

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

Service Appeal No. 352/2019

Date of Institution ... 27.02.2019

Date of Decision... 02.02.2023

SCANNED  
KPST  
Peshawar

Ishitiaq Ahmad, Monitoring Coordinator, EPI Section, Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 04 others.

... (Respondents)

-----  
MR. MUHAMMAD AYUB KHAN SHINWARI,  
Advocate

---

For appellant.

MR. UMAIR AZAM KHAN,  
Additional Advocate General

---

For respondents.

SALAH-UD-DIN  
FAREEHA PAUL

---

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise averments as raised by the appellant in his appeal are that he was appointed as Monitoring Coordinator in GAVI Project on contract basis vide appointment order dated 05.12.2008. During the course of his service, some of his colleagues filed Writ Petition including Writ Petition No. 1670/2010 before Honourable Peshawar High Court, Peshawar, which were allowed and consequently, vide order dated 12.02.2015 passed by Director General Health Services Khyber Pakhtunkhwa, the service



of the appellant was regularized with immediate effect. The appellant then submitted departmental appeal requesting therein that the period of his contract service with effect from 05.12.2008 to 11.02.2015 may be counted for service benefits, however the same was dismissed vide order dated 29.01.2019, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Additional Advocate General has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

4. Arguments of learned counsel for the parties have already been heard and record perused.


5. A perusal of the record would show that the appellant was initially appointed as Monitoring Coordinator on contract basis vide appointment order dated 05.12.2008 and subsequently, his service was regularized with immediate effect vide order dated 12.02.2015 in pursuance of order/judgment dated 05.07.2012 passed by Honourable Peshawar High Court, Peshawar in Writ Petition No. 1670/2010. While going through the prayer of the appellant as made in the appeal, it can be observed that in essence the appellant is

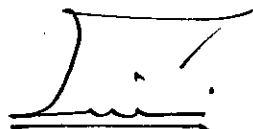


seeking regularization of his services with effect from the date of his initial appointment i.e 05.12.2008. In support of his stance, appellant has placed reliance mainly on Khyber Pakhtunkhwa Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016, which is misconceived for the reason that according to para-d of Section-2 of the ibid Act, the same was applicable to those employees of GAVI Project, who were appointed by the Government on contract basis during the period from the year 2012 to 30<sup>th</sup> June 2015. The appellant was appointed on contract basis in the year 2008 and his services were already regularized vide office order dated 12.02.2015, which was issued prior to enactment of the Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016. The appellant thus could not claim any benefit on the basis of ibid Act. Even otherwise too, the period of contract service of the appellant could not be counted as regular service.

6. Consequently, the appeal in hand being devoid of any merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
02.02.2023

  
(FAREEHA PAUL)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

ORDER  
02.02.2023

Learned counsel for the appellant present. Mr. Umair Azam Khan, Additional Advocate General for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand being devoid of any merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
02.02.2023



(Fareeha Paul)  
Member (Executive)



(Salah-Ud-Din)  
Member (Judicial)

30.01.2023

Appellant alongwith his counsel present. Mr. Umair Azam Khan,  
Additional Advocate General for the respondents present.

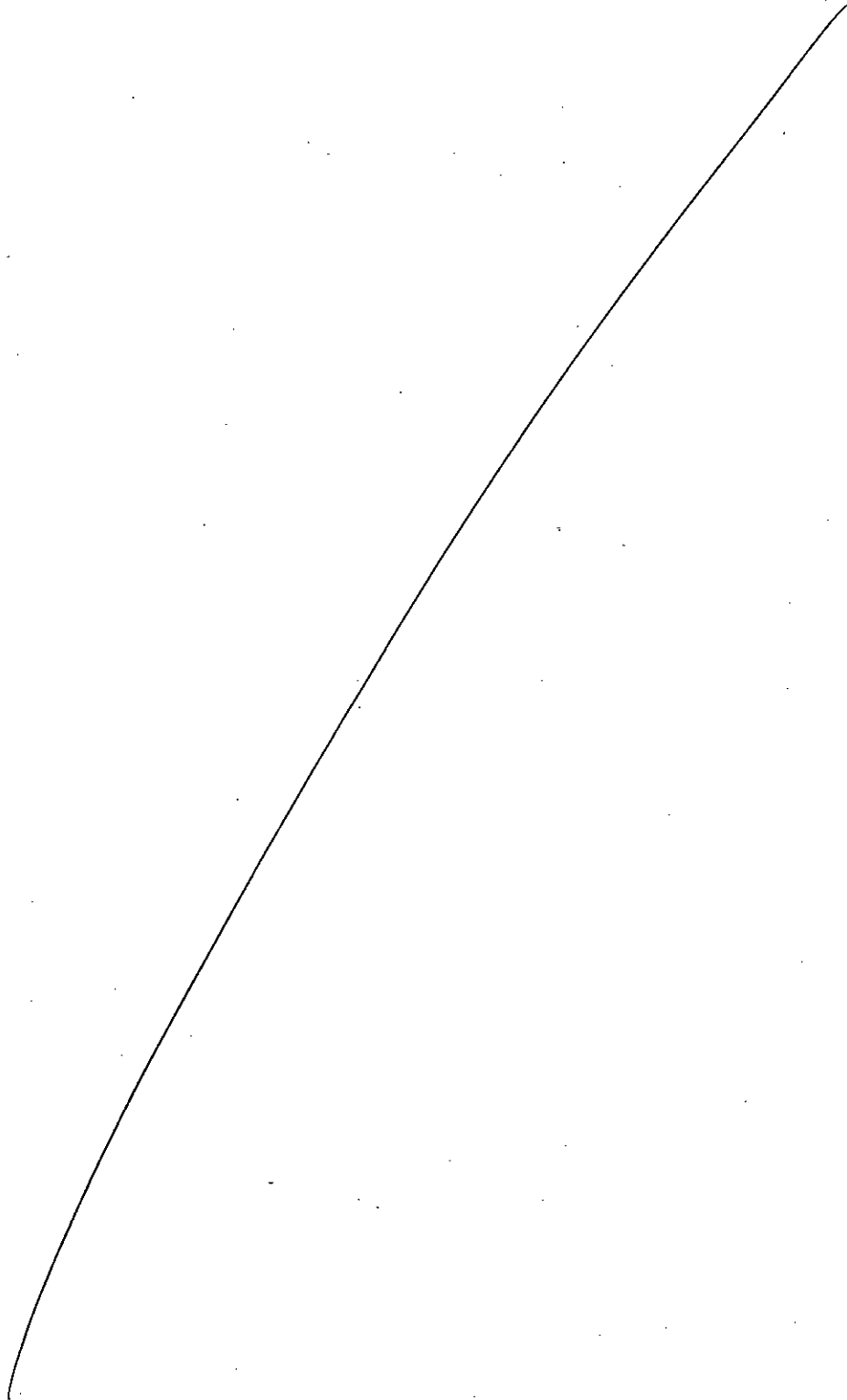
Arguments heard. To come up for consideration and order on  
02.02.2023 before the D.B.



(Fareeha Paul)  
Member (E)



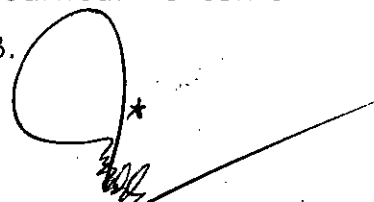
(Salah-ud-Din)  
Member (J)



19.09.2022

Appellant in person present. Mr. Muhammad Adeel Butt,  
Additional Advocate General for the respondents present.

Learned Member (Judicial) Mr. Salah-ud-Din is on leave,  
therefore, arguments could not be heard. Adjourned. To come  
up for arguments on 28.11.2022 before the D.B.

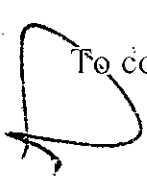
  
(Mian Muhammad)  
Member (Executive)

28<sup>th</sup> Nov. 2022

Counsel for the appellant present. Mr. Muhammad Adeel  
Butt, Addl. Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment in  
order to further prepare the brief. Last opportunity is granted.

To come up for arguments on 30.01.2023 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

**SCANNED**  
**KPST**  
**Peshawar**

25.11.2021

Proper DB is not available, therefore, the case is adjourned to 2/3/22 for the same before ~~DB~~.

  
Reader

2-3-22

Due to retirement of the Hon. Ble Chairman the case is adjourned to come up for the same as before on 7-4-22

  
Reader

7<sup>th</sup> April 2022

Appellant present in person. Mr. Kabirullah Khattak, AAG for the respondents present. Appellant requested for further time. Another last chance is given. To come up for arguments on ~~31/5/2022~~ before DB.




**(KALIM ARSHAD KHAN)**  
Chairman

31.05.2022

Counsel for the appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Nasir ud Din Shah Section Officer for respondents present.

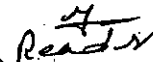
Request for adjournment was made on behalf of appellant. Adjourned. To come up for arguments on 08.08.2022 before D.B.

  
(Fareeha Paul)  
Member(E)

  
(Rozina Rehman)  
Member (J)

8-8-22

Due to Public holidays the case is adjourned to 19-9-2022

  
Reader

21.06.2021

Mr. Muhammad Ayub Shinwari, Advocate, for the appellant present. Mr. Jaffar Shah, Assistant alongwith Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment being not prepared for arguments today. Adjourned. To come up for arguments before the D.B on 15.10.2021.



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



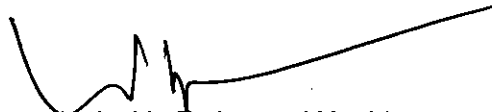
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

15.10.2021

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment as his counsel is not available being busy in preparation of his marriage ceremony. Adjourned by way of last chance. To come up for arguments on 25.11.2021 before D.B.



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



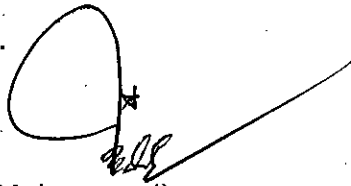
(Rozina Rehman)  
Member (J)



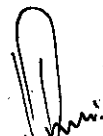
01.10.2020

Appellant with counsel and Mr. Muhammad Jan, DDA alongwith Arshad, Litigation Officer for the respondents present.

Parawise comments on behalf of the respondents have been furnished. Placed on record. A copy, whereof, is handed over to learned counsel for the appellant. The matter is adjourned to 21.12.2020 for hearing before the D.B. The appellant may furnish rejoinder, if any, in the meanwhile.



(Mian Muhammad)  
Member (Executive)

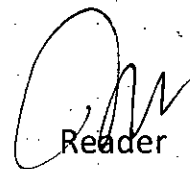


Chairman

21.12.2020

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

Due to pandemic of Covid-19, the case is adjourned to 22.03.2021 for the same.

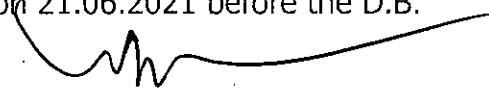


Reader

22.03.2021

Appellant in person and Mr. Muhammad Rasheed, DDA for the appellant present.

The appellant has submitted rejoinder to the comments of respondents. Placed on record. To come up for arguments on 21.06.2021 before the D.B.



(Atiq-ur-Rehman)  
Member(E)



Chairman

28.02.2020

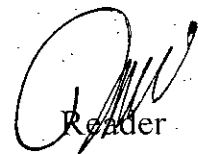
Appellant in person present. Mr. Kabirullah Khattak learned Addl. AG for the respondents present. Appellant submitted application for adjournment, which is placed on file. Adjourn. To come up for arguments on ~~11.04.2020~~ before D.B.

  
Member

  
Member

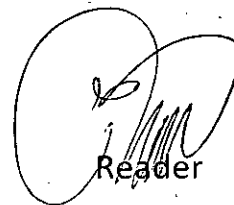
14.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 03.07.2020 before D.B.

  
Reader

03.07.2020

Due to COVID19, the case is adjourned to 01.10.2020 for the same as before.

  
Reader

17.10.2019

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

Respondents have not furnished reply/comments despite last opportunity. The matter is, therefore, posted to D.B for arguments on 26.12.2019.

  
Chairman

26.12.2019

Appellant in person present. Mr. Muhammad Jan, DDA for respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 28.02.2020 before D.B.

  
Member

  
Member

*[Faint, illegible handwritten text, possibly bleed-through from the reverse side of the page]*

ser

mt

27.06.2019

Learned counsel for the appellant present. Written reply not submitted. Sajid Superintendent (for respondent No.4) and Hazrat Shah Superintendent (for respondents No.2 & 5) present and seek time to furnish written reply/comments. Saleem Superintendent (for respondent NO.3) absent. Respondent No.3 as well as absent representative be put to notice for submission of written reply/comments. Adjourn. To come up for written reply/comments on 22.08.2019 before S.B.

  
Member

22.08.2019

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Saleem Javid Litigation Officer for respondent No.3 and Sajid Superintendent for respondent No. 4 present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 20.09.2019 before S.B.

  
(Hussain Shah)  
Member

20.09.2019

Appellant in person and Addl. AG alongwith Muhammad Shafique, Senior Clerk and Hazrat Shah, Superintendent for the respondents present.

Representatives of the respondents seek further time for submission of comments/reply. Last opportunity is granted to the respondents for submission of reply/comments on 17.10.2019 before S.B.


  
Chairman


29.04.2019

Counsel for the appellant present.

Contends that the appellant was appointed on 05.12.2008 as Monitoring Coordinator in the Expanded Programme of Immunization (EPI) GAVI Project on contract basis. His service was subsequently regularized on 12.02.2015 but with immediate effect. The appellant made a representation to the respondents with request for inclusion of period of his service on contract basis for the purpose of pension. The said request was denied on 29.01.2019. Under the law the appellant was entitled for the relief claimed through his representation, it was added.

In view of the above, the appeal in hand 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 27.06.2019 before S.B.

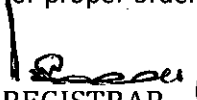


  
Appellant Deposited  
Security & Process Fee

  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 352/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/03/2019	<p>The appeal of Mr. Ishtiaq Ahmad resubmitted today by Mr. Muhammad Ayub Shinwari 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 11/3/2019</p>
2-	12/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/03/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
28.03.2019		<p>Clerk of counsel for the appellant present. Due to strike of the Bar learned counsel for the appellant is not available today. Adjourned to 29.04.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER.</p>

The appeal of Mr. Ishtiaq Ahmad Monitoring Coordinator EPI Section Directorate General Health Services received today by i.e. on 27.02.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-C of the appeal is illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Wakalat nama in favour of appellant be placed on file.
- 5- ~~seven~~ more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 343 /S.T,

Dt. 28-2- /2019

*Anatiller*  
REGISTRAR  
SERVICE TRIBUNAL  
for KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr.M. Ayub Shinwari Adv. Pesh.

11/3/19 -

Sir RESUBMITTED, AS THE  
OBJECTIONS & POINTS ARE  
RECORDED

*BY*  
ADV

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 352 /2019

Ishtiaq Ahmad

.....Appellant

Versus

Government of KPK through Chief Secretary & others

.....Respondents

INDEX

S. No	Description of Document	Dated	Annex	Pg No
1.	Service Appeal and Affidavit			1-3A
2.	Copy of Appointment order		A	4-5
3.	Copy of the regularization order	12-2-15	B	6
4.	Copy of the Departmental Appeal		C	7
5.	Copy of impugned order		D	8
	Wakalat NAMA			9

Ishtiaq

Appellant,

Through

Muhammad Ayub Khan Shinwari  
Advocate Peshawar

**Chamber:**

7-A, Haroon Mansion,  
Khyber Bazar, Peshawar.  
Cell No 03219068514



IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 352 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 287

Dated 27-2-2019

Ishitiah Ahmad,  
Monitoring Coordinator, EPI Section,  
Directorate General Health Services,  
Khyber Pakhtunkhwa, Peshawar

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Department of Health, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
4. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
5. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

Service Appeal Under Section 4 of Khyber  
Pakhtunkhwa Service Tribunal Act, 1974 against  
Order dated 29-01-2019

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the appellant was appointed as Monitoring Coordinator (BPS-16) in the GAVI Project under the respondent Department on contract basis by the competent authority in the prescribed manner after fulfilling all the codal formalities vide appointment order dated 05-12-2008. (Copy of the appointment order is filed herewith and attached as **Annex-A**)
2. That the appellant was performing his duties against the aforesaid post to the entire satisfaction of his seniors. Meanwhile some of the colleagues of the appellant filed various Writ Petitions including Writ Petition No 1670/2010 before the Honorable Peshawar High Court, Peshawar, which was allowed.
3. That consequently, the respondents regularized the service of the appellant but with immediate effect vide Office Order dated 12-02-2015. (Copy of the office order is filed herewith and annexed as **Annex-B**)
4. That the Appellant approached the respondents by filing of Departmental Appeal for redress of his grievance i.e., considering his contract service from

Filed to-day  
Registrar  
27/2/19  
Re-submitted to-day  
Registrar  
11/3/19

2

05-12-2008 to 11-02-2015 for service benefits, which is dismissed vide impugned order dated 29-01-2019. (Copy of Departmental Appeal and Order is filed herewith and annexed as **Annex-C & D**)

5. That it is pertinent to mention here that the provincial government has promulgated Khyber Pakhtunkhwa, Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016, whereby the employees of projects namely GAVI, JICA and employees on adhoc and contract basis are regularized, wherein the services of the appellant squarely falls. The respondents have failed to implement the Act *ibid* in its letter and spirits.

Hence, the instant Service Appeal on the following amongst other grounds:

**Grounds:**

- a. That the impugned Notification of respondent Department is against the law, illegal, unlawful and without lawful authority.
- b. That the impugned Notification is against the provisions of Khyber Pakhtunkhwa, Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016.
- c. That Khyber Pakhtunkhwa, Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016 is a regularization law whereby the service of the contract employees are regularized, the Act has not made *de novo* appointments or creating a new job on regular basis of contract employees. The Act *ibid* is promulgated for an uninterrupted continuation of the service of the previous contract employees till the completion of their normal tenure and making their employment status equal to their contemporaries appointed on regular basis and as such the respondents are duty bound to regularize the service of the Appellant with effect from initial date of appointment by issuing amended regularization Notification.
- d. That Khyber Pakhtunkhwa, Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016 is a beneficial legislation as it had regularized the services of all the contract employees falling in its ambit. The said Act has a deeming clause and has created a legal fiction by laying down that those who are appointed on contract basis shall be deemed to have been appointed on regular basis. It is a well settled principle of interpretation of statutes, that the interpretation of statute should be beneficial, and one which would advance the object of legislation, suppress the mischief and advance the remedy and not one which would lead to its frustration. The respondents are under legal obligation to implement the Khyber Pakhtunkhwa, Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016 in its letter and spirits and issue revised regularization orders of the Appellant.

- e. That under the rule 2.3 of West Pakistan Civil Services Pension Rules, 1963, the service of the Appellant with effect from dates of appointment till date of regularization i.e., 05-12-2008 to 11-02-2015 shall be counted for pension or gratuity.
- f. That the treatment met to the Appellant is against the dictums of August Supreme Court of Pakistan and this Honorable Court.
- g. That the treatment met to the Appellant is not only based on discrimination but also the same is based on colorful exercise of powers which is not warranted under law.
- h. That the treatment met to the Appellant is not only against the principles of natural justice but also against the settled principles of administrative law.
- i. That the Appellant crave permission of this Honorable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his Service Appeal.

It is, therefore, prayed that on acceptance of the title Service Appeal, the impugned office order dated 29-01-2019 may kindly be declared as unfair, illegal, unlawful and without lawful authority, the respondents may kindly be directed to count/consider the service of the appellant with effect from initial date of appointment till regularization i.e., 05-12-2008 to 11-02-2015 for the purpose of granting pension, graded pay, arrears, seniority and other service benefits and respondents be directed to issue revise regularization office order of the appellant.

Any other relief, which has not been prayed for, deemed fit and appropriate by this Honorable Tribunal, in the circumstances of the service appeal, may graciously be granted.

*Shinwari*  
Appellant,  
Through  
**Muhammad Ayub Khan Shinwari**  
Advocate Peshawar

3/A

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No \_\_\_\_\_/2019

Ishtiaq Ahmad

.....Appellant

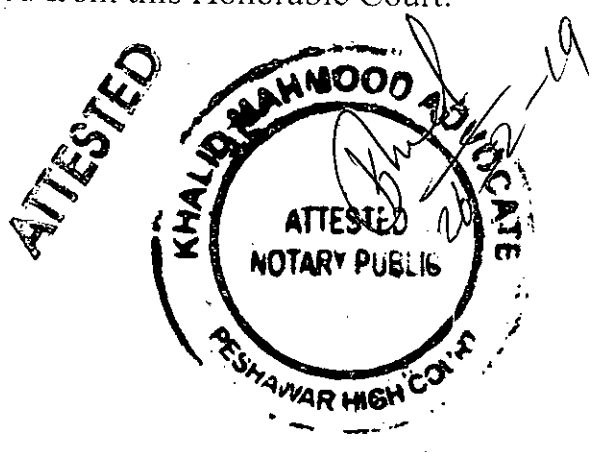
Versus

Government of KPK through Chief Secretary & others

.....Respondents

**Affidavit**

I, Ishtiaq Ahmad, Monitoring Coordinator, EPI Section, Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar hereby solemnly affirm and declare on oath that the contents of the title Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



*Ishtiaq Ahmad*  
Deponent

Annex A 4

## PANDED PROGRAMME ON IMMUNIZATION

DIRECTORATE GENERAL HEALTH SERVICES-KHYBER ROAD, PESHAWAR  
Tel: 091-9212418 Fax: No. 9213849 E-mail: epipeshawar@yahoo.com

Ref \_\_\_\_\_/FMC/EPI

Dated \_\_\_\_\_/2008

### OFFICE ORDER

As recommended by Inter Departmental Selection Committee, Ishtiaq Ahmad S/O Misal Khan R/O Swabi is hereby appointed as Monitoring Coordinator in the Expanded Programme of Immunization (EPI) GAVI Project. The position is available under the PC-1 of GAVI/EPI which has already been approved by the ECNEC. The mentioned PC-1 is already in the process of implementation and will come to an end on 30<sup>th</sup> June 2009.

His appointment is purely on contract basis ending on 30<sup>th</sup> June 2009. He will be stationed at the provincial EPI Cell in the Directorate General Health Services NWFP and will work under the supervision of the Deputy Director EPI. He will draw a lump sum salary of Rs.20,000/- (Twenty thousand) per month as per PC-I. He is entitled to draw further an amount of Rs.6000/- PM (on the rate equivalent to BPS-16) subject to performance of his out station duty.

He is supposed to deliver services according to the following TORs.

#### The Monitoring Coordinator will:-

- Work under the supervision of Deputy Director EPI.
- Report to Deputy Director EPI.
- Conduct field visits to monitor various activities.
- Identify the indicators to be monitored.
- Devise/further improve the existing reporting formats and system.
- Prepare a standard checklist for monitoring at provincial, district and union council level for monitoring of various activities.
- Prepare analysis reports for various activities of the project.
- Analyze the different reports received from the districts and provide the required feedback to all concerned.
- Propose the corrective measures to streamline the activities
- Assist different review of the project (mid term and end project review etc.)
- Any other duty assigned to him by the Deputy Director EPI from time to time.

QUALIFIED STATE  
PESHAWAR  
PROFITABLE

ATTACHED

His appointment is subject to the following terms and conditions:-

1. He will be working under the direct supervision of Deputy Director EPI.
  2. He will perform duties according to the above mentioned TORs.
  3. His contract will stand cancelled on the completion of the project life on 30<sup>th</sup> June 2009.
  4. He will neither be liable any pensionary benefits nor after service benefits after termination of this contract.
  5. After submitting his arrival for duty, if he wants to cease this contract, he will inform the Deputy Director EPI in writing at least 15 days in advance. Other wise his one month salary will be forfeited.
  6. He will either resign from the position he is currently occupying in the government or will take Extra Ordinary Leave to join this service.
  7. He is declared medically fit for government service.
  8. He will not be entitled for any TA/DA for medical examination and joining the above mentioned post.
2. If he accepts this offer on the above terms and conditions, he should submit his arrival report to the Deputy Director EPI within 10 days of the receipt of this letter failing which this offer will be treated as cancelled.

--- sd ---

Deputy Director/P.D  
EPI- GAVI NWFP,  
Peshawar.

No. 10706-10 dated 5-12- /2008

Copy forwarded for information and necessary action to the:

1. Accountant General NWFP Peshawar.
2. National GAVI Advisor, NIH Islamabad.
3. Ishtiaq Ahmad S/O Misal Khan R/O Swabi
4. Finance Manager GAVI/EPI for n/action.
5. P.A to DGHS NWFP

Deputy Director/P.D  
EPI- GAVI NWFP,  
Peshawar

ATTESTED

Annex B 6

DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTINKHWA, PESHAWAR

E-mail Address: [nwjdghs@yahoo.com](mailto:nwjdghs@yahoo.com)  
Phone No. # 091-9210269  
Fax # 091-9210187, 9210196  
Mobile # 091-9210230

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

No. 7691 /EPI/DGHS/KP

Date: 12/12/2015

OFFICE ORDER.

In pursuance of the Judgment of Peshawar High Court Peshawar passed in WP No.1670/2010, dated 05.07.2012, the contractual service of Mr. Ishtiaq Ahmad, Monitoring Coordinator BPS-16 is hereby regularized and adjusted against the vacant post of Monitoring Coordinator BPS-16 created vide Finance Department letter No.BVI/FD/4-3A/2010-11, dated 30.06.2010 with immediate effect.

----- Sd -----

DIRECTOR GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA

No. 7691 /EPI/DGHS/KP  
Copy forwarded to:-

1. The Secretary to the Government of Khyber Pakhtunkhwa, Health Department, for information with reference to his office letter No. SOB/HD/1-1/2007-08, dated 15.02.2013 & dated 07.11.2014.
2. Accountant General Khyber Pakhtunkhwa.
3. The National GAVI Advisor, Federal EPI Cell NIH Islamabad w/ref to above.
4. The Deputy Commissioner Buner.
5. The Director Health Services, Health Directorate KPK.
6. The Section Officer (Budget) Health Department Khyber Pakhtunkhwa.
7. All District Health Officers in Khyber Pakhtunkhwa.
8. The Assistant Director/Accountant DGHS KPK.
9. The officers concerned.

*[Handwritten Signature]*  
12/12/15

DIRECTOR GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA

**ATTACHED**

Annex C. AD Ministerial 121  
7 For M/PJ  
2  
6/3/18  
19/12/18

The Director General Health,  
Services, Khyber Pakhtunkhwa, Peshawar.

Subject: Request for inclusion of service only for pension

Dear Sir,

With utmost sentiments of veneration I state that I was appointed as Monitoring Coordinator in BS-16 in GAVI Project Phase-I in the Expanded Immunization Programme under Office Order bearing endorsement No.10706-10 dated 05.12.2008 on contract basis (Annexure-A).

14.12.2010, on expiry of the contract but I was serving and performing my duty continuously in the GAVI Project. After re-sanction GAVI Project Phase-II, I was reappointed on the same post as mentioned above vide Govt. office Order No.9935-39/EPI dated 23.12.2011 (Annexure-B).

The Finance Department, Khyber Pakhtunkhwa, Peshawar had created the post of Monitoring Coordinator (BS-16) Vide Govt. letter No. BVI FD/4-3A/2010-11 dated 30.06.2010 and my contractual service has been regularized and adjusted against the vacant post of Monitoring Coordinator (BS-16) vide office order No.7691/EPI/DGHS/KP dated 12.2.2015 by the following of the Judgment of Peshawar High Court Peshawar (Annexure - C).

It is therefore, I request that my contractual period from 05.12.2008 to 11.02.2015 may please be considered as regular only for the purpose of pension protection

✓  
Dir EPI  
MAD  
21/12/18

Yours Faithfully,

Ishfaq Ahmad,  
Monitoring Coordinator  
EPI, Section

ATTESTED



7/1

The Director General Health,  
Services, Khyber Pakhtunkhwa Peshawar.

SUBJECT: REQUEST FOR INCLUSION OF SERVICE ONLY FOR PENSION.

Dear Sir,

With utmost sentiments of veneration I state that I was appointed as Monitoring Coordinator in BS-16 in GAVI Project Phase-I in the Expended Immunization Programme under office order bearing endorsement No. 10706-10 dated 05.12.2008 on contract basis (Annexure-A)

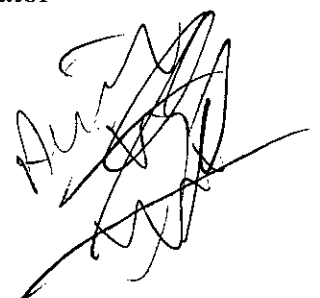
14.12.2010, on expiry of all the contract but I was serving and performing my duty continuously in the GAVI Project. After re sanction GAVI Project Phase II, I was reappointed on the same post as mentioned above via Govt: Office order No. 9935-39/EPI dated 23.12.2011 (Annexure-B).

The Finance Department, Khyber Pakhtunkhwa, Peshawar had created the post of monitoring Coordinator (BS-16) Vide Govt: Letter No. BVI/FD/4-3A/2010-11 dated 30.06.2010 and my contractual service has been regularized and adjusted against the vacant post of Monitoring Coordinator (BS-16) vide office order No. 7691/EPI/DGHS/KP Dated 12.2.2015 by the following of the judgment of Peshawar High Court Peshawar (Annexure-C).

It is therefore, I request that my contractual period from 05.12.2008 to 11.02.2015 may please be considered as regular only for the purpose of pension protection.

Yours faithfully.

Ishtiaq Ahmad  
Monitoring Coordinator  
EPI, Section



# DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR



E-Mail Address: [nwtpdghs@yahoo.com](mailto:nwtpdghs@yahoo.com) office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230  
No. 1275 /Personnel Dated: 29 /01/2019

To,

Mr. Ishtiaq Ahmad  
Monitoring Coordinator EPI Section  
DGHS Office Peshawar.

Subject: **REQUEST FOR INCLUSION OF SERVICE ONLY FOR PENSION.**

Memo:

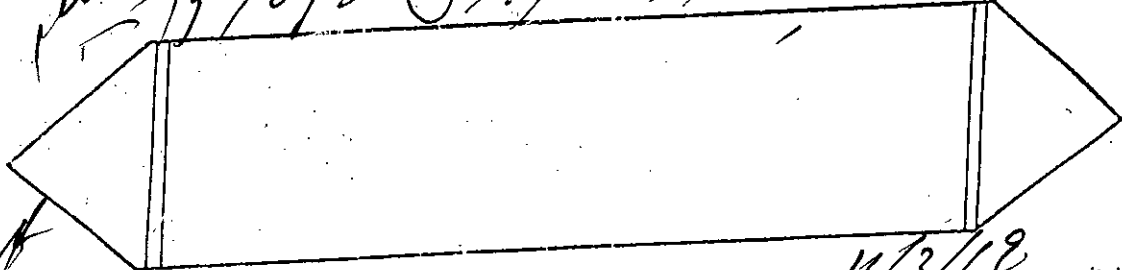
*I am directed refer to your application dated 19.12.2018 on the subject noted above and to state that your request is not covered under the rules.*

**DIRECTOR (HRM)**  
DIRECTORATE GENERAL HEALTH  
SERVICES, K.P.K PESHAWAR.

*20/01/19*

**RECEIVED**

بعد التجره کورمیل فیصلہ شدہ ہوا



APM Cell

22 جناب

اسٹاف / سپر بنام عینہ کورمیل

11/3/18

Service application

موزخہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام سرکے ٹرہ موزیل کیلئے عہدہ راجب فیصلہ شدہ ہوا

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 ثالثتہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صورت اچیک در و پیہار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرا میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ 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 مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر 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 نہ کو کر کریں۔ لہذا وکالت نامہ لکھ دیا کہ چند ہوں۔

المرقوم 11/3/18 عار 2017

Ishrat Javed

واہ العب کے لئے منظور ہے۔ مقام

A. S. V. C. M.

16

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

**SERVICE APPEAL NO. 352 OF 2019**

Ishtiaq Ahmad.....Appellant

**Versus**

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

**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 its 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.
3. 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 to the extent of various Writ Petition filing.
3. Para No. 3 is correct. These positions/seats were freshly/newly created on verdict of Honorable Peshawar High Court, Peshawar decision for Gavi Phase-I employees regularization.
4. Para No. 4 is correct.
5. Para No. 5 is incorrect (The Act is for the employees of Gavi Phase-II employees & JICA project employees).

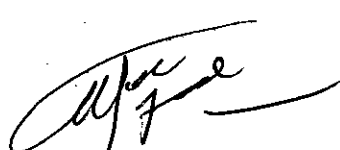
17  
1


**ON GROUNDS:**

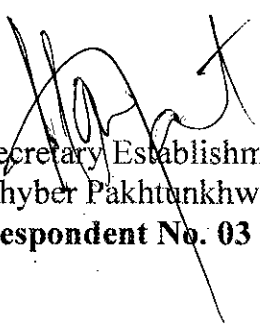
- a. Para-a please specify notification while the Khyber Pakhtunkhwa regularization of contract Adhoc Gavi/JICA Act 2016 for the employees of Gavi Phase-II the Appellant is regularized long before the commencement of 2016 Act on Honorable Peshawar High Court, Peshawar verdict.
- b. Para-b specify notification.
- c. Para-c incorrect as already replied in Para-a above.
- d. Para-d is incorrect as already replied in Para-a above.
- e. Para-e is misleading (no project post employee as in the case).
- f. Para-f is misleading.
- g. Para-g is misleading.
- h. Para-h is misleading.
- i. In reply to Para-i it is submitted that the Appellant during 2008-2010 remain on project post purely, and regularized on the verdict of Honorable Peshawar High Court, Peshawar. these seats were newly created through SNE and all Petitioners were appointed freshly o these newly created posts as no such sanctioned posts were existing in Health Department before.

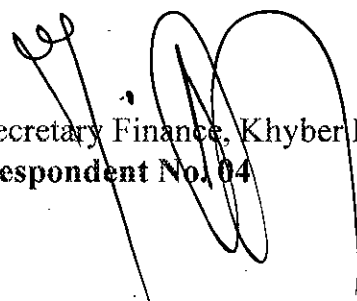
**PRAYER:**

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

  
Secretary Health, Khyber Pakhtunkhwa.  
Respondent No. 02

  
Director General Health Services,  
Khyber Pakhtunkhwa.  
Respondent No. 05

  
Secretary Establishment,  
Khyber Pakhtunkhwa.  
Respondent No. 03

  
Secretary Finance, Khyber Pakhtunkhwa  
Respondent No. 04

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

In re-Service Appeal No 352/2019

Ishtiaq Ahmad      Versus      Govt of KP & Others

**Rejoinder on behalf of the appellant**

**Respectfully Sheweth,**

**On Preliminary Objections:**

All the preliminary objections are wrong, incorrect, misleading and misconceived, hence denied.

**On Facts:**

1. Para No "1" of the Service Appeal is admitted to be correct, hence needs no reply.
2. Para No "2" of the Service Appeal is admitted to be correct, hence needs no reply.
3. Para No "3" of the Service Appeal is admitted to be correct, hence needs no reply.
4. Para No "4" of the Service Appeal is admitted to be correct, hence needs no reply.
5. Para No "5" of the Service Appeal is wrong, incorrect and misleading, hence denied. In fact, the service of the appellant squarely fall in the ambit of Khyber Pakhtunkhwa Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016. Section 2(d) read with Section 3 of the Act ibid, entitles the appellant to be regularized with effect from initial date of appointment and his service w.e.f 05-12-2008 to 11-02-2015 shall be counted for service benefits.

**On Grounds:**

- a. Para "a" of the Service Appeal is correct, while that of reply is wrong and incorrect. In fact, the service of the appellant squarely fall in the ambit of Khyber Pakhtunkhwa Appointment of GAVI, JICA, Adhoc and Contract Employees Act, 2016. Section 2(d) read with Section 3 of the Act ibid, entitles the appellant to be regularized with effect from initial date of

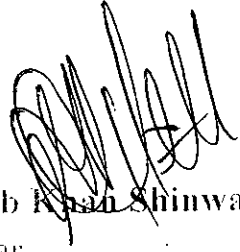
7  
appointment and his service w.e.f 05-12-2008 to 11-02-2015 shall be counted for service benefits.

- b. Para "b" of the Service Appeal is correct, while that of reply is wrong and incorrect. Details are given in preceding para's.
- c. Para "c" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.
- d. Para "d" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.
- e. Para "e" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.
- f. Para "f" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.
- g. Para "g" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.
- h. Para "h" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.
- i. Para "i" of the Service Appeal is correct, while that of reply is wrong and incorrect, hence denied.

It is, therefore, prayed that the title Service Appeal may kindly be allowed as prayed for.

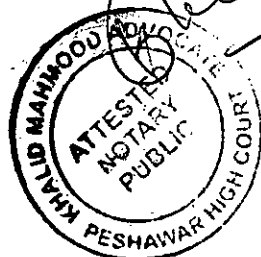
*I Shint*  
Appellant,

Through

  
Muhammad Ayub Khan Shinwari  
Advocate Peshawar

#### Affidavit

I, Ishitiahq Ahmad, Monitoring Coordinator, EPI Section, Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar hereby solemnly affirm and declare on oath that the contents of the accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



*I Shint*  
Deponent

10

IN THE PESHAWAR HIGH COURT PESHAWAR

19/07/2012

Writ Petition No. 1670/2010

- 1 Nijat Ali Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 2 Sarbiland Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 3 Muhammad Iqbal Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 4 Abdul Karim Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 5 Ghalib Khan Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 6 Mujeebur Rahman Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 7 Bilal Maqsood Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 8 Fayaz Khan Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 9 Imran Ali Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 10 Dost Muhammad Ex-Driver, Provincial EPI, Director General Health Services, Peshawar.
- 11 Khalid Kamal EX-Accounts Officer/ Finance Manager, Provincial EPI, Director General Health Services, Peshawar.
- 12 Barkat Ullah EX-Computer Operator, Provincial EPI, Director General Health Services, Peshawar.
- 13 Qaribullah Ex-Junior EPI Technician, office of the EDO (Health), Bannu.
- 14 Mahabat Khan Ex-Junior EPI Technician, office of the EDO (Health), Bannu.
- 15 Barkat Ullah Ex-Junior EPI Technician, office of the EDO (Health), Bannu.
- 16 Fakhar Alam Ex-Junior EPI Technician, office of the EDO (Health), Bannu.
- 17 Hedayat Khan Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 18 Muhammad Usman Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 19 Umar Liaq Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 20 Juma Gul Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 21 Abdul Ali Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 22 Hamayon Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 23 Yasmeen Ex-Junior EPI Technician, office of the EDO (Health), Buner.
- 24 Abdul kabir Ex-Junior EPI Technician, office of the EDO (Health), Buner.



- Buner.
- 25 Arshad Ali Ex-Junior EPI Technician, office of the EDO (Health), Charsadda.
  - 26 Hussain Gul Ex-Junior EPI Technician, office of the EDO (Health), Charsadda.
  - 27 Zahoor Khan Ex-Junior EPI Technician, office of the EDO (Health), Charsadda.
  - 28 Abid ur Rahman Ex-Junior EPI Technician, office of the EDO (Health), Chitral.
  - 29 Niaz Ud Din Ex-Junior EPI Technician, office of the EDO (Health), Chitral.
  - 30 Qaid ur Ibrar Ex-Junior EPI Technician, office of the EDO (Health), Chitral.
  - 31 Mr. Muhammad Shoaib Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 32 Mr. Ejaz Hussain Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 33 Muhammad Wereim Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 34 Muhammad Pervez Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 35 Asmat Ullah Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 36 Ameer Nawaz Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 37 Abdul Khalid Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 38 Jamshed Ex-Junior EPI Technician, office of the EDO (Health), D.I.Khan.
  - 39 Mr. Israr Bahdar Ex-Junior EPI Technician, office of the EDO (Health), Dir Lower.
  - 40 Mr. Rafiqur Rahman Ex-Junior EPI Technician, office of the EDO (Health), Dir Lower.
  - 41 Naseer Muhammad Ex-Junior EPI Technician, office of the EDO (Health), Dir Lower.
  - 42 Arshad Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 43 Rahman Ullah Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 44 Amir Zada Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 45 Ali hyder Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 46 Shah Wali Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 47 Umer Badshah Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 48 Sher Bahader Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 49 Muhammad Nisar Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 50 Fazal Wadood Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 51 Nizam ul Haq Ex-Junior EPI Technician, office of the EDO (Health), Dir Upper.
  - 52 Hamidullah Ex-Junior EPI Technician, office of the EDO (Health),

- Karak.
- 53 Taj Muhammad Ex-Junior EPI Technician, office of the EDO (Health), Karak.
  - 54 Allia Zaheen Ex-Junior EPI Technician, office of the EDO (Health), Karak.
  - 55 Roheeda Khatoon Ex-Junior EPI Technician, office of the EDO (Health), Karak.
  - 56 Inayat Ajab Ex-Junior EPI Technician, office of the EDO (Health), Karak.
  - 57 Muhammad Asim Ex-Junior EPI Technician, office of the EDO (Health), Karak.
  - 58 Muhammad Basit Ex-Junior EPI Technician, office of the EDO (Health), Kohat.
  - 59 Zaheer Abbas Ex-Junior EPI Technician, office of the EDO (Health), Kohat.
  - 60 Azmat ali Khan Ex-Junior EPI Technician, office of the EDO (Health), Kohat.
  - 61 Khalid Ex-Junior EPI Technician, office of the EDO (Health), Kohat.
  - 62 Sajid Ex-Junior EPI Technician, office of the EDO (Health), Kohat.
  - 63 Muhd Ayaz Ex-Junior EPI Technician, office of the EDO (Health), Lakki Marwat.
  - 64 Aminullah Ex-Junior EPI Technician, office of the EDO (Health), Lakki Marwat.
  - 65 Muhammad Farooq Ex-Junior EPI Technician, office of the EDO (Health), Lakki Marwat.
  - 66 Hayat Ullah Ex-Junior EPI Technician, office of the EDO (Health), Lakki Marwat.
  - 67 Saifullah Ex-Junior EPI Technician, office of the EDO (Health), Lakki Marwat.
  - 68 Liaqa Zaman Ex-Junior EPI Technician, office of the EDO (Health), Lakki Marwat.
  - 69 Muhammad Iqbal Ex-Junior EPI Technician, office of the EDO (Health), Malakand.
  - 70 Miss Saima Bibi Ex-Junior EPI Technician, office of the EDO (Health), Malakand.
  - 71 Shahid Hussain Ex-Junior EPI Technician, office of the EDO (Health), Malakand.
  - 72 Shahid Khan Ex-Junior EPI Technician, office of the EDO (Health), Malakand.
  - 73 Mr. Ataulah Ex-Junior EPI Technician, office of the EDO (Health), Malakand.
  - 74 Miss Kalsoom Ara Ex-Junior EPI Technician, office of the EDO (Health), Malakand.
  - 75 Mr. Taruf Khan Ex-Junior EPI Technician, office of the EDO (Health), Mardan.
  - 76 Mr. Shah Khalid Ex-Junior EPI Technician, office of the EDO (Health), Mardan.
  - 77 Mr. Riaz Ali Ex-Junior EPI Technician, office of the EDO (Health), Mardan.
  - 78 Asghar Ali Shah Ex-Junior EPI Technician, office of the EDO (Health), Mardan.
  - 79 Mr. Khalid Daud Ex-Junior EPI Technician, office of the EDO (Health), Nowshera.
  - 80 Mr. Khalid Khan Ex-Junior EPI Technician, office of the EDO (Health), Nowshera.

FILED

19

19 APR 2011

- 81 Mr. Fazle Amin Ex-Junior EPI Technician, office of the EDO (Health), Nowshera.
- 82 Mr. Arshad Khan Ex-Junior EPI Technician, office of the EDO (Health), Nowshera.
- 83 Mr. Wisal Muhammad Ex-Junior EPI Technician, office of the EDO (Health), Nowshera.
- 84 Chand Tahir Mahmood Ex-Junior EPI Technician, office of the EDO (Health), Mansehra.
- 85 Haroon Rashid Ex-Junior EPI Technician, office of the EDO (Health), Mansehra.
- 86 Syed Tasaduq Shah Ex-Junior EPI Technician, office of the EDO (Health), Mansehra.
- 87 Waqar Ahmad Ex-Junior EPI Technician, office of the EDO (Health), Mansehra.
- 88 Haroon ur Rashid Ex-Junior EPI Technician, office of the EDO (Health), Peshawar.
- 89 Wahid Gul Ex-Junior EPI Technician, office of the EDO (Health), Peshawar.
- 90 Sheraz Khan Ex-Junior EPI Technician, office of the EDO (Health), Peshawar.
- 91 Hameed Ullah Ex-Junior EPI Technician, office of the EDO (Health), Swat.
- 92 Gul Rahman Ex-Junior EPI Technician, office of the EDO (Health), Swat.
- 93 Said Karam Shah Ex-Junior EPI Technician, office of the EDO (Health), Swat.
- 94 Sher Muhammad Khan Ex-Junior EPI Technician, office of the EDO (Health), Swat.
- 95 Shabeena Ex-Junior EPI Technician, office of the EDO (Health), Swat.
- 96 Umar Hayat Ex-Junior EPI Technician, office of the EDO (Health), Shangla.
- 97 Sherul Wahab Ex-Junior EPI Technician, office of the EDO (Health), Shangla.
- 98 Bibi Ayesha Ex-Junior EPI Technician, office of the EDO (Health), Shangla.
- 99 Kifayatullah Ex-Junior EPI Technician, office of the EDO (Health), Shangla.
- 100 Azeemullah Ex-Junior EPI Technician, office of the EDO (Health), Shangla.
- 101 Roqia Bibi Ex-Junior EPI Technician, office of the EDO (Health), Shangla.
- 102 Umar Khitab Ex-Junior EPI Technician, office of the EDO (Health), Tank.
- 103 Waqas Ex-Junior EPI Technician, office of the EDO (Health), Tank.
- 104 Asad Abbas Ex-Junior EPI Technician, office of the EDO (Health), Tank.
- 105 Asmatullah Ex-Junior EPI Technician, office of the EDO (Health), Tank.
- 106 Muhd Zubair Ex-Junior EPI Technician, office of the EDO (Health), Tank.
- 107 Ahmad Jan Ex-Junior EPI Technician, office of the EDO (Health), Tank.
- 108 Zia ur Rehman Ex-Junior EPI Technician, office of the EDO (Health), Tank.

12/11/19

Mad Nafeeq Ex-Junior EPI Technician, office of the EDO  
(Health), Tank.  
Sayed ur Rehman Ex-Junior EPI Technician, office of the EDO  
(Health), Tank.  
Iftikhar Ahmad Ex-Junior EPI Technician, office of the EDO  
(Health), Mansehra.

(Petitioners)

Versus

1. Govt of NWFP through its Chief Secretary, Peshawar.
2. Secretary Health, Govt of NWFP, Peshawar.
3. Secretary Finance, Govt of NWFP, Peshawar.
4. Director General, Health Services NWFP Peshawar.
5. National Program Manager, EPI NIH, Islamabad.
6. Deputy Director, EPI DGHS NWFP, Peshawar.

(Respondents)

Writ Petition under Article 199 of the Constitution of  
the Islamic Republic of Pakistan, 1973

Prayer in Writ Petition:

On acceptance of this Writ Petition an appropriate writ may please be issued declaring the Notice of expiry of the contract of the Petitioners dated 11.01.2010, 25.01.2010, 29.01.2010, 03.02.2010, 06.02.2010, 07.02.2010, 08.02.2010, 09.02.2010 & 15.02.2010 issued to the Petitioners as illegal, unlawful and without lawful authority. The Petitioners were appointed pursuant to the PC-1 approved for the year 2003-04 to 2007-08. In the PC-1 there is a special clause for the automatic permanent absorption of the staff in Health Department of the Provincial Govt moreover not regularizing the services of the petitioners is discriminatory, violative of law and illegal. The project (EPI) has to be brought on non developmental side according to its approved PC-1, failure on the part of respondents to regularize the services of EPI employees is infact failure to perform their legal obligation enjoined upon them under the law, the petitioners are entitled to be reinstated in service with all consequential benefits.

FILED TODAY

19 APR 2010

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Order or other proceedings with Signature of Judge or that of parties or counsel where necessary

12

W. P. NO. 1670/2010

Present: Mr. Ijaz Anwar, Advocate, for the petitioners.

Mr. Naveed Akhtar, A.A.G. for official respondents of the Province.

Mr. Muzammil Khan, DAG, for the Federation.

DOST MUHAMMAD KHAN, C.J.- As the petitioners have made representations before D.G. Health Services, Government of Khyber Pakhtunkhwa for the redressal of their grievance and for the same, the D.G. Health Services and the Secretary Health are not only competent but under legal obligation to comply with the statutory law and rules and also make use of the previous judgment of this Court on the issue and in any case if the petitioners are found entitled to the prayed relief then there should be no impediments in the way of regularization of their contractual services. However, the case of the petitioners should not be killed on the basis of mere technicalities and substantial justice be done to them. In the whole process, the petitioners or their representatives be given full participation and right of hearing. However, the same must be completed positively within thirty days. In this regard, strong assurance was given for early disposal of

representations within thirty days by the D.G. Health Services by Mr. Naveed Akhtar, learned Additional Advocate General. The Federal Government has supported the case of the petitioners because of the policy already formulated, approved and acted upon. Therefore, this may be taken seriously and not lightly.

This petition is disposed of in the above terms.

~~\_\_\_\_\_~~  
CHIEF JUSTICE

*Almat...*  
JUDGE

*PK issue*

*WJ*  
*Add No. 3/10/11*  
*CSJ*

*Office*  
*23/12*