

Service Appeal No. 32/2019

10.03.2020

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Hazrat Shah, Superintendent for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of seven pages placed in connected Service Appeal No. 30/2019 titled "Rasheed Khan Versus The Director General Health Services, Khyber Pakhtunkhwa, Peshawar and three others", the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

10.03.2020


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

03.01.2020

Appellant in person present. Mr. Riaz Painsdakhel learned Assistant Advocate General for the respondents present. Appellant submitted rejoinder which is placed on file and requested for adjournment. Adjourned. To come up arguments on 14.02.2020 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

14.02.2020

Appellant alongwith his counsel and Mr. Riaz Painsdakhel learned Assistant AG alongwith M/S Hazrat Shah Superintendent and Jaffar Assistant for the respondents present. Arguments heard. To come up for order on 27.02.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

27-2-20

The learned members is on
thus therefore case is adjourned to
10-3-2020 for order.


Raza

20.12.2019 Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Saleem Javid Litigation Officer present. Representative of respondents submitted reply. Partial arguments of learned counsel for the appellant heard. Adjournment requested. Adjourn. To come up for further proceedings/further arguments on 24.12.2019 before D.B.


Member


Member

24.12.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 03.01.2020 before D.B.


Member


Member

30.08.2019

Appellant in person and Addl. AG for the appellant present.

Despite last chance the respondents have failed to furnish the reply/parawise comments. To come up for arguments before D.B on 21.10.2019.



Chairman

14.11.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith M/S Saleem Javid Litigation Officer and Jaffar Ali Assistant present. Learned District Attorney requested for adjournment. Adjourn. To come up for further proceedings/arguments on 29.11.2019 before D.B.



Member



Member

29.11.2019

Appellant in person present. Asst: AG for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourn. To come up for arguments on 20.12.2019 before D.B.



Member



Member

30.04.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney for the respondents present.

Learned AAG requests for adjournment to procure the requisite reply from the respondents.

Adjourned to 20.06.2019 for submission for written reply/comments.


Chairman

28.05.2019

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG states that he has not been contacted by any representative of the respondents today. He, however, requests for a further chance to the respondents for submission of written reply.

Adjourned to 04.07.2019 for submission of written reply/comments as a last chance.


Chairman

04.07.2019

Counsel for the appellant and Addl. AG alongwith M/S Atif and Jaffar Ali, Assistants for the respondents present.

Representative of the respondents seeks further time. Last opportunity granted. To come up for written reply/comments on 30.08.2019 before S.B.


Member

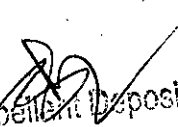
07.02.2019

Counsel for the appellant present.

The proposition involved in the appeal in hand essentially is:-

Whether the salary of appellant could be stopped and his service terminated through oral order?

To resolve the controversy instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 28.03.2019 before S.B.


Appellant Deposited
Security & Process Fee


Chairman

29.03.2019



Clerk to counsel for the appellant present. Jafar Ali Assistant and Atif Assistant representatives of the respondent department present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on 30.04.2019 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 32/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/1/2019	<p>The appeal of Mr. Iftikhar Khan resubmitted today by Mr. Amjid Ali 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 9/1/19</p>
2-	16-1-19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>7-2-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Iftikhar Khan son of Said Wali Malaria Supervisor BHU Kodinaka Mardan received today i.e. on 21.12.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

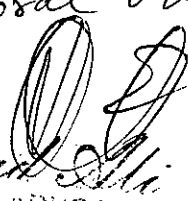
- 1- Copy of judgment is incomplete which may be completed.
- 2- Copy of termination order is not attached with the appeal which may be placed on it.
- 3- Necessary party may be made in the heading of appeal.

No. 2443 /S.T,

Dt. 24-12-2018.


REGISTRAR 24/12/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Amjid Ali Adv. Mardan.

Sir
objection removed. There
is no termination order in
written nor oral order.
Resubmit

Amjad Ali
ADVOCATE
SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 32 /2018

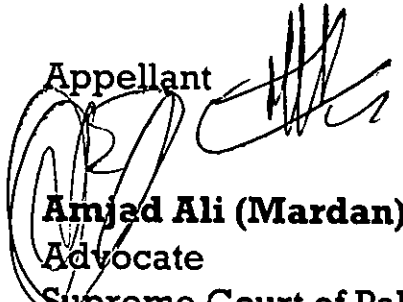
Iftikhar KhanAppellant

VERSUS

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar & othersRespondents

INDEX

S.No.	Description of documents.	Annexure	Page No
1.	Memo of appeal		1-4
2.	Addresses of parties		5
3.	Copy of <i>Service Book</i> etc	A	6-13
4.			
5.	Copy of posting/ transfer orders	C	14-15
6.			
7.			
8.	Copy of pay slip/ <i>...</i>	F	16
9.	Copy of inquiry report dated 29.10.2014	G	17-22
10.	Copy of order of High Court dated 19.04.2016 alongwith grounds of writ petition	H	23-31
11.	Copy of order dated 14.09.2018 of august Supreme Court	I	32
12.	Copy of departmental appeal	J	33-35
13.	appellate order dated 28.11.2018	K	36
14.	Wakalatnama		37

Appellant
Through 
Anjad Ali (Mardan)
Advocate
Supreme Court of Pakistan
Cell: 0321-9882434

Dated:

(1)

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

Service Appeal No. 32 /2018

Khyber Pakhtunkhwa
Service Tribunal

Page No. 1777

Date 21-12-2018

Iftikhar Khan S/o Said Wali
R/o Katlang Road, Naseer Killi, Tehsil & District Mardan,
working and posted as Malaria Supervisor (BPS-9), attached
to BHU Kodinaka, under the Direct Control/ Command of the
Executive District Officer Health, Mardan.

.....Appellant

VERSUS

- 1) Director General Health Services, Khyber Pakhtunkhwa,
Peshawar.
- 2) Agency Surgeon, South Waziristan Wana.
- 3) Govt. of Khyber Pakhtunkhwa through Secretary Health,
Civil Secretariat, Peshawar.

4) DHO Health Mardana.....Respondents

**APPEAL U/S 4 OF KP SERVICE
TRIBUNAL ACT, 1974 AGAINST
ORAL TERMINATION ORDER AND
APPELLATE ORDER DATED
28.11.2018 UPON DEPARTMENTAL
APPEAL DATED 19.11.2018,
WHEREIN DEPARTMENTAL APPEAL
HAS BEEN DISMISSED, WHICH IS
ILLEGAL AGAINST LAW AND FACTS.**

~~Photo day~~
Registrar

21/12/18

Re-submitted to -day
and filed.

Registrar

9/1/2019

PRAYER:

**On acceptance of this appeal, the
impugned oral termination order and
appellate order dated 28.11.2018 may
please be set-aside and appellant
may please be reinstated in service
with all back benefits.**

Sir,

Appellant humbly submits as under;-

- 1) That appellant was appointed as Moharrir Supervisor vide order dated 03.01.2006. (Copy of ~~Service Book~~ is Annex "A")
- 2) That appellant after medical fitness was posted and thereafter series of posting/ transfer orders were passed. ~~(Copy of medical certificate is~~ (Copy of), posting/ transfer orders are Annex "C" ~~Annex Report is Annex "D" and Service~~
- 3) That appellant regularly received salary till October 2014. (Copy of pay slip ~~Annexure F~~ ~~certificate are Annex "F")~~
- 4) That as exparte inquiry, at the back of appellant was conducted, wherein, appellant was not associated with the inquiry and inquiry report dated 29.10.2014 was authored. (Copy of inquiry report dated 29.10.2014 is Annex "G")
- 5) That appellant was orally stopped from performing duty immediately after October 2014 and salary of appellant was sotpped.
- 6) That appellant immediately approached for release of his alary before hon'ble Peshawar High Court, Peshawar, however, the writ petition was dismissed vide order dated 19.04.2016. (Copy of order of High Court dated 19.04.2016 alongwith grounds of writ petition are Annex "H")
- 7) That appellant approached against the order dated 19.04.2016 passed by the hon'ble Peshawar High Court, Peshawar before the august Supreme Court and after lengthy arguments vide order dated 14.09.2018, received on 14.11.2018, it was held to avail departmental remedy as no written termination order is in field, plus no charge sheet,

(3)

no regular inquiry, no show cause notice was given. (Copy of order dated 14.09.2018 of august Supreme Court is Annex "I")

- 8) That appellant filed departmental appeal dated 19.11.2018, which is dismissed vide order dated 28.11.2018. (Copy of departmental appeal is Annex "J" and appellate order dated 28.11.2018 is Annex "K")
- 9) That the impugned oral termination order and order dated 28.11.2018 passed by respondent No.1 is illegal, against law and facts on the following grounds:-

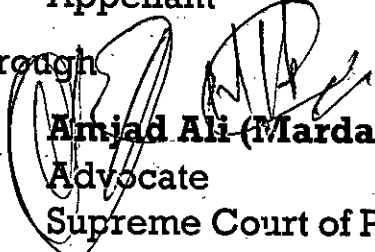
GROUNDS

- A. Because impugned oral termination order is a void order.
- B. Because it is must that for written appointment, there should be written termination order.
- C. Because it is not simple appointment order, but series of orders/ posting/ transfers, wherein salaries has been paid on the basis of appointment order by A.G Office and Accounts Officer of different Districts.
- D. Because appellant is not associated with the fact finding inquiry and is back biting.
- E. Because none of the witness has been examined in presence of appellant.
- F. Because appellant has not been given opportunity of hearing.
- G. Because the procedure under E&D Rules has not been followed.
- H. Because appellant has not been given charge sheets/ statement of allegations.
- I. Because appellant has not been given any show cause notice.

- (4)
- J. Because principle of natural justice has been violated, which is well entrenched in our judicial system and even find its traces from Garden of ADAM & EVE.
- K. Because impugned appellate order dated 28.11.2018, is a non-speaking order, not supported by any reason and passed without hearing of appellant.
- L. Because appellant is jobless and entitled for back benefits.

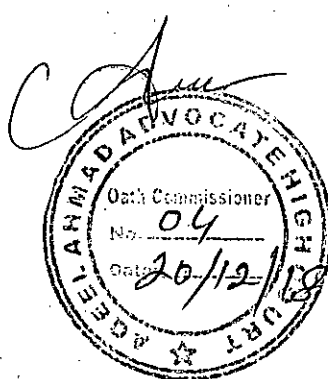
It is therefore, humbly prayed that, the impugned oral termination order and appellate order dated 28.11.2018 may please be set-aside and appellant may please be reinstated in service with all back benefits.


Any other relief deemed appropriate in the circumstances of the case may kindly also be granted.

Appellant
Through

Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

VERIFICATION

It is verified that, the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.




Deponent

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2018

Iftikhar KhanAppellant

VERSUS

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar & othersRespondents

ADDRESSES OF PARTIES

APPELLANT

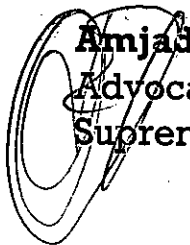
Iftikhar Khan S/o Said Wali
R/o Katlang Road, Naseer Killi, Tehsil & District Mardan,
working and posted as Malaria Supervisor (BPS-9),
attached to BHU Kodinaka, under the Direct Control/
Command of the Executive District Officer Health,
Mardan.

RESPONDENTS

- 1) Director General Health Services, Khyber Pakhtunkhwa,
Peshawar.
- 2) Agency Surgeon, South Waziristan Wana.
- 3) Govt. of Khyber Pakhtunkhwa through Secretary Health,
Civil Secretariat, Peshawar.

Appellant 

Through


Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

Ann-A

SERVICE BOOK

OF

Mr. ✓ Gotihar Khan
S/o Said Wali
Designation Malaria Supervisor
Department Health (DHO Mardan)

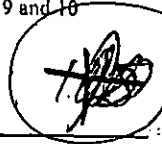
Date of Birth 25-10-1981
Date of Appointment 03-01-2006

Price : Rs. 50/-

PRINTED BY:
STATIONERY & PRINTING DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUNKHWA,
PESHAWAR

Amjad Ali
ADVOCATE
SUPREME COURT

Note: The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

Name: QETIKHAR KHAN - ~~1987~~ - 

Race: Muslim - ~~1988~~ -

Residence: NASER KALAI KATONG ROAD MARDAN

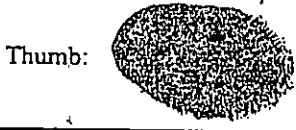
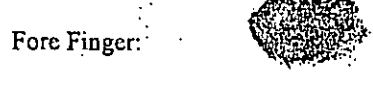
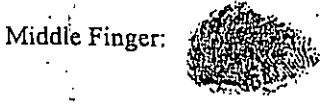
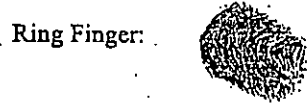
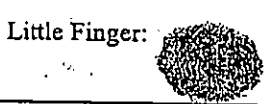
Father's name and residence: SAID WALI


Date of birth by Christian era as nearly as can be ascertained: 25-10-1981

Exact height by measurement: 5-6

Personal marks for identification: NIL

Left hand thumb and Finger impression of (Non-Gazetted) officer:



Signature of Government Servant: 

Signature and designation of the Head of the office, or other Attesting Officer: 

Agency Surgeon
South Waziristan Wana

(7)


ADVOCATE
SUPREME COURT

4 ← ~~scribble~~ - ~~scribble~~

1	2	3	4	5	6	7	8
Name of Post	Substantive Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
Nalanda Supervisor BPS-09 (2770-165-7720)			Rs. 2770/-			03/01/2006	
do			Rs. 2935/-			01/12/2006	
3185-190-8885			Rs. 3575/-			07/1/2007	
do			Rs. 3565/-			11/12/2007	
Nalanda Supervisor BPS-09 1820-230-10720			Rs. 4280/-			07/01/2008	

~~scribble~~
⑧

Advocate
ADVOCATE
SUPREME COURT.

Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8.	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the office or other attesting officer.	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant.	
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government			
					Period			Government to Which debitable
		Appointed as Malakia Supervisor in BPS-09 vide Agency Surgeon SOVA Order No. 131/SOVA dt 28/12/2005 wef 03-01-2006.			7			
	30/11/2006	Granted annual increment of 2006.					Service verified wef 03-01-2006 to 30-11-2006	
	30/6/2007	Pay Scales revised and fixed wef 01/07/2007 in accordance with Govt orders.						
	30/11/2007	Granted annual increment					Service verified from 01-12-2006 to 30-11-2007	
	30/6/2008	Pay Scales revised & Fixed wef 01-07-2008						

ADVOCATE
SUPREME COURT

~~100~~ ~~100~~ ~~100~~
 (10)

1	2	3	4	5	6	7	8	
Name of Post	Whether substan- live or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in- substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	Signature of the h or other in a col
Malaria Supervisor B-09 (820-230-10720)			Rs. 4510/-			12 1/2008		
do			Rs. 4740/-			12 1/09		
do			Rs. 4970/-			12 01/10		
Malaria Supervisor B-9 (5200-380-17600)			Rs. 8100/-			07 01/11		
do			Rs. 8480/-			12 1/11		

Amjad Ali
 ADVOCATE
 SUPREME COURT.

~~10~~ 10

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is, debtable to another Government			
					Period			Government to Which debtable
	30 ⁶ / ₂₀₀₈	Granted annual increment for the year 2008.				Service verified from 01-12-2007 to 30-11-2008		
			<i>Azi</i> Agency Surgeon South Waziristan Wana			<i>Azi</i> Agency Surgeon South Waziristan Wana		
	30 ¹¹ / ₀₉	Granted annual increment				Service verified from 01-12-2008 to 30-11-2009		
			<i>Azi</i> Agency Surgeon South Waziristan Wana			<i>Azi</i> Agency Surgeon South Waziristan Wana		
	30 ¹¹ / ₁₀	Granted annual increment				Services verified from 01-12-09 to 30-11-2010		
			<i>Azi</i> Agency Surgeon South Waziristan Wana			<i>Azi</i> Agency Surgeon South Waziristan Wana		
	30 ⁶ / ₁₁	Pay fixed w.e.f 01-07-2011 on revision of pay scale.						
			<i>Azi</i> Agency Surgeon South Waziristan Wana					
	30 ¹¹ / ₁₁	Granted annual increment				Service verified from 01-12-10 to 30-11-11		
			<i>Azi</i> Agency Surgeon			<i>Azi</i> Agency Surgeon		

~~10~~
(11)

Muhammad Ali
ADVOCATE
SUPREME COURT

~~1400~~ ~~1002~~

1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
Ataria Supriya B-09 No-380-17600			Rs 8860/-			12 01 2012	
do			Rs. 8860/-			05 31 2013	

(12)

Advocate
SUPREME COURT

9 Signature of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to recorded punishment, cesure, or reward or praise of Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
	30 ¹¹ / ₂₀₁₂	Granted annual increment for 2012	<i>Azi</i> Agency Surgeon South Waziristan Wan			Service from 01-12-11 to 30-11-12	
	30 ⁴ / ₂₀₁₃	Transferred to DHO, Mandan. Mandan vide D.O (A) Services, KPK Letter No 2990-96/AE-VI dt 24/01/2013	<i>Azi</i> Agency Surgeon South Waziristan Wan			Service varied from 01-12-11 to 31-05-13	
	Resigned on 1/6/2013		<i>Azi</i> Agency Surgeon South Waziristan Wan				

(13)

Amjad Ali
ADVOCATE
SUPREME COURT



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR**

Mall Address: nw@dghs@vahoo.com Office Ph# KP 91-9210269 Exchange# 091-9210107, 9210186 Fax# 091-9210230

53
Aux-c
(14)

OFFICE ORDER:

As approved by the Competent Authority the services of Mr. Iftikhar Khan Malaria Supervisor attached to Agency Surgeon South Waziristan Wana are hereby placed at the disposal of EDO (Health) Mardan for further adjustment against any vacant post in the interest of public service, with immediate effect.

NB:- Arrival/Departure report should be submitted to this Directorate for record.

Sd/xxxxxx
DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA,
PESHAWAR

No. 2790-94/AE-VI District Health Officer Mardan Dated 24/11 /2013

Copy forwarded to the:

1. P.S to Minister for Health KPK, Peshawar
2. DHS (FATA) KPK, Peshawar
3. Agency Surgeon South Waziristan Wana
4. EDO (Health) Mardan
5. DAO concerned.

For information and necessary action

This is no vacant post at Malozai hms account presently due to SPHILMB drawn from pay against this post.

ASSISTANT DIRECTOR (P-II)
DGHS, KHYBER PAKHTUNKHWA,
PESHAWAR

Acc# section

Ph. report

27-10-14 JHO Mardan
A.R.O.

has been stopped waf 12/2014

Distt. Comptroller of Accounts
Mardan

Advocate
SUPREME COURT

OFFICE OF THE DISTRICT HEALTH OFFICER MARDAN

Ph: # (0937) 9230030 Fax: # (0937) 9230349 Email: edohmr@yahoo.com

Office Order

Reference Director General Health Services, Khyber Pakhtunkhwa Peshawar office order No.2790-94/AE-VI dated 24.01.2013, Mr. Ifikhar Khan Jr PHC Technician (MP)/Malaria Supervisor under transfer from Agency Surgeon South Waziristan Wana to District Mardan is hereby adjusted against the vacant post of Jr.PHC Technician (MP).BPS-9 at Malaria Head of accounts vacated by Mr. Atif Ahmed Computer Operator.

However he will work at BHU Kodinaka till further orders.

15

Atif
District Health Officer,
Mardan

No. 6017-23 /DHO dated Mardan the 31/5/2013
Copy forwarded to the:

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar w/r to his order No. quoted above.
2. District Support Manager PPHI, DSU Mardan.
3. Medical Officer Incharge BHU Kodinaka
4. District Comptroller of Accounts Mardan
5. Accountant DHO office Mardan.
6. Computer Cell
7. Official concerned.

Attended -
Umar

for information and n/action.

Atif
District Health Officer,
Mardan
27-6-14.

7

in your order no. 2790-94/AE-VI dated 24.01.2013 Mr. Ifikhar Khan Jr PHC Technician (MP) Malaria Supervisor under transfer from Agency Surgeon South Waziristan Wana to District Mardan is hereby adjusted against the vacant post of Jr.PHC Technician (MP).BPS-9 at Malaria Head of accounts vacated by Mr. Atif Ahmed Computer Operator. However he will work at BHU Kodinaka till further orders.

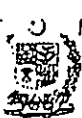
Atif
Distt: Comptroller of Accounts
Mardan
27/6/14

Amjad Ali
ADVOCATE
SUPREME COURT

11/13

Nov 2 2013

16



GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA
DISTRICT Mardan
PAY ROLL SYSTEM

PAYMENT ADVICE

P Sec: 002 Month: December 2013
MR7018 - District Health Officer

Emp # : 00701951 Buckle:
Name: IFTIHAR KHAN
Design: MALARIA SUPERVISOR
CNIC No: 1610184931473
GPF Interest Applied
BPS 09 Vocational Permanent

Min: Health
NTN:
GPF #: 161018493147
Old #:

DEPTT CODE MR7018

PAYS AND ALLOWANCES:		
0001-Basic Pay		9,240.00
1000-House Rent Allowance		1,146.00
1210-Convey Allowance 2005		1,840.00
1300-Medical Allowance		1,000.00
1948-Adhoc Allowance 2010@ 50%		2,485.00
1970-Adhoc Relief Allow 2011		745.00
2118-Adhoc Relief Allow (2012)		1,848.00
2148-15% Adhoc Relief All-2013		1,386.00
Gross Pay and Allowances		19,690.00
DEDUCTIONS:		
GPF Balance	3,570.00	
3501-Benevolent Fund		Subrc: 595.00
3511-Addl Group Insurance		180.00
3604-Group Insurance		7.00
		67.00
Total Deductions		849.00
NET AMOUNT PAYABLE		18,841.00

QUALIFYING SERVICE
YRS MON
07 Years 11 Months 030

D.O.B
25.10.1981
Days

LFP Quota:
Payment through DDO.

ALL PARTS TO BE
FROM COPY

M. Usman Khan Turlandi
M. LL. B. Advocate
Peshawar.

Amjad Ali
ADVOCATE
SUPREME COURT

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CONFIDENTIAL

ENQUIRY REPORT BY THE COMMITTEE

Subject: ENQUIRY IN TO THE FAKE APPOINTMENT OF JR PHC TECHNICIANS (MP) MALARIA SUPERVISORS

Reference: Director General Health Services Khyber Pakhtunkhwa Peshawar office order No. 4951-56/AE-VI dated 21/08/2014, the following committee was constituted on the subject noted above.

1. Dr. Muhammad Asif, Coordinator Public Health DHO office Peshawar.
2. Dr. Sarta Khan, Deputy Director (Admin), DHS FATA Peshawar.

TORs:

- i. To investigate as whether they are actually appointed after observing the codal formalities or otherwise.
- ii. To investigate the following officials who got themselves transferred on the basis of bogus office orders.

The enquiry committee enquired the following accused officials:

- a) Mr. Manzoor Badshah Jr. PHC Tech (MP)/Malaria Supervisor from District Malakand to District Mardan (shown appointed on fake appointment order by Agency Surgeon SW Wana).
- b) Mr. Iflikhar Khan Jr PHC Tech (MP/ Malaria Supervisor from DGHS Peshawar to District Mardan. (shown appointed on fake appointment order by Agency Surgeon SW Wana)
- c) Mr. Rashid Khan PHC Tech (MP) Malaria Supervisor from District Malakand to District Mardan (shown appointed on fake appointment order by Agency Surgeon Kurram Agency).

Proceedings:

To assess the appointment of the officials, who were shown to be appointed on Mr. Rashid Khan, (15-04-2008 in Kurram Agency) Mr. Manzoor Badshah (12-02-2008 in SW Agency) and Mr. Iflikhar Khan (03-01-2008 SW Agency), as Malaria Supervisors BPS-09; The following investigations were carried out:

1. Statements of Ex-Agency Surgeons SWA and Kurram Agency regarding their Fake signature on the Fake Service books and other documents. Annex - A.
2. Investigation through relevant record regarding the appointments in DHS office FATA. Statement of the record keeper & attested by the Deputy Director (Admin) DHS FATA - Annex- B.
3. Statements of the DHO, Deputy DHO Mardan and concerned staff of DHO Office Mardan along with relevant record. Annex - C.
4. Record of salaries drawn by the officials from District Account Office Mardan, attested by DAO Mardan. Annex - D.

29/10/14

Amjad Ali
ADVOCATE
Mardan
SUPREME COURT

Amjad Ali
ADVOCATE
SUPREME COURT

18

6. Checking of the record of anticorruption circle Mardan and letter from the DG Anti-corruption establishment Khyber Pakhtunkhwa to DGHS Khyber Pakhtunkhwa. Annex - E
6. Statements along with cross examination regarding the posting / transfer of the officials concerned from the then DHO (Dr. Bakht Zada) and the present DHO (Dr. Muhammad Ali) Malakand, Ex- Office Assistant (Mr. Khaliq), present office Assistant (Mr. Ehsan), Ex- Account Assistant (Mr. Khaista Muhammad), and Junior Clerk (Mr. Ayub) along with relevant record. Annex - F
7. Statement of the DAO Malakand regarding the drawl of salaries of the officials concerned. Annex - G
8. Statement of Mr. Sheraz Khan, Assistant Director P III (Paramedics) Assistant Director Mr. Jamil, Assistant Director P II, Director General Health Services Khyber Pakhtunkhwa office along with the record of the dispatch registers of the concerned date of transfer orders. Annex - H.
9. Statement and thorough cross examination of the concerned Malaria Supervisors under enquiry. Annex - I.
10. The service books and correspondence file of 03 accused Malaria Supervisors under enquiry provided by Mr. Sheraz Khan AD P-III DGHS were thoroughly checked and returned back to him.
11. All the relevant informations in this particular case under enquiry were shared with Dr. Muhammad Qasim, Ex DHO Mardan and he affirmed the observations of the committee.

All the concerned offices were visited by the committee after information in written/fax letters.

Observations:

Going through all the available record, statements of the concerned officers/ officials along with cross examination the committee observed the following:

- a. Mr. Manzoor Badshah s/o Haji Lal Badshah was shown appointed as Malaria Supervisor in BPS-9 in SW Agency on 12-02-2008 and was transferred on a fake order issued from DGHS vide office order No. 1460-64/E-V dated 27-01-2011 and was adjusted on the vacant post of Jr. Clinical Tech Pathology vide EDO (H) Malakand No. 432-35 dated 17/02/2011 in Malakand and he continued to draw his salary till October 2013. He was transferred on a fake order from DGHS bearing No. 29670-72/EV dated 24-09-2013 to DHO Mardan. On arrival to DHO Mardan in October 2013, he has not provided LPC from DAO Malakand and has not claimed his salaries from November 2013 till date inspite of performing his official duties. (Annex-J)
- b. Mr. Iftikhar Khan s/o Sald Wali was shown appointed as Malaria Supervisor BPS-9 by Agency Surgeon SW Agency on 03/01/2006 (fake order) and he was transferred to DHO Mardan through fake order vide DGHS letter No. 2790-94 / AE-VI dated 24/01/2013. His further posting is shown by DHO Mardan on 31-05-2013 with the laps of 04 months and his salary was started from July 2013. Annex-K

29/10/14 2

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Hujjamat Khan

ADVOCATE
SUPREME COURT

ADVOCATE
SUPREME COURT

- 19
- c. Mr. Rashid Khan s/o Rahmat Said was shown to be appointed as Malaria Supervisor in BPS-9 on 15/04;2008 by the Agency Surgeon Kurram and was transferred to DHO Malakand on a fake transfer order from DGHS vide letter No: 1455-59/EV dated 27-01-2011. Where he continued to draw his salary till August 2013 and managed to get himself transferred to DHO Mardan on another fake order from DGHS No. 1806-9/AE-V1. Dated 19-08-2013. (Annax-L) In response to letter from DGHS bearing No: 29670-72/EV Dated 23-10-2013 the service books of Mr. Rashid Khan and Manzoor Badshah was submitted to AD P-III DGHS through special messenger Mr. Ayub Khan of the DHO Office Malakand and DHO Malakand also instructed the DAO Office for stoppage of their salaries.
 - d. The transfer letters from the DGHS off all the 03 accused officials came under suspicious by Dr. Qasim the then DHO Mardan due to an abnormal long blank space before the names on each order and discrepancies in the dispatch numbers of DGHS.
 - e. After receiving instructions from DGHS the DHO Mardan stopped the salaries of the accused Mr. Rashid Khan and Mr. Iftikhar Khan and deposited Rs. 92,666/- (Mr. Iftikhar Khan) and Rs. 69,038/- (Mr. Rashid Khan) in to the government treasury (NBP Mardan) on proper challan.
 - f. A legal notice from Mr. Iftikhar Khan and Mr. Rashid Khan was served on DHO Mardan on 07-11-2013 through Syed Ahmed Ali Shah advocate for the release for salaries, which was responded by the DHO Mardan till the decision of enquiry DGHS Khyber Pakhtunkhwa.

It is also worth mentioning that the statements of the accused whirl around the then office assistant Mr. Wazir Zada who died on 26-10-2013 and due to serious illness his charge was handed over to Mr. Fazal Ahad, Office assistant on 27-10-2013 but Mr. Wazir Zada was incapacitated and not performing his duties 04-05 months prior to his death due to his deteriorating state of health so he should not be accused only for this engineered crime.

- h. The service books of the 03 accused malaria supervisors were found fake/bogus as per the statements of concerned agency surgeons.

From the observations by the inquiry committee it is proved that during the period shown against the appointments, no such appointments were made in the respective Agency Surgeon offices. No. codal formalities like demand by the Agency Surgeon, approval for appointment from the DHS FATA, advertisement in the press, short listing, test and interviews by the selection committee etc were observed.

It was further confirmed from the respective Agency Account Offices that no source-1 have been received from Agency Surgeon for these employees and no salaries drawn.

All the accused officials also categorically denied their appointments in the Agencies, their performance of duties and drawl of any salaries in SW and Kurram Agencies of FATA.

The alleged transfer orders from the DGHS were traced from the record of the concerned section (P-III Paramedics). Both the ADs (Mr. Sheraz Khan P-III & Mr.

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Amjad Ali
ADVOCATE
SUPREME COURT

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SUPREME COURT

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Jamil P-II) disowned their signatures on the joint order No. 1806-9/AE/VI Dated 19-08-2013 (Rashid Khan & Manzoor Badshah) & Order No. 2790-94/AE-VI Dated 24-01-2013 (Mr. Iftikhar Khan). For further confirmation the relevant dispatch register were checked and it was found that transfer order of Mr. Rashid Khan from DHO Malakand to DHO Mardan vide DGHS letter No. 1806-9/AE-VI dated 19/08/2013, the record on date: 19/08/2013 start from 15281 and end upon 15286 which do not match with the numbers of transfer orders issued on the same date from DGHS so confirmed to be fake / bogus.

The transfer order of Mr. Manzoor Badshah, vide DGHS order No. 1806-9/AE-VI dated 19/08/2013 (Joint) when checked in the dispatched register of DGHS was not matching, hence confirmed to be fake and bogus.

The transfer order of Mr. Iftikhar from SW Agency to Mardan vide DGHS Order No. 20790-94/AE/E dated 24/01/2013 when checked in the dispatch register of the DGHS was found that no entry was made in the register on 24/01/2013 at all. The last running record No does not match with the S.No of the fake orders, hence proved to be fake/bogus.

It is further added that for transfer from FATA to settle area/districts, an NOC from the competent authority is mandatory, which was not accorded.

It is worth mentioning that why the source 1 for the salaries of accused Mr. Manzoor Badshah and Rashid Khan was forwarded from DHO Malakand in the absence of LPC from the concerned Agency Account Office and charge relieving certificates duly endorsed by the relevant Agency Surgeon.

Conclusion:

Keeping in view the statement of all the concerned and thorough examination of the relevant available record, the committee came to the conclusion that:

1. The appointments of the concerned Malaria Supervisors Mr. Rashid Khan, Manzoor Badshah and Iftikhar Khan are confirmed to be bogus and fake.
2. The transfer orders of the above mentioned Malaria Supervisors shown to be issued by DGHS Khyber Pakhtunkhwa are confirmed to be fake and bogus.

Recommendation:

Specific:

1. Since the appointment orders are fake and bogus so it is recommended that the services of the all the accused Malaria Supervisors (Mr. Rashid Khan, Mr. Manzoor Badshah and Mr. Iftikhar Khan) may be terminated with immediate effect.
2. The salaries (to be calculated by the concerned DHOs & DAOs Malakand & Mardan) drawn by the officials concerned may be recovered from all the responsible persons and to be deposited in Government Treasury on proper challan.

D.N.A. 10-11-14
High Court Mardan

Amir Ali
ADVOCATE
SUPREME COURT

Amir Ali
ADVOCATE
SUPREME COURT

Distt: Comptroller of Accounts
Mardan

- (21)
3. Being a fraudulent case resulting in to heavy financial loss to the government ex-checker, a proper criminal or legal case may be initiated against the accused officials.
 4. Disciplinary action against Mr. Khalista Muhammad the then Account clerk DHO Office Malakand for manipulation & facilitating the source-1 of Mr. Manzoor Badshah and Mr. Rashid Khan without the LPC of the Agency Account offices resulting to the loss of public money. He should have kept the record but he failed to produce so. Appropriate action may be taken against him under revised E&D rules 2011.
 5. For forwarding source-1 of the officials concerned to the DAO Malakand and adjustment of the Malaria Supervisors (declared dying cadre in 2006) on Jr technician pathology in district Malakand without fulfilling the codal formalities, a charge sheet may be served on the ex-DHO Malakand Dr. Bakht Zada DDO.
 6. Overriding the observations of the DAO office Malakand, the source-1 were re-submitted by the then acting DHO Dr. Tiliha Muhammad when Dr. Bakht Zada DHO was abroad for performing Umrah, appropriate legal action is recommended as the officer concerned (Dr. Tiliha Muhammad) has retired on 27-11-2011 from service.
 7. Censure to Dr. Mohtaram Shah the then acting DHO Mardan for his negligence in his official responsibilities being DDO and to be held responsible for the recoveries of the salaries drawn by accused Mr. Rashid Khan & Ifikhar Khan to deposit into the Government Treasury on proper challan.
 8. Warning is recommended to be served on Dr. Abdul Khaliq DHO Mardan for retaining the accused Malaria Supervisors on his roll even after the clear instructions by the DGHS Office Khyber Pakhtunkhwa.
 9. Warning is recommended to the concerned officials working in DHO Office Mardan for not keeping the proper record and to keep a vigilant eye to identify such like cases in future.
 10. During the examination of the file at Anti-Corruption circle Mardan it was observed that the case was totally fraudulent and fake and the office filed the enquiry only on the basis of death of Mr. Wazir Zada the then dealing senior Clerk and statements of the accused Malaria Supervisors.

The enquiry committee observed that their findings were based only on the record provided by the DHO Office Mardan and statement of the accused. The Investigation officer has not visited the relevant Agency Surgeons /

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Amjad Ali
ADVOCATE
SUPREME COURT

Distt: Comptroller of Accounts

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SUPREME COURT

Agency Account offices, DHO Malakand & Director General Khyber Pakhtunkhwa Office.

The Director General Anti-Corruption establishment Khyber-Pakhtunkhwa may kindly be approached to direct the relevant investigation officer for a comprehensive re-inquiry of the case up to the logical & conclusive end.

General:

Preparation / maintenance of service books in a sequence of a genuine with fake signature of Agency Surgeon of their respective period putting official stamps, awarding annual increments.

Issuance of transfer orders from the DGHS office with fake signature of the relevant officers of their respective periods using the official pad of the DGHS and putting dispatch numbers in a sequence close to running numbers

Forwarding salary source and placement at the DHOs offices could not be made possible without the involvement of the staff of the Directorate and subordinate offices. There seems to be a network who is engaged in parallel administration at all levels. And the possibility of more such cases could not be ruled out.

The committee recommends a detail enquiry to dig out the network of these Black sheeps at the DGHS, Directorate FATA, Agency and District Health Offices to abolish these fraud practices bringing bad names to the offices and heavy financial losses to the public money.

The committee also recommends to design and link a system of online verification of orders issued by the Director General Health Services Khyber-Pakhtunkhwa and its subordinate offices.

The inquiry report is submitted for onward perusal please.

Dr. Sartaj Khan
Deputy Director (Admin)
DHS FATA

Dr. Muhammad Asif
Public Health Coordinator
DHO Office, Peshawar

Inquiry Committee Health Department Khyber-Pakhtunkhwa

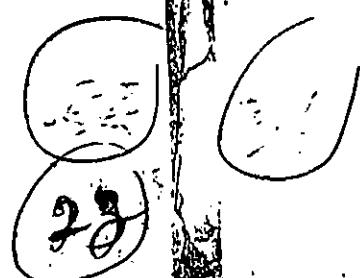
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PESHAWAR 29/04/2014

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SUPREME COURT

Amjad Ali
ADVOCATE
SUPREME COURT



(23) Annex - H (1)

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
1	2

19.04.2016

WP No.3669-P/2014.

*Present: Mr. Muhammad Usman Khan Turlandi
Advocate, for petitioner.*

Syed Qaisar Ali Shah AAG, for respondents.

MUHAMMAD DAUD KHAN, J:- Through



Constitution petition, Rasheed Khan, Iftikhar Khan & Manzoor Badshah, the petitioners seek issuance of an appropriate writ directing the respondents to release monthly salaries of petitioners being withheld w.e.f 1.9.2013 to 1.11.2013 and also to restore their real posts/designations by keeping them continuously as regular civil servants against the posts of "Malaria Supervisors".

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2. In essence, the grievance of the petitioners is that despite performing their duties as "Malaria Supervisors" for about 5 years in the respondents' department, their services were terminated and their salaries were stopped on the allegation that they had fraudulently managed their respective appointment orders and they were also restrained from performing their duties. Hence, having no other remedy, the petitioners approached this Court by filing the instant Constitution petition.

Muhammad Usman Khan
ADVOCATE
SUPREME COURT

ATTESTED
EXAMINER
Peshawar High Court
31 MAY 2016

(gld) (10)

3. The respondents were put on notice, who filed their comments denying the allegations of petitioners therein by stating that all the appointments and transfer orders of petitioners are bogus and fake.

4. Arguments heard and record perused.

5. Perusal of comments submitted on behalf of respondents and other documents available on file, reveals that an inquiry committee consisting of Dr. Muhammad, Asif Coordinator Public Health DHO Office, Peshawar and Dr. Sartaj Khan Deputy Director (Admin) DHS FATA Peshawar was constituted by the order of Director General Health Services KPK, to probe into the matter regarding appointments of petitioners. As per observation of the said Committee, after recording statements of concerned officials as well as perusing the concerned record, it came to the light that no such appointments have been made in the respective Agency Surgeon Offices nor any codal formalities in the shape of demand by the Agency Surgeon, approval for appointment from the DHS FATA, advertisement in the press, short listing, test and interviews by the Selection Committee etc were observed nor any Source-1 was received from the Agency Surgeon for these employees. The concerned record was also checked and verified from the signatories of the alleged appointment letters,

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Amjad Ali
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SUPREME COURT

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EXAMINER
Peshawar High Court

transfer orders etc which were denied by the concerned officials being bogus and fake. Moreso, for transfer from FATA to settle areas, an NOC from the competent authority is mandatory which was also not obtained for the said purpose making the same dubious. The material available on file further reveals that fake proceedings for forwarding Source-1 of petitioners from DHO Malakand in absence of LPC from concerned Agency Account Office and charge relieving certificates were conducted with the connivance of certain concerned officials and salaries were drawn on the basis of said bogus proceedings, causing great loss to the Government exchequer. The petitioners failed to bring on record any strong or cogent documentary evidence in support of their stance which could show that they have been appointed after observing all codal formalities and were wrongly restrained by the respondents from performing their duties. So when the foundation of appointments of petitioners is found cracked, then what to say about the other contentions of petitioners as it is well established proposition of law that fraudulent act vitiates all proceedings. Hence, they were rightly restrained by the respondents from performing their duties; which needs no interference by this Court.

6. For what has been discussed above, we are of the opinion that the act of petitioners regarding their

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SUPREME COURT

EXAMINER
Peshawar High Court


appointment on fake appointment letters disentitles them for any relief in writ jurisdiction of this Court, therefore, this petition is dismissed in limine.

Announced.

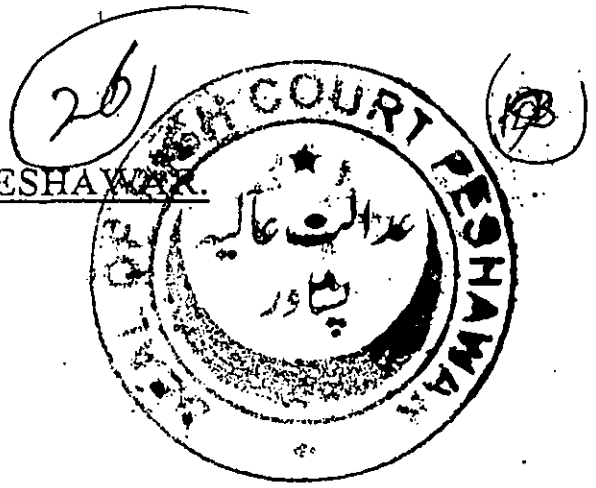
19.4.2016.


JUDGE


JUDGE

Attested

Amjad Ali
ADVOCATE
SUPREME COURT

IN THE PESHAWAR HIGH COURT PESHAWAR.



In Ref: to WP No. 3669 PT/2014.

1. Rasheed Khan S/O Rahmat Said R/O Khan Sher Killi P/O Gaddar, Tehsil & District Mardan, working and posted as Malaria Supervisor (BPS-9), attached to EHU Fatma, under the direct control/command of the Executive District Officer Health, Mardan.
2. Iftikhar Khan S/O Said Wali R/O Katlang Road, Naseer Killi Tehsil & District Mardan, working and posted as Malaria Supervisor (BPS-9), attached to BHU Kodinaka under the direct control/command of the Executive District Officer Health, Mardan.
3. Manzoor Badshah S/o Haji Lal Bad Shah R/O Village Gujur Garhi Tehsil & District Mardan, working and posted as Malaria Supervisor (BPS- 9), attached to BHU Jamra under the direct control/command of the Executive District Officer Health, Mardan.

.....PETITIONERS.

VERSUS

Amjad Ali
ADVOCATE
SUPREME COURT

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. Executive District Officer Health, Mardan.....RESPONDENTS.

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

PRAYERS IN WRIT PETITION.

ATTESTED

EXAMINER
Peshawar High Court

31 MAY 2014

On acceptance of this petition the respondents may be directed to release monthly salaries of the petitioners, withheld w.c.f. 01-10-2013, 01-11-2013 and 01-12-2013 respectively and they may further be directed to ensure/restore the real/parent post/designation of the petitioners by keeping them working continuously against the post of Malaria Supervisor, initially held by the petitioners.

Respectfully Sheweth:

(27) (10)

- 1) That all the three petitioners are the citizens of the Islamic republic of Pakistan, domiciled in Khyber Pakhtunkhwa Province and resident of their respective villages given against each.
- 2) That the petitioners had joined their respective services as Malaria Supervisors (BPS-9) in the year 2008 and the competent authority of the respondent department had passed their appointment/posting orders in the prescribed manner and accordingly the petitioners, after completion of all codal formalities such as medical fitness, Service Books and submission of their arrival report, kept working regularly, drawing their monthly salaries and as a token thereof, some pay-slips duly issued by the office of the Accountant General KPK-Peshawar are enclosed herewith as annexure "A"- "A/2" respectively.
- 3) That the petitioners, in due course of time/service, were lastly transferred and posted as under:

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SUPREME COURT

<u>S.No.</u>	<u>Name of Petitioner</u>	<u>Transferred from</u>	<u>posted at</u>
(i)	Rasheed Khan	Edo (Health) Malakand	EDO (Health) Mardan

vide office order passed by the respondent No.1 dated 19-08-2013.

(ii)	Ifthar Khan	Agency Surgeon South Waziristan Wana.	EDO (Health) Mardan
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vide office order passed by the respondent No.1 dated 24-01-2013.

(iii)	Manzoor Khan	EDO (Health) Malakand	EDO (Health) Mardan
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vide office order passed by the respondent No.1 dated 24-09-2013.

ATTESTED
EXAMINER
Peshawar High Court
31 MAY 2016

- 4) That after performing/rendering at about five years spotless services, all of a sudden, the monthly pay of the petitioners were stopped since October 2013 with a verbal allegation that the petitioners had fraudulently managed their respective appointment

2014

orders and the case beside referring to the Anti-Corruption Authority, was also enquired twice by the Inter-departmental Committee.

- 5) That the fate of the enquiry conducted by the Inter-departmental Committee was not yet ascertained. However, the Assistant Director Admn; Anti-Corruption, Khyber Pakhtunkhwa Peshawar while endorsing their remarks in the concluding para has clearly stated that "In view of the above, the subject enquiry has been filed as recommended by the field Staff of this establishment. This office has no objection to release the payoff the concerned officials if-any, under intimation to this office." (Copy of the official letter dated 10-06-2014 is annexure "B").
- 6) That since October 2014, the petitioners were verbally restrained to perform their respective duties and were verbally directed not put their appearance/attendance and even their salaries for the work done by them were also denied and hence the case.
- 7) That the petitioners while aggrieved of the discriminative treatment given by the respondents depriving them from their legitimate valuable rights and having no adequate remedy in the circumstances of the case, are constrained to approach this august court on the following amongst other grounds inter-alia.

GROUNDS.

- a) That the first appointment/recruitment orders passed/issued by the competent appointing authority (Respondent No. 1), showing the designation as Malaria Supervisors and the said authority is the only custodian of all the relevant service record of the petitioners which have totally been denied and such practice is illegal, unlawful, without lawful authority, unconstitutional, against the law on the subject and against the norms of natural justice and liable to be declare as such.
- b) That the respondents have adopted a novel procedure and by playing with the fate of the petitioners, have not yet passed any written order

Amjad Ali
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SUPREME COURT
ATTESTED
EXAMINER
Peshawar High Court
31 MAY 2014

detrimental to the terms and condition of the service which could be get impugned before the proper forum and thus verbal order is no order in the eyes of law and the petitioners can never be knock out in such arbitrarily manner.

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29

c) That the first appointment/recruitment orders passed/issued by the competent appointing authority (Respondent No. 1) in the year 2008 and when the petitioners after carrying out all the legal codal formalities, did used to draw their monthly salary for the post of Malaria Supervisor through proper pay-slip from the office of the Accountant General KPK Peshawar, when they were repeatedly transferred/posted by the order of respondent No. 1 as such then such appointment orders have gained legal effect and valuable fundamental rights have been accrued to them which could not be taken away with a single stroke of pen and as such the impugned verbal order is not sustainable in the eyes of law and liable to be reversed.

Amjad Ali
ADVOCATE
SUPREME COURT

d) That the respondents have no authority whatsoever either to stop the monthly salary for the work done by the petitioners or to restrain them from performing/rendering their respective duties as Malaria Supervisors who have already served the department for a long considerable period then all such service proceedings have taken legal effect and thus such impugned verbal orders have been passed in the exercise of colorful authority beyond the legal jurisdiction.

ATTESTED
EXAMINER
Peshawar High Court
31 MAY 2008

e) That under no canon of law, a government servant could be denied of his monthly salary whereas he has already worked for that period

f) That the petitioners being qualified, highly deserving candidates and have performed their respective duties as Malaria Supervisors with great zeal and enthusiasm and since their enlistment / posting as such, no adverse remarks whatsoever have ever been assigned to them from any quarter till date.

g) That the act of the respondents by stopping the monthly pay and not allowing the petitioners to perform their respective duties by keeping them on their respective post/duty station for which the petitioners were

30

initially recruited and such post/designations were held by the petitioners till leveling verbal allegation is not only deplorable and condemnable but also against the fundamental rights of the petitioners guaranteed by the constitution.

- h) That the respondents have transgressed their powers and the petitioners have been denied of their fundamental rights.
- i) That discrimination in service as observed by the respondents in the matter of not restoring the parent post/designation of the petitioners as Malaria Supervisors is hit by the command of the constitution, being unlawful, without lawful authority, without jurisdiction, against the norms of natural justice and equity hence be declared as such.
- j) That the petitioner being deserving and eligible candidates having legitimate right for their due restoration in the rank of Malaria Supervisors while no adverse remarks whatsoever has ever been assigned to them from any quarter and thus valuable rights have been accrued to them and such rights could not be taken away in an arbitrary, flimsy and fanciful manner.
- k) That there is sheer discrimination in the matter of stopping the monthly salary withheld illegally and the respondents have acted according to their own sweet will, wishes, discretion and innovation.
- l) That the petitioners have not been dealt with in accordance with law and equity and the petitioners have been made as scapegoat who has been penalized for no fault on their part.
- m) That further submission with the prior permission of this august court will be advanced at the time of hearing the petitioners at the bar.

ADVOCATE
SUPREME COURT

Keeping in view the above mentioned facts and circumstances and on acceptance of this writ petition an appropriate writ should be passed directing the respondents to release monthly salaries of the petitioners, withheld w.e.f. 01-10-2013, 01-09-2013 and 01-11-2013 respectively and as such they may further be directed to ensure/restore the real/parent post/designation of the petitioners by keeping them continuously as regular civil servants

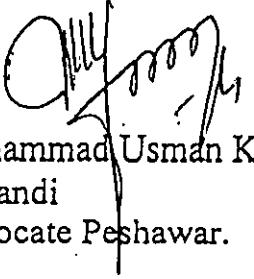
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against the post of Malaria Supervisor, initially held by the petitioners enabling the petitioners to enjoy equal protection of law in order to meet the ends of justice.

Any further better relief deemed just and acquit-able in the circumstances of the case may also be granted please.

PETITIONERS.

Through;


Muhammad Usman Khan
Turlandi
Advocate Peshawar.

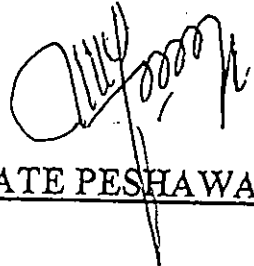
Dated:- ___/11/2014.

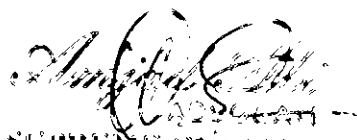
CERTIFICATE.

No such like petition has ever been filed previously before this august as per instruction of my clients.

LAW BOOKS:-

- i. The constitution of Islamic Republic of Pakistan 1973.
- ii. Any other law books according to need.


ADVOCATE PESHAWAR.


SUPREME COURT

ATTESTED

EXAMINER
Peshawar High Court

31 MAY 2014



Ann-I

(32)

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

Civil Petition No.2345 of 2016

[Against the order dated 19.04.2016, passed by the Peshawar High Court, Peshawar in W.P.No.3669-P of 2014]

Rasheed Khan & others.

Petitioner (s)

VERSUS

Director General Health Services, KPK, Peshawar & Respondent (s) another.

For the Petitioner (s) : Mr. Amjad Ali, ASC
Mir Adam Khan, AOR (Absent)

For the Govt. of KPK : Barrister Qasim Wadood, Addl.A.G. KPK

Date of Hearing : 14.09.2018

ORDER

Gulzar Ahmed, J:- After arguing the matter at some length, learned ASC for the petitioners states that petitioners are going to avail remedy in accordance with law and does not press this petition, which is dismissed as such.

Sd/-J

Sd/-J

Certified to be True Copy



Amjad Ali
ADVOCATE
SUPREME COURT

[Signature]
Court Associate
Supreme Court of Pakistan
Islamabad

GR No: 21552/18
Date of Presentation: 15.9.18
No of Words: 210
No of Pages: 2
Requisition Fee Rs: 100
Copy Fee in: 100
Court Fee Rs: 600
Date of Court Order: 17.9.18
Date of Judgment: 28/9/18
Received by: [Signature]

To,

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Annex - J

(33)

**Subject: DEPARTMENTAL APPEAL AGAINST ORAL
TERMINATION ORDER ON THE BASIS OF
FACT FINDING INQUIRY DATED
29.10.2014, WHICH IS ILLEGAL AND
AGAINST THE LAW & FACTS**

**Prayer On acceptance of this appeal, the oral
termination order of appellant may please
be set-aside and appellant may please be
reinstated in service with all back benefits.**

Sir,

Appellant humbly submits as under:-

1. That appellant was appointed as Moharrir Supervisor vide order dated 3-1-2006. (Copy of appointment order is Annex "A")
2. That appellant after medical fitness was posted and thereafter series of posting/ transfer orders were passed. (Copy of medical certificate is Annex "B", posting/ transfer orders are Annex "C", Arrival report is Annex "D" and Service book is Annex "E")
3. That appellant regularly received salary till October 2014. (Copy of pay slips/ Last pay certificates are Annex "F")
4. That as exparte inquiry, at the back of appellant was conducted, wherein, appellant was not associated with the inquiry and inquiry report dated 29.10.2014 was authored. (Copy of inquiry report dated 29.10.2014 is Annex "G")
5. That appellant was orally stopped from performing duty immediately after October 2014 and salary of appellant was sotpped.


ADVOCATE
SUPREME COURT

- (34)
6. That appellant immediately approached for release of his alary before hon'ble Peshawar High Court, Peshawar, however, the writ petition was dismissed vide order dated 19.04.2016. (Copy of order of High Court dated 19.04.2016 alongwith grounds of writ petition are Annex "H")
 7. That appellant approached against the order dated 19.04.2016 passed by the hon'ble Peshawar High Court, Peshawar before the august Supreme Court and after lengthy arguments vide order dated 14.09.2018, received on 14.11.2018, it was held to avail departmental remedy as no written termination order is in field, plus no charge sheet, no regular inquiry, no show cause notice was given. (Copy of order dated 14.09.2018 of august Supreme Court is Annex "I")
 8. That impugned oral termination order is illegal, against law and facts on the following grounds:-

GROUND

- A. Because impugned oral termination order is a void order.
- B. Because it is must that for written appointment, there should be written termination order.
- C. Because it is not simple appointment order, but series of orders/ posting/ transfers, wherein salaries has been paid on the basis of appointment order by A.G Office and Accounts Officer of different Districts.
- D. Because appellant is not associated with the fat finding inquiry and is back biting.
- E. Because none of the witness has been examined in presence of appellant.
- F. Because appellant has not been given opportunity of hearing.
- G. Because the procedure under E&D Rules has not been followed.
- H. Because appellant has not been given charge sheets/ statement of allegations.
- I. Because appellant has not been given any show cause notice.


ADVOCATE
SUPREME COURT


J. Because principle of natural justice has been violated, which is well entrenched in our judicial system and even find its traces from Garden of ADAM & EVE.

35

It is, therefore humbly prayed that, on acceptance of this appeal, the oral termination order of appellant may please be set-aside and appellant may please be reinstated in service with all back benefits.

Appellant

Iftikhar Khan
S/o Said Wali
R/o Katlang Road, Naseer Killi,
Tehsil & District Mardan, working
and posted as Malaria Supervisor
(BPS-9), attached to BHU
Kodinaka, under the Direct
Control/ Command of the
Executive District Officer Health,
Mardan.


ADVOCATE
SUPREME COURT

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



Ann K

Office Ph# 091 - 9210269

Exchange# 091 - 9210187, 091 - 9210196,

Fax #091 - 9210230

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

No 10546-S/1/AE-VI,

Dated 28/11/2018

(36)

To

1. Mr. Manzoor Badshah S/O Haji Lal Badshah
Resident of village Gujar Garhi, Tehsil & District, Mardan
Ex-Malartia Supervisor DHO Mardan.
2. Abdul Salam S/O Muhtajuddin,
Resident of village Gujar Garhi, Tehsil & District, Mardan
Ex-Malartia Supervisor DHO Mardan.
3. Mr. Riaz Ali Shah S/O Aunber Shah,
Resident of Bajaur Korona Tehsil Takhtbhai,
District Mardan, Ex-Malaria Supervisor DHO Mardan.
4. Mst. Samina Shoukat D/O Shoukat Ali,
Resident of Abid Khan Kallay, Sardheri,
Tehsil & District Charsadda.
Ex-PHC Technician (MCH)/LHV.
5. Mr. Rasheed Khan S/O Rehmat Said,
Resident of Khan Sher Kallay,
P.O Gaddar Tehsil & District Mardan.
Ex-Malaria Supervisor DHO Mardan.
6. Iftikhar Khan S/O Said Wali,
Resident of Naseer Killy Tehsil & District,
Mardan, Ex-Malaria Supervisor.

Subject: - DEPARTMENTAL APPEAL AGAINST ORAL TERMINATION ORDER
ON THE BASIS OF FACT FINDING ENQUIRY DATED 29/10/2014,
WHICH IS ILLEGAL AND AGAINST THE LAW AND FACTS.

I am directed to refer to your applications dated 19/11/2018 and 27/11/2018, regarding above captioned subject, the above mentioned applicants have submitted departmental appeal against oral termination order and request for reinstatement into Government Service.

Your request for re-instatement is hereby regretted.

DIRECTOR (H.R.M)
DIRECTORATE GENERAL
HEALTH SERVICES KP PESH.

28/11

2018ء منجانب

بنام: مڈ ایئر کلاسیکل سٹریٹس پرائیویٹ لمیٹڈ

انتخاریان

مورخہ:

مقدمہ:

دعویٰ:

جرم:

امیل
باجت تحریر آفندہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کیلئے امجد علی ایڈووکیٹ، سپریم کورٹ آف پاکستان ایٹ مردان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ
برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر
دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا
اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ
التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔
لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

2018ء

العبد

ماہ و کسم

گواہ

بمقام
کے لیے منظور ہے۔

Amjad Ali
ADVOCATE
SUPREME COURT

انتخاریان

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

S.A.No.32 of 2019

Iftikhar Khan ...V/S... Govt. of Khyber Pakhtunkhwa and others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;

Preliminary objections:

All the preliminary objections are incorrect, misconceived, denied.

ON FACTS:

- 1-2) That paras No.1 and 2 of the appeal has not been denied which means admission.
- 3) That para No.3 of appeal is correct and that of reply is incorrect. Denied.

Appellant has not been associated with inquiry and no opportunity of cross examination has been afforded and no charge sheet, statement of allegation has been given. Moreover, it is not a single appointment order which could be termed as fake on the basis of probe findings inquiry. In fact, all those who have signed the appointment orders, posting orders, LPCS

etc are required to be arrayed as an accused. 34 months salary of Riaz Ali, Samina Shaukat, Abdul Salam are outstanding inspite of duty performed.

- 4) That para No.4 of appeal is correct and that of reply is incorrect. Denied. Without proper charge sheet/ statement of allegation, the inquiry is probe finding only. There is no service of summon upon Riaz Ali, Samina Shaukat, Abdul Salam. There is no authorization, scope of the so-called inquiry. Moreover, the recommendations are with respect to initiation of disciplinary proceedings, which too has not been acted upon.
- 5) That para No.5 of the appeal is correct and that of reply is incorrect. Denied. There is no recommendation by the so-called one sided inquiry report regarding stoppage of salary. There is no order of termination/ dismissal of appellants.
- 6) That para No.6 of appeal is correct and that of reply is incorrect. Denied.
- 7) That para No.7 of appeal is correct and that of reply is incorrect. The hon'ble Supreme Court permitted appellant for approaching proper forum.
- 8) That para No.8 of appeal is correct and that of reply is incorrect. Denied.
- 9) That para No.9 of appeal is correct and that of reply is incorrect. Denied. moreover, the signature on appointment orders have not been sent to F.S.L. The High Court/ Supreme Court has no jurisdiction in service matters.

GROUNDS

- A-L) That all grounds "A to L" of appeal are correct and those of reply are incorrect. Denied.

It is, therefore, humbly requested that appeal may please be accepted and Riaz Ali, Samina Shaukat, Abdul Salem may please be granted salaries for 34 months for which they performed duty.



Appellant

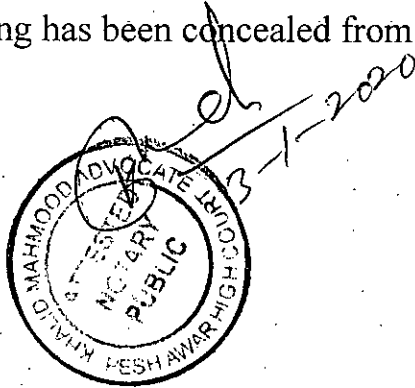
Through

Amjad Ali
Advocate

Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare that the 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 Tribunal.



Deponent

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

1. Rasheed Khan Service Appeal No. 30 of 2019
2. Manzoor Badsha Service Appeal No. 31 of 2019
3. Iftikhar Khan Service Appeal No. 32 of 2019
4. Riaz Ali Service Appeal No. 33 of 2019
5. Samina Shaukat Service Appeal No. 34 of 2019 and
6. Abdul Salam Service Appeal No. 35 of 2019

.....Appellants

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Preliminary Objections:-

1. That the Appellants have got neither cause of action nor locus standi to file the instant Appeals.
2. That the Appellants have filed the instant appeal just to pressurize the respondents.
3. That the instant Appeals are against the prevailing Law and Rules.
4. That the Appeals are not maintainable in the present form and also in the present circumstances of the issue.
5. That the Appellants have filed the instant Appeals with mala-fide intention hence liable to be dismissed.
6. That the Appellants have not come to the Tribunal with clean hands.
7. That the Appeals are time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.

ON FACTS:

1. Para No. 1 pertains to Respondent No. 2 i.e. Agency Surgeon, Parachinar, Kurram Agency.
2. Para No. 2 pertains to Respondent No. 2 i.e. Agency Surgeon, Parachinar, Kurram Agency.
3. In reply to Para No. 3 it is submitted that the Appellants received their salary on the basis of fake appointment letter and other fake orders, which were proved fake after a thorough inquiry already annexed.
4. Para No. 4 is wrong, incorrect & misleading, hence denied. The inquiry report reveals that all the Applicants were called by the inquiry committee including Manzoor Badshah and others in which Manzoor Badshah Mr. Iftikhar Khan & Rasheed Khan were inquired while the rest of the Applicants do not attend the inquiry proceeding despite directions of the inquiry committee. The inquiry committee after a thorough procedure gives their observation, suggestion and recommendation which were upheld by the competent authority. According to inquiry committee report the appointment transfer order and others orders of the appellant were found fake.
5. In reply to Para No. 5 it is stated that the salaries of the Petitioners have been stopped in light of Enquiry Report.

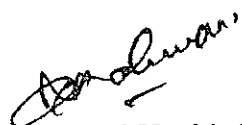
6. Para No. 6 is correct, but the Petition has been dismissed by the Honorable Peshawar High Court, Peshawar.
7. Para No. 7 is correct. The Honorable Supreme Court of Pakistan also dismissed the case.
8. Para No. 8 is correct. The Appeal has been regretted in light of the order of the High Court/Supreme Court of Pakistan.
9. Para No. 9 is incorrect, as explained in Para No. 4 above.


ON GROUNDS:

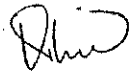
- A. Para-A is incorrect, as explained in Para No. 4 of the Facts above.
- B. Para-B is incorrect, as explained in Para No. 4 of the Facts above.
- C. Para-C is incorrect, as explained in Para No. 4 of the Facts above.
- D. Para-D is incorrect, as explained in Para No. 4 of the Facts above.
- E. Para-E is incorrect, as explained in Para No. 4 of the Facts above.
- F. Para-F is incorrect, as explained in Para No. 4 of the Facts above.
- G. Para-G is incorrect, as explained in Para No. 4 of the Facts above.
- H. Para-H is incorrect, as explained in Para No. 4 of the Facts above.
- I. Para-I is incorrect, as explained in Para No. 4 of the Facts above.
- J. Para-J is incorrect, as explained in Para No. 4 of the Facts above.
- K. Para-K no comments.
- L. Para-L is subject to proof.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant Appeal may very graciously be dismissed with cost.


Director General Health Services,
Khyber Pakhtunkhwa.
Respondent No. 01


Secretary Health, Khyber Pakhtunkhwa.
Respondent No. 03


District Health Officer Mardan.
Respondent No. 04

ENQUIRY REPORT BY THE COMMITTEE

Subject: ENQUIRY IN TO THE FAKE APPOINTMENT OF JR PHC TECHNICIANS (MP) MALARIA SUPERVISORS

Reference: Director General Health Services Khyber Pakhtunkhwa Peshawar office order No. 4951-56/AE-VI dated 21/08/2014, the following committee was constituted on the subject noted above.

1. Dr. Muhammad Asif, Coordinator Public Health DHO office Peshawar.
2. Dr. Sartaj Khan, Deputy Director (Admin), DHS FATA Peshawar.

TORs:

- i. To investigate as whether they are actually appointed after observing the codal formalities or otherwise.
- ii. To investigate the following officials who got themselves transferred on the basis of bogus office orders.

The enquiry committee enquired the following accused officials:

- a) Mr. Manzoor Badshah Jr PHC Tech (MP)/Malaria Supervisor from District Malakand to District Mardan (shown appointed on fake appointment order by Agency Surgeon SW Wana).
- b) Mr. Iftikhar Khan Jr PHC Tech (MP/ Malaria Supervisor from DGHS Peshawar to District Mardan. (shown appointed on fake appointment order by Agency Surgeon SW Wana)
- c) Mr. Rashid Khan PHC Tech (MP) Malaria Supervisor from District Malakand to District Mardan (shown appointed on fake appointment order by Agency Surgeon Kurram Agency).

Proceedings:

To assess the appointment of the officials, who were shown to be appointed on Mr. Rashid Khan, (15-04-2008 in Kurram Agency) Mr. Manzoor Badshah (12-02-2008 in SW Agency) and Mr. Iftikhar Khan (03-01-2006 SW Agency) as Malaria Supervisors BPS-09; The following investigations were carried out:

1. Statements of Ex-Agency Surgeons SWA and Kurram Agency regarding their Fake signature on the Fake Service books and other documents. **Annex - A.**
2. Investigation through relevant record regarding the appointments in DHS office FATA. Statement of the record keeper & attested by the Deputy Director (Admin) DHS FATA - **Annex- B.**
3. Statements of the DHO, Deputy DHO Mardan and concerned staff of DHO Office Mardan along with relevant record. **Annex - C.**
4. Record of salaries drawn by the officials from District Account Office Mardan, attested by DAO Mardan. **Annex - D**

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29/10/14

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29/10/14

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.

- DG Anti-corruption establishment Khyber Pakhtunkhwa to DGHS Khyber Pakhtunkhwa. **Annex – E**
6. Statements along with cross examination regarding the posting / transfer of the officials concerned from the then DHO (Dr. Bakht Zada) and the present DHO (Dr. Muhammad Ali) Malakand, Ex- Office Assistant (Mr. Khaliq), present office Assistant (Mr. Ehsan), Ex- Account Assistant (Mr. Khaista Muhammad); and Junior Clerk (Mr. Ayub) along with relevant record. **Annex – F**
 7. Statement of the DAO Malakand regarding the drawl of salaries of the officials concerned. **Annex – G**
 8. Statement of Mr. Sheraz Khan, Assistant Director P III (Paramedics) Assistant Director Mr. Jamil, Assistant Director P II, Director General Health Services Khyber Pakhtunkhwa office along with the record of the dispatch registers of the concerned date of transfer orders. **Annex – H.**
 9. Statement and thorough cross examination of the concerned Malaria Supervisors under enquiry. **Annex – I.**
 10. The service books and correspondence file of 03 accused Malaria Supervisors under enquiry provided by Mr. Sheraz Khan AD P-III DGHS were thoroughly checked and returned back to him.
 11. All the relevant informations in this particular case under enquiry were shared with Dr. Muhammad Qasim, Ex DHO Mardan and he affirmed the observations of the committee.

All the concerned offices were visited by the committee after information in written/fax letters.

Observations:

Going through all the available record, statements of the concerned officers/ officials along with cross examination the committee observed the following:

- a. Mr. Manzoor Badshah s/o Haji Lal Badshah was shown appointed as Malaria Supervisor in BPS-9 in SW Agency on **12-02-2008** and was transferred on a fake order issued from DGHS vide office order No. 1460-64/E-V dated **27-01-2011** and was adjusted on the vacant post of Jr Clinical Tech Pathology vide EDO (H) Malakand No. 432-35 dated **17/02/2011** in Malakand and he continued to draw his salary till October 2013. He was transferred on a fake order from DGHS bearing No. 29670-72/EV dated **24-09-2013** to DHO Mardan. On arrival to DHO Mardan in October 2013, he has not provided LPC from DAO Malakand and has not claimed his salaries from November 2013 till date inspite of performing his official duties. **(Annex-J)**
- b. Mr. Iftikhar Khan s/o Said Wali was shown appointed as Malaria Supervisor BPS-9 by Agency Surgeon SW Agency on **03/01/2006** (fake order) and he was transferred to DHO Mardan through fake order vide DGHS letter No. 2790-94 / AE-VI dated **24/01/2013**. His further posting is shown by DHO Mardan on **31-05-2013** with the laps of 04 months and his salary was started from July 2013. **Annex--K**

27/1/14

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.

- 7
- c. Mr. Rashid Khan s/o Rahmat Said was shown to be appointed as Malaria Supervisor in BPS-9 on **15/04;2008** by the Agency Surgeon Kurram and was transferred to DHO Malakand on a fake transfer order from DGHS vide letter No: 1455-59/EV dated **27-01-2011**. Where he continued to draw his salary till **August 2013** and managed to get himself transferred to DHO Mardan on another fake order from DGHS No. 1806-9/AE-V1 Dated **19-08-2013**. (Annex-L) In response to letter from DGHS bearing No: 29670-72/EV Dated 23-10-2013 the service books of Mr. Rashid Khan and Manzoor Badshah was submitted to AD P-III DGHS through special messenger Mr. Ayub Khan of the DHO Office Malakand and DHO Malakand also instructed the DAO Office for stoppage of their salaries.
 - d. The transfer letters from the DGHS off all the 03 accused officials came under suspicious by Dr. Qasim the then DHO Mardan due to an abnormal long blank space before the names on each order and discrepancies in the dispatch numbers of DGHS.
 - e. After receiving instructions from DGHS the DHO Mardan stopped the salaries of the accused Mr. Rashid Khan and Mr. Iftikhar Khan and deposited **Rs. 92,666/-(Mr. Iftikhar Khan) and Rs.69,038/-(Mr. Rashid Khan)** in to the government treasury (NBP Mardan) on proper challan.
 - f. A legal notice from Mr. Iftikhar Khan and Mr. Rashid Khan was served on DHO Mardan on 07-11-2013 through Syed Ahmed Ali Shah advocate for the release for salaries, which was responded by the DHO Mardan till the decision of enquiry DGHS Khyber Pakhtunkhwa.
 - g. It is also worth mentioning that the statements of the accused whirl around the then office assistant Mr. Wazir Zada who **died on 26-10-2013** and due to serious illness his charge was handed over to Mr. Fazal Ahad, Office assistant on 27-10-2013 but Mr. Wazir Zada was incapacitated and not performing his duties 04-05 months prior to his death due to his deteriorating state of health so he should not be accused only for this engineered crime.
 - h. The service books of the 03 accused malaria supervisors were found fake/bogus as per the statements of concerned agency surgeons.

From the observations by the inquiry committee it is proved that during the period shown against the appointments, no such appointments were made in the respective Agency Surgeon offices. No. codal formalities like demand by the Agency Surgeon, approval for appointment from the DHS FATA, advertisement in the press, short listing, test and interviews by the selection committee etc were observed.

It was further confirmed from the respective Agency Account Offices that no source-1 have been received from Agency Surgeon for these employees and no salaries drawn.

All the accused officials also categorically denied their appointments in the Agencies, their performance of duties and drawl of any salaries in SW and Kurram Agencies of FATA.

The alleged transfer orders from the DGHS were traced from the record of the concerned section (P-III Paramedics). Both the ADs (Mr. Sheraz Khan P-III & Mr.

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Jamil P-II) disowned their signatures on the joint order No. 1806-9/AE/VI Dated 19-08-2013 (Rashid Khan & Manzoor Badshah) & Order No. 2790-94/AE-VI Dated 24-01-2013 (Mr. Iftikhar Khan). For further confirmation the relevant dispatch register were checked and it was found that transfer order of Mr. Rashid Khan from DHO Malakand to DHO Mardan vide DGHS letter No. 1806-9/AE-VI dated 19/08/2013, the record on date: 19/08/2013 start from 15281 and end upon 15286 which do not match with the numbers of transfer orders issued on the same date from DGHS so confirmed to be fake / bogus.

The transfer order of Mr. Manzoor Badshah, vide DGHS order No. 1806-9/AE-VI dated 19/08/2013 (joint) when checked in the dispatched register of DGHS was not matching, hence confirmed to be fake and bogus.

The transfer order of Mr. Iftikhar from SW Agency to Mardan vide DGHS Order No. 20790-94/AE/E dated 24/01/2013 when checked in the dispatch register of the DGHS was found that no entry was made in the register on 24/01/2013 at all. The last running record No does not match with the S.No of the fake orders, hence proved to be fake/bogus.

It is further added that for transfer from FATA to settle area/districts, an NOC from the competent authority is mandatory, which was not accorded.

It is worth mentioning that why the source 1 for the salaries of accused Mr. Manzoor Badshah and Rashid Khan was forwarded from DHO Malakand in the absence of LPC from the concerned Agency Account Office and charge relieving certificates duly endorsed by the relevant Agency Surgeon.

Conclusion:

Keeping in view the statement of all the concerned and thorough examination of the relevant available record, the committee came to the conclusion that:

1. The appointments of the concerned Malaria Supervisors Mr. Rashid Khan, Manzoor Badshah and Iftikhar Khan are confirmed to be bogus and fake.
2. The transfer orders of the above mentioned Malaria Supervisors shown to be issued by DGHS Khyber Pakhtunkhwa are confirmed to be fake and bogus.

Recommendation:

Specific:

1. Since the appointment orders are fake and bogus so it is recommended that the services of the all the accused Malaria Supervisors (Mr. Rashid Khan, Mr. Manzoor Badshah and Mr. Iftikhar Khan) may be terminated with immediate effect.
2. The salaries (to be calculated by the concerned DHOs & DAOs Malakand & Mardan) drawn by the officials concerned may be recovered from all the responsible persons and to be deposited in Government Treasury on proper challan.

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.

3. Being a fraudulent case resulting in to heavy financial loss to the government ex-checker, a proper criminal or legal case may be initiated against the accused officials.
4. Disciplinary action against Mr. Khaista Muhammad the then Account clerk DHO Office Malakand for manipulation & facilitating the source-I of Mr. Manzoor Badshah and Mr. Rashid Khan without the LPC of the Agency Account offices resulting to the loss of public money. He should have kept the record but he failed to produce so. Appropriate action may be taken against him under revised E&D rules 2011.
5. For forwarding source-I of the officials concerned to the DAO Malakand and adjustment of the Malaria Supervisors (declared dying cadre in 2006) on Jr technician pathology in district Malakand without fulfilling the codal formalities, a charge sheet may be served on the ex-DHO Malakand Dr. Bakht Zada DDO.
6. Overriding the observations of the DAO office Malakand, the source-1 were re-submitted by the then acting DHO Dr. Tillah Muhammad when Dr. Bakht Zada DHO was abroad for performing Umrah, appropriate legal action is recommended as the officer concerned (Dr. Tillah Muhammad) has retired on 27-11-2011 from service.
7. Censure to Dr. Mohtaram Shah the then acting DHO Mardan for his negligence in his official responsibilities being DDO and to be held responsible for the recoveries of the salaries drawn by accused Mr. Rashid Khan & Iftikhar Khan to deposit into the Government Treasury on proper challan.
8. Warning is recommended to be served on Dr. Abdul Khaliq DHO Mardan for retaining the accused Malaria Supervisors on his roll even after the clear instructions by the DGHS Office Khyber Pakhtunkhwa.
9. Warning is recommended to the concerned officials working in DHO Office Mardan for not keeping the proper record and to keep a vigilant eye to identify such like cases in future.
10. During the examination of the file at Anti-Corruption circle Mardan it was observed that the case was totally fraudulent and fake and the office filed the enquiry only on the basis of death of Mr. Wazir Zada the then dealing senior Clerk and statements of the accused Malaria Supervisors.

The enquiry committee observed that their findings were based only on the record provided by the DHO Office Mardan and statement of the accused. The investigation officer has not visited the relevant Agency Surgeons /

AF 29/1/14

29.10.14

5

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.

The Director General Anti-Corruption establishment Khyber-Pakhtunkhwa may kindly be approached to direct the relevant investigation officer for a comprehensive re-inquiry of the case up to the logical & conclusive end.

General:

Preparation / maintenance of service books in a sequence of a genuine with fake signature of Agency Surgeon of their respective period putting official stamps, awarding annual increments.

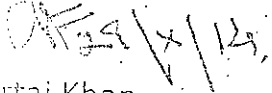
Issuance of transfer orders from the DGHS office with fake signature of the relevant officers of their respective periods using the official pad of the DGHS and putting dispatch numbers in a sequence close to running numbers

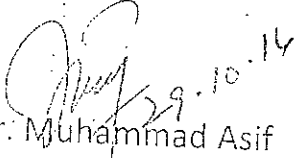
Forwarding salary source and placement at the DHOs offices could not be made possible without the involvement of the staff of the Directorate and subordinate offices. There seems to be a network who is engaged in parallel administration at all levels. And the possibility of more such cases could not be ruled out.

The committee recommends a detail enquiry to dig out the network of these Black sheeps at the DGHS, Directorate FATA, Agency and District Health Offices to abolish these fraud practices bringing bad names to the offices and heavy financial losses to the public money.

The committee also recommends to design and link a system of online verification of orders issued by the Director General Health Services Khyber-Pakhtunkhwa and its subordinate offices.

The inquiry report is submitted for onward perusal please.


Dr. Sartaj Khan
Deputy Director (Admin)
DHS FATA


Dr. Muhammad Asif
Public Health Coordinator
DHO Office Peshawar

Inquiry Committee Health Department Khyber-Pakhtunkhwa

Copies/record retained:

6

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.

Name: Mr. Rasheed Khan

Designation: Malaria Supervisor

S.No	Month	Amount
1	10/2013	17003
2	11/2013	17003
3	12/2013	17516
4	1/2014	17516
	Total	69038/-

Note: Deposited Govt: Treasury (Challan # 73 dated 16/6/2014) NBP Main Branch Mardan (Copy Attached)

② 9/2013 ✓ = 17003/- paid to Rasheed Khan

Pay off 3818/14.

Muzamil Mehta
Mardan

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.


Amended B
A.M.H.

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET
30

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge
19.04.2016	<p>WP No. 3669-P/2014</p> <p>Present: Mr. Muhammad Usman Khan Furlandi Advocate, for petitioner.</p> <p style="text-align: center;">Syed Qaisar Ali Shah AAG, for respondents.</p> <p style="text-align: center;">****</p> <p><u>MUHAMMAD DAUD KHAN, J.</u> Through Instant</p> <p>Constitution petition, Rasheed Khan, Iftikhar Khan & Manzoor Badshah, the petitioners seek issuance of an appropriate writ directing the respondents to release monthly salaries of petitioners being withheld w.e.f 1.9.2013 to 1.11.2013 and also to restore their real posts/designations by keeping them continuously as regular civil servants against the posts of "Malaria Supervisors".</p> <p>2. In essence, the grievance of the petitioners is that despite performing their duties as "Malaria Supervisors" for about 5 years in the respondents' department, their services were terminated and their salaries were stopped on the allegation that they had fraudulently managed their respective appointment orders and they were also restrained from performing their duties. Hence, having no other remedy, the petitioners approached this Court by filing the instant Constitution petition.</p>




 ADVOCATE
 SUPREME COURT
 PESHAWAR HIGH COURT

Dr. Sarraj, Deputy Director (Admin), DHS FATA, Peshawar.

The respondents were put on notice, who filed their comments denying the allegations of petitioners therein by stating that all the appointments and transfer orders of petitioners are bogus and fake.

3. Arguments heard and record perused.

4. Perusal of comments submitted on behalf of respondents and other documents available on file reveals that an inquiry committee consisting of Dr. Muhammad Asif, Coordinator Public Health, DHO Office, Peshawar and Dr. Sarraj, Khan, Deputy Director (Admin), DHS FATA Peshawar was constituted by the order of Director General Health Services (KPK) to probe into the matter regarding appointments of petitioners. As per observation of the said Committee, after recording statements of concerned officials as well as perusing the concerned record, it came to the light that no such appointments have been made in the respective Agency Surgeon Offices nor any formalities in the shape of demand by the Agency Surgeon, approval for appointment from the DHS FATA, advertisement in the press, short listing, test and interviews by the Selection Committee etc were observed not any Source-1 was received from the Agency Surgeon for these employees. The concerned record was also checked and verified from the signalories of the alleged appointment letters.

Dr. Sarraj

Dr. Sarraj, Deputy Director (Admin), DHS FATA, Peshawar.

[Signature]

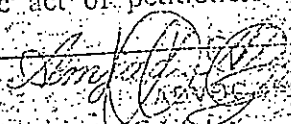
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[Signature]

(29)
37

transfer orders etc which were denied by the concerned officials being bogus and fake. Moreso, for transfer from FATA to settle areas, an NOC from the competent authority is mandatory which was also not obtained for the said purpose making the same dubious. The material available on file further reveals that fake proceedings for forwarding Source-1 of petitioners from DHO Malakand in absence of LPC from concerned Agency Account Office and charge relieving certificates were conducted with the connivance of certain concerned officials and salaries were drawn on the basis of said bogus proceedings causing great loss to the Government exchequer. The petitioners failed to bring on record any strong or cogent documentary evidence in support of their stance which could show that they have been appointed after observing all codal formalities and were wrongly restrained by the respondents from performing their duties. So when the foundation of appointments of petitioners is found cracked, then what to say about the other contentions of petitioners, as it is well established proposition of law that fraudulent act vitiates all proceedings. Hence they were rightly restrained by the respondents from performing their duties, which needs no interference by this Court.


6. For what has been discussed above, we are of the opinion that the act of petitioners regarding their

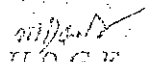

SUPREME COURT

2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.

appointment on fake appointment letters disentitles them for any relief in writ jurisdiction of this Court, therefore, this petition is dismissed in limine.

Announced.
19.4.2016.


JUDGE


JUDGE

Attested

ADVOCATE
SUPREME COURT

"A. Qayam"

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Gulzar Ali Khan
Mr. Justice Imran Khan

Civil Petition No. 2345 of 2016

Filed on 19.09.2016, passed by the Federal High Court, Peshawar in W.P.No. 2345 of 2016.

Rashid Khan & others.

Respondent(s)

VERSUS

Director General Health Services, KPK, Peshawar Respondent(s)
and/or

For the Petitioner(s)

: Mr. Anjad Ali, ABC
Mr. Adam Khan, ADR (Member)

For the Govt. of K.P.

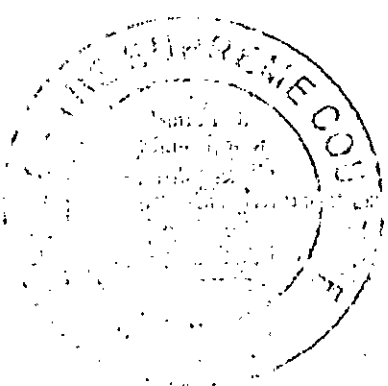
: Barrister Qasim Wadood, Advocate General

Date of hearing

: 19.09.2016

ORDER

Gulzar Ali Khan, J. After going through the records of the case, learned ABC for the petitioner states that petitioner is a doctor who is working in accordance with law and does not present a petition, which is dismissed on such.



Handwritten signature and stamp of the Court Associate, Supreme Court of Pakistan, Peshawar. The stamp includes the text 'SUPREME COURT OF PAKISTAN' and 'Court Associate, Supreme Court of Pakistan, Peshawar'.

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2. Dr. Sartaj, Deputy Director (Admin), DHS FATA, Peshawar.