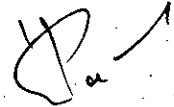


30.01.2020 Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith M/S Hazrat Shah Superintendent (for respondent No.2) and Salim Javid Litigation Officer (for respondent No.3) present.

Representative of respondent No.2 stated that the instant matter has been assigned to Sher Baz S.O-II (Litigation) for doing the needful and seeks time to furnish implementation report. Adjourn. To come up for further proceedings/conditional implementation report on 12.02.2020 before S.B. Notice be issued to Sher S.O-II (Litigation) for furnishing progress report in the present case on the date fixed.



Member

12.02.2020 Counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith M/S Amjid Ali, Assistant and Jaffar Shah, Assistant for the respondents present. Representative of the department submitted implementation report. The same is placed on record. Therefore, the execution petition is consigned to the record room. However, if the respondents failed to implement the implementation order than the petitioner will be at liberty to restore the instant execution petition. File be consigned to the record room.

ANNOUNCED  
12.02.2020



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

22.10.2019

Petitioner with counsel and Mr. Saleem Javed, Litigation Officer alongwith Mr. Kabirullah Khattak, Additional AG for the respondents present.

The representative of respondents requests for time to submit reply/comments with regard to implementation petition. Respondents may do so on or before next date of hearing.

Adjourned to 13.11.2019. In case implementation report is not submitted on next date punitive action will be initiated against the defaulting respondent/official in accordance with law.

  
Chairman

13.11.2019

Petitioner in person and Addl. AG alongwith Sher Baz Khan, S.O for the respondents present.

The representative of respondents is required to provide to the competent authority copies of order dated 25.09.2019 and 22.10.2019 for compliance in line with the judgment under implementation.

To come up for further proceedings on 17.12.2019 before S.B.

  
Chairman

17.12.2019

Petitioner in person and Addl. AG alongwith Sher Baz, SO for the respondents present.

To come up for further proceedings alongwith Execution Petition No. 211/2019 on 30.01.2020.

  
Chairman

28.08.2019

Petitioner alongwith counsel and Mr. Usman Ghani, District Attorney for the respondents present.

On previous two occasions notices were issued to the respondents for submission of implementation report, however, they remained unrepresented even today. Learned District Attorney is, therefore, required to seek the implementation report from the respondents on next date of hearing.

Adjourned to 25.09.2019 before S.B.

  
Chairman

25.09.2019

Petitioner in person and Addl. AG alongwith Hazrat Shah, Superintendent for the respondents present.

Representative of the respondents states that a CPLA has been preferred against the judgment under implementation in which date of hearing is yet to be fixed.

The respondents are required to produce on the next date any order of restraint by the Apex Court or setting aside of the judgment under implementation. Else, the implementation report shall positively be submitted.

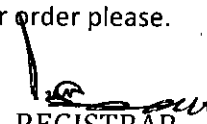

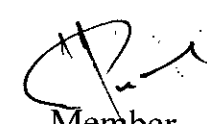
Adjourned to 22.10.2019 before S.B.

  
Chairman

Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 212/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09.5.2019	<p>The execution petition of Mr.Nzir Hussain submitted today by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR 9/5/19</p>
2-	10/05/19	<p>This execution petition be put up before S. Bench on <u>24/05/19</u>.</p> <p> CHAIRMAN</p>
	23.05.2019	<p>Notice of the present execution petition be issued to the respondents for implementation report/comments. To come up for implementation report/parawise comments on 04.07.2019 before S.B.</p> <p> Member</p>

04.07.2019

Counsel for the petitioner and Addl. AG present. No one is present as representative on behalf of the respondents. Fresh notices be issued to them. To come up for implementation report on 28.08.2019 before S.B.

  
Member

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Execution Petition No. 212 /2019  
In Service Appeal No.1499/2013



Mr. Nazir Husain, Ex-Store keeper,  
DHQ Teaching Hospital, D.I. Khan

**PETITIONER**

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, KP, Civil Secretariat, Peshawar.
2. The Secretary, Government of Khyber Pakhtunkhwa, health Services Deptt:, Civil Secretariat, Peshawar.
3. The Director General Health Services Department, KP, Peshawar.

**RESPONDENTS**


.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE JUDGMENT  
DATED: 01.03.2019 OF THIS HONOURABLE  
TRIBUNAL IN LETTER AND SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

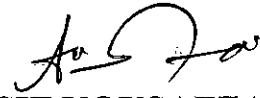
1. That the applicant/petitioner filed Service Appeal No.1499/2013 in this august Tribunal against the order dated 27.02.2013 whereby the petitioner has been removed from the service and penalty of recovery of 17.411/- has been imposed upon the petitioner.
2. That the said appeal was finally heard by the Honorable Tribunal on 01.3.2019 and the Honorable Tribunal was kind enough to partially accept the present appeal, the penalty of recovery was set aside and penalty of removal from service is converted in to the penalty of compulsory retirement from service. **(Copy of judgment is attached as Annexure-A).**
3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 01.03.2019.


4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 01.03.2019 of this august Tribunal in letter and spirit and convert the major penalty of removal from service in to the major penalty of compulsory retirement. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

  
**APPLICANT/PETTIONER**  
Nazir Hussain

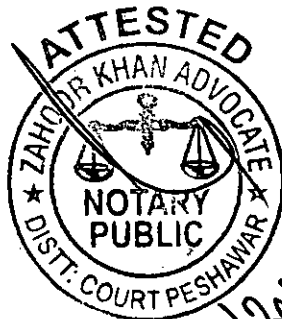
**THROUGH:**

  
**(M. ASIF YOUSAFZAI)**  
Advocate Supreme Court

  
**(SYED NOMAN ALI BUKHARI)**  
Advocate, High Court  
Peshawar.

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



  
**DEPONENT**

2/5/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal No. 1499 /2013

Mr. Nazir Hussain, Ex-Store Keeper.  
DHQ Teaching Hospital, D.I.Khan.



APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary, Government of Khyber Pakhtunkhwa, Health Services Department, Civil Secretariat, Peshawar.
3. The Director General, Health Services Department, KPK, Peshawar.


RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED. 27.2.2013 WHEREBY THE PENALTY OF REMOVAL FROM SERVICE AND RECOVER OF RS. 17.411 MILLION WAS IMPOSED ON APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAY.

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.2.2013 MAY BE SET AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



Appeal No. 1499/2013  
Nazir Hussain vs Govt



01.03.2019

Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney present. Vide separate judgment of today of this Tribunal on file of service appeal No.1498/2013 filed by Dr. Misal Khan, punishment regarding recovery of Rs.17.411/- million imposed upon the appellant Nazir Hussain (Ex-Storekeeper) is set aside. While keeping in view the fact that the appellant Nazir Hussain (Ex-Storekeeper) had considerable length of service at his credit, for the purpose of safe administration of justice the penalty of removal from service is modified and converted into compulsory retirement. This judgment shall have no bearing upon the liability of the appellant Nazir Hussain (Ex-Storekeeper) as determine by the DAC/PAC and the amount of loss to the government exchequer, if any, finalized by the DAC/PAC shall be recoverable from the appellant Nazir Hussain (Ex-Storekeeper) under the law. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room

(Ahmad Hassan)  
Member

(Muhammad Hamid Mughal)  
Member

ANNOUNCED  
01.03.2019

*Certified to be true copy*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**Date of Presentation of Application** 21-3-19  
**Number of Words** 800  
**Copying Fee** 6-00  
**Urgent** 2-00  
**Total** 8-00  
**Name of Copyist** [Signature]  
**Date of Completion of Copy** 21-3-19  
**Date of Delivery of Copy** 21-3-19

*[Faint, illegible text or stamp]*



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	01.03.2019	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b> <b>Service Appeal No. 1498/2013</b></p> <p style="text-align: center;">Date of Institution ..... 26.07.2013 Date of Decision ..... 01.03.2019</p> <p>Dr. Misal Khan Medical Superintendent, DHQ Teaching Hospital, D.I.Khan.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.</p> <p>2. The Secretary, Government of Khyber Pakhtunkhwa Health Services Department Peshawar.</p> <p>3. The Director General Health Services Department Khyber Pakhtunkhwa.</p> <p style="text-align: right;"><b>Respondents</b></p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Ahmad Hassan-----Member(E)</p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER: -</u></b> Appellant</p> <p>present. Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. This Single/common judgment in the above captioned appeal shall also dispose of appeal bearing No.1499/2013 filed by Mr. Nazir Hussain (Ex-Storekeeper) as both the service appeals have arisen from the one and the same departmental inquiry proceeding against both the</p>

**ATTESTED**


**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

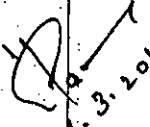
appellants.

3. The appellant (Ex-Medical Superintendent DHQ Teaching Hospital D.I.Khan) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 27.02.2013 whereby he was awarded penalty of removal from service and recovery of Rs.18.785 million was also imposed on him on the charge of causing loss to government exchequer.

4. Learned counsel for the appellant argued that the appellant was working as M.S DHQ Teaching Hospital D.I.Khan when he was transferred to another hospital vide order dated 14.09.2011; that the appellant challenged the transfer order vide Service Appeal No.1866/2011 before this Tribunal on the ground of prematurity and political interference; that this Tribunal also issued status-quo order however Mr. Khalid Aziz (private respondent in Service Appeal No.1866/2011) was not obeying the said order of status-quo which resulted in the registration of FIR u/s 506 by him against the appellant; that the FIR was then quashed by Hon'ble Peshawar High Court D.I.Khan Bench vide judgment dated 15.03.2012 in Cr: Misc:Q No.19 of 2012; that the transfer order was set aside by this Tribunal; that Mr. Khalid Aziz raised audit objections to put the appellant in hot water; that the audit objections were not referred to the Departmental Accounts Committee nor to the Public Accounts Committee rather the reports were directly referred to Secretary Health for appropriate action; that the Secretary Health conducted a fact finding inquiry; that on the basis of fact finding inquiry Dr. Misal Khan and Mr. Nazir Hussain (Ex-Storekeeper) were served with charge sheet and statement

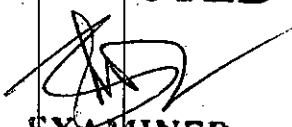
**ATTESTED**

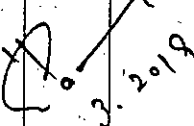
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

  
1.3.2019

of allegation; that in the charge sheet and statement of allegation, the charge of misappropriation/causing loss to government exchequer was leveled in purchase of Medicines and surgical equipments and irregularities of its entries in stock registers, in the DHQ Teaching Hospital D.I.Khan; that the appellants filed reply to the charge sheet and denied all the allegations because the equipment was purchased by the purchase committee and clearly recorded in the stock registers and the equipment was also handed over to the then Storekeeper who issued the equipment to the concerned wards/operation theaters while the medicines were purchased according to Medicines Coordination Cell's List. Next contended that one sided inquiry was conducted without affording any opportunity of self-defense to the appellants and on the basis of the finding of the inquiry report Show Cause Notices were issued to the appellants which were duly replied by the appellants by denying all the allegations; that the original impugned order dated 27.02.2013 was passed whereby penalty of removal from service and recovery of Rs.18.785/- million was imposed upon the appellant Dr. Misal Khan, similarly penalty of removal from service and recovery of Rs. 17.411/- million was imposed upon Mr. Nazir Hussain (Ex-Storekeeper). Next contended that the departmental appeals of the appellants against the original impugned order dated 27.02.2013 went un-responded. Next contended that the impugned order is against law, facts on record and norms of justice; that the whole action of respondent department was based on malafide. Next contended that the audit paras are to be settled by the Departmental Audit Committee, if not then the case is referred to the Public Accounts Committee and

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

  
 1.2.2019

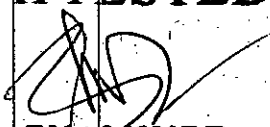
after that the case of recovery is to be made. Next contended that the appellants have not been treated in accordance with law and punished for no fault on their part rather victimized due to the joint action of Dr. Khalid Aziz and the then D.G Health Services.

5. As against that learned Deputy District Attorney argued that the appellants were involved in misappropriation of public money in purchase of Medicines and surgical equipments and other irregularities including irregularities in entries of Medicines and surgical equipments in stock registers/sub-stock registers for DHQ Teaching Hospital D.I.Khan, resultantly proper inquiry was conducted and besides other irregularities the appellants were found involved in misappropriation of public funds including misappropriation in purchase of Medicines, equipment; further argued that registers of stock, expense, issue were not properly maintained and entries were not found while payments were made; further argued that inquiry was conducted in accordance with law and all the codal formalities were fulfilled prior to the issuance of the penalty.

6. Arguments of learned counsel for the appellant and learned Deputy District Attorney heard. File perused.

7. Perusal of the record/inquiry report would show that the appellants were posted at the DHQ Teaching Hospital D.I.Khan during the financial year 2010-11. Audit Department carried out audit of the hospital's account in the month of July 2011 for the financial year 2010-11 and pointed out irregularities/misappropriation/irregular expenditures. Office of the Director, Regional Office, District Audit D.I.Khan conducted audit in respect of District Govt. Funds released

**ATTESTED**


  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

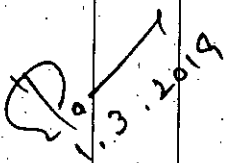
1.3.2019

to the DHQ Teaching Hospital D.I.Khan. The Anticorruption Establishment (ACE) District D.I.Khan also simultaneously conducted an open inquiry in the matter. Fact finding inquiry was also conducted. The fact finding committee submitted its report containing observations against Dr. Misal Khan and Mr. Nazir Hussan (Ex-Store Keeper). The Chief Minister then constituted a formal committee for the purpose of scrutinizing the conduct of accused officials Dr. Misal Khan and Mr. Nazir Hussain (Ex-Storekeeper). List of misappropriations and irregularities as given in the inquiry report is as under:

Para No.	Gist of Para	Charge Against	Amount Involved (Rs. in Millions)
1.	Loss to Government due to missing of medicines	Both Accused	Rs.16.512 (M)
2.	Misappropriation of syringes worth Rs.1.937	Both Accused	1.937
3.	Misappropriation on account of purchase of	Both Accused	1.034
4.	Misappropriation of cotton rolls	Both Accused	0.405
5.	Misappropriation of medicines	Both Accused	1.221
6.	Misappropriation on account of purchase of	Both Accused	0.240
7.	Misappropriation on account of purchase of	Both Accused	0.150
8.	Misappropriation of medicines	Both Accused	0.175
9.	Loss to Government due to double drawl and fake	Both Accused	1.547
10.	Loss to Government due to missing medicines	Both Accused	0.366


**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

  
 13.12.19

11.	Loss to Government due to non accountal of lab chemicals	Dr. Misal Khan	0.445
12.	Loss to Government due to issue of fictitious issue of	Both Accused	0.210
13.	Loss to Govt due to misuse of anti-d injections	Both Accused	3.678
14.	Loss to Govt due to misuse of anti-d injections	Both Accused	0.510
15.	Loss to Govt due to due to non-accountal in stock	Both Accused	1.595
16.	Loss to Govt due to acceptance higher rates	Dr. Misal Khan	0.906
17.	Misappropriation of medicines	Both Accused	1.000
18.	Misappropriation on account of missing of	Both Accused	0.449
19(1)	Loss due to missing of medicines	Both Accused	1.654
19(2)	Over payment due to purchase of medicines on	Both Accused	0.695
20.	Missing of x-ray films	Dr. Misal Khan	0.500
21.	Loss to Govt on account of missing of 125 gallon	Dr. Misal Khan	0.100
22.	Loss to Govt due to misuse of insulin injections	Both Accused	0.660
23.	Loss to Govt due to missing of medicines	Both Accused	0.458
24.	Misappropriation of medicines	Both Accused	0.762
25.	Misappropriation on fake purchase of dressing	Both Accused	0.229
26.	Overpayment on purchase of	Dr. Misal Khan	1.421

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

17/01/2019



	medical gas on		
27.	Double drawl on purchase of medical gas	Dr. Misal Khan	0.211
28.	Fictitious expenditure due to fake repair of vehicles	Dr. Misal Khan	0.209
29.	Misappropriation due to fake issue of POL for generator	Dr. Misal Khan	0.310
30.	Less deposit of car park & canteen rent	Dr. Misal Khan	0.335
31.	Loss to Govt due to purchase of substandard equipments	Dr. Misal Khan	0
32.	Over payment due to allowing higher rates	Dr. Misal Khan	0.370
33.	Loss to Govt due to fake issue of medical gas	Dr. Misal Khan	0.044
34.	Fictitious expenditure due to fake repair of machinery & equipments	Dr. Misal Khan	0.511
35.	Misappropriation of foam mattress & blankets	Dr. Misal Khan	0.189
36.	Unjustified expenditure on pay to regular charge nurses without rendering service	Dr. Misal Khan	2.591
37.	Loss due to pay to officials without rendering service	Dr. Misal Khan	3.792
38.	Excess payment on account of pay & allowance	Dr. Misal Khan	0.076
39.	Misappropriation of Air-condition	Dr. Misal Khan	1.601
40.	Misappropriation on purchase of Oxygen Cylinders	Dr. Misal Khan	0.066

1.3.2019  
**ATTESTED**


**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal,**  
**Peshawar**

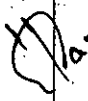
41.	Irregular expenditure on purchase of equipment and medicines	Both Accused	0
42.	Non-recovery of stamp duty	Dr. Misal Khan	0.272
43.	Non-recovery house rent allowance and electricity charge	Dr. Misal Khan	0.636
44.	Fake expenditure on purchase of local medicines	Both Accused	0.653
45.	Misappropriation on purchase of washing and contingency items	Dr. Misal Khan	0.672
46.	Loss due to expendr on operating head over & above budget	Dr. Misal Khan	2.943
47.	Suspected misappropriation on pay and allowances	Dr. Misal Khan	6.152
48.	Less deposit on account of OPD Receipts.	Dr. Misal Khan	0.619
	Total		Rs.64.456 (M)

8. There is no denial that charge sheet/statement of allegation was served upon the appellants. The appellants joined the inquiry proceeding. Show Cause Notices were also served upon the appellant to which they also filed reply. Perusal of the reply of the appellants to the Show Cause Notice would show that the same was prepared after perusal of the inquiry report. In the these circumstances this Tribunal is of the considered view that the learned counsel for the appellant has not been able to substantiate his plea that the mandatory codal formalities were not complied with during the regular inquiry.

9. The inquiry committee in its inquiry report gave finding that the allegations No.1 to 10, 13 to 16, 21 to 26, 28, 41, 44 and 45 stood

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

  
 1.3.2019

proved, allegation No.19 partly proved while the remaining allegations were not proved.

10. It is not denied that funds worth millions of rupees were released to the DHQ Teaching Hospital D.I.Khan during the incumbency period of the appellants. From the perusal of the inquiry report it transpired that the appellants have not bothered to run the affairs of the hospital in the proper manner rather committed serious irregularities. The appellant have not observed the finance rules & regulations nor adopted the prescribed procedures. The hospital record was not maintained as required.

11. The appellants could not give valid explanation to the anomalies observed by the inquiry committee and as such remained unable to demonstrate that they were wrongly held responsible by the inquiry committee.

12. It may also be observed that no evidence/statement of any person was brought into the notice of this Tribunal to reach at the conclusion that the appellants converted the resources/funds of the hospital to their own use or made dealings to pocket the government funds. Moreover it is also not disputed that the audit observations are yet to be finalized by the DAC/PAC. This Tribunal is therefore of the considered opinion that the punishment order regarding recovery of Rs.18.785/- million from Dr. Misal Khan and Rs. 17.411/- million from Mr. Nazir Hussain (Ex-Storekeeper) was premature.

13. In the light of above discussion, the punishment regarding recovery of Rs. 18.785/- million imposed upon the appellant (Dr. Misal Khan) is set aside. Similarly punishment regarding recovery of

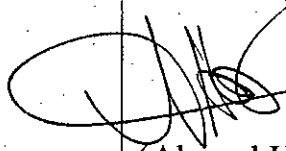
**ATTESTED**

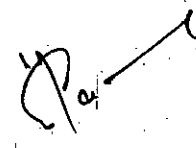
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

10/3/2019

Rs.17.411/- million imposed upon Nazir Hussain (Ex-Storekeeper) is set aside. While keeping in view the fact that the appellants Dr. Misal Khan and Nazir Hussain (Ex-Storekeeper) had considerable length of service at their credit, for the purpose of safe administration of justice the penalty of removal from service is modified and converted into compulsory retirement. This judgment shall have no bearing upon the liability of the appellants Dr. Missal Khan and Nazir Hussain (Ex-Storekeeper) as determine by the DAC/PAC and the amount of loss to the government exchequer, if any, finalized by the DAC/PAC shall be recoverable from both the appellants Dr. Misal Khan and Nazir Hussain (Ex-Storekeeper) under the law.

14. The present service appeal and the connected service bearing No.1499/2013 filed by Mr. Nazir Hussain (Ex-Storekeeper) are partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

ANNOUNCED.  
01.03.2019

**Certified to be true copy**  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 21-3-19  
Number of Words 4000  
Copying Fee 22-00  
Urgent 2-00  
Total 24-00  
Name of Copyist [Signature]  
Date of Completion of Copy 21-3-19  
Date of Delivery of Copy 21-3-19

# بکھنور جناب ڈائریکٹر جنرل ہیلتھ بمعہ افسران بالا خیبر

## پختونخواہ پشاور

درخواست بمبراداد رسی / فراہمی مراعات / پینشن وغیرہ بمطابق اپیل نمبر 1499/2013 بحق

### سائل از سروس ٹریبونل

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

1- یہ کہ من سائل بطور سٹور کیپر ~~DEIA~~ <sup>DHA</sup> (ڈسٹرکٹ ہیڈ کوارٹر ہسپتال) ڈی آئی خان بعد از پشاور مینٹل ہسپتال میں بطور فارمیسی ٹیکنیشن سائل اپنی خدمات سرانجام دے چکا ہے۔ اور اس دوران افسران بالا کو شکایت کا کوئی موقع نہ دیا اور اپنے فرائض منصبی بخوبی سرانجام دیتا رہا۔

2- یہ کہ من سائل کو بعد الت حضور سروس ٹریبونل نے فیصلہ کیا اور فیصلے کے مطابق جو مراعات / پینشن میری بنتی ہے عدالتی حکم کے مطابق میں اسکا حقدار ہوں۔

3- یہ کہ من سائل عدالت حضور کے احکامات کی روشنی میں اپنا قانونی حق مانگتا ہوں۔

4- یہ کہ من سائل افسران بالا، ڈائریکٹر جنرل آفس، عدالت کے فیصلے کو ملاحظہ فرمائیں اور اس کے مطابق من سائل کو وہ مراعات تفویض کریں جس کا وہ حقدار ہے۔

5- یہ کہ من سائل نے عدالت کے آرڈر بمورخہ 01/03/2019 کی کاپی لف درخواست ہذا کی ہے۔

لہذا بمستوری درخواست ہذا سائل کو وہ تمام مراعات جو قانون کے مطابق بنتی ہوں، عدالت کے حکم کی روشنی میں فراہم کرنے کے احکامات صادر فرمائیں۔

سائل تاحیات احسان مندر ہے گا۔

المرقوم: 22 مارچ، 2019

ارض

سائل: نذیر حسین ولد وزیر محمد  
ایکس فارمیسی ٹیکنیشن مینٹل ہسپتال پشاور۔  
22/3/19

شناختی کارڈ نمبر: 5-3839937-12103

رابطہ نمبر: 03018887578

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF K.P Service Tribunal, Peshawar

Muzir Hussain

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Health Depto

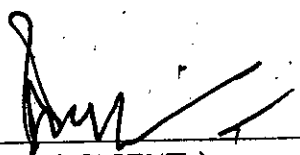
(Respondent)  
(Defendant)

I/We Muzir Hussain

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

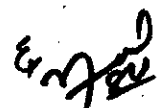
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

  
( CLIENT )

ACCEPTED

  
**M. ASIF YOUSAFZAI**  
Advocate

  
Syed Numan Ali Babbar

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240



**AUDIT REPORT  
ON  
THE ACCOUNTS OF  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
AUDIT YEAR 2015-16**

**AUDITOR GENERAL OF PAKISTAN**



sum of Rs.690,251 was overpaid due to excess rate accepted than the MCC approved rates.

When pointed out in Oct, 2011, the management agreed to recover the overpayment. But till the finalization of this report no intimated.

Audit requested the department repeatedly for holding of the DAC meeting, however DAC meeting was not convened till finalization of this report.

Audit recommends to recover the overpayment.

APs 228 & 232 (2010-11)

#### 7.4.18 Non-recovery of Rs.36.20 million

According to para 26 of GFR Vol-I, it is the duty of the departmental controlling officer to see that all sums due to government are regularly and promptly assessed, realized and duly credited in the Public Account.

During the financial year 2013-14, in the office of MS DHQ Hospital DIKhan, it was noticed that inquiry committee of the Health department conducted inquiry against Misal Khan Medical Superintendent (MS) and decided to remove him from service and recover Rs.18.78 million on account of loss to public exchequer. The MS was dismissed from service on 27.02.2013, but huge amount of Rs.18.78 million not yet recovered.

Similarly another accused of the same case, Nazeer Hussain Store Keeper also removed from service but recovery of Rs.17.41 million is outstanding against him.

Non-recovery was pointed out in Sep, 2014. The management furnished no reply.

In the DAC meeting held in Dec, 2015, it was decided that the Commissioner DIKhan be approached to recover the embezzled amount. No recovery was intimated till finalization of this report.

Audit recommends to implement the decision of DAC in letter and spirit.

AP 372 (2013-14)



## GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

Dated Peshawar the 13<sup>th</sup> Feb, 2020

### NOTIFICATION

No. SOH(E.V)2-161/2007.- WHEREAS, Health Department initiated disciplinary action against Dr. Misal Khan (BS-19) Ex-Medical Superintendent District Head Quarter Hospital, Dera Ismail Khan and Mr. Nazir Hussain (BS-09) Ex-Storekeeper of District Head Quarter Hospital Dera Ismail Khan;

AND WHEREAS, the Charges of loss to the Govt. Ex-chequer worth 18.758 million and 17.411 million on account of corruption were proved against Dr. Misal Khan and Mr. Nazeer Hussain respectively;

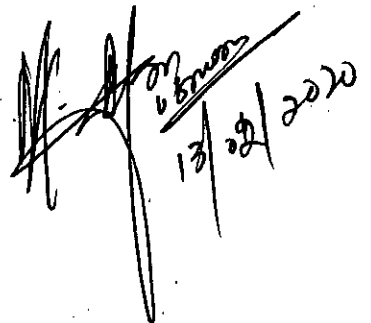
AND WHEREAS, the competent authority imposed upon them penalty of Recovery as well as removal from service vide Notification No. SOH(E.V)2-161/2007, dated 27/02/2013;

AND WHEREAS, Aggrieved with the decision both Dr. Misal Khan and Mr. Nazir Hussain filed Service Appeals No. 1498/2013 and 1499/2013 in Learned Service Tribunal which were decided by the august tribunal vide judgment dated 01/03/2019;

AND WHEREAS, the punishment regarding recovery of Rs.18.785/- million imposed upon the appellant (Dr. Misal Khan) and recovery of Rs.17.411/- million imposed upon Nazir Hussain (Ex-storekeeper) was set aside. While keeping in view the fact that the appellants Dr. Misal Khan and Nazir Hussain (Ex-storekeeper) had considerable length of service at their credit, for the purpose of safe administration of justice the penalty of removal from service was directed to be modified and converted into compulsory retirement.

AND WHEREAS, The judgment shall not have bearing upon the liability of the appellants Dr. Misal Khan and Nazir Hussain (Ex-storekeeper) as determined by DAC / PAC and the amount of loss to the government exchequer, if any, finalized by DAC / PAC shall be recoverable from both the appellants Dr. Misal Khan and Nazir Hussain (Ex-storekeeper);

AND WHEREAS, The department filed a CPLA against the service tribunal judgment and in the meanwhile Dr. Misal Khan (Ex-MS DHQH DIK) filed an Execution Petition No. 211/2019 in service appeal No. 1498/2013.

  
13/02/2020



# GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

AND WHEREAS, The Chairman Service Tribunal while hearing the Execution Petition passed an order dated 22/10/2019 "Adjourned to 13/11/2019". In case implementation report is not submitted on the next date punitive action will be initiated against the defaulting respondents/official in accordance with law".

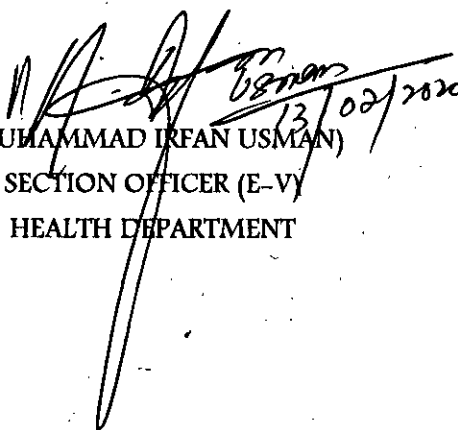
NOW THEREFORE, the competent authority in terms of Rule-4(1)(a) of the Government Servants (Appointment Promotion & Transfer Rule) 1989; read with Rule-2(f) of Government Servants (Efficiency & Discipline) Rules-2011, has been pleased to implement Service Tribunal judgment dated 01/03/2019 subject to the final verdict of Supreme Court of Pakistan in CPLA pending for hearing and convert the Major Penalty of "Removal from Service" imposed vide Notification No. SOH(E.V)2-161/2007, dated 27/02/2013 to "Compulsory Retirement".

SD/-

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Copy of the above is forwarded to the.-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Chairman Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Director General Health Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer (Lit-II), Health Department, Peshawar for information & necessary action.
5. Medical Superintendent, District Head Quarter Hospital, D.I.Khan.
6. Medical Superintendent, Sarhad Hospital for Psychiatric Disease, Peshawar.
7. District Account Officer, D.I.Khan.
8. Concerned Appellant for information.

  
(MULHAMMAD IRFAN USMAN)  
SECTION OFFICER (E-V)  
HEALTH DEPARTMENT