

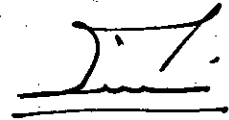
26.07.2021

Nemo for the appellant. Mr. Riaz Ahmed Painsakheil, Assistant Advocate General for the respondents present.

Previous date was posted on Note Reader, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 20.10.2021.



(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

20.10.2021

Nemo for appellant.

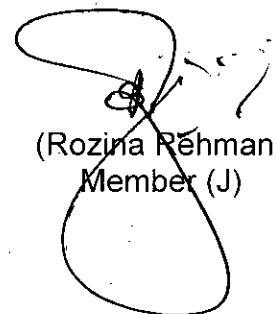
Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Case was called time and again but neither appellant nor his counsel appeared. Consequently, instant service appeal is dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced  
20.10.2021



(Atiq-Ur-Rehman Wazir)  
Member (E)

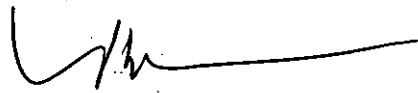


(Rozina Rehman)  
Member (J)

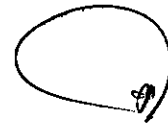
30.11.2020 Counsel for appellant present.

Muhammad Jan learned Deputy District Attorney for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 10.02.2021 before D.B.



(Atiq ur Rehman Wazir)  
Member (E)

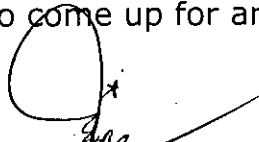


(Rozina Rehman)  
Member (J)

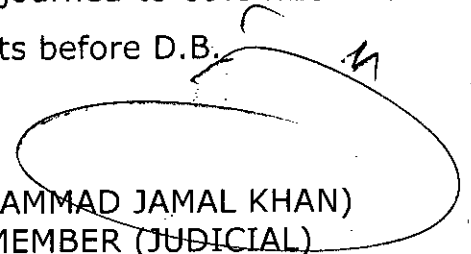
10.02.2021

Nemo for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith representatives of the department Mr. Saleem Javed, Litigation Officer and Mr. Nisar, Assistant, are also present.

Application for adjournment submitted by the assistant to the learned counsel for the reason that the learned counsel for appellant is not available and has proceeded elsewhere. The request is acceded to, the appeal is adjourned to 09.04.2021 on which date file to come up for arguments before D.B.



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

9.4.21

due to covid-19, the case is adjourned to 26.7.2021 for the same.



Reader

23.09.2020

Counsel for the appellant, Addl. AG for respondents No. 1 to 3 present. Mr. Khairul Wahab, Advocate appeared on behalf of private respondent No. 4 and Wakalatnama in his favour submitted which is placed on record.

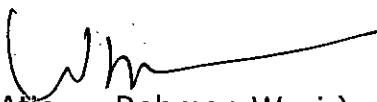
Official respondents have already furnished their parawise comments on 11.08.2020. Respondent No. 4 has<sup>s</sup> not furnished reply despite last opportunity. The matter is assigned to D.B for arguments on 02.10.2020. The appellant may furnish rejoinder, if any, in the meantime.

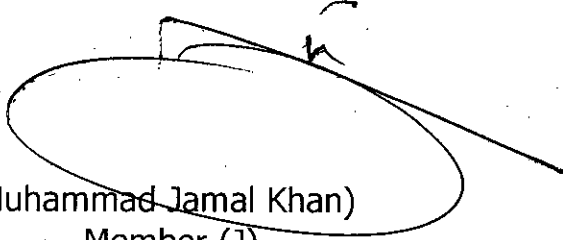
  
Chairman

02.10.2020

Counsel for appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for respondents is also present.

Former requests for adjournment to further prepare the brief. Adjourned to 30.11.2020 on which to come up for arguments before D.B

  
(Atiq-ur-Rehman Wazir)  
Member(E)

  
(Muhammad Jamal Khan)  
Member (J)

25.02.2020

Appellant with counsel present. Mr. Kabirullah Khattak learned Additional AG for the respondents present.

Learned Additional AG requests for time to contact the respondents and furnish reply/comments on the next date of hearing. Adjourned. To come up for written reply/comments on 01.04.2020 before S.B.

  
(Hussain Shah)  
Member

01.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 24.06.2020 for the same. To come up for the same as before S.B.

  
Reader

24.06.2020

Clerk to counsel for the appellant present. Addl:AG for respondents present. Written reply not submitted. Requested for time to submit the same on the next date of hearing. Notice be issued to respondent No.4 for written reply. Adjourned. To come up for written reply/comments on 11.08.2020 before S.B.

  
MEMBER

11.08.2020

Junior to counsel for the appellant and Addl. AG alongwith Hazrat Shah, Superintendent for respondents No. 1 to 3 present. Nemo for private respondent No. 4.

Parawise comments of respondents No. 1 to 3 have been furnished. Placed on record. Fresh notice be issued to respondent No. 4 for submission of requisite reply/comments on 23.09.2020 by way of last opportunity.

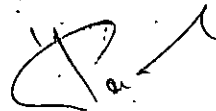
  
Chairman

24.12.2019

Appellant with counsel present. Preliminary arguments heard.

The appellant has filed the present service appeal against the order dated 29.08.2019 whereby he was relieved from the post of M.S Sarhad Hospital for Psychiatric Diseases Peshawar and was directed to report to Directorate General Health Services Khyber Pakhtunkhwa Peshawar.

The appellant had already completed his normal tenure of posting at M.S Sarhad Hospital for Psychiatric Diseases Peshawar however in view of contention of Learned counsel for the appellant that additional charge of the post of M.S Sarhad Hospital for Psychiatric Diseases has been assigned to private respondent No.4 who belongs to General Cadre, the present appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 20.01.2020 before S.B.



Member

20.01.2020

Junior to counsel for the appellant present.

Submitted an application for extension of time to deposit security and process fee. The reason noted in the application is that the appellant was seriously ill during the relevant days. Placed on record.

Application is accepted. The appellant is allowed to deposit security and process fee within three working days from today. After such deposit notices be issued to the respondents for submission of reply/comments on 25.02.2020 before S.B.

Appellant Deposited  
Security & Process Fee



Chairman



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1697 /2019

Dr.Naseem Khan

VERSUS

Chief Secretary, Government of Khyber  
Pakhtunkhwa, Peshawar and others

INDEX

S.No	Description of Documents	Annex	Page No
1.	Memo of Appeal alongwith Application for interim relief		01-06
2.	Copy of Notification dated; 25/09/2017	A	07
3.	Copy of Impugned notification dated 29/08/2019	B	08
4.	Copy of Departmental Appeal/Representation dated <u>04/9/2019</u>	C	09
5.	Copy of Cabinet Decision dated <u>19/7/2019</u>	D	10
6.	Wakalatnama		11

Through

APPELLANT



MEHER GUL

Advocate, Peshawar.

Cell #:0306-2981781

Dated:05/12/2019

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1697 /2019**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1773

Dated 05/12/2019

Dr. Naseem Khan (BS-19) Ex-Medical Superintendent  
Sarhad Hospital for Psychiatric Disease, Peshawar  
R/O House No.11, Al-noor Street, Gulberg No.2,  
Peshawar.

.....Appellant.

**Versus**

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary to the Government of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General Health Services, Government of Khyber Pakhtunkhwa, Peshawar
4. Dr. Muhammad Zahid (BS-19) DHQ Hospital Charsadda.

.....Respondents

Filed to-day  
Registrar  
05/12/19

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO.SOH (E-V)1-934/2014 DATED 29/08/2019 VIDE WHICH THE APPELLANT HAS BEEN ISSUED RELIEVING ORDER/ TRANSFER ORDER IN VIOLATION OF THE LAW, RULES AND POLICY ON THE SUBJECT.**

**PRAYER IN APPEAL:**

**ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED NOTIFICATION MAY VERY GRACIOUSLY BE CANCELLED AND THE SALARY AND ALLOWANCES OF THE APPELLANT MAY ALSO BE RELEASED FORTHWITH IN THE INTEREST OF JUSTICE.**



**Respectfully Sheweth,**

The Appellant submits as under:-

1. That the Appellant is belong to management cadre and was performing duty as MS Sarhad Hospital for Psychiatric Disease Peshawar since September 2017. (Copy of Notification dated 25/09/2017 is Annexure "A").
2. That vide Notification dated 29/08/2019 Respondent No.2 issued Relieving / Transfer order of Appellant from Sarhad Hospital for Psychiatric Diseases Peshawar to Directorate General Health Services Khyber Pakhtunkhuwa. (Copy of impugned Notification dated 29/08/2019 is annexed "B").
3. That the Appellant filed Appeal / Representation to Respondent No.2 for cancellation of the impugned Notification dated 29/08/2019 on the grounds that the said Notification is against the Law, Rules and Policy. (Copy of Departmental Appeal / Representation is Annexure "C").
4. That thereafter the Appellant time and again approached office of Respondent No.1 for an appropriate order and disposal of Departmental Appeal / Representation but till date no response, hence this service Appeal on the following grounds inter alia:-

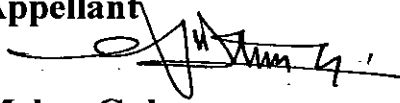
**Grounds:**

- A. That the impugned Notification dated 29/08/2019 is against the law, rules and policy on the subject, hence not sustainable in the eyes of law.
- B. That the Cabinet Division also discourage the practice of giving additional charge on posts vide U.O.Note No.29/CM/2019-M dt 19/07/2019 and on this score also the impugned Notification is liable to cancellation. (Copy of cabinet decision is Annexure "D").
- C. That Respondent No.2 assigned additional charge of management cadre to Respondent No.4 who belong to general cadre in violation of rules, hence the impugned Notification is nullity in the eyes of law.
- D. That the tenure of posting of Appellant is also not complete, hence the impugned Notification in this regard is premature without authority and jurisdiction.
- E. That the impugned Notification is also against the judgment of KPK Service Tribunal dated 09/08//2019 in Service Appeal No. 823/19, whereby it was held that medical Officer/Senior Medical Officer of General Cadre cannot be appointed against the Management Cadre post.

- F. That Respondent No.1 is not competent authority to issue the impugned notification for transfer/Relieving of Appellant in view of posting and transfer policy of Provincial Government.
- G. That Respondents Department also stopped monthly salary and allowances of Appellant for no valid reason, so the Appellant seeks its release forthwith. *And his salary and Allowances should not less than his salary and Allowance received on August 2019 -*
- H. That other ground will be raised at the time of arguments with permission of this Hon'ble Tribunal.

It is therefore humbly prayed that on acceptance of this appeal, the impugned Notification dated 29/08/2019 be cancelled and the Respondent Department also be directed to release salary alongwith all allowances of the appellant forthwith.

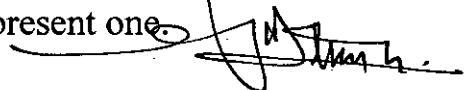
Any other remedy which this Hon'ble Tribunal deems appropriate may also be granted in favour of Appellant.

Through **Appellant**  
  
**Meher Gul**  
**Advocate, Peshawar.**

**Dated:05/12/2019**

**Certificate:**

as per instruction of my client no such appeal is filed before this Hon'ble Tribunal except the present one.



**Advocate**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. \_\_\_\_\_/2019**

Dr.Naseem Khan

**VERSUS**

Chief Secretary, Government of Khyber  
Pakhtunkhwa, Peshawar and others

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**APPLICATION FOR SUSPENSION OF OPERATION  
OF THE IMPUGNED NOTIFICATION NO. SOH(E-V)  
1-934/2014 DATED 29/08/2019 AND RELEASE OF  
SALARY ALONGWITH ALL ALLOWANCES TILL  
FINAL DECISION OF THE TITLE APPEAL.**

**Respectfully Sheweth,**

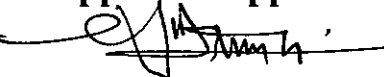
The applicant/ appellant submits as under:

1. That the appellant is filing an appeal alongwith this Application in which no date is yet fixed.
2. That besides the impugned Notification, Respondents have stopped salary and allowance of the Applicant for no valid reason.
3. That the applicant has an arguable case and is quite hopeful about its success.
4. That balance of convenience also tilt in favour of Applicant/Appellant.

(6)

5. That in case the operation of impugned Notification is not suspended and the salary and allowances of the applicant is not released, than applicant would suffer irreparable loss.
6. That the contents of the appeal of applicant be considered integral party this application.

It is therefore humbly prayed that on acceptance of this application the operation of the impugned Notification dated 29/08/2019 be suspended and the salary and allowances of the Applicant/Appellant be released till final decision of the titled service Appeal.

Applicant/Appellant  
Through   
Meher Gul  
Advocate, Peshawar.

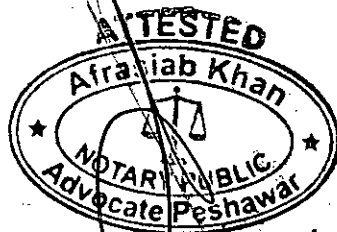
Dated:05/12/2019

**AFFIDAVIT**

I, **Dr.Naseem Khan** hereby solemnly affirms on Oath that the contents of the instant Application are true to the best of my Knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
DEPONENT

CNIC No. 17301-12 84537-1



05/12/19

07

Amm A 2



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 25<sup>th</sup> September 2017

**NOTIFICATION**

**NO.SOH(E-V)1-934/2014**


The competent authority is pleased to order posting/transfer of Dr. Naseem Khan (BS-19) Management Cadre attached to Moulvi Ameer Shah Memorial Hospital against the vacant of MS Sarhad Hospital for Psychiatric Diseases Peshawar with immediate effect in the public interest.

**SECRETARY HEALTH**  
**Govt. of Khyber Pakhtunkhwa**

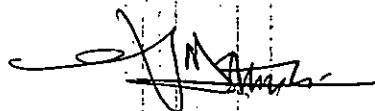
**Endst. No. & Date Even**

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. MS Moulvi Ameer Shah Memorial Hospital
4. MS Sarhad Hospital for Psychiatric Diseases Peshawar
5. PS to Minister for Health Khyber Pakhtunkhwa.
6. PS to Secretary Health Department.
7. Computer Programmer Health Department.
8. DHIS Cell DGHS Office, Peshawar.
9. Doctor concerned.

  
(MUHAMMAD ARSHID)  
SECTION OFFICER (E-V)

ATC





8

Annex B

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar the August 29, 2019

**NOTIFICATION**

**NO.SOH(E-V)1-934/2014** The Competent Authority is pleased to assign additional charge of the post of MS Sarhad Hospital for Psychiatric Diseases Peshawar to Dr. Muhammad Zahid (BS-19) attached to DHQ Hospital Charsadda.

2. Consequent upon the above, Dr. Naseem Khan (BS-19) Management Cadre is hereby relieved from the post of MS Sarhad Hospital for Psychiatric Diseases Peshawar and is directed to report to Directorate General Health Services, Khyber Pakhtunkhwa with immediate effect, in the public interest.

SECRETARY HEALTH  
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa
2. Director General, Health Services, Peshawar
3. MS Sarhad Hospital for Psychiatric Diseases Peshawar
4. District Health Officer, Charsadda
5. District Accounts Officer, Charsadda
6. PS to Minister Health, Khyber Pakhtunkhwa
7. PS to Secretary Health Khyber Pakhtunkhwa
8. DHIS Cell DG Health Office Peshawar
9. Deputy Director (I.T) Health Deptt
10. Doctors concerned.

(FAZAL UR-RAHIM)  
SECTION OFFICER (E-V)

ATC

To  
The Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department, Peshawar

Annex C

Subject: Appeal against Health Department Khyber Pakhtunkhwa Notification  
No. SOH(E-V)1-934/2014 dated 29/08/2019

Dear Sir

It is requested that the Health Department Khyber Pakhtunkhwa issued Notification No. SOH(E-V)1-934/2014 dated 29/08/2019 regarding relieving order of the undersigned.

The Hon'ble Chief Minister Khyber Pakhtunkhwa put a ban on cross cadre postings vide letter No. SO-II/CMS/KPK/1-1/2017 dated 06/01/2017.

The Cabinet Division also discouraged the practice of giving additional charge on posts vide U.O. Note No. 29/CM/2019-M dt 19/07/2019.

The daily Mashriq Peshawar newspaper dt. 03/09/2019 published a news that Services Tribunal Khyber Pakhtunkhwa has given decision to put ban on posting of General Cadre doctors on Management posts (DHO, MS, Director etc). My tenure is also not completed. The doctor who was given additional charge of MS of this hospital belongs to General Cadre.

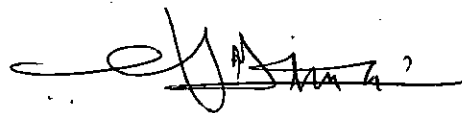
Hence, it is requested to please withdraw/cancel the Health Department Khyber Pakhtunkhwa Notification No. SOH(E-V)1-934/2014 dated 29/08/2019 and allow me to work as MS Sarhad Hospital for Psychiatric Diseases Peshawar in best public interest.



Dr. Naseem Khan  
Ex-Medical Superintendent  
Sarhad Hospital for Psychiatric Diseases  
Peshawar

Dated: 04/09/2019

ATC





10

Anna D

GOVERNMENT OF PAKISTAN  
CABINET SECRETARIAT  
CABINET DIVISION  
\*\*\*

Subject: **IMPLEMENTATION OF THE CABINET DECISIONS**

The Cabinet, in its meeting held on 16<sup>th</sup> July, 2019, under Cases No.639/29/2019(i), No.650/29/2019 and No.656/29/2019 (iv) respectively has inter-alia, decided that:-

- i. Presentation on Expenditure Borne by the Government on Medical / Camp Offices of the Heads of State/Government.

"All Ministries and Divisions will verify their own record and identify such spending pertaining to their Divisions and Ministries and inform Commission of Inquiry (on Debt) for further action".

- ii. The Cabinet expressed its displeasure on the continuous practice of assigning additional charge of positions of heads of departments despite clear instructions issued earlier and directed that Ministries/Divisions shall appoint fulltime heads of departments/Organizations and other vacant positions, within a period of three months without fail, after fulfilment of required formalities. In the event of non-compliance of the decision, Minister & Secretary of the Division shall be held responsible.

- iii. Any building, park, road, bridge or structure, constructed with public money, should not be named after anyone other than a national hero.

The above is circulated for information and compliance, please.





*M. Ashfaq*  
(Muhammad Ashfaq)  
Deputy Secretary (Cabinet)  
Tele # 9103489

All Secretaries/Additional Secretaries-in-Charge of the  
Ministries/Divisions

Cabinet Division's u. o. note No.29/CM/2019-M, dated 19-07-2019

ATC

*[Signature]*

26549	  
ایڈوکیٹ: 	
بار کونسل ایسوسی ایشن نمبر: 321-5	<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>
رابطہ نمبر: 0306-2981781	

بعدالت جناب: خیبر پختونخواہ سروس ٹرانسپیرینٹ لٹا

دعویٰ: سروس اپیل	مخانب: ایڈووکیٹ
علت نمبر:	ڈاکٹر نسیم خان
مورخہ:	بنام
جرم:	گورنمنٹ آف KPK
تھانہ:	

**باعت تحریر آنگہ**

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

آن مقام کوتادری کیلئے مہر علی ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

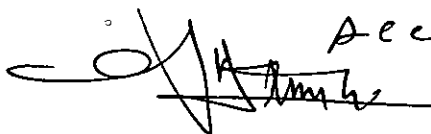
المرقوم: 5/12/19

الع بد گواہ شد الع بد

مقام کے لیے منظور ہے۔

Attested

Accepted



Before the Chairman Service Tribunal KPK, Peshawar.

Dr Naseem vs Chief Secretary, Govt of KPK,  
Peshawar and other.

Application for Deposit of Security and  
Process Fee in the titled Appeal No-1692/19.

Respectfully sheweth;

The Applicant/Appellant submits as under;

- 1) That the titled Appeal is fixed for today i.e.  
20/1/2020.
- 2) That due to illness the Appellant was unable  
to deposit the said fee within time.
- 3) That now the Appellant seeks permission to  
deposit the said fee.

It is therefore humbly prayed that  
on acceptance of this Application the  
Applicant/Appellant be allowed to  
deposit the said fee in the  
titled Appeal.

Applicant/Appellant

through 

(Mehrezul)  
Advocate

SI - 20/1/2020

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

**Service Appeal No. 1697/2019**

Dr. Naseem Khan

..... Appellant

VERSUS

1. *The Chief Secretary of Khyber Pakhtunkhwa.*
2. *The Secretary Health Govt: of Khyber Pakhtunkhwa*
3. *The Director General Health Services Khyber Pakhtunkhwa*
4. *Dr. Muhammad Zahid (BS-19) DHQ Hospital Charsadda.*

..... Respondents

**I N D E X.**

<b>S.No</b>	<b>Description of documents</b>	<b>Annexure</b>	<b>Page</b>
01	Parawise Comments		1 to 2

**Superintendent (Litigation-II)**  
**Govt. of Khyber Pakhtunkhwa**  
**Health Department**

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

**Service Appeal No. 1697/2019**

Dr. Naseem Khan

..... Appellant

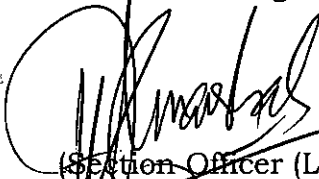
VERSUS

1. *The Chief Secretary Khyber Pakhtunkhwa..*
2. *The Secretary Health Govt. of Khyber Pakhtunkhwa.*
3. *The Director General Health Services Khyber Pakhtunkhwa.*
4. *Dr. Muhammad Zahid (BS-19) DHQ Hospital Charsadda.*

..... Respondents

**AFFIDAVIT**

I Mr. Hafeez-ur-Rehman Shah Section Officer (lit-II) Govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No. 1697/2019 at Page 1-2 is submitted on behalf of respondents No. 1, 2 & 3 is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.

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

**Identified by:-**

***Addl: Advocate General,***  
***Khyber Pakhtunkhwa***

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

**SERVICE APPEAL NO. 1697 OF 2019**

Dr. Naseem Khan ..... Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others..... Respondent

**RESPECTFULLY SHEWETH:**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**PRELIMINARY OBJECTIONS:-**

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

**ON FACTS:**

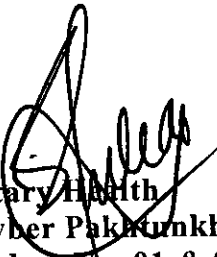
1. Para No. 1 is correct.
2. Para No. 2 is correct.
3. In reply to para No. 3 it is submitted the appellant filed Department Appeal on 04/09/2019 in the diary section in the Health Department. in the meanwhile on 11/09/2020, he submitted separate application to DGHS for his posting in Provincial Health Services Academy and on the same date he also requested to PHSA for granting NOC against the vacant post. All this makes it very clear that applicant started pouring applications without waiting for any action on his applications. Furthermore the appellant has already been posted Medical Superintendent Category-D Hospital Badaber Peshawar and his waiting for posting period w.e.f 01/09/2019 to 16/01/2020 has also been regularized (copies attached. Hence, his service appeal doesn't stand on merit.
4. As narrated in Para No. 03.


**ON GROUNDS:**

- A. In reply to Para-A it is submitted that the Notification dated: 29/08/2019 is according to law, rules and policy and issued by the Competent Authority.
- B. In reply to Para-B it is submitted that the additional charges of the post of M.S Sarhad Hospital for Psychiatric Diseases Peshawar has been assigned to respondent No. 4 for the smooth running of the Hospital.
- C. Para-C reply has been furnished in preceding Para.
- D. In reply to Para-D it is submitted that the Appellant has already completed about two years tenure as Medical Superintendent Sarhad Hospital for Psychiatric Disease Peshawar.
- E. As replied in above paras.
- F. In reply to Para-F it is submitted that the transfer order of the appellant has been issued by the Competent Authority.
- G. In reply to Para-G it is submitted that the Appellant has already been adjusted against the post of PMO (BPS-19) at DHQ Hospital Karak for the purpose of drawl of pay vide Office Order bearing Endorsement No. 20197-200/E-I dated: 31/10/2019.
- H. That other grounds will be agitated at the time of arguments with the permission of the court.

**PRAYER:**

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

  
Secretary Health  
Govt. of Khyber Pakhtunkhwa  
(Respondent No. 01 & 02)

  
Director General Health Services  
Khyber Pakhtunkhwa  
(Respondent No. 03)

قیمت 50 روپے	60278			
ایڈوکیٹ: خیر الوصا، روسفری		پشاور بار ایسوسی ایشن، خیر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 10-5388				
رابطہ نمبر: 03005952824				

بعدالت جناب: خیر پختونخواہ سروس ٹریڈینگز، چارسدہ

مخاتب: (ریسپانڈنٹ نمبر 4) (ڈاکٹر زاہد)	دعوی:
 ڈاکٹر نسیم خان بنام ریسپانڈنٹ نمبر 4 ڈاکٹر نسیم خان بنام ریسپانڈنٹ نمبر 4	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام سروس ٹریڈینگز شاہ کلبے خیر الوصا، روسفری۔ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرہے و تقریر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمزاء یا اپنے بجائے لبر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

المقوم: 23 ستمبر 2020ء

بد الع بد الع

مقام چارسدہ کے لیے منظور ہے۔

Attested and  
accepted  
Bh  
23/09/2020

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Respondant No. 4 Dr. Muhammed Zahid



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