

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
tour Therefore case is adjourned
to 10-3-2020 for order


Reader

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

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

Rasheed Khan appellant in connected service appeal present on behalf of appellant. Mr. Muhammad Jan learned Deputy District Attorney for respondents present. Rasheed Khan seeks adjournment as counsel is not in attendance. Adjourn. To come up for arguments on 03.01.2020 before D.B.


Member

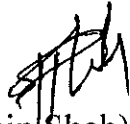

Member


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

21.10.2019 Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 14.11.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

14.11.2019 Appellant with counsel 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

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.

Appellant Deposited
Security & Process Fee

Thereafter, notices be issued to the respondents. To come up for written reply/comments on 28.03.2019 before S.B.



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. 33/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/1/2019	<p style="text-align: center;">The appeal of Mr. Riaz Ali Shah 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 09/01/19</p>
2-	16-1-19	<p style="text-align: center;">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. Riaz Ali Shah son of Aunmber Shah Ex-Malaria Supervisor BHU 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 impugned termination order mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 3- Necessary party may be made in the heading of appeal.

No. 2445 /S.T,

Dt. 24-12/2018.

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

Mr. Amjid Ali Adv. Mardan.

8is objection have been removed.
There is no termination order in
writing. men oral order.
Resubmit

Amjid Ali
ADVOCATE
SUPREME COURT

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

Service Appeal No. 33 /2018

Riaz Ali ShahAppellant

VERSUS

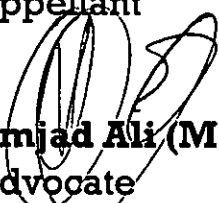
Director General Health Services,
Khyber Pakhtunkhwa, Peshawar & othersRespondents

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5.	Copy of posting/ transfer orders	C	11
6.	Copy of ...	D	
7.	Copy of ...	E	
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Appellant

Through


Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan
Cell: 0321-9882434

Dated:

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 33 /2018

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1780

Date 21-12-2018

Riaz Ali Shah S/o Aunmber Shah
R/o Bajawaro Koroona, Tehsil
Takht Bhai, District Mardan
Ex-Malaria Supervisor (BPS-9).....**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 Mardan**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.

Filed to-day
[Signature]
Registrar
21/12/18

PRAYER:

Re-submitted to-day and filed.

[Signature]
Registrar
9/1/19

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.

(2)

Sir,

Appellant humbly submits as under;-

- 1) That appellant was appointed as Malaria Supervisor vide order dated 18.08.2007 after requisite qualification. **(Copy of appointment order and Certificates are Annex "A & A/1")**
- 2) That appellant after medical fitness was posted and thereafter series of posting/ transfer orders were passed. **(Copy of medical certificates Annex "B", posting/ transfer orders are Annex "C", Annual report is Annex "D" and Service book is Annex "E")**
- 3) That appellant regularly received salary till October 30.12.2014. **(Copy of pay slips/ Last pay certificates are Annex "F")**
- 4) That an ex-parte 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 on 23.11.2018, thus performed duty till 23.11.2018, whereas, appellant salary was stopped on 30.12.2014
- 6) That appellant immediately approached for release of his salary before hon'ble Peshawar High Court, Peshawar, however, the writ petition was dismissed on the basis of maintainable vide order dated 22.02.2018. **(Copy of order of High Court dated 22.02.2018 alongwith grounds of writ petition are "H")**
- 7) That appellant received relieving order dated 07.04.2016 and passed by DHO Mardan and order dated 18.10.2017 passed by MS THQ Hospital Takht Bhai received on 23.11.2018. **(Copy of relieving orders are attached as 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:-

GROUND

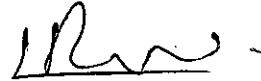
- A. Because impugned oral termination order is a void order.
- B. Because it is must that for written appointment, there should be written termination order.
- C. Because it is not simple appointment order, but series of orders/ posting/ transfers, wherein salaries has been paid on the basis of appointment order by A.G Office and Accounts Officer of different Districts.
- D. Because appellant is not associated with the 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.
- 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. (4)

- 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


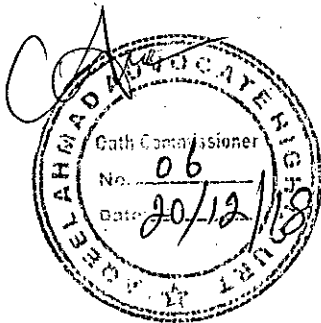

Amjad Ali (Mardan)

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

Riaz Ali ShahAppellant

VERSUS

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar & othersRespondents

ADDRESSES OF PARTIES

APPELLANT

Riaz Ali Shah S/o Aunmber Shah
R/o Bajawaro Koroona, Tehsil Takht Bhai, District
Mardan Ex-Malaria Supervisor (BPS-9)

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

(6) Annex "A"

(4)

AGENCY SURGEON SOUTH WAZIRISTAN AGENCY, WANA

OFFICE ORDER

Consequent upon approval accorded by the Departmental Selecti Committee Mr. Riaz Ali Shah S/O Aunmber Shah is hereby appointed as Malaria Supervis BPS-09 (i.e. Rs.3185-190-8885) plus usual allowances as admissible under the Rules.

His appointment in the Health Department will be subject to the followin terms and conditions.

1. His appointment will be subject to Medical fitness.
2. He will not be entitled to any TA/DA for Medical examination and joining the first appointment.
3. He will be governed by such rules and orders as may be issued by the Government for the category of Government Servant to which he belongs.
4. As laid down vide Govt. of N.W.F.P Establishment and Administration Department Notification No. E & A (1-13)/2005, dated 10-08-2005, he will not be entitled to pension or gratuity however in lieu thereof, will be entitled to received such amount contributed by him towards the contributory provident fund along with the contributions made by the Government to him account in the said fund.
5. If he wishes to resign from service he will have to submit resignation in writing one month in advance OR deposit one month's pay in the Govt treasury. However he will continue to serve the Govt, till his resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to him, he should report to the undersigned within fourteen (14) days of the receipt of this order.

Sd/-
(AGENCY SURGEON)
SOUTH WAZIRISTAN AGENCY
WANA

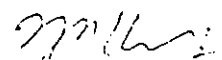
No. 577-80/E-III,


Cop forwarded to:

1. The Director Health Services FATA, Peshawar.
2. Agency Account Officers in South Waziristan.
3. Accountant Agency Surgeon Office, South Waziristan, Wana.
4. Official concerned.

For information and necessary action.

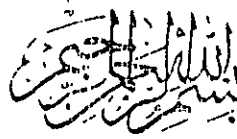
Dated: 18 - 8 - 2007


(AGENCY SURGEON)
SOUTH WAZIRISTAN AGENCY
WANA


ADVOCATE
SUPREME COURT

Annex "A"

S. No. PBP- 059671



Roll No. 70467

Revised

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION

Marks Improved

Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination

SESSION 1996 (ANNUAL)
(SCIENCE GROUP)

THIS IS TO CERTIFY THAT Riaz Ali Shah

Son/Daughter of Aunber Shah

and a resident of Mardan District

has passed the Secondary School Certificate Examination
of the Board of Intermediate and Secondary Education, Peshawar held in April 1996
as a *Private candidate*. He/She obtained 494 Marks out of 850
and has been placed in Grade C Representing Good

The Candidate passed in the following subjects.

- | | | | |
|------------|---------------------|----------------|--------------|
| 1. English | 3. Islamiyat | 5. Mathematics | 7. Chemistry |
| 2. Urdu | 4. Pakistan Studies | 6. Physics | 8. Biology |

Date of birth according to admission form is Fifteenth April,

one thousand nine hundred and Seventy Nine (15-4-1977)

Issued in lieu of Oc.No.060281.

Asstt. Secretary
28th April, 1996

This certificate is issued without alteration or emsuro.

Secretary

ADVOCATE
SUPREME COURT

No: J008198

University of Peshawar



Peshawar

Detailed Marks Certificate Bachelor of Arts (B.A.)

Part-II

Annual Examination 2008

Mardan



Name: RIAZ ALI SHAH

Gender: Male

Roll No: 76237

Private

Father's Name: AUNMBER SHAH

Registration No: 2007-PC-5795

Division: 2:3

Papers	Max Marks	Marks Obtained	
		In Figures	In Words
English (Comp)	75	24 ✓	Twenty Four
Pashto	75	36 ✓	Thirty Six
Islamic Studies	75	37 ✓	Thirty Seven
Pakistan Studies	40	19 ✓	
<div data-bbox="189 1244 573 1519" data-label="Text"> <p>Verified & Found Correct Fazal Ginn (Programmer) (Mtekhur Hussain Khan) Controller of Examinations University of Peshawar</p> </div> <div data-bbox="208 1519 517 1645" data-label="Text"> <p>135 08-07-09</p> </div>			
Part-I	285	142 ✓	One Hundred and Forty Two
Part-II	550	258 ✓	Two Hundred and Fifty Eight

Errors & omissions are subject to subsequent rectification

Chances Aailed: 1

The Examination was taken As a Whole

Examination held From 25-Jun-2008 to 26-Jul-2008

Result Declared on Saturday, October 11, 2008

Issue Date: 10-Nov-2008

2:00 pm

(Dr. Mohammad Shafi)
ADDITIONAL CONTROLLER OF EXAMINATIONS
UNIVERSITY OF PESHAWAR

Prepared by Computer Cell

Computerized by RTC

Supreme Court Advocate
SUPREME COURT

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

University of Peshawar
(Pakistan)

Session ANNUAL 2008

RIAZ ALI SHAH

Son/Daughter of

AUNMER SHAH

and a student/ private candidate of

DISTRICT WARDAN

having passed the prescribed examination held in

JUNE 2008

is this day admitted by the University of Peshawar to the Degree of

Bachelor of Arts

in SECOND Division

The Examination was taken as a whole ~~in parts~~

Serial No. 0132537

Registration No. 2007-PC-3795

Roll No. 76237

Result Declared on NOVEMBER 8, 2008



[Signature]
Registrar

Countersigned

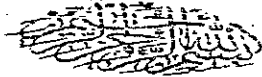
[Signature]
Vice-Chancellor

[Signature]
ADVOCATE
SUPREME COURT

11

9

S.No. 30693
Roll No. 186406
Group. Humanities



Revised

Board of Intermediate and Secondary Education
Peshawar N.W.F.P. Pakistan
INTERMEDIATE EXAMINATION
SESSION 1998 - ANNUAL

Amjad Ali
ADVOCATE
SUPREMACY SOCIETY

This is to Certify that Riaz Ali Shah Son of Aunmer Shah
and a resident of Mardan District
has passed the Intermediate Examination of the Board of Intermediate & Secondary Education, Peshawar
held in May/June, 1998 as a Private Candidate. He obtained 422 Marks out of 480
and has been placed in Grade E Representing Satisfactory. He has been awarded Grade — on the
basis of internal assessment by the institution concerned. The Examination was taken as a whole.

Asstt Secretary

10

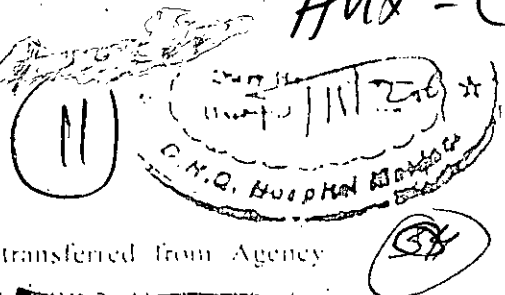
Issued in lieu of Certificate No. 34048

Secretary

This certificate is issued without alteration or erasure.

Aux - C

OFFICE ORDER



Mr. ~~Riaz Ali Shah Malar~~ Supervisor recently transferred from Agency Surgeon South Waziristan Agency Wana and posted at the disposal of EDO (Health) Mardan. ~~vide Director General Health Services, N.W.F.P. Peshawar Office Order No.3171-75 /Personnel, dated 14-09-2009, is hereby adjusted against the vacant post of F.M.T. in DHQ Hospital Mardan and will work on General Duty in RHC Takht Bhai District Mardan till further order.~~

25/10/09
Executive District Officer,
Health Mardan

No. 14530-35 EDO (H) dated Mardan the 20/10/2009

Copy to the:

1. Director General, Health Services, N.W.F.P. Peshawar w/ref: to his Office Order No. quoted above.
2. Medical Superintendent, DHQ Hospital Mardan.
3. SMO Incharge RHC Takht Bhai.
4. Accountant EDO (Health) office Mardan.
5. Computer cell EDO (Health) office Mardan.
6. Official concerned.

for information & action.

Executive District Officer,
Health Mardan

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL MARDAN.

NO. 8997-900/DH: Hospital Mardan.

Dt. 10/11/2009.

Copy forwarded to the:-

1. Director General Health Services N.W.F.P. Peshawar w/r to his No. 3171-75 dt. 14.9.2009 address to EDO (H) Mardan.
2. EDO (Health) Mardan for information w/r to his endst: No. 14530-35 dt. 20.10.2009.
3. Accountant DHQ Hospital Mardan.
4. Bill Clerk, " "
5. Official concerned.

MEDICAL SUPERINTENDENT
DHQ HOSPITAL MARDAN

Amjad Ali
ADVOCATE
SUPREME COURT

LAST PAY CERTIFICATE

(39)

1. Last Pay Certificate of ~~Mr. A. K. Shah~~ of the Agency Surgeon S.W.A. Wana proceeding to EDO (H) Madan Ann-F

2. He has been paid upto 30-9-2009 as the following rates:—

Particulars:

Substantive Pay:—

Officiating Pay:—

Exchange Compensation Allowance:—

B/Pay Rs = 4050/=
HRA Rs = 1146/=
M.A. Rs = 500/=
U.A. Rs = 75/=
Adhoc Relief Rs = 810/=

Deductions:—

B/Paid 80/=

G.P. 44/=

3. He made over charge of the Office of Agency Surgeon S.W.A. Wana on the 30-9-2009

Very JCO

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

5. He has ben paid leave salary as detailed below. Deductions have been made as noted on the reverse.

From Signature to Signature at Rs. _____ a month

From Signature to Signature at Rs. _____ a month

From Signature to Signature at Rs. _____ a month

Agency Account Officer
Wana S.W.A.

He is entitled to the following:—

He is also entitled to joining time for 06 days.

The details to the Income Tax recovered from him upto the date from the beginning of the current year are noted on the reverse.

Pay & Allowance are admissible w.e.f. 1-10-2008.

Amir Ali
ADVOCATE
SUPREME COURT

**Government of Khyber Pakhtunkhwa
District Accounts Office Mardan
Monthly Salary Statement (May-2015)**

M



BY

Personal Information of Mr. RIAZ ALI SHAH w/s. of AUNBER SHAH

Personnel Number: 00475852 CNIC: 1610282010201 NTN:
Date of Birth: 15.04.1979 Entry into Govt. Service: 16.08.2007 Length of Service: 07 Years 09 Months 017 Days

Employment Category: Active Temporary

Designation: MALARIA SUPERVISOR 80003406-HEALTH DEPARTMENT
DDO Code: MR7018-District Health Officer (Malaria Program) Mardan
Payroll Section: 002 GPF Section: 002 Cash Center:
GPF A/C No: 475852 Interest Applied: Yes GPF Balance: 47,336.00
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2011 Pay Scale Type: Civil BPS: 09 Pay Stage: 7

Wage type		Amount	Wage type		Amount
0001	Basic Pay	8,860.00	1000	House Rent Allowance	1,146.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,200.00
1948	Adhoc Allowance 2010@ 50%	2,255.00	1970	Adhoc Relief Allow 2011	676.00
2118	Adhoc Relief Allow (2012)	1,772.00	2148	15% Adhoc Relief All-2013	1,329.00
2174	Adhoc Relief Allow-2014	886.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3009	GPF Subscription - Rs 595	-595.00	3501	Benevolent Fund	-180.00
3511	Addl Group Insurance	-7.00	3604	Group Insurance	-67.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till May-2015: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 20,056.00 Deductions: (Rs.): -849.00 Net Pay: (Rs.): 19,207.00

Payee Name: RIAZ ALI SHAH
Account Number: 5880-7
Bank Details: NATIONAL BANK OF PAKISTAN, 230548 TAKHT BHAI TAKHT BHAI,

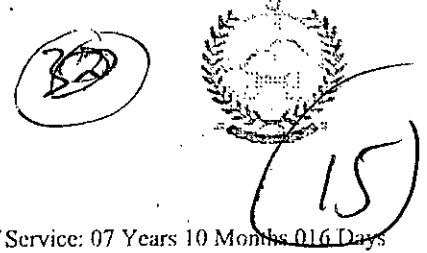
Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: MARDAN Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: City: Email: riazalishah7676@gmail.com

Amyra Ali
ADVOCATE
SUPREME COURT

Government of Khyber Pakhtunkhwa
District Accounts Office, Mardan
Monthly Salary Statement (June-2015)



Personal Information of Mr. RIAZ ALI SHAH d/w/s of AUNBER SHAH

Personnel Number: 00475852 CNIC: 1610282010201 NTN:
 Date of Birth: 15.04.1979 Entry into Govt. Service: 16.08.2007 Length of Service: 07 Years 10 Months 016 Days

Employment Category: Active Temporary

Designation: MALARIA SUPERVISOR 80003406-HEALTH DEPARTMENT
 DDO Code: MR7018-District Health Officer (Malaria Program) Mardan
 Payroll Section: 002 GPF Section: 002 Cash Center:
 GPF A/C No: 475852 Interest Applied: Yes GPF Balance: 47,931.00
 Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2011 Pay Scale Type: Civil BPS: 09 Pay Stage: 7

Wage type		Amount	Wage type		Amount
0001	Basic Pay	8,860.00	1000	House Rent Allowance	1,146.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,200.00
1948	Adhoc Allowance 2010@ 50%	2,255.00	1970	Adhoc Relief Allow 2011	676.00
2118	Adhoc Relief Allow (2012)	1,772.00	2148	15% Adhoc Relief All-2013	1,329.00
2174	Adhoc Relief Allow-2014	886.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3009	GPF Subscription - Rs 595	-595.00	3501	Benevolent Fund	-180.00
3511	Addl Group Insurance	-7.00	3604	Group Insurance	-67.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till June-2015: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 20,056.00 Deductions: (Rs.): -849.00 Net Pay: (Rs.): 19,207.00

Payee Name: RIAZ ALI SHAH
 Account Number: 5880-7
 Bank Details: NATIONAL BANK OF PAKISTAN, 230548 TAKHT BHAI TAKHT BHAI,

Leaves: Opening Balance: Availced: Earned: Balance:

Permanent Address: City: MARDAN Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address: City: Email: riazalishah7676@gmail.com

Amjad Ali
ADVOCATE
SUPREME COURT

System generated document in accordance with APPM 4.6.12.9 (SERVICES/07.07.2015/00:45:16/v1.1)
 * All amounts are in Pak Rupees
 * Errors & omissions excepted

Government of Khyber Pakhtunkhwa
District Accounts Office Mardan
Monthly Salary Statement (July-2015)

33



Personal Information of Mr. RIAZ ALI SHAH d/w/s of AUNBER SHAH

Personnel Number: 00475852 CNIC: 1616282010201
 Date of Birth: 15.04.1979 Entry into Govt. Service: 16.08.2007

NTN:
 Length of Service: 07 Years 11 Months 017 Days

Employment Category: Active Temporary

Designation: MALARIA SUPERVISOR 80003406-HEALTH DEPARTMENT
 DDO Code: MR7018-District Health Officer (Malaria Program) Mardan
 Payroll Section: 002 GPF Section: 002 Cash Center:
 GPF A/C No: 475852 Interest Applied: Yes GPF Balance: 48,526.00
 Vendor Number: -
Pay and Allowances: Pay scale: EPS For - 2015 Pay Scale Type: Civil BPS: 09 Pay Stage: 7

Wage type		Amount	Wage type		Amount
0001	Basic Pay	11,480.00	1000	House Rent Allowance	1,146.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,500.00
1948	Adhoc Allowance 2010@ 50%	2,255.00	2148	15% Adhoc Relief All-2013	1,329.00
2174	Adhoc Relief Allow-2014	886.00	2199	Adhoc Relief Allow @10%	1,148.00

Deductions - General

Wage type		Amount	Wage type		Amount
3009	GPF Subscription - Rs 595	-595.00	3501	Benevolent Fund	-180.00
3511	Addl Group Insurance	-7.00	3604	Group Insurance	-67.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till July-2015: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 21,676.00 Deductions: (Rs.): -849.00 Net Pay: (Rs.): 20,827.00

Payee Name: RIAZ ALI SHAH
 Account Number: 5880-7
 Bank Details: NATIONAL BANK OF PAKISTAN, 230548 TAKHT BHAI TAKHT BHAI,

Leaves: Opening Balance: Aailed: Eamed: Balance:

Permanent Address:

City: MARDAN Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address: City: Email: riazalishah766@gmail.com

Riaz Ali
 ADVOCATE
 SUPREME COURT

Annex - G
(17)

ENQUIRY REPORT OF DHO CHARSADEA IN LIGHT OF REFERENCE NO. 10551-53/A.E VI DATED 21/10/2015 ABOUT THE

1. Mr. Shah Waliullah Malaria Supervisor BPS-09
- ✓ 2. Mr. Riaz Ali Shahconda Malaria Supervisor BPS-09
- ✓ 3. Mst. Sameena Shaukat Jr. PHC Tech (MCH)/LHV BS-09
- ✓ 4. Mr. Abdul Salam Malaria Supervisor BPS-09
5. Mr. Rasheed Khan Malaria Supervisor BPS-09
6. Mr. Javed Khan Malaria Supervisor BPS-09
7. Ms. Neelam Naz Jr. PHC Tech (MCH)/LHV BS-09

MENDEATE OF ENQUIRY

- To find out whether the appointment was fake
- To determine whether the persons under enquiry were transferred from Wana North Waziristan to Mardan vide fake transfer order.

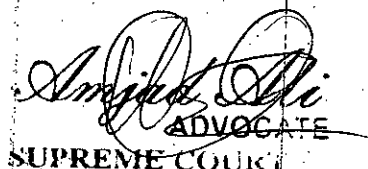
PROCEEDINGS:

The undersigned visited DHO office Mardan on Friday 13/11/2015 and on 8/12/2015 attend the office of DHO Noshehra and collect the appointment orders, service books, LPC and other documents of the relevant staff. Statements of the concerned staff were recorded.

The staff who were appointed at Wana and transferred to District Mardan stated in their statement that they have never been in Wana Waziristan for duty nor they have seen Wana North Waziristan and accepted that they have never drawn salary from the concerned DAO. According to them they were told by the person who appointed them that you will not demand for salary and nobody will ask you about performance of duties. LPC were not issued all of them by concerned DAO office.

According to their statements (annexed) that a Senior Clerk of DHO office Mardan named Mr. Wazir Zada appointed them and transferred them subsequently and handed over the service book and transfer orders to them in his home.

The clerk Mr. Wazir Zada Senior Clerk involved has died sometimes ago and therefore his view was impossible to record. Moreover the two persons Mr. Javed Khan Malaria Supervisor at serial No. 6 and Neelam Naz PHC/LHV at serial No. 7 were appointed on 8/02/2008 by DHO Nowshehra and transferred to District Mardan on 26/05/2008.


ADVOCATE
SUPREME COURT

(18)

In this connection statements of concerned officials and DHO Newshehra were recorded which is self explanatory (Annexed) and record to match this order/appointment could be re included, because as per statement of DHO Newshehra all the relevant record destroyed in 2010 devastating flood. However he stated he has done appointments after fulfilling all codal formalities.

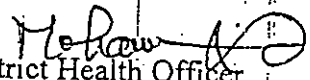
OPINION:

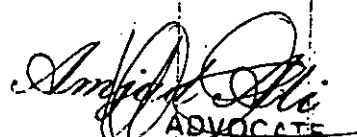
In my opinion five number of persons appointed/transferred from Wana are fake and their appointment orders order could not be verified from the concerned offices. Neelam Naz and Javed appointed/transferred to DHQ Mardan are probably correct due to the fact that the record to verify their statements has lost in 2010 devastating flood and admitted in his statement by DHO Newshehra(Annexed). So No record was available to verify/match.

The undersigned has reached a point that such appointment /transfer cannot be made by a single person sitting in Mardan now deceased. A gang of personnel sitting in DGHS and Mardan might have done the process collectively. No record of any kind was available at FATA Secretariat.

RECOMMENDATIONS:

- The appointment of staff who were appointed at North Waziristan and transferred to Mardan are absolutely fake, because there is no record of appointment, salary drawn at agency account office and LPC from the concerned AAO as well as FATA Secretariat.
- The credentials of LHVs need to be verified from the concerned faculty / nursing council.
- All the employees appointed in FATA and transferred to settle areas may be scrutinized to find out their position as to fake or otherwise. For this purpose a high level enquiry is recommended to discover the network involved.


District Health Officer
Charsadda


ADVOCATE
SUPREME COURT

Ann-H

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

(191)

Date of Order or Proceedings	Order/Proceedings with Signature of Judge.
1	2
22.02.2018	<p><u>WP No. 475-P/2017.</u></p> <p>Present: Mr. Irfan Ali Yousafzai, Advocate, for petitioners.</p> <p>Syed Qaiser Ali Shah, AAG, for respondents.</p> <p>***</p> <p><u>MUHAMMAD AYUB KHAN, J.:-</u> Petitioners, Riaz Ali Shah and two others, seeks the constitutional jurisdiction of this Court praying that:-</p> <p><i>“That on acceptance of this writ petition, the impugned notification/letter/order may kindly be declared as illegal, unlawful and against the law and facts, and be set aside, respondents be directed to issue salaries and all other benefits to petitioners as are given to other employees”.</i></p> <p>2. As per writ petition, the petitioners were appointed in the Health Department in the years 2007 & 2011 respectively. They arrived for duty at the relevant places of posting; The petitioners were then transferred to Takht Bhai, District Mardan. They were provided the LPCs by the concerned Agency Surgeon.</p>

Handwritten signature/initials on the left margin.

Signature of Advocate
ADVOCATE
SUPREME COURT

SCANNED

Vide letter No. 11427-46/P&E (Estb) dated 27.06.2014 they were directed to submit some documents relevant to their service; That vide letter No.3682/DHO, the petitioners have been informed that their appointment/transfer orders were fake. That since 2015 the petitioners have not been paid their salaries. Aggrieved of such actions of the respondents, the petitioners have preferred the instant petition.

3. Arguments of the learned counsel for the parties heard and record gone through with their valuable assistance.

4. After the alleged transfer of petitioners to Takht Bhai by the order of Agency Surgeon, Waziristan Agency, Wana, enquiry was conducted by the DHO, Charsadda against the petitioners and four others. He found;

"The staff who were appointed at Wana and transferred to District Mardan stated in their statement that they have never been in Wana Waziristan for duty nor they have seen Wana North Waziristan and accepted that they have never drawn salary from the concerned DAO. According to them they were told by the person who appointed them that you will not demand for salary and nobody will ask you about performance of duties. LPC were not issued to all of them by concerned DAO office."

5. He pointed that;
- i. Appointment/transfer from Wana were fake. There appointment orders could not be verified from the concerned office
 - ii. The appointment of staff (petitioners) at

Amjad Ali
ADVOCATE
SUPREME COURT

11/11/14

(20)

North Waziristan and transfer to Mardan were absolutely fake because there was no record of appointment, salary drawn at Agency Accounts Office and LPC from the concerned AAO as well as FATA Secretariat.

(g)

6. As consequence of the enquiry, DHO, Mardan addressed letter No. 3682/DHO dated 07.04.2016 wherein it was requested to Director General, Health Services, Khyber Pakhunkhwa, Peshawar, to issue termination order of the petitioners. Now, the petitioners have impugned the above order/letter No.3682/DHO dated 07.04.2016 (evidently not mentioned specifically) to be declared as illegal, unlawful and to be set aside.

7. As we have stated above that this letter is recommendation, forwarded to Director General, Health Services, Khyber Pakhunkhwa, Peshawar. No final order has been made on the basis of these recommendations. Hence, present petition is not maintainable and is, accordingly dismissed in limine.

Announced on;
22.02.2018

Amjad Ali
ADVOCATE
SUPREME COURT

Amjad Ali
CHIEF JUSTICE

Amjad Ali
JUDGE

(B)

BEFORE THE HONOURABLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. _____ /2017

1. Riaz Ali Shah S/o Anumber Shah R/o Bajwaro Korona
Tehsil Takht Bhai District Mardan
2. Abdul Salam S/o Mukhtaj ud Din R/o Gojhar Ghari Tehsil
& District Mardan
3. Samina Shoukat S/o Shuokat Ali R/o Abid Khan Kaly Sar
Dheri Tehsil & District Charsadda
.....Petitioner

VERSUS


1. Government of Khyber Pakhtunkhwa, through Chief
Secretary Khyber Pakhtunkhwa
2. Secretary Health, Khyber Road, Khyber Pakhtunkhwa
3. Director General Health, Khyber Pakhtunkhwa
4. District Health Officer, Mardan
5. District Account Officer, Mardan

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
1973

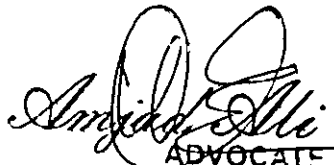
Respectfully Submitted

Brief facts of the case are as under.

FACTS:


ADVOCATE
SUPREME COURT

- (2)
1. That the petitioners being a respectable citizen of the country acquired their education from well reputed institutions of the country. (Copy of educational documents are annexed as annexure "A")
- (23)
2. That it was in the year 2007 that the petitioner No. 1 & 2 were appointed as Malaria Supervisor in BPS-09 and petitioner No.03 was appointed as L.H.V in BPS-09 in the year 2011 in Health Department, as permanent Civil servants. (Copy of appointment orders are annexed as annexure "B")
3. That the petitioners as such put their entry in the service with the aim to serve the country in particular, his family in general and started receiving their salaries through pay roll system. (Copy of pay rolls of all the petitioners are annexed as annexure "C")
4. That the respondents were pleased to issue transfer order to the petitioners No.01 & 02 and were transferred from South Waziristan and adjusted against the vacant posts at RHC Takht Bhai and the petitioner No.03 was transferred from Waziristan against the vacant post at THQ hospital Takht Bhai, District Mardan. (Copy of the transfer orders are annexed as annexure "D")
5. That when the petitioners were transferred, the Agency surgeon of South Waziristan provided the last pay Certificate to the petitioners. (Copy of last Pay Certificate are annexed as annexure "E")


ADVOCATE
SUPREME COURT

(8)

6. That thereafter petitioners were issued letter No. 11427-46/P&E(Estb) dated Mardan 27/06/2014, vide which the petitioners were directed to submit some of their relevant documents including their appointment letter, academic documents, Diploma / Certificate, transfer order in original etc. (Copy of letter No. 11427-46/P&E(Estb) dated Mardan 27/06/2014 is attached as annexure "F")

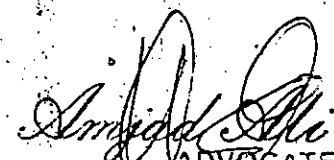
7. That a so called inquiry was conducted by respondents where after a letter No. 3682/DHO, dated 07/04/2016 was issued to petitioners wherein it was stated that the appointment / transfer of the petitioner is fake and not according to the codal formalities as per Esta-Code rules / regulation. (Copy of letter No. 3682/DHO, dated 07/04/2016 is attached as annexure G)

8. That thereafter since January 2015 the salaries of the petitioners are stopped, without any reason, nor there was any termination letter etc and still petitioners are serving the department. (Copy of attendance register is attached as annexure "H")

9. That the petitioners thereafter wrote a Mercy Petition to M/S Takht Bhai Hospital for release of their salaries, whereupon the M/S DHO Takht Bhai recommended petitioners in good words. (Copy of Mercy Petition to M/S Takht Bhai Hospital is attached as annexure "I").

10. That no action whatsoever was taken on the said mercy petition even with the recommendation of M/S of the hospital, but the petitioners were asked to continue on to perform their duties without payment of their salaries.

That the petitioners being aggrieved prefer this petition on the following grounds amongst other inter alia.


ADVOCATE
SUPREME COURT

§

25

GROUNDS:

- A. That the act of respondents is arbitrary mechanical and is in flagrant violation of the rules and of the law laid down for the purpose.
- B. That the petitioners were properly appointed as per law and rules and the appointment orders were issued by respondents and it is not that petitioners themselves drafted the same at their home.
- C. That it is also necessary to mention here that the transfer orders of petitioners were also issued by the respondents department.
- D. That it is also necessary that the petitioners were paid salaries, till Jan 2015 and thereafter stoppage of salaries on the ground that their appointment orders are not in accordance with the Esta-Code doesn't make any since whatsoever.
- E. That a mistake / non following of relevant procedure for issuance of appointment / transfer order may be an error on part of respondents and never on part of petitioners, hence petitioners can never be deprived of their salaries.
- F. That before the appointment of petitioners all the documents of petitioners was verified by respondents where after according to the procedure petitioners were appointed.
- G. That the petitioners were appointed on merit and never through any illegal procedure, hence respondents can never deprive petitioners of their rights.

Amjad Ali
ADVOCATE
SUPREME COURT

(S)

H

That the petitioners are earning hands for their families and hence if the salaries remained continued not to be issued to petitioners the petitioners would become unable to support their families.

(26)

I. That any other ground will be raised at the time of arguments with prior permission of this Honorable Court.

It is, therefore, humbly prayed that on acceptance of this Writ Petition, the impugned notification/ letter/ order may kindly declared as illegal, unlawful and against the law and facts, and be set aside, respondents be directed to issue salaries and all other benefits to petitioners as are given to other employees. (This is a DB case and copy of Writ Petition were send to respondents)

Or

Any other relief which this August Court deems proper may kindly be awarded to meet the ends of justice.

Amjad Ali
ADVOCATE
SUPREME COURT

(S)

(37)

INTERIM RELIEF:

By way of interim relief it is respectfully submitted that as the salaries of petitioners are stopped since January 2015 and the petitioners are hand to mouth due to non availability of any money in their hands to support their families, hence the respondents be directed to release monthly salaries to petitioners till the disposal of this writ petition.

Petitioners

Through

Irfan Ali Yousafzai

Irfan Ali Yousafzai

Advocate High Court

CERTIFICATE:

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.

Irfan Ali Yousafzai
ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need

ADVOCATE

Irfan Ali Yousafzai

Irfan Ali Yousafzai
ADVOCATE
SUPREME COURT



حکومت خیبر پختونخوا

Annex - I
(28)
District Health Department - Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)

Ph: # (0937) 9230030 Fax: # (0937) 9230349
Email: mardandho@gmail.com

No 3683/DHO Dtd. 07/04/16

Director General Health Service,
Khyber Pakhtunkhwa Peshawar.

Subject: Office Order/Enquiry

Please refer to your letter No. 2174-76/AE-VI dated 07.03.2016 and enquiry conduct by DHO Charsadda I have the honor to forward herewith a list of officials whom appointment / transfer has been declared as fake and not according to the Codal formalities as per Esta-code rules/regulation. The names of the officials are as under:

1. Mr. Shah Waliullah Malaria Supervisor (BS-09)
2. Mr. [REDACTED] Shah Malaria Supervisor (BS-09) . . .
3. Mr. [REDACTED] Malaria Supervisor (BS-09)
4. Mr. Rasheed Khan Malaria Supervisor (BS-09)
5. Mst. [REDACTED] Shahukat Jr. PHC Tech; (MCH)/LHV BS-09

It is requested that the termination orders of the above mentioned staff may please be issued at DGHS office level as per the existing rules etc.

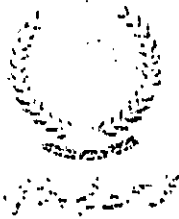
The transfer orders of Neelam Naz LHV and Javed Khan Malaria Supervisor issued vide DGHS orders may please be verified whether correct or otherwise.

Moreover the credentials of LHV (Diploma) are sent to Nursing Council for verification.

After verification of the transfer orders by the DGHS office and her Diploma from the Nursing Council the ultimate decision will be done accordingly.

District Health Officer,
Mardan

Amjad Ali
ADVOCATE
SUPREME COURT



TEHSIL HEADQUARTER HOSPITAL
TAKHT BHAI Mardan (Khyber Pakhtoonkhwa)
Email: thqhtakhtbhai@gmail.com Ph: # 0937 551 880

(99)

No. 370

DHQ Dated: 18/10/2017

- 1- Shah Wali Ullah (Malaria Supervisor)
2- Riaz Ali Shah (Malaria Supervisor)
3- Abdul Salam (Malaria Supervisor)

subject Open Enquiry

Reference to DHO office letters No 13791-93/dated 16.10.2017 you are hereby directed to stop your duty at THQ Hospital Takht Bhai with immediate effect.

THQ Hospital Takht Bhai,
Medical Superintendent.

Copy forwarded to

- 1- District Health officer Mardan with request to guide this office in case of Saha Wali ullah (S.No-1), as he had resigned from Malaria Supervisor post on 01.08.2016 and was inducted into health services again as Pharmacy technician on 22.08.2016, vid DHO letter No. 10065-75/DHO and gave his arrival at this hospital on 23.8.2016. Furthermore Samina, Shaukat (LHV) is not on the strength of this hospital.
- 2- Anti Corruption Mardan.

Medical Superintendent,
THQ Hospital Takht Bhai.

Amjad Ali
ADVOCATE
SUPREME COURT

To,

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Ann-K

(30)

Subject: DEPARTMENTAL APPEAL AGAINST ORAL TERMINATION ORDER/ RELIEVING ORDER DATED 07.04.2016 AND DATED 18.10.2017 RECEIVED ON 23.11.2018 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 / relieving order dated 07.04.2016 and dated 18.10.2017 received on 23.11.2018 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 Malaria Supervisor vide order dated 18.08.2007 after requisite qualification. (Copy of appointment order and Certificates are Annex "A & A/1").
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 30.12.2014. (Copy of pay slips/ Last pay certificates are Annex "F")
4. That an ex-parte inquiry, at the back of appellant was conducted, wherein, appellant was not associated with the inquiry and inquiry report dated 29.10.2014 was

Amjad Ali
ADVOCATE
SUPREME COURT

H. Because appellant has not been given charge sheets/
statement of allegations.

37

I. Because appellant has not been given any show cause
notice.

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.

It is, therefore humbly prayed that, On
acceptance of this appeal, the oral termination order/
relieving order dated 07.04.2016 and dated
18.10.2017 received on 23.11.2018 of appellant may
please be set-aside and appellant may please be
reinstated in service with all back benefits

Appellant



Riaz Ali Shah

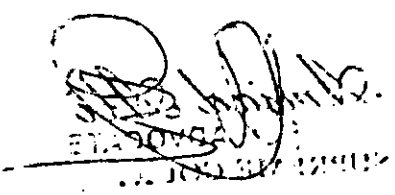
S/o Anwar Shah

R/o Bajwara Korona, Tehsil

Tarht Bhai, District Mardan

Ex-Malaria Supervisor (BPS-9)

Date 27/11/2018



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



And - K
(33)

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 10846-51 /AE-VI,

Dated 28/11 /2018

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.

Amjad Ali
ADVOCATE
SUPREME COURT

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

مورخہ:

مقدمہ:

دعویٰ:

جرم:

بنام: ڈاکٹر فیصل سید و عہدہ

ریاض علی صاحب

اپیل

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

ان مقام اور کیلئے امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان اور طرف 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 دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف 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 پر واختہ منظور 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

ماہ دسمبر

المرقوم:

العبد

گواہ

العبد

مقام کے لیے منظور ہے۔

2

Amjad Ali
ADVOCATE
SUPREME COURT

**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

Qasim
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29/10/14

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

- 5-
5. 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 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

- 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 /

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

Agency Account offices, DHO Malakand & Director General ^{Health} 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.

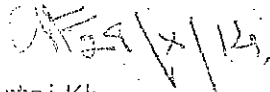
Issuance of transfer orders from the DGHS office with fake signature of the relevant officers of their respective periods using the official pad of the DGHS and putting dispatch numbers in a sequence close to running numbers

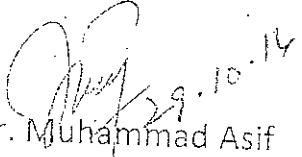
Forwarding salary source and placement at the DHOs offices could not be made possible without the involvement of the staff of the Directorate and subordinate offices. There seems to be a network who is engaged in parallel administration at all levels. And the possibility of more such cases could not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

Copies/record retained.

Name: Mr. Rasheed Khan

Designation: Malária 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 Brach Mardan (Copy Attached)

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

Pay off 28/8/14.

[Signature]
District Health Officer,
Mardan

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

Amended - B
A. H. H.

(30)

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
19.04.2016	<p style="text-align: center;">2</p> <p><u>WP No. 3669-P/2014.</u></p> <p><i>Present: Mr. Muhammad Usman Khan Turlandi Advocate, for petitioner. Syed Qaisar Ali Shah AAG, for respondents.</i></p> <p>MUHAMMAD DAUD KHAN, J. Through instant Constitution petition, Rasheed Khan, Ifkhar 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>

[Signature]
ADVOCATE

SUPREME COURT
Peshawar High Court
3.11.2015

(31)

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.

Amjad Ali Khan
ADVOCATE
SUPREME COURT

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.

Dr. Sartaj

2010
PESHAWAR HIGH COURT

SUBMITTED TO THE HONORABLE JUSTICE
IN THE SUPREME COURT OF PAKISTAN
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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 vitiate all proceedings. Hence they were rightly restrained by the respondents from performing their duties which needs no interference by this Court.

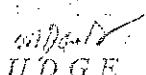
6. For what has been discussed above, we are of the opinion that the act of petitioners regarding the

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[Signature]

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. Qayum"

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

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

Civil Petition No. 2345 of 2018

(Against the order dated 19.04.2016, passed by the Peshawar High Court, Peshawar in W.P.No.3669-P of 2016)

Rashheed Khan & others.

Petitioner (s)

VERSUS

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

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

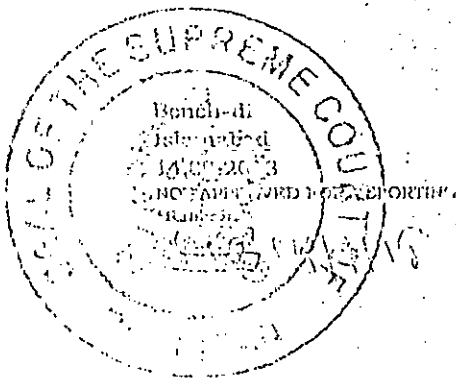
For the Govt. of KPK : Barrister Qasim Wadood, Addl.A.G. KPK

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.

Scd-J
Scd-J
Certified to be True Copy
ADVOCATE
SUPREME COURT
Court Associate
Supreme Court of Pakistan
Islamabad



GR No: 21552/18
Date of Presentation: 10/9/18
No of Words: 200
No of Pages: 2
Requisition Fee Paid: 100
Copy Fee In: 100
Court Fee Paid: 600
Date of Constitution: 15/9/18
Date of Judgment: 28/9/18
Received by: [Signature]

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

S.A.No.33 of 2019

Riaz Ali ...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

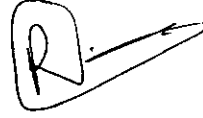
etc are required to be arrayed as an accused. 34 months salary of Riaz Ali, Samina Shaukat, Abdul Salam are outstanding inspite of duty performed.

- 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.



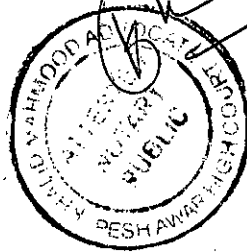
Appellant

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