

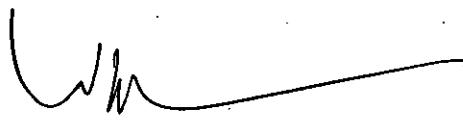
22.10.2021

Counsel for the appellant present.

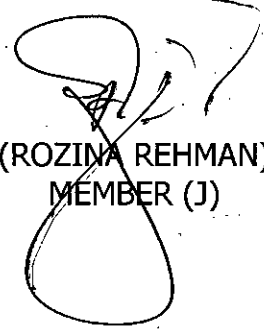
Mr. Muhammad Rasheed, Deputy District Attorney for respondents present.

Learned counsel for the appellant requested for withdrawal of the instant service appeal. In this regard, his statement was recorded and signature was also obtained on the margin of order sheet.

In view of above, the present service appeal is dismissed as withdrawn. No order as to costs. File be consigned to record room.



(ATIQ UR REHMAN WAZIR)  
MEMBER (E)



(ROZINA REHMAN)  
MEMBER (J)

I hereby withdraw the instant appeal on behalf of the appellant.  
Noor Muhammed Khattak  
22/10/2021

31.03.2021


Due to non-availability of concerned  
D.B, The case is adjourned to 01.07.2021  
for the same as before.

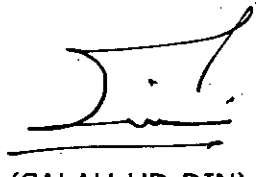
Reader

01.07.2021

Learned counsel for the appellant present. Mr. Jaffar Shah, Assistant alongwith Muhammad Adeel Butt, Additional Advocate General for the respondents present.

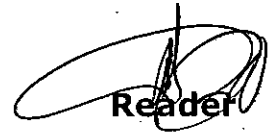
We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 22.10.2021.

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

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

01.07.2020

Due to COVID-19, the case is adjourned to 26.08.2020 for the same.

  
Reader

26.08.2020

Due to summer vacation case to come up for the same on 02.11.2020 before D.B.

  
Reader

02.11.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

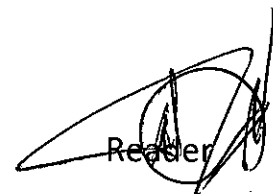
The Bar is observing general strike, therefore, the matter is adjourned to 13.01.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member

  
Chairman

13.01.2021


Learned counsel for the appellant present. Addl: AG for respondents present. Due to pandemic of Covid-19, the case is adjourned to 31.03.2021 for the same.

  
Reader

Service Appeal No. 88/2019

15.11.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on record. Learned counsel for the appellant also requested for adjournment for arguments. Adjourned to 14.01.2020 for arguments before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

14.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 27.02.2020 for arguments before D.B.

  
(Ahmad Hassan)  
Member

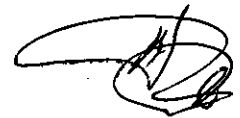
  
(M. Amin Khan Kundi)  
Member

27.2-2020

The learned Member is on tour therefore case is adjourned to 6.4.2020  
Reader

6.4.2020

Due to COVID 19, The case is adjourned to 1-7-2020 for same as before.



27.05.2019

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

Learned AAG seeks time to procure reply from the respondents. Adjourned to 04.07.2019 on which date written reply/comments shall positively be submitted.

Chairman 

04.07.2019

Counsel for the appellant and Addl. AG alongwith Jaffar Ali, Asstt. for the respondents present.

Representative of the respondents requested for time. To come up for written reply/comments on 30.08.2019 before S.B.

  
Member

30.08.2019

Counsel for the appellant and Addl. AG alongwith Shah Nawaz, Litigation Assistant for the respondents present.

Representative of the respondents has submitted parawise comments/reply on behalf of the respondents which are placed on record. The appeal is assigned to D.B for arguments on 15.11.2019. The appellant may submit rejoinder, within a fortnight, if so advised.

  
Chairman

09.04.2019

Counsel for the appellant present.

Contends that the appellant was performing duty as Para Medical Staff at Tribal District Mohmand when he was transferred on 11.09.2018 to the office of Additional District Surgeon Lower & Central Kurram at Sadda. The appellant submitted his arrival report at the place of posting on 17.09.2018 and started performing his duty. However, he was removed from service vide office order dated 28.09.2018 passed by Agency Surgeon Mohmand Agency on account of absence from duty. He further contends that the impugned order dated 28.09.2018 was passed by an officer who was not competent for the purpose. An appeal was preferred against the impugned order which remained un-responded, hence the present appeal.

In view of the above, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 27.05.2019 before S.B.

Appellant Conceded  
Security and Process Fee

  
Chairman

09.04.2019

Counsel for the appellant present.

Contends that the appellant was performing duty as ~~Lady Health Visitor~~ <sup>para medical staff</sup> at Tribal District Mohmand when he was transferred on 11.09.2017 to the office of Additional District Surgeon Lower & Central Kurram at Sadda. The appellant submitted his arrival report at the place of posting on 17.09.2018 and started performing his duty. However, he was removed from service vide office order dated 28.09.2018 passed by Agency Surgeon Mohmand Agency on account of ~~his~~ absence from duty. He further contends that the impugned order dated 28.09.2018 was passed by an officer who was not competent for the purpose. An appeal was preferred against the impugned order which remained un-responded, hence the present appeal.

In view of the above, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 27.05.2019 before S.B.

Chairman

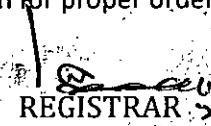


*Correction made  
and reprinted on  
fresh page.*

Form- A

FORM OF ORDER SHEET

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

Case No. 88/2019

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge   |
|-------|---------------------------|--|
| 1     | 2                         | 3  |
| 1-    | 21/1/2019                 | <p>The appeal of Mr. Zahir Shah presented today by Mr. Noor Muhammad Khattak 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;"> <br/>                     REGISTRAR 21/1/19                 </p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28-2-19</u>.</p> <p style="text-align: right;"> <br/>                     CHAIRMAN                 </p> |
| 2-    | 28.02.2019                | <p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 09.04.2019 before S.B.</p> <p style="text-align: right;"> <br/>                     Member                 </p>   |



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO. 88 /2019

**ZAHIR SHAH**

**VS**

**HEALTH DEPTT:**

**INDEX**

| <b>S.NO.</b> | <b>DOCUMENTS</b>       | <b>ANNEXURE</b> | <b>PAGE</b> |
|--------------|------------------------|-----------------|-------------|
| 1            | Memo of appeal         | .....           | 1- 3.       |
| 2            | Order dated 11/09/2018 | <b>A</b>        | 4.          |
| 3            | Charge report          | <b>B</b>        | 5.          |
| 4            | Forwarding letter      | <b>C</b>        | 6.          |
| 5            | Impugned order         | <b>D</b>        | 7.          |
| 6            | Departmental appeal    | <b>E</b>        | 8.          |
| 7            | Vakalat nama           | .....           | 9.          |

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 88 /2019

Diary No. 89

Dated 21-1-2019

Mr. Zahir Shah, Medical Technician,  
O/O Additional District Surgeon Lower & Central Kurram at Sadda.

.....APPELLANT

**VERSUS**

- 1- The Director Health Services Department, Tribal District, FATA Secretariat, Warsak Road, Peshawar.
- 2- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Surgeon, Tribal District Mohmand.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 28.09.2018 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY OF NINETY DAYS**

**SUBJECT:**

That on acceptance of this appeal the impugned order dated 28.09.2018 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

Filed to-day

Registrar

**Brief facts giving rise to the present appeal are as**

**under:-**

- 1- That appellant was the employee of the respondent Department and has served the respondent Department from the date of his first appointment till date quite efficiently and up to the entire satisfaction of his superiors.
- 2- That during service the appellant was transferred by the respondent No.1 from Tribal District Mohmand to the O/O the Additional District Surgeon Lower & Central Kurram at Sadda vide order dated 11/09/2018. That in response to the said transfer order dated 11.9.2018 the appellant submitted his arrival report on 17.09.2018 and started performing duty at the concerned station quite efficiently.

Copies of the order dated 11/09/2018 and arrival report are attached as annexure.....**A & B.**

- 3-** That during said period the appellant submitted a written request before the respondent No. 2 for the issuance of LPC which was properly forwarded to the respondent No.3 vide forwarding letter dated 25.09.2018. Copy of the letter is attached as annexure.....**C.**
- 4-** That astonishingly the respondent No.4 issued the impugned order dated 28.09.2018 whereby the appellant has been removed from service inspite of knowing the fact that the appellant has been transferred from District Mohmand and is no more on the strength of respondent no.3. Copy of the impugned order dated 28.09.2018 is attached as annexure.....**D.**
- 5-** That appellant feeling aggrieved from the impugned order dated 28.09.2018 preferred Departmental appeal but no reply has been received so far. Hence the having no other remedy filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A-** That the impugned order dated 28.09.2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B-** That appellant has not been treated in accordance with law and rules by the respondents on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C-** That the respondents acted in arbitrary and malafide manner while issued the impugned order dated 28.09.2018.
- D-** That the respondent No.3 inspite of knowing the fact that the appellant has been transferred vide order dated 11.9.2018 issued by the respondent No.1 to the Office of the Additional District Surgeon Lower & Central Kurram at Sadda and is no more is on the strength of respondent No.3, issued the impugned order dated 28.09.2018 which not tenable in the eye of law and as such the same is liable to be set aside.
- E-** That the impugned order dated 28.9.2018 smacked malafide on the part of respondent No.3, therefore the same is not tenable and liable to be set aside.
- F-** That no charge sheet and statement of allegation has been issued prior to the issuance of the impugned order dated 28.9.2018.

G- That no show cause notice has been served on the appellant before issuance of the impugned order dated 28.9.2018.

H- That no chance of personal hearing/ defense has been provided to the appellant prior to the impugned order dated 28.9.2018.

I- That no regular inquiry has been conducted in then matter of the appellant which is as per Supreme Court judgments is necessary in punitive actions against the Civil Servants.

J- That the impugned order dated 28.9.2018 is co5ram non judice, therefore not tenable and liable to be set aside.

K- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 07.01.2018

**APPELLANT**



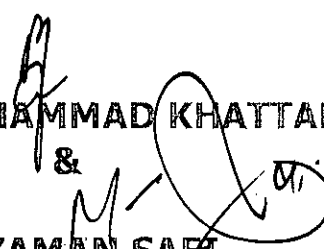
**ZAHIR SHAH**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**

**&**

**MIR ZAMAN SAFI  
ADVOCATES**





**DIRECTORATE OF HEALTH SERVICES**  
**TRIBAL DISTRICT SECRETARIAT WARSAK ROAD PESHAWAR**  
PH # 091-9210212 FAX # 091-9212110

A-4

**OFFICE ORDER**

The following posting / transfer of paramedical staff (BS-12), are hereby ordered in the interest of public service with immediate effect.

| S# | Name / Designation                   | From   | To   | Remarks |
|----|--------------------------------------|--|--|---------|
| 1  | Mr. Zahir Shah<br>Medical Technician | District Surgeon<br>Tribal District<br>Mohmand | Additional District<br>Surgeon Lower &<br>Central Kurram at<br>Sadda | --      |
| 2  | Mst. Hameeda LHV                     | District Surgeon<br>Tribal District<br>Mohmand | Additional District<br>Surgeon Lower &<br>Central Kurram at<br>Sadda | --      |

--/--

Director Health Services,  
Tribal Districts, Peshawar.

No. 21871-74 /DHS/Admin

Dated 11 / 09 / 2018

Copy forwarded to the:-

- 1) District Surgeon Tribal District Mohmand.
- 2) Additional District Surgeon Lower & Central Kurram at Sadda.
- 3) District Accounts Officer Tribal District Mohmand & Kurram.
- 4) Officials concerned.

For information and necessary action.

  
Director Health Services,  
Tribal Districts, Peshawar.

**ATTACHED**



**BETTER COPY OF PAGE-5**

To,

The Additional District Surgeon,  
Lower & Central Kurram at Sadda.

Subject: **ARRIVAL REPORT**  
R/Sir,

With due respect is beg to state that my transfer from Mohmand District Surgeon Kurram at Sadda order by Direcotr Health of Services Ex-FATA order No. 21871-74/DHS/Admn, dated 11/9/2018.

Therefore requested you to accept my arrival report dated 17/9/2018.  
I could be thankful to you for this act kindly.

Dated: 17/9/2018.

Your Obediently

Zahir Shah

**ATTESTED**



B-5

10.

The Additional District Surgeon  
Sewer & Central Kitchens  
at Sialkot

Subject: ARRIVAL REPORT

R/Sir With due respect I beg to state  
that my transfer from Mohanmud to  
District Surgeon Kitchens at Sialkot  
order by Director Health & Services  
FATA order No. 21271-74/MSI dated  
Dated. 11/4/18. Therefore I request you  
accept ~~note~~ my arrival report dated 17/7/18.  
I will be thankful to you for this act of kindness.  
Thanking

Date: 17/7/18

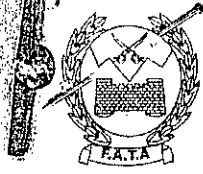
Yours Obediently  
ZAMIR KHAN MI

Accepted  
18/7/18



ATTESTED





# DIRECTORATE OF HEALTH SERVICES

TRIBAL DISTRICTS SECRETARIAT WARSAK ROAD PESHAWAR

NO. 22550

PH # 091-9210212

FAX # 091-9212110

/DHS/ADMIN

DATED: 25/8/2018

To

The District Surgeon,  
Tribal District Mohmand at Ghallanai.

C-(6)

Subject:- REQUEST FOR SALARY AND LPC.

Enclosed please find herewith an application in respect of Mr. Zahir Shah Medical Technician & Mst. Hameeda LHV recently transferred from Mohmand to Lower & Central Kurram at Sadda requesting for the subject purpose, for submission of your comments.

Director Health Services,  
Tribal Districts, Peshawar

25/8/18

g

ATTESTED

g

g



D-②

**OFFICE OF THE AGENCY SURGEON**  
**MOHMAND AT GHALLANAI**

**OFFICE ORDR**

Reference absent Notice in "Daily Mashriq" & "Daily Nai Baat" on dated 11 September 2018, office order No. 2433-38/DHO dated 25-7-2018. Explanations letters No:4764/DHO dated 1-8-2018, No. 4746/DHO dated 9-8-2018, No. 4862/DHO dated 16-8-2018, Show Cause No. 4930/DHO dated 24-8-2018, that Mr, Zahir Shah Medical Technician is hereby removed from services under E&D rules with immediate effect. .

No 5380-84 /DHO

Cc:

1. Director General Health Services KPK, Peshawar.
2. Director Health Services Tribal District, Peshawar.
3. Deputy Commissioner Mohmand Tribal District.
4. District Accounts Officer Mohmand Tribal District.
5. Mr. Zahir Shah Medical Technician.

.....Sd.....  
Agency Surgeon  
Mohmand Agency  
Dated 28/09/2018

*Mohmand*  
*28/9/18*  
Agency Surgeon  
Mohmand Agency  
*Y*

*M*

**ATTENDED**  
*Y*

To,

The Director Health Services FATA,  
FATA Secretariat, Warsak Road, Peshawar.

E-8

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED  
28.9.2018 WHEREBY I WAS REMOVED FROM SERVICE.**

Respected Sir,

Most humbly it is stated that I was appointed as medical Technician in Mohmand Agency vide order dated 01.06.1999. Sir after arrival I stated my duty at Mohmand Agency quite efficiently. Sir due to certain issues the Agency Surgeon Mohmand Agency got against me and in result I was terminated 01.06.2018.

Respected Sir feeling aggrieved i filed Departmental appeal for re-instatement and in result your good self re-instated me and posted me in Kurram Agency/District vide order dated 11.9.2018. Sir in response I submitted my arrival on 17.09.2018 at Kurram and started my duty but astonishingly the Agency Surgeon Mohmand again removed me from service along with my wife vide order dated 28.09.2018 in utter disregard of law and rules.

It is therefore, most humbly requested that on acceptance of this Departmental appeal I may kindly be re-instated with all back benefits.

Thanking in anticipation

Dated: 29.9.2018.

Your Obediently

  
**Zahir Shah**  
Medical Technician  
Kurram Agency.

ATTACHED



**VAKALATNAMA**

Before the KP Service Tribunal, Peshawar

\_\_\_\_\_ OF 2018

Zahir Shah

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Health Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Zahir Shah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2018



**CLIENT**



**ACCEPTED**

**NOOR MOHAMMAD KHATTAK**

**&**

**MUHAMMAD MAAZ MADNI  
ADVOCATES**

*Mir Zaman Safi  
Advocate*

**OFFICE:**

Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Phone: 091-2211391  
Mobile No. **0345-9383141**

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

**Appeal No. 88/2019**

Mr. Zahir Shah Medical Technician O/O the  
Additional District Surgeon L&C Kurram at Sadda : ..... Petitioner

VS

Director Health Services, Merged Areas and others .... Respondents

| S NO. | DETAIL                             | PAGE NO. | Description |
|-------|------------------------------------|----------|-------------|
| 1     | Para wise Comments                 | 1-2      |             |
| 2     | Letter of Agency Surgeon Mohmand   | 3-4      | A           |
| 3     | Order to RHC Atta Jawar            | 5        | B           |
| 4     | Explanations                       | 6-8      | C           |
| 5     | Show cause notice                  | 9        | D           |
| 6     | Absence notice in daily newspapers | 10-11    | E           |

①

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

Appeal No. 88/2019

Mr. Zahir Shah Medical Technician O/O the  
Additional District Surgeon L&C Kurram at Sadda ..... Petitioner

VS

Director Health Services, Merged Areas and others .... Respondents

**Parawise comments / reply on behalf of Respondents No. 1, 2, & 3**

**Respectfully Sheweth;**

**Preliminary objections**

1. That the appellant has got no locus standi to file the instant petition
2. That the appellant has not come to this Honorable Court with clean hands.
3. That the appellant has got no cause of action to file the instant petition.
4. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.

**FACTS**

1. Correct to the extent of employment in Health Department but his services are not upto the mark of satisfaction. The Agency Surgeon Mohmand vides his letter attached at **Annex-A**, has stated that the appellant was irregular and absented himself from his duties. The appellant was terminated and reinstated three times in his whole service. The Agency Surgeon has further stated that the appellant is notorious, disobedient and always black mailing the officers/officials of Health Department and he may not be reinstated.
2. Correct but earlier to his transfer to Sadda, the appellant was under the control of Agency Surgeon Mohmand. As per attached letter, when the appellant was reinstated after 2<sup>nd</sup> termination vide order 19.07.2018, he was posted at RHC Atta Jawar vide order dated 25.07.2018 at **Annex-B**, but did not resume duty at his duty station and absented himself. Explanations were called but not responded at **Annex-C**. After that, show cause notice was issued but not responded at **Annex-D**, and after laps of 15 days, absence notice was also published in the daily newspapers but not responded at **Annex-E**.

2

After fulfilling all codal formalities, the appellant was removed from service (third time) vide order dated 28.09.2018.

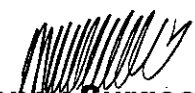
3. Correct, but it is pertinent to mention here that before the transfer of appellant to Sadda Kurram Agency, he was irregular in his service under the control of Agency Surgeon Mohmand and did not resume duty at RHC Atta Jawar, hence absented himself from his legitimate duty. Codal formalities against the appellant were under process at the time of his transfer.
4. Correct. The impugned order issued after fulfilling all codal formalities.
5. Incorrect, as stated above.

### GROUNDS

- A. Incorrect, the order dated 28.09.2018 was issued after fulfilling all codal formalities due to non-compliance and dis-obedience of his seniors.
- B. Incorrect, as stated above.
- C. Incorrect, as stated above.
- D. Incorrect, as stated in Para-2 of Fact above.
- E. Incorrect, as stated in Para-2 of Fact above.
- F. Incorrect, as stated in Para-2 of Fact above.
- G. Incorrect, as stated above.
- H. Incorrect, absence notice was published in the daily newspapers but the appellant did not responded.
- I. Incorrect, as stated in Para-2 of Fact above.
- J. Incorrect as stated above.
- K. The department will be produce proofs at the time of hearing.

In light of the above, it is, most humbly prayed that the appeal is devoid of merits and has no legal footing and may please be dismissed with cost.

  
Director Health Services,  
Merged Areas Peshawar

  
Agency Surgeon,  
Mohmand Agency  
Respondent No. 3

For Respondent No. 1 & 2

B



A

24

**OFFICE OF THE AGENCY SURGEON  
MOHMAND TRIBAL DISTRICT  
No. 30/12/ASM Dated 30/05/2019**

To,

The Director Health Services,  
Merged Areas, Peshawar.

Subject: - Status of Mr. Zahir Shah Medical Technician And His Wife Mst: Hameeda LHV

R/Sir;

Reference your telephonic message on dated 30-5-2019

I have the honour to inform your good self that Mr. Zahir Shah Medical Technician and his wife Mst: Hameeda LHV were transferred from BHU Aqrab Daag to RHC Atta Jawar vide this office letter No. 8408-12/ASM dated 13-10-2015, and has also assigned the Pollo duty of Area incharge Zaman-I Tehsil: Khawazai/Baizai vide this office order No. 8491-95/ASM dated 19-10-2015, but they did not follow the orders of undersigned.

Then the Ex-Agency Surgeon called their explanation vide office letter No. 8564-65/ASM dated 22-10-2015 (regarding noncompliance or transfer order), letter No. 8575-76/ASM dated 26-10-2015 (regarding absenteeism during the joint visit of Political Agent Mohmand Agency and Bilal Rehman MNA along with Agency Surgeon Mohmand Agency) and letter No. 8626/ASM dated 28-10-2015 (absent from UPEC meeting) but the officials concerned has not submitted their arrival report to concerned station nor resumed the routine/polio duties.

Moreover, after the explanations the Ex-Agency Surgeon issued show cause notice vide this office No. 8694-95/ASM to resume the duty within 15-days but the officials did not show response and then constituted inquiry committee vide this office order No. 9141-44/ASM dated 08-12-2015. The inquiry committee recommended Major Penalty after completion of all codel formalities the Ex-Agency Surgeon (Dr. Raza Ullah) terminated the officials vide this office order No. 3240-45/ASM dated 14-12-2015.

Then the said officials reinstated and directed to perform their duties at RHC Atta Jawar and the Ex-Agency Surgeon was directed to send the performance report on monthly basis vide letter No. 1183-87/DHS/FATA/Admn dated 08-02-2016 and letter No. 1188-92/DHS/FATA/Admn dated 08-02-2016 but the said officials did not submit arrival report to the concerned Health Facility neither resume duty.

After completion of Diploma Course the officials concerned were posted to their original place of duty vided this office order No. 1500-03/ASM dated 21-02-2018, but they did not join their duties. The undersigned called explanation vide this office letter No. 1866/ASM, No. 1869/ASM dated 5-3-2015, No. 2030/ASM No. 2033/ASM dated 13-3-2018 and No. 2256/ASM, No. 2259/ASM dated 21-3-2018, after the explanation the undersigned issued show cause notice vide this office letter No. 2083/ASM and No. 2087/ASM dated 3-4-2018 and also conducted inquiry committee vide this office order No. 2580-83/ASM and No. 2584-87/ASM dated 24-4-2018 after the inquiry the undersigned published Absent Notice in the Daily Mashrig and Dally Nai Baat on dated 16-5-2018. After fulfilling all the codel formalities the said officials were removed from services vide this office letter No. 3201-4/ASM and No. 3205-8/ASM dated 1-6-2018.

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Then the said officials were reinstated by Director Health Services FATA vide order No. 19076-79/DHS/FATA/Admin and No. 19072-75/DHS/FATA/Admin dated 19-07-2018 and directed to perform their duties at RHC Atta Jawar vide this office order No. 2433-38/ASM dated 25-7-2018 but they did not submit arrival report neither resume their duties in the concerned health facility. The undersigned called their explanation vide this office letter No. 4764/DHO dated 1-8-2018, No. 4746/DHO dated 9-8-2018 and No. 4862/DHO dated 16-8-2018. After explanations the undersigned issued Show Cause Notice vide this office letter No. 4930/DHO dated 24-8-2018 after laps of 15-day then the undersigned published the Absent Notice in the Daily Mashriq and Daily Nai Baat 11-9-2018 after fulfill all codel formalities the said officials were removed from services again vide this office order No. 5375-79/DHO and No. 5380-84/DHO dated 28-9-2018.


The services of above mentioned name officials are removed/terminated three times on the basis of absenteeism. The said officials are notorious, disobedient and always black mailing the officers/officials of Health Department and the said official may not be re-instated for the smooth running of health department Mohmand Tribal District.

Note: This is also for your kind information that the above mentioned officials have not performing their duties from the date of first termination 14-12-2015 to 28-02-2018. Therefore, you are kindly requested that recovery may also be made from the concerned officials as per following current rates.

Mr. Zahir Shah Med: Tech: Monthly Pay  $49984 \times 27 =$  Rs. 1349568/-

Mst: Hameeda LHV Monthly Pay Rs.  $44147 \times 27 =$  Rs. 1191969/-

Total Rs. 2541537/-

  
Agency Surgeon  
Mohmand Tribal District

No. \_\_\_\_\_/ASM

Copy forwarded to the:-

1. Director General Health Services KPK, Peshawar.
2. Deputy Commissioner Mohmand Tribal District.
3. Additional Deputy Commissioner Mohmand Tribal District

Agency Surgeon  
Mohmand Tribal District



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B 3



**OFFICE OF THE DISTRICT HEALTH OFFICER**  
**MOHMAND TRIBAL DISTRICT**

**OFFICE ORDER**

Reference Director Health Services Tribal District Peshawar order No. 19076-79/DHS/FATA/Admin dated 19-7-2018 and No. 19072-75/DHS/FATA/Admin dated 19-7-2018 that Mr. Zahir Shah Medical Technician and Mst. Hamida Lady Health Visitor are hereby directed to report to RHC Atta Jawar duty with immediate in the best interest of public.

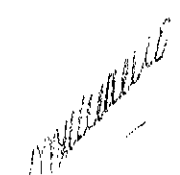
Arrival/departure report should be submitted to this office for record.

xxxxxxxSdxxxxxxxxx  
District Health Officer  
Mohmand Tribal District  
Dated 25/07/2018

No. 2433-38 /DHO

Copy forwarded to the:-

1. Director Health Services Tribal District Secretariat Peshawar.
2. Deputy Commissioner Mohmand Tribal District.
3. District Accounts Officer Mohmand Tribal District.
4. Incharge Concerned Health Facility.
5. Officials Concerned for compliance with the direction to provide your Service Books to the office of undersigned (being a property of office) to release the pay, otherwise your pay will be remained stopped.

  
District Health Officer  
Mohmand Tribal District



C 4

**OFFICE OF THE DISTRICT HEALTH OFFICER**  
**MOHMAND TRIBAL DISTRICT**

No: 4764 /DHO Dated: 07/08/2018

To,

1. Mr. Zahir Shah Medical Technician,
2. Mst: Hameeda LHV  
RHC Atta Jawar


Subject: **Absence From Duty**  
Memo:


It has come to the notice of the undersigned that you both are absent from duty without any information/prior permission of the competent authority.

Therefore you are hereby directed to explain your position within 7-days, otherwise, strict disciplinary action will be initiated against you under the E&D rules.

No 4765-70 /ASM  
Copy forwarded to the:

1. Director Health Services District Tribal Secretariat Peshawar.
2. Deputy Commissioner Mohmand Tribal District.
3. Additional Deputy Commissioner Mohmand Tribal District.
4. Account Officer Mohmand at Ghallanai.
5. Incharge RHC Atta Jawar.
6. Officials concerned.

  
1/8/18  
District Health Officer  
Mohmand Tribal District  
etc

  
1/8/18  
District Health Officer  
Mohmand Tribal District  
etc



**OFFICE OF THE DISTRICT HEALTH OFFICER  
MOHMAND TRIBAL DISTRICT**

No: 4746 /DHO Dated: 9 /08/2018

To,

Reminder-I

1. Mr. Zahir Shah Medical Technician,
2. Mst: Hameeda LHV  
RHC Atta Jawar

Subject/ Absence From Duty  
Memo/

It continuation of this office letter No. 4764/DHO dated 1-8-2018 that you both are absent from duty from the date of arrival to till date without any information/prior permission of the competent authority.

Therefore you are hereby once again directed to explain your position within 7-days, otherwise, strict disciplinary action will be initiated against you under the E&D rules(Removal from service).

No 4747-52 /ASM  
Copy forwarded to the:

1. Director Health Services District Tribal Secretariat Peshawar.
2. Deputy Commissioner Mohmand Tribal District.
3. Additional Deputy Commissioner Mohmand Tribal District.
4. Account Officer Mohmand at Ghallanai.
5. Incharge RHC Atta Jawar.
6. Officials concerned.

*Mohammad* 9/8/18  
District Health Officer  
Mohmand Tribal District

*Mohammad* 9/8/18  
District Health Officer  
Mohmand Tribal District



**OFFICE OF THE DISTRICT HEALTH OFFICER  
MOHMAND TRIBAL DISTRICT**

No: 4862 /DHO Dated: 16 /08/2018

To,

Reminder-II

1. Mr. Zahir Shah Medical Technician.
2. Mst: Hameeda LHV  
RHC Atta Jawar

Subject: **Absence From Duty**  
Memo:

It continuation of this office letter No. 4764/DHO dated 1-8-2018 and letter 4746/DHO dated 9-8-2018 that you both are remained absent from duty from the date of arriva to till date without any information/prior permission of the competent authority.

Therefore you are hereby once again directed to explain your position within 7-days, otherwise, strict disciplinary action will be initiated against you under the E&I rules(Removal from service).

*M. M. M. M.*  
District Health Officer  
Mohmand Tribal District

No 4863-68 /ASM

Copy forwarded to the:

1. Director Health Services District Tribal Secretariat Peshawar.
2. Deputy Commissioner Mohmand Tribal District.
3. Additional Deputy Commissioner Mohmand Tribal District.
4. Account Officer Mohmand at Ghallanai.
5. Incharge RHC Atta Jawar.
6. Officials concerned.

*M. M. M. M.*  
District Health Officer  
Mohmand Tribal District

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**OFFICE OF THE AGENCY SURGEON**  
**MOHMAND AT GHALLANAI**

No 4930/DHO Dated 24/08/2018

To,

1. Mr. Zahir Shah Medical Technician,
  2. Mst: Hameeda Lady Health Visitor.
- RHC Atta Jawar.

Subject: - **SHOW CAUSE NOTICE**  
Memo;

It is stated that you were directed to report to your concerned health facility for duty after re-instatement vide this office order No. 2433-38/DHO dated 25-07-2018, and the undersigned called your explanation vide this office letter No. 4764/DHO dated 1-8-2018 regarding non-compliance of order & absenteeism, letter No. 4746/DHO dated 9-8-2018 and letter No. 4862/DHO dated 16-8-2018 but till date you have not resumed your duties at their respective health facility (RHC Atta Jawar) due to which the needy patients and poor community of the area is too much affected.

Therefore, you are hereby directed through this show cause notice to resume your duty and also explain the reason of following allegations within 15-days, otherwise you will be removed from services under E&D rules.

- Disobedient/Non Compliance of order
- Willful absence from routine/polio duty

No 4931-33/DHO

Copy forwarded to the:-

1. Director Health Services Tribal District, Peshawar.
2. Deputy Commissioner Mohmand Tribal District.
3. Agency Accounts officer Mohmand Tribal District.

*Mohammad*  
District Health Officer  
Mohmand Tribal District  
Dated \_\_\_\_/08/2018

*Mohammad*  
District Health Officer  
Mohmand Tribal District

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اولیٰ عالمی نیوز سے منسوب و ملت المیزان

DAILY MASIRIQ PESHAWAR

پشاور

عبدو کے بانی

روزنامہ

سیدناج میر شاہ

مسیرق

پہلے اشاعت کے 51 سال

281

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1439ھ 11 مارچ 2018ء 26

از دفتر و سرگرمیہ آفس سرگرمیہ

نوٹیفکیشن شدہ و شائع شدہ

اپنی کوششوں سے ایسے سے طبعاً حاضر ہیں۔ جس کی بنا پر آپ کے اخبار کے سب سے پہلے سرگرمیہ

4930/DHO نمبر 24/08/2018 کی منظوری سے سال کے لئے ایک چھ ماہوں کے اندر ایسے

ایسے سے حاضر ہو جائیں اور ایسے سے طبعاً حاضر ہو جائیں۔ ہذا آپ کی طرف سے ایسے سے

کے اس لئے کی اشاعت کے چھ ماہوں کے اندر ایسے سے طبعاً حاضر ہو جائیں اور آپ کے خلاف

کے لئے کی اشاعت کے چھ ماہوں کے اندر ایسے سے طبعاً حاضر ہو جائیں اور آپ کے خلاف

ڈاکٹر جاگیر خان، دفتر سرگرمیہ آفس سرگرمیہ و سرگرمیہ

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روزنامہ نئی بات

Daily Nai Baat

روزنامہ نئی بات

www.naibaat.pk e-mail: nb@naibaat.com

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تuesday, 11 September 2018

از دفتر ڈسٹرکٹ ہیلتھ آفیسر مہمند

ڈسٹرکٹ ہیلتھ آفیسر مہمند

4930/DHO

ڈاکٹر عالمگیر خان

ڈسٹرکٹ ہیلتھ آفیسر مہمند ٹرانسپل ڈسٹرکٹ

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

**APPEAL NO. 88/2019**

**ZAHIR SHAH**

**VS**

**HEALTH DEPTT:**

**REJOINDER ON BEHALF OF THE APPELLANT IN RESPONSE**  
**TO REPLY SUBMITTED BY THE RESPONDENTS**

**PRELIMINARY OBJECTIONS:**

**1 TO 4:**

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

**ON FACTS:**

- 1- Admitted correct to the extent of employment in the Health Department while the remaining Para of the respondents are incorrect and baseless. That appellant was appointed in the year 1999 and right from appointment he has served the respondent Department at far flung and hard areas in FATA with all zeal and zest. That during the entire service of the appellant there is no single complaint was received to the respondents regarding inefficiency or misconduct of the appellant. Furthermore, the appellant has served the respondent department quite efficiently and upto the entire satisfaction of his superiors.
- 2- Admitted correct to the extent that before of the transfer to Sadda, District Kurram the appellant was under the control of District Health Officer, District Mohmand and the appellant was performing his duty quite efficiently while the remaining para is incorrect and baseless. That the appellant was transferred by the Director Health Services, Tribal Districts from District Mohmand to Sadda, District Kurram vide order dated 11.09.2018 and in pursuance of the order dated 11.09.2018 the appellant submitted his charge report and started performing his duty the concerned station. Furthermore, at the mean time he was under the control of DHO Kurram and not under the control of DHO Mohmand.
- 3- Incorrect and not replied accordingly. That no notice has been received by the appellant. Furthermore, at the time of



issuing the impugned removal order dated 18.09.2018 the appellant was not under the control of the respondent No.3.

4- Incorrect and not replied accordingly hence denied.

**GROUND:**  
**(A TO I):**

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That the respondent No.3 acted in arbitrary and malafide manner while issuing the impugned order dated 28.09.2018. that the respondent No.3 in spite of knowing the fact that the appellant has been transferred vide order dated 11.09.2018 issued by the respondent No.1 to the office of Additional District Surgeon Lower & Central Kurram at Sadda and in no more in on the strength of respondent No.3, issued the impugned order dated 28.09.2018 which is not tenable in the eye of law and as such the same is liable to be set aside

It is therefore, most humbly prayed that on acceptance of this rejoinder of the appeal of the appellant may be accepted with all back benefits.

**APPELLANT**



**ZAHIR SHAH**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**