Khyber Pakhtunkhwa



6

DISTRICT HEALTH OFFICER
SWAT AT GULKADA.
Phone No. 0946-9240139,
Fax No. 0946-9240215
Email. edohswat@yahoo.com

NO. 11648 /M.I/PF.

Dated. 24/5 /2019.

To,

The Secretary ,
Government of Khyber Pakhtunkhwa
Health Department Peshawar.

Attention-

SECTION OFFICER.(E-I).

Subject

RELIEVING OF DR.ABDUL WAKIL DISTRICT SURGEON(BPS-18)
FROM THQ;HOSPITAL MATTA SWAT.

R/Sir,

Reference Section Officer (E-I) NO.SOH-I/HD/3-11/17,Dated.14.5.2019 regarding relieving of Dr.Abdul Wakil(Copy attached).

In this connection, I have the honour to state that the reply in the said case has already been submitted to your honour vide this office letter NO.10074/M.I/PF,dated.18.4.2019 (copy attached).

However, it is to submit herewith once again that status quo is maintained in the same case till date as per Court Order . Detailed order sheet from 27.2.2019 to 14.5.2019 is attached for reference and 29.5.2019 has been fixed as next date for hearing .

Report submitted for information,Please.


DISTRICT HEALTH OFFICER
DISTRICT SWAT AT GULKADA.

NO. _____ /PF/M.I,

Copy forwarded to PA, of Director General Health Services Khyber Pakhtunkhwa Peshawar for information Please.

DISTRICT HEALTH OFFICER
DISTRICT SWAT AT GULKADA.

SHARIF.

BEFORE THE HON'BLE SERVICE
TRIBUNAL, PESHAWAR

C.M No. _____/2019

S.A No. 86/2019

Abdul Wakeel

Versus

Government of Khyber Pakhtunkhwa and Others

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4.	Other documents	"C"	7
5.	Wakalat Nama		8.

Petitioner

Through

Javed Iqbal Gulbela

Saghir Iqbal Gulbela

&

Israr Ahmad

Advocates, High Court
Peshawar.

Dated: 17/04/2019

①

BEFORE THE HON'BLE SERVICE
TRIBUNAL, PESHAWAR

C.M No. _____/2019

S.A No. 86/2019

Dr. Abdul Wakeel District Specialist Surgery Mata
Swat.

Applicant

Versus

1. Secretary Health Khyber Pakhtunkhwa Peshawar.
2. Director General Health of Government Khyber
Pakhtunkhwa Peshawar.

Respondent

APPLICATION FOR IMPLEMENTATION
OF THE ORDER DATED 27/02/2019
PASSED BY THIS HON'BLE TRIBUNAL
IN SERVICE APPEAL NO. 86/2019 AND
INITIATING CONTEMPT OF COURT
PROCEEDINGS AGAINST THE
RESPONDENTS

Respectfully Sheweth,

1. That the petitioner had filed a Service Appeal
No. 86/2019 in this Hon'ble Tribunal and is
fixed for today i.e. 17/04/2019. (Copy of appeal
and order are annexed as annexure "A & B"
respectively)

2

2. That on 27/02/2019 this Hon'ble Tribunal allowed the interim relief by directing the Respondents to maintain status quo.

3. That the Respondent willfully disobeying the order of this Hon'ble Tribunal and have issued office order dated 09/04/2019, which amounts to contempt of court.

(Copy of order Annex-C)

4. That act of non-implementation the order of this Hon'ble Tribunal, constrained the petitioner/appellant to move the instant application.

It is therefore, most humbly prayed that on acceptance of this instant Application the Respondents be directed to implement the order of this Hon'ble Tribunal dated 27/02/2019 and further prayed that the contemnors be punished accordingly.

Dated: 17/04/2019

Petitioner

Through


Javed Iqbal Gulbela


Saghir Iqbal Gulbela

&

Israr Ahmad

Advocates, High Court
Peshawar.

3

BEFORE THE HON'BLE SERVICE
TRIBUNAL, PESHAWAR

C.M No. _____/2019

S.A No. 86/2019

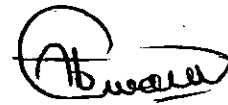
Abdul Wakeel

Versus

Government of Khyber Pakhtunkhwa and Others

AFFIDAVIT

I, Dr. Abdul Wakeel District Specialist Surgery Mata, do hereby solemnly affirm and declare that all the contents of this **application** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.



DEPONENT

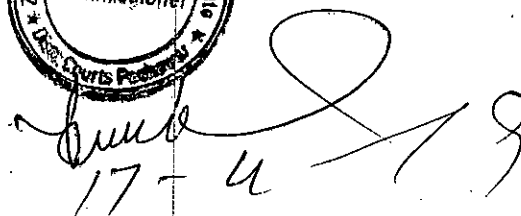
CNIC: 15601-8600052-5

Identified By


JAVED IQBAL GULBELA

Advocate High Court
Peshawar.




17-4-19

3417 Sec 14
27/2/19

DHO Swat 1775
4/3/19 4/3/19

(A) (4) (4)

Annex-A

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

In Re S.A. 86 /2019

Diary No. 82

Dated 21-1-2019

Dr. Abdul Wakeel District Specialist Surgery
Matta, Swat.

-----**(Appellant)**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Chief Secretary at Civil Secretariat Peshawar.
3. Secretary Health, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
4. Director General- Health Services Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
5. Director Health Officer Swat.
6. District Health Officer Mansehra.

-----**(Respondents).**

Filed to-day

Registrar

21/1/19

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE IMPUGNED OFFICER ORDER NO. SOH-I/HD/3-11/2017 DATED 23/10/2018 WHEREBY THE APPELLANT WAS ILLEGALLY TRANSFERRED FROM THE HOSPITAL MATTA SWAT TO DHO MANSEHRA AND DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ABOVE IMPUGNED OFFICE ORDER WAS DISMISSED IN A CLASSICALLY CURSORY AND WHIMSICAL MANNER VIDE OFFICE ORDER NO. SOH-I/HAD/3-11/18 DATED 11/01/2019.

Respectfully Sheweth;

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

1. That the Appellant is a naturally born bonafide citizen of the Islamic Republic of

(5)

Annex - 'B'


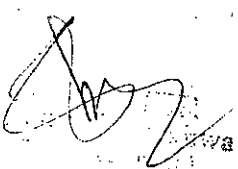
27.02.2019

Counsel for the appellant present.

Contents that the appellant was performing duties at THQ Hospital, Matta District Swat since 05.09.2017 having been regularized there on 27.03.2018. On 23.10.2018 he was transferred to DHO Mansehra for adjustment against a vacant post of District Specialist Surgery (BPS-18). The said transfer was on account of a letter sent by Minister for Agriculture, Livestock, Fisheries and Cooperative Department Khyber Pakhtunkhwa on 13.09.2018. The said fact clearly indicated that the impugned transfer of appellant was motivated through political consideration. The appellant where-after preferred a Writ Petition before the Honourable High Court in which interim relief was granted on 08.11.2018. The Writ Petition was disposed of on the said date. There-after, the departmental appeal of the appellant against the impugned transfer order was regretted on 11.1.2019. A copy of the order rejecting the appeal was again duly endorsed to P.A to Minister, Health Khyber Pakhtunkhwa which was not at all necessary in the ordinary course of business. The said endorsement was also suggestive of the fact that the case of appellant was being treated under political influence.

In view of the above the appeal in hand is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter,

JAVED IQBAL Gul Bela
Laudzi Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

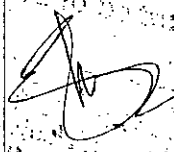



6

notices be issued to the respondents. To come up for written reply/comments on 18.03.2019 before S.B.


The memorandum of appeal is accompanied by an application for suspension of impugned order dated 13.10.2018. Notice of application be also given to the respondents for the date fixed. Till next date status quo be maintained by the parties.


Chairman

Certified to be true copy

Peshawar

A

JAVED IQBAL, Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Date of Birth: Mob: 0345-9405501

Number: 1200
Copy: 8
Urgent: 25
Total: 10
Name: 
Date of Birth: 27-2-78
Date of Birth: 27-2-78

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT



(7)

No. SOH-I/HD/3-11/17
Dated Pesh: the 09th April, 2019

Annexure - C

To
District Health Officer,
Swat.

Subject:- RELIEVING OF DR. ABDUL WAKEEL, DISTRICT SURGEON (BS-18) FROM THQ HOSPITAL MATTA, SWAT.

I am directed to refer to the subject cited above and to state that Dr. Abdul Wakeel Khan, District Surgeon (BS-18) was transferred from THQ Hospital Matta Swat to office of DHO Mansehra vide this Department's Notification bearing No. SOH-I/HD/3-11/2017 dated 23-10-2018 (copy enclosed). Moreover, his Departmental Appeal has already been regretted by the Competent Authority but it has come into the notice that he has yet not join his duty in Mansehra which is a gross negligence on the part of doctor and DHO concerned.

2- You are therefore directed to relieve the doctor concerned from THQ Hospital Swat immediately and direct him to report to DHO Office Mansehra for duty, failing which strict disciplinary action under E&D Rules, 2011 will be initiated against him.

Encls: As above


Section Officer (E-I)

Endst. No. & date even.

CC:-

1. Director General Health Services Khyber Pakhtunkhwa.
2. District Health Officer Mansehra
3. PS to Secretary Health Department, Peshawar.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501


Section Officer (E-I)

وکالت نامہ

بعدالت: Before the HonBLE service Tribunal

عبدوکیل _____ بنام _____ حکومت کوٹلی، ضلع کوٹلی، خیبر پختونخواہ
 منجانب سائل _____ دعویٰ _____ CAC
 تاریخ 17/4/2019

باعث تحریر آنکہ مقدرہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی
 بمقام _____ کیلئے جاوید اقبال گل بیلہ ایڈووکیٹ ہائی کورٹ کوٹلی، خیبر پختونخواہ
 مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدرہ وکیل
 صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظهر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے
 کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر
 مقام پجہری کی کسی اور جگہ یا پجہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر
 مقدمہ علاوہ صدر مقام پجہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پجہری کے اوقات کے آگے پیچھے پیش ہونے پر
 من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی
 صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور
 صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و
 تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل
 کرنے اور ہر قسم کے بیان دینے اور سپروائشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کطرفہ درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف
 کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا
 اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ
 مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ویسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل
 ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو
 پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت
 میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سندر ہے
 مورخہ _____ 17/4/2019 مضمون مختار نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

سائل / عبدوکیل

Abdul

ایڈووکیٹ گل بیلہ

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Page 18

impj

Page 19

letter of Agriculture Minister



Admission, Fall 2019

Application Information	
Name:	RAMSHA HAMID
Program Group:	Undergraduate Programs
Application Creation Date:	Aug, 05 2019 20:42:53
Application Submission Date:	Aug, 08 2019 17:43:40



Program of Study				
Sr. No.	Faculty	Program	Campus	Preference
1	Faculty of Arts and Humanities	BS English and Applied Linguistics	Main Campus	1

Academic Record								
Sr. No.	Degree/Diploma	Major	Passing Year	Board	Roll No.	Total	Obtain	Result Status
1	Matric	Science	2017	BISE Peshawar	109965	1100	980	Declared
2	F.Sc.	Pre-Medical	2019	BISE Peshawar	58607	1100	904	Declared

External Test Record				
Sr. No.	External Test Name	Exam Attempt Status	Score	Valid Till

District of Local/Domicile Information			
Province:	KHYBER PAKHTUNKHWA	District:	PESHAWAR

Personal Information			
First Name(s):	RAMSHA	Last Name:	HAMID
Date of Birth:	July, 19 2001	Gender:	Female
Religion:	Islam	Hafiz-e-Quran:	No
Marital Status:	Single	Native Language:	Urdu
Blood Group:	AB+	Disability:	No
Permanent Address:	mughal manzil rasheed town, gulbahar no #3 Peshawar Khyber Pakhtunkhwa Pakistan		
Postal Address:	mughal manzil rasheed town, gulbahar no #3 Peshawar Khyber Pakhtunkhwa Pakistan		
Email ID:	RAMSHAHAMIDMUGHAL@GMAIL.COM	Alternate Email ID:	ramshahamidmughal@gmail.com
Home Telephone:	091-2603180	Mobile No:	0333-9113224

Nationality Information			
Nationality:	PAKISTAN		
CNIC:	17301-3289585-6	CNIC Expiry Date:	

Father Information			
Name:	MUHAMMAD HAMID	CNIC:	17301-6438767-1
Passport No:	AB6277673	Mobile No:	0333-9113224



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR**

ORDER

Schedule of Benches from 19/8/2019 to 23/8/2019 respect of cases fixed before Khyber Pakhtunkhwa Service Tribunal at Peshawar & Abbottabad

S.No.	Station	Officer Name	Date
1.	SB at Peshawar	Mr. Justice (Rtd.) Hamid Farooq Durrani, Chairman	19/8/2019 to 23/8/2019
2.	DB at Peshawar	Mr. Muhammad Amin Kundi, Member(J) Mr. Hussain Shah, Member (E)	19/8/2019 to 23/8/2019
3.	DB at Abbottabad	Mr. Muhammad Hamid Mughal, Member (J) Mr. Ahmad Hassan, Member (E)	19/8/2019 to 22/8/2019
4.	SB at Abbottabad	Mr. Muhammad Hamid Mughal, Member (J)	19/8/2019 to 23/8/2019

CHAIRMAN
KHYBER PAKHTUNKHWA SERVICE
PESHAWAR



Admission, Fall 2019

Permanent Address:	Mughal Manzil Rasheed Town Gul Bahar No.3 Peshawar Peshawar Khyber Pakhtunkhwa Pakistan		
Occupation:	Government Servant	Office No:	092-0919212281
Office Address:	Judicial Complex Khyber Road Peshawar	Email ID:	muhammadhamidbc2@gmail.com
Family Income:	50000		

Guardian Information

Name:	MUHAMMAD HAMID	CNIC:	17301-6438767-1
Passport No:	AB6277673	Mobile No:	0333-9113224
Permanent Address:	Mughal Manzil Rasheed Town Gul Bahar No.3 Peshawar Peshawar Khyber Pakhtunkhwa Pakistan		
Occupation:	Government Servant	Office No:	092-0919212281
Office Address:	Judicial Complex Khyber Road Peshawar	Email ID:	muhammadhamidbc2@gmail.com

Quota Information

You have applied for the following quotas.

Open	
------	--

Undertaking

I solemnly declare that the information provided by me is correct to the best of my knowledge. I understand and agree that any misrepresentation or omission of information found at any stage would be a sufficient ground for rejection of admission or expulsion from the University.

I agree to abide by all the rules and regulations enforced by UOP from time to time.

Applicant Signature: _____

Father/ Guardian Signature: _____

Date: _____

Date: _____

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1546 /ST

Dated 2 - 9 - / 2019


To

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

Subject: - JUDGMENT IN APPEAL NO. 86/2019, MR. ABDUL WAKEEL.

I am directed to forward herewith a certified copy of Judgement dated 31.07.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

SECONDARY HOSPITALS MONTHLY REPORT DISTRICT SWAT

Department of General Surgery

(March, 2019)

No	Name of Facilities	THQH Matta	THQH Khwaza-khela	CH Kalam	CH Madian	CH Kabal	CH Barikot
1	Surgeon	1(under transfer)	1	1(vacant)	1	1(Vacant)	1(Vacant)
2	OPD	2447	660	0	0	0	547
3	Admission	223	70	0	0	0	28
4	Bed occupancy rate	89%	20%	0	0	0	9%
5	Operation Under GA	119	76	0	0	0	10%
6	Operation Under S/A	10	0	0	0	0	0
7	Minor & Others operation	27 + 453 = 480	258	0	400	165	105

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT



No.SOH-I/HD/3-11/17
Dated Pesh: the 09th April, 2019

To
District Health Officer,
Swat.

Subject:- RELIEVING OF DR. ABDUL WAKEEL, DISTRICT SURGEON (BS-18) FROM THQ HOSPITAL MATTA, SWAT.

I am directed to refer to the subject cited above and to state that Dr. Abdul Wakeel Khan, District Surgeon (BS-18) was transferred from THQ Hospital Matta Swat to office of DHO Mansehra vide this Department's Notification bearing No. SOH-I/HD/3-11/2017 dated 23-10-2018 (copy enclosed). Moreover, his Departmental Appeal has already been regretted by the Competent Authority but it has come into the notice that he has yet not join his duty in Mansehra which is a gross negligence on the part of doctor and DHO concerned.

2- You are therefore directed to relieve the doctor concerned from THQ Hospital Swat immediately and direct him to report to DHO Office Mansehra for duty, failing which strict disciplinary action under E&D Rules, 2011, will be initiated against him.

Encls: As above


Section Officer (E-I)

Endst. No. & date even.

CC:-

1. Director General Health Services Khyber Pakhtunkhwa.
2. District Health Officer Mansehra
3. PS to Secretary Health Department, Peshawar.


Section Officer (E-I)



Health Department KP

@HealthKPGovt



1st EVER Depressed Skull Surgery

at Matta Hosp Swat

SURGICAL TEAM DRs Ayaz MS

neuro, Abdul Wakil MS Gen Surg,

M Nisar MS Paeds Surg, Shaukat



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 984 /ST

Dated 22-5- / 2019


To

Mr. Tasleem SO-III, Office of Secretary Health Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 86/2019, DR. ABDUL WAKEEL

I am directed to forward herewith a certified copy of order dated 14.05.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.