

BEFORE THE KPK SERVICE TRIBUNAL

CAMP COURT DIKHAN

CAM No. _____/2022

In

Appeal No. **1581**/2019

Raees Khan

VERSUS

Govt. of KPK etc.

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Dated: 25/05/2022

Your Humble Petitioner,
Through Counsel


GUL TIAZ KHAN MARWAT,
Advocate High Court, D.I.Khan

I

BEFORE THE KPK SERVICE TRIBUNAL

CAMP COURT DIKHAN

CAM No. _____/2022

In

Appeal No. **1581**/2019

Raees Khan


VERSUS

Govt. of KPK etc.

APPLICATION FOR BRINGING ON RECORD OF THIS HONOURABLE TRIBUNAL COPIES OF DOCUMENTS IN RESPECT OF LITIGATION LAUNCHED IN THE CIVIL COURT TANK AND FINALLY BEFORE THE HONOURABLE PESHAWAR HIGH COURT D.I.KHAN BENCH AGAINST THE APPOINTMENT ORDER OF APPELLANT AND ON THE BASIS OF WHICH THE APPELLANT HAS BEEN KEPT OUT OF SERVICE AND HE WAS NOT PAID THE AMOUNT OF SALARIES FOR THE PERIOD WITH EFFECT 01.10.2007 TO 30.09.2013.

Respected Sir,

1. That the above noted Appeal is pending disposal before this Honorable Tribunal and is fixed for today i.e. 25.05.2022.
2. That the appointment of appellant was impugned by one Saif Ullah in the Civil Court due to which the appellant remained out of service with effect from 01.10.2007 to 30.09.2013.
3. That the subject matter of appeal is to grant an amount of arrear of pay/salaries to the Appellant with effect from 01.10.2007 to 30.09.2013, the period vide which the appellant has been paid the salary/pay as the salary/pay was stopped/ withheld by the department due to litigation in the Civil Courts at Tank, Peshawar High Court D.I.Khan Bench and this honourable Tribunal where Service Appeal No. 460/2012 titled as "Saif Ullah V/S Govt. of KPK" has been decided vide order dated 22.02.2016.



4. That the subject cited copies of record of the Court of Civil Judge Tank Civil Suit titled as "Saif Ullah V/S DCO" decided on 18.06.2009, 14.06.2011 and Court of Additional District Judge Tank dated 30.10.2009, Service Appeal No. 460/2012 decided by this Learned Tribunal on 22.02.2016, writ petition No. 70-D/2018 and CR No. 347/2009 titled as "Saif Ullah V/S DCO Tank etc." decided by the Peshawar High Court D.I.Khan Bench on 27.05.2011 are necessary essential/ material to be brought on record of this learned Tribunal.

It is therefore humbly prayed that on acceptance this application, the subject cited documents may please be ordered to be place on record of this honourable Tribunal in the interest of Justice.

Your humble Petitioner
Through Counsel

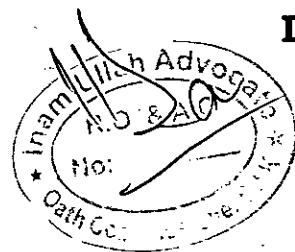
Dated: 25.05.2022

**Gul Tiaz Khan Marwat
Advocate High Court
D.I.Khan**

AFFIDAVIT

I, Gul Tiaz Khan Marwat Advocate High Court Counsel for Petitioner, do hereby solemnly affirm on oath that all the contents of the petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

DEPONENT



ترميمی عرضی دعویٰ

A 3

بعدالت جناب سول جج صاحب نام

بمقدمہ دہوائی سال

سید اللہ ولد عنایت اللہ سکنہ گل نامہ ضلع نامک (مدعی)

ناام

1- ڈسٹرکٹ کوارڈینیشن آفیسر ضلع نامک -

2- انٹرنیٹ آفیسر محکمہ صحت ضلع نامک -

3- میڈیکل آفیسر و مخارجہ روزی ہسپتال گل نامک -

4- ڈسٹرکٹ اکاؤنٹنٹ آفیسر ضلع نامک -

5- چیف میگزینری حکومت سرحد لیٹا ور -

6- اکاؤنٹنٹ جنرل صومیر سرحد لیٹا ور -

7- رئیس خان ولد جمہ خان قوما شیخ سکنہ گل نامہ ضلع نامک

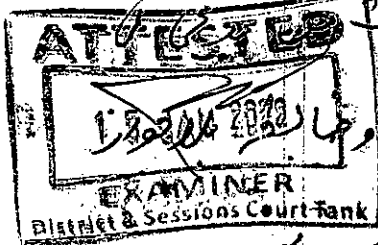
(مدعی علیہ)

دعویٰ استقراریتوں میں قرار دارہ من مدعی کی تعیناتی بحضرت

آفیسر ایگزیکٹو ایس او ایس جی/GB-6/9997 مورفہ 11/7/2007 جناب مدعی علیہ

محکمہ قانون و بالسی درصت اور صحیح ہے۔ جبکہ لٹریچر/5547/Acc

مورفہ 11/7/2008 و لٹریچر/GB/554 مورفہ 2/2/2009 کے تحت



تعیناتی کو معنی میں کیا گیا۔ سراسر غلط و خلاف قانون و غیر صحیح ہے۔ اور مناسبی التزمینوں کا نتیجہ ہے۔

بیشمار بے طاقت
نکاح
16/09/2011
11/09/2011
16/09/2011
11/09/2011

جو کہ موجودہ اہم این اے اور اہم بی اے اور ٹیکسٹس کے

دباؤ اور سیاسی اثر و رسوخ کی بنیاد پر جاری کی گئی ہے۔

بدین وجہ کا لفظ باطل اور vide and Null ہے۔ اور قابل مسترد ہے۔

اور من مدعی کے حقوق پر غور کرتے ہیں۔ سے جہد حکم امتناعی

دو امی و ٹیکسٹس بنا آمد علیہم کے لکچر نمبر 6547/Ace مورخہ 11/2008

ولکچر نمبر 556/58 مورخہ 2/2009 یا کو مسترد کر کے لکچر نمبر 4497/GB

مورخہ 11/2007 کو بحال کریں اور من مدعی کو اسماعی متذکرہ پر تعینات

یا دوبارہ بحال کر کے وہ تمام مراعات دیں جو کہ اسماعی متذکرہ کیسے

محقق ہے۔ جبکہ مدعی نے اسماعی متذکرہ پر کسی دیگر شخص کے

تعیناتی کے ارادے جاری نہ کریں اور مدعی نے 2 درج اسماعی متذکرہ

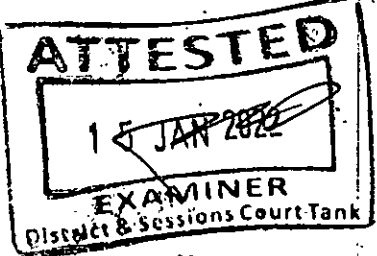
پر کسی دیگر شخص کی حاضری Arrival Report کو قبول کرے اور مدعی نے

اسماعی متذکرہ پر کسی دیگر شخص کی مابور تنخواہ پاس کرے یا ادارے سے

باز اور مجموعہ رہے اور مدعی من مدعی کو از سر حاضری تک

بحال مدعی ملذرت کی تمام تنخواہیں و دیگر مراعات مابور مانا

لکچر مقدمہ ادارے میں رہیں۔



حالت عالی

1۔ یہ کہ من مدعی کو مدعی نے بحال لکچر نمبر 4497/GB مورخہ 11/2007

بعد سے لکچر نمبر 11/2007 میں After completion of All code Jalmatis لکچر نمبر 11/2007

(11)

2- یہ کہ میں مدعی لکھنؤ از تعصباتی مدعیہ فریڈے 23 کے زیر نظر آتی

کا موقع اعتراضی مالہ کو نہیں دیا اور کہی کہ اپنی ڈیوٹی سے متعلقہ

اور اس طرح مدعیہ میں مدعی کو مایہ طور سے متوجہ نہیں کر کے لکھنؤ کے رہنے کی ضرورت موجود ہے۔

3- یہ کہ مدعیہ فریڈے ایم این اے ایم بی کے اور ناظمین

اور افسر سونہ اور سیاسی رہاؤ میں اگر میں عدالت کے پاس

کو بریلو لکھنؤ 6547/Acc مورخہ 11/2/2018 اور لکھنؤ 554/58 مورخہ

2/2/2018 کو ملک کسی توکس و سٹوکارز منسوخ کیا ہے۔ جو کہ سرکار

خلاف قانون اور لکھا ہے۔ اور میں مدعی کے حقوق پر غور ہے

اور قابل منسوخ ہے۔ فورٹ گالی لکھنؤ 6547 اور 554/58 لکھنؤ

4- یہ کہ میں مدعی کو مدعیہ مدد و نفع سے بہرہ حاصل کرنے سے روک

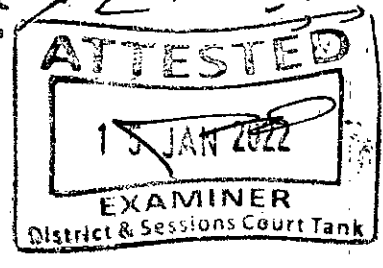
کونے توکس و سٹوکارز میں دیا ہے لکھنؤ مدعیہ فریڈے 23 کے

میں خلاف قانون اور لکھا ہے۔ اور میں مدعی کے حقوق پر غور ہے

5- یہ کہ جو الہ علیہ عدالت پنجاب مورخہ 2009 کے مدعیہ فریڈے

کو بند کر دیا مدعیہ گردانہ لکھا ہے۔ اسلئے ترمیمی عرضی دعویٰ

درج کی جاتی ہے۔



6۔ یہ کہ مدعیہ کو پتا اور پتلا مانگیا کہ وہ لکھنؤ 6547 عدالت میں

لکھنؤ 553/58 عدالت میں کو پیش کیا کہ اور میں عدالت
لکھنؤ کو حال کے اور میں مدعی کو اسامی متذکرہ سے ڈھکی لکھنؤ

دینے سے منع نہ کریں۔ لیکن مدعیہ کا اور التکاری ہے۔ اسلئے

صرف دعویٰ لکھنؤ ہوئی ہے۔

7۔ یہ کہ بنائے دعویٰ متعلق کتابت اور التکاری مدعیہ سے ڈھکی

یہاں ہوئی ہے۔ جو کہ دعویٰ انڈر معیار پور انڈر معیار اختیار سماعت

عدالت اکتاب ہے۔

8۔ یہ کہ لکھنؤ کورٹ میں اختیار سماعت حالت دعویٰ میں لکھنؤ

مقرر کی جاتی ہے جو کہ عدالت میں لکھنؤ میں لکھنؤ ہے لکھنؤ

اسلئے ہے کہ دعویٰ ترمیمی مدعی حسب فراغت و عنوان لکھنؤ

ترمیمی مدعی دعویٰ بحق مدعی (مدعی) پر خلدو مدعیہ کے فرم

مقدم ڈگری فرمایا جاوے۔

ملاحظہ

ATTESTED
15 JAN 2017
EXAMINER
District & Sessions Court Tank



محمد اللہ

19
5.09

F B

0-14
20.04.09

دفعہ عدالت کی طرف سے
درخواست گزار کے لئے منظور کیا گیا ہے۔
اور درخواست گزار کو اس کی طرف سے
مقررہ تاریخ پر عدالت میں حاضری
کرنی چاہئے۔
اس کے ساتھ ساتھ درخواست گزار کو
04/05/09 کو عدالت میں
حاضری کرنا ہے۔

SHABBIR MUHAMMAD
DURRANI
Order...15
04.05.2009. vii Judge, Tank

Plaintiff present. Representative of defendant present. Petitioner present.

Khan present.

My this order is directed to dispose of an application filed by Rais Khan for impleadment of his name in the penal of defendants in this suit.

Arguments on the application have already been heard and record perused.

Learned counsel for the petitioner while arguing submitted that the plaintiff has deliberately omitted to array the present petitioner as defendant. It is in the knowledge of plaintiff that on the subject competent authority has duly appointed post the petitioner. Therefore, the petitioner is necessary party to this suit. Hence, on the acceptance of this application the petitioner be added as defendant in this suit in order to defend his rights.

On the other hand learned counsel for the plaintiff argued that he has filed this file against proper persons. The plaintiff has challenged illegal acts of the defendants. The petitioner has got no concern with the relief claimed in this suit. Therefore, the petitioner is not a necessary party and this application has been filed just to linger on the litigation and harass the plaintiff. Hence, the application be dismissed.

While going to the record I found that on the same post both the plaintiff and petitioner were appointed by office of DCO, Tank. Admittedly there are orders of appointment in favour of petitioner. Moreover, there is an other suit also pending between the parties in the Court of learned senior Civil Judge, Tank regarding the same subject matter. Therefore, the status of petitioner cannot be denied to become a party in this suit. In the absence of present petitioner an effective decree cannot think of. Therefore, the petitioner is a necessary party to this suit and as such the application in hand is based on merits.

In view of the above the application in hand is accepted.

Plaintiff is directed to submit amended plaint, wherein the petitioner be added in the penal of defendant.

File to come up for submission of amended plaint on 14.05.2009.

04-05-09

ATTESTED
[Signature]
J. J. JINER
CIVIL JUDGE COURT

CJ, Tank.
[Signature]

در تقیید صد و یکاد...
 حکم بردار است...
 لکن در صورت...

0-22
 03-06-09
 8

در تقیید صد و یکاد...
 حکم بردار است...
 لکن در صورت...

0-22
 11.06.09

Order-# 23
 18.06.2009.

Parties present.

My this order is directed to dispose of an application filed by plaintiff/petitioner for grant of temporary injunction in terms to restrain respondents from appointment of any other person against the post of X-ray attendant in Rural Health Center Gul Imam, stopping of salary of the plaintiff/petitioner, acting upon letter No.6547/AC dated 0.11.2008 and asking them to pay salary to the plaintiff/petitioner regularly till disposal of instant suit.

The defendant No.7/respondant after impleadment of his name in the penal of defendants submitted his reply and hotly contested the application.

Arguments on the application have already been heard and record perused.

Learned counsel for the plaintiff/petitioner submitted that the plaintiff was validly appointed against the post of X-ray attendant in Rural Health Center Gul Imam vide Order No.4447/G-B dated 07.11.2007. While said appointment of plaintiff was illegally cancelled vide order No.6547/AC dated 04.11.2008 and order No.554/GB dated 04.02.2009. Said cancellation orders were because of political pressure on the defendants. Therefore, on the basis of order No.45447-GB dated 07.11.23007, the plaintiff/petitioner has got a good prima facie case in his favour. In case the defendants/respondents cancelled appointment order of plaintiff/petitioner, the latter would suffer from irreparable loss, as his suit would become in fructuous. Moreover, plaintiff/petitioner is

18-06-09
 ...

ATTESTED
 15 JUN 2009
EXAMINER
 District & Sessions Court Tank

8

9

working against the subject post; therefore, in case of his removal from said post, balance of inconvenience also tilts in his favour. Hence, the application be accepted.

Conversely, learned counsel for defendants Nbo.7/respondent advanced his submissions that no doubt plaintiff was appointed against the subject post. However, the same authority has cancelled these orders and appointed the defendants No.7/respondent against such post. Therefore, the plaintiff/petitioner has got no case in his favour. At the present appointment orders in favour of respondent/defendants No.7 are in field. Therefore, balance of inconvenience would lie in favour of defendants No.7/respondent, in case of grant of temporary injunction. In these circumstances, the plaintiff/petitioner cannot claim grant of temporary injunction in his favour.

Close reading of records available on file would reveal that plaintiff/petitioner was appointed against the subject post vide order No.4445/GB dated 07.04.2007 by DCO, Tank (the defendants No.1) while prior to that vide order No.2530-AC dated 05.07.2007. The defendants No.7/respondent was appointed against the same post, whose appointment was later on cancelled and plaintiff/petitioner was appointed in place thereof. At the present also appointment order in favour of defendants No.7/respondent is in field. Therefore, the plaintiff/petitioner at this stage has no case in his favour. The defendants No.7/respondent despite appointment orders are precluded from getting salary. Therefore, balance of inconvenience in case of grant of status quo lies in favour of defendants No.7/respondent. In these circumstances plaintiff/petitioner cannot talk of irreparable loss. Because loss of money is not irreparable.

For the reasons stated above, the application in hand does not qualify the merits of grant of temporary injunction. Hence, the same stands dismissed.

File to come up for framing of issues on 2-7-09.

Civil Judge, Tank
مولانا شہباز محمد
تلف

مدعی کی درخواست کو کامیاب نہ بنانے کے لئے
مدعی کی درخواست کو منظور نہیں کیا جائے گا
و فیصلہ کو اپیل کرنے کے لئے 11-7-09 کی تاریخ

5-24
2-7-9

ATTESTED
15 JAN 2009
EXAMINER
Sessions Court Tank

SHAEDR MUHAMMAD
DURRANI
Civil Judge, Tank

مدعی کی درخواست کو منظور نہیں کیا جائے گا
و فیصلہ کو اپیل کرنے کے لئے 11-7-09 کی تاریخ
داخل ہوئے ہیں گواہان کے

5-25
11-7-9

SHABBIR MUHAMMAD
DURRANI
Civil Judge, Tank

تاریخ 14-06-2011
نمبر قضاہ 31/11-08-2011
1603 جو
D

Order---40
14-06-2011

Parties present.

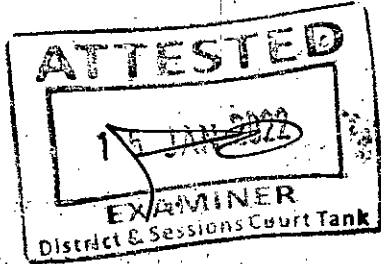
Plaintiff Saif Ullah in person alongwith counsel Mr. Sarwar Khan and Per Shafiq, Advocates present. Defendant No.07 namely *Raees Khan* also present in person.

In light of order passed by the August Peshawar High Court, D.I.Khan Bench, the Civil Court has got no jurisdiction because the matter in issue pertains to the terms and conditions of Service which exclusively falls within domain of Service Tribunal.

In view of above, the instant case file is therefore, consigned to Record Room after necessary compilation.

Order Announced
14-06-2011

MOHSIN ABBAS
Civil Judge-II, Tank



10

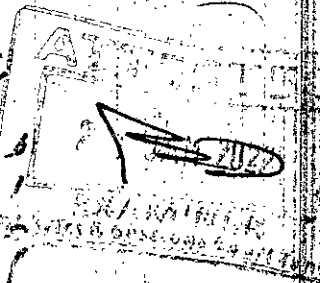
کتابخانه جامعہ اسلامیہ دارالعلوم دیوبند

MCB
کتاب نمبر ۱۰۷ - ۱۸۵۰
جلد اول
۱۱
۹

سید الشہداء والذعنات اللہ صلی اللہ علیہ وسلم
۱۱

- ۱ ڈسٹرکٹ بورڈ نیشن آفیر ہنگ "ٹائپ"
- ۲ ایگزیکٹو آفیسر ختم کیمپ "ٹائپ"
- ۳ ڈسٹرکٹ بورڈ آف نیشن آفیر ہنگ "ٹائپ"
- ۴ ڈسٹرکٹ بورڈ آف نیشن آفیر ہنگ "ٹائپ"
- ۵ چیف ایگزیکٹو آفیسر ہنگ "ٹائپ"
- ۶ ڈسٹرکٹ بورڈ آف نیشن آفیر ہنگ "ٹائپ"

اپنی بنیاد پر عمل درآمد کے لئے ضروری کاموں کی تکمیل
 سول جی ایچ ایچ ٹائپ بورڈ ۱۸-۰۶-۲۰۰۹ جس کا آرڈر
 ایگزیکٹو آفیسر نے صادر کیا ہے اس کے مطابق
 تمام کاموں کو اسی کے مطابق کرنا ہے تاکہ
 ڈسٹرکٹ بورڈ آف نیشن آفیر ہنگ کے
 اہلیانہ نہ کرے اور اس کے مطابق
 دیگر کاموں کو بھی اسی کے مطابق
 کرنا ہے۔

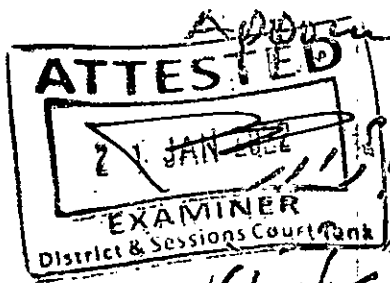


1. یہ کہ حکم عدالت 2009-6-18 قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
عدالت فون، رائے دہندگان اور ایف ایف ایف رائے دہندگان کے
قابل اعتراض ہے

6

2. یہ کہ عدالت نے اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
کراچی اور سندھ ہائی کورٹ 2008-11-29 کو
دفعہ 25(1) کے تحت اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
قابل اعتراض ہے۔ اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
اور اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف
اس میں قابل اعتراض نہ تھا کیونکہ اس وقت تک سول جج جج ایف ایف ایف

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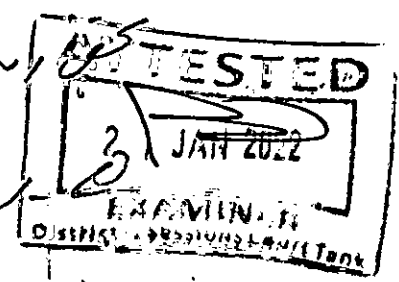
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کے لئے 13/6/2022 4447/2022

13 جنوری 2022 - اس کے قلم قبیل سنوڈ ہے

4 یہ ایسٹریڈ امریکی ریٹریعیاں دار گزار اور ایسٹریڈ ہے
 2 اور ایسٹریڈ امریکی ریٹریعیاں کے ساتھ ساتھ
 درج ذیل ریٹریعیاں کے ساتھ ساتھ
 درج ذیل سے ایسٹریڈ امریکی ریٹریعیاں کے ساتھ ساتھ
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5 یہ ایسٹریڈ امریکی ریٹریعیاں کے ساتھ ساتھ
 From the date of Arrival at only
 سرکاری کرنا ہے۔ اور ایسٹریڈ امریکی ریٹریعیاں کے ساتھ ساتھ
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 ایسٹریڈ امریکی ریٹریعیاں کے ساتھ ساتھ



بیتھن وراثت کا حکم ہے ^{1/4} 148/554/2009

2009 Depenal کر کے ریسم قانونی عملہ زمانا ہے

کسٹمر کنڈرہ نامہ 148/554/2009 کے عوارض کا حکم

کے قلمی 5 درجہ 11-28-11-2009 Status.

8 کے بارہ درجہ جاری ہے۔ جو اس کے بعد مذکورہ کی کوئی

قانونی حیثیت ہے۔ اور Act جاری ہے۔

اس کے لئے قابل قبول ہے

کفایت ہے۔ یعنی اس کے لئے دستوراً صحیح ہے

18-8-2009 کے حکم کا عملہ عوارض کا حکم سول جج کے لئے ثابت ہے

دستوراً صحیح ہے اور اس کے لئے اس کے لئے حکم جاری ہے

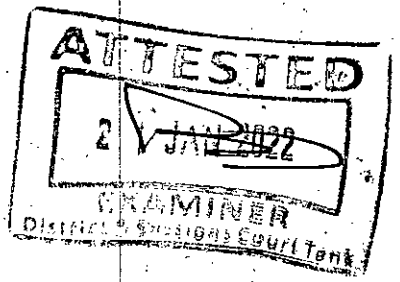
بیتھن وراثت کا حکم ہے تاکہ اس کے لئے حکم جاری ہے

17/17/17

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بیتھن وراثت کا حکم ہے



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IN THE COURT OF RAFI ULLAH KHAN
ADDITIONAL SESSIONS JUDGE TANK.

M.C.A No 07 of the year 2009

Saif Ullah son of Inayat Ullah r/o Gul Imam Tehsil & District Tank.

(Appellant)

VERSUS

District Coordination Officer Tank and 06 others

(Respondent) 20

Date of institution-----18.07.2009

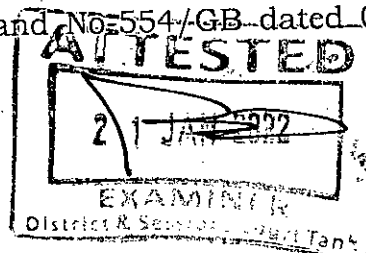
Date of Decision-----30.07.2009

JUDGMENT:

The instant appeal is directed against the interlocutory order dated 18.06.2009 passed by learned Civil Judge Tank where by the application of plaintiff (herein appellant) for grant of temporary injunction against the defendants (herein respondents) was rejected.

The back ground history of the present case is that plaintiff filed a suit for declaration to the affect that the appointment of plaintiff by defendants as a x-ray attendant in rural health centre Gul Imam through letter No-4447/G-B dated 07.11.2007 is correct, according to law and policy, while the cancellation of plaintiff appointment through the letters No- 6547/ACC dated 04.11.2008 and No-554/GB dated 04.02.2009 are wrong, against the law, based on malafide and result of political interference of the present MNA, MPA and Nazims, therefore liable to cancellation and in effective upon the rights of plaintiff. Plaintiff has also sought for permanent and mandatory injunction against the defendants for issuing directions of cancellation of letters of defendants No- 6547/ACC dated 04.11.2008 and No-554/GB dated 04.02.2009

30/7/2009
Additional District & Sessions
Judge Tank



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and restoration of letter/office order No- No-4447/G-B dated 07.11.2007 and reinstate the plaintiff with all benefits specified for the said post.

31

Plaintiff submitted an application with his plaint for the grant of temporary injunction against the defendants restraining them, have not to appoint any other person against the said post, and pay the regular salary to plaintiff till the decision of suit. The defendants were summoned. The plaintiff submitted amended plaint after implement of defendant no-7 name in the panel of defendants. The defendant no-7 contested the application for grant of temporary injunction and filed replication. The learned trial court after hearing arguments passed the impugned order. The applicant/plaintiff feeling aggrieved from the said order preferred the instant appeal.

I have heard the arguments of learned counsel for appellant Mr. Sarwar Khan Advocate and counsel for respondent no-7 Mr. Muhammad Zahid Advocate and gone through the record.

Learned counsel for appellant controverted the impugned order of the trial court and argued that the plaintiff was appointed as a x-ray attendant in rural health centre Gul Imam vide order 4447/GB dated 07.11.2007 but subsequently, the said order was illegally cancelled due to political interference vide officer letters no- 6547/AC dated 04.11.2008 and letter no- 544/GB dated 04.02.2009, so plaintiff has a good prima facie case and the other ingredients within the meaning of order 39 rule 1 CPC also exist in favor of plaintiff. Learned counsel for appellant in the light of his arguments submitted for acceptance of the instant appeal.

30/7/29
Additional District & Sessions
Judge Tank

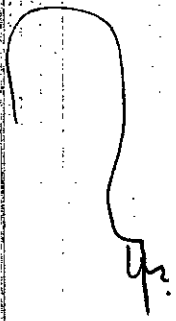
ATTESTED
21 JAN 2009
EXAMINER
District & Sessions Court Tank

17

On the other hand learned counsel for respondent no-7 bitterly opposed the contentions, advanced by appellant side and supported the impugned order. He argued that plaintiff was appointed on the said post but the same authority who appointed the plaintiff has cancelled the orders of plaintiff and appointed defendants no-7 and prior to plaintiff appointment, the defendant no-7 was serving on the said post and at present the appointment orders are in favor of defendant/respondent no-7. That plaintiff has got no prima facie case and the other ingredients of order 39 rule 1 are also not in favor of plaintiff. Learned counsel for respondent in light of his arguments submitted for rejection of appeal.

32

The available record on file would disclose that plaintiff/appellant was appointed against the said post through the order of defendant no-1 vide letter no 4445/GB dated 07.11.2007 and prior to the said order defendant no-7 was serving on the said post vide order of defendant no-1 vide letter no 2530/AC dated 05.07.2007. The defendant no-7 appointment was later on cancelled and plaintiff was posted on the said post vide above mentioned order of defendant no-1. At present the order of defendant no-1 vide letters dated 04.11.2008 and 04.02.2009 are in favor of defendant in field, so the plaintiff has no prima facie case and the other ingredients for grant of temporary injunction balance of inconvenience and irreparable are also not exist in favor of plaintiff as compared to defendant no-7. The authenticity of the orders of defendant no1 would be seen during trial by producing pro and contra evidence.

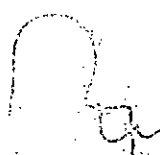


30/7/24
 Additional District & Sessions Judge Tank

ATTESTED
 21 JAN 2022
 EXAMINER
 District & Sessions Court Tank

In view of aforesaid reasoning the instant appeal having no substance on merit, hence dismissed with no orders as to cost. The parties are directed to appear before the trial court on 01/09/2009. The record of the trial court be sent forthwith while record of this court be consigned to record room after its completion.


Announced:
Dated: 30.07.2009

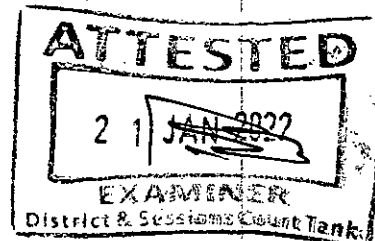

Rafiullah Khan,
Additional District Judge, Tank

CERTIFICATE

Certified that my Judgment consists of four pages. Each page has been read over, corrected and signed wherever necessary.

Dated: 30.07.2009


Rafiullah Khan,
Additional District Judge, Tank
Additional District & Sessions
Judge Tank



In the court of Refiqullah Khan

19

Additional District Judge,

TANK

(Saifullah Son of Inayatullah R/o. Buliamam
Tehsil and District Tank.

Plaintiff

Versus

District Coordination officer Tank
and 06 others

Defendant.

34

Claim in appeal

Appeal against
order Dated 18-6-9
By learned Civil
Judge Tank

Appellant By

Sarwar Khan Advocate.

Respondent By

Muhammad Zahid Advocate.

MEMO OF COSTS

Appellant	Amount	Respondent	Amount
1. Stamp for memorandum of appeal.	Rs. }	Stamp for power	Rs. }
2. Stamp for power	Rs. }	Stamp for petition	Rs. }
3. Stamp for processes	Rs. }	Stamp for processes	Rs. }
4. Pleader's fees on Rs.	Rs. }	Pleader's fee on Rs.	Rs. }
5. Miscellaneous.	Rs. 78	Miscellaneous.	Rs. }
TOTAL	Rs. 78	TOTAL	Rs. NIL

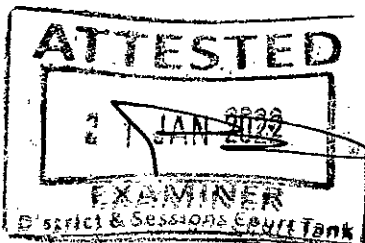
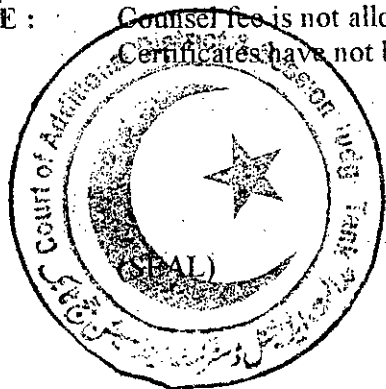
Given Under my hand and seal of the court this

18th

day of

19-09-2009

NOTE : Counsel fee is not allowed to the parties as the Prescribed Certificates have not been filled.



Handwritten signature of the District Judge.

District Judge,

TANK
Additional District & Sessions
Judge Tank.

عقل در امور اولاد کما فی الاموال
بشمول بعدالت در حقه
شماره مقدمه ۱۶۶۶ رجوع
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EXAMINER
District & Sessions Court Tank

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02-10-09
کدورت فاب لائسنس

تہہ لیکچر
سی ایس
دعوی

دعوی استغراق

در فرست نمود این کہ دعوی در دعایہ نومہ بردن
نمودن دیکہ نامیک

کتابخانه
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ATTESTED
19 JAN 2022
EXAMINER
District & Sessions Court Tank



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فارم نمبر ۱۲۹

تاریخ وار خلاصہ احکام

بعدالت

مقام ٹانک

عنوان اپیل یا مقدمہ دیوانی

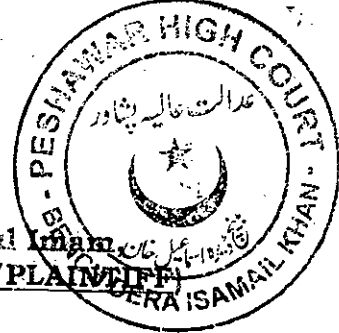
۱	۲	نمبر شمار و تاریخ حکم
<p>درخواست توہین عدالت بذریعہ وکیل درگزر درین بارہ سے متعلقہ ہو۔ نوٹس سب سے علیحدہ طور پر ۱۹/۹/۲۰۱۹ سبیل جاوید کوٹلی کی وکیل عدالت ڈسٹرکٹ جو اباطلی ہوئی۔ جدید نوٹس سبیل جاوید کوٹلی جاری ہوئے۔</p> <p>SHAEER MUHAMMAD DURRANI Civil Judge/Judicial Magistrate Tank</p>	<p>خلاصہ حکم</p>	<p>۰-۱ 01.09.09 1</p> <p>۰-۲ 19-9-9 1</p>
<p>فریقین خانہ وکیل سبیل خانہ۔ حصول عدالت اہمالاً طافریا اور درخواست تخریبی کی حکم عدالت کی تعمیل کی گئی ہے لہذا دفتر عدالت نیا دراصل دفتر عدالت بدین میں قائم ہوگا۔ رہے دفتر عدالت تخریبی کہہ درخواست توہین عدالت ذریعہ کاروانی دفتر دفتر قضاوت۔</p> <p>بدین و درخواست نیا الصنف کی تخریبی کارخانہ تخریبی دفتر عدالت۔</p> <p>مولانا اجود شیل بمسخرت ٹانک</p>		<p>۰-۳ 02.10.09</p> <p>ATTESTED 15 JAN 2022 EXAMINER District & Sessions Court Tank</p>

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BEFORE THE PESHAWAR HIGH COURT,
D.I.KHAN BENCH

Civil Revision Petition No. 347 /2009

Saif Ullah son of Inayat Ullah, resident of Gul Imam
Tehsil & District Tank.....(PETITIONER/PLAINTIFF)



VERSUS

1. District Coordination Officer, District Tank.
 2. Executive Officer, Health Department, District Tank.
 3. Medical Officer, Incharge Rural Health Centre, Gul Imam, District Tank.
 4. District Accounts Officer, District Tank.
 5. Chief Secretary, Govt of NWFP, Peshawar.
 6. Accountant General, NWFP Peshawar.
 7. Rais' Khan son of Jumma Khan Caste Sheikh, resident of Gul Imam, District Tank.
-(RESPONDENTS/DEFENDANTS)

REVISION PETITION AGAINST THE DATED 30.07.2009 OF ADDITIONAL DISTRICT JUDGE TANK, WHEREBY PETITIONER'S APPEAL AIMED AGAINST THE INTERLOCOTORY ORDER DATED 18.06.2009 OF CIVIL JUDGE, TANK, (REFUSED THE RELIEF OF TEMPORARY INJUNCTION) WAS DISMISSED.

PRAYER

On acceptance of this petition, the impugned judgment dated 30.07.2009 of Additional District Judge, Tank and that of Civil Judge, Tank dated 18.06.2009 may please be set aside and by allowing the petitioner's application dated 04.11.2008 for issuance of interim relief, the temporary injunction as prayed for therein may kindly be granted in favour of the petitioner as against respondent.

Respectfully Sheweth;

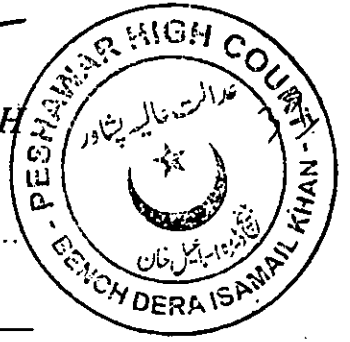
ATTEST

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

21/01/09

24

JUDGMENT SHEET
PESHAWAR HIGH COURT, D.I.KHAN BENCH
JUDICIAL DEPARTMENT



C.R. No. 347 of 2009

with C.M.s. 109-135+164/11.

Date of hearing 27-5-2011.

Appellant-petitioner Saifullah J by Mr. Saad Khan Kundi Advocate

Respondent DCO Saifullah J by Mr. Saad Khan Kundi Advocate for respondent no. 7.

ATTAULLAH KHAN J.- This revision petition is directed against the order dated 30/7/2009 passed by the learned Additional District Judge Tank, whereby appeal of the petitioner, namely, Saifullah Khan, against the order dated 18/6/2009 passed by the learned Civil Judge Tank refusing his application for temporary injunction was dismissed.

2. Briefly stated facts of the case leading to the filing of this revision petition are that the plaintiff/petitioner Saifullah Khan has sought declaration to the affect that his appointment order as an X-Ray Attendant through letter No. 4447/G-B dated 7/11/2007 is correct in accordance with law/policy and that letter No.6547/ACC dated 4/11/2008 and letter No. 554/GB dated 4/2/2009 whereby his services were terminated are incorrect, against law and thus liable to be declared null and void. Alongwith the plaint, the plaintiff filed an application for temporary injunction for restraining

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ATTESTED

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

21/01/2022

the defendants to appoint any other person against the said post and for issuance of direction to them for payment of regular salary to him.

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3. The defendants were summoned who filed replication and contested the said application but it was dismissed by the trial Court whereagainst appeal of the plaintiff/petitioner also met the same fate and hence this revision petition.

4. I have carefully gone through the record and considered the submissions of the learned counsel for the parties.

5. The contents of the plaint reveals that it is a matter where the Civil Court has no jurisdiction because it pertains to the terms and conditions of service which exclusively falls within the domain of KPK Services Tribunal.

6. However, I treat the civil suit of the plaintiff/petitioner as representation on behalf of the petitioner and remit it to the Secretary, Health Services KPK for disposal strictly on merits and in accordance with law within a period of fifteen days after receipt of this order.

7. The revision petition alongwith its CMs are disposed off accordingly.

ANNOUNCED
27/5/2011.

[Signature]
JUDGE

ISSUED

Addl Registrar
Date 28.5.11

ATTESTED

EXAMINOR

Peshawar High Court Bench,
Dera Ismail Khan

[Signature]
27/5/11

21/01/2022

G.R.No. 5648
Application Received on 16.12.021
Copying Fee deposited Rs —
No of Papers 14
Conving Fee 08/—
Urgent Fee —
Total Fee —
Copy ready for delivery 21.01.022
Copy delivered on 21.01.022
Signature of Examiner [Signature]

Certified to be true Copy

[Signature]

EXAMINOR
Deshwar High Court Bench D I Khan
Authorized under Section 97 of
Qanun-e-Shahadat Act

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26

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. 460/2010

Saif ullah Khan..... (Appellant)

Versus

Govt of K.P.K through Secretary Health etc ... (Respondents)

WRITTEN REPLY ON BEHALF OF RESPONDENTS No 1-4.

Respectfully Sheweth,

Respondents humbly submit as under:-

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is not maintainable and incompetent
3. That the appellant is estopped due to his own conduct.
4. That the appellant cannot claim appointment as a vested right
5. That the appellant has got no cause of action and locus standi.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is bad for misjoinder/non-joinder of necessary parties.
8. That the appellant has concealed the material facts from Honourable Tribunal.
9. That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

BRIEF FACTS

1. This para relates to official record.
2. This para also pertains to record.
3. This para is also concerned with record.
4. This para is correct to the extent that Civil Suits was filed by the appellant and respondent no 6.
5. This para is incorrect and not admitted. The Civil Court has no jurisdiction to adjudge in to the service matters.
6. This para pertains to record.
7. This para is correct to the extent that revision petition was treated as representation on behalf of the appellant and transmitted to the respondent no 1 for disposal strictly

in merit in accordance with law. In light of the directions, the same was decided in the favour of respondent no 6 in shape of re-instatement in to service.

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8. This para needs no comments:

GROUND

- a) Incorrect hence not admitted. The order was passed after fulfilling all codal formalities according to law.
- b) Incorrect hence denied. As stated above.
- c) Incorrect, hence denied.
- d) Incorrect. No departmental appeal was ever filed by the appellant; however, the Honourable High Court treated the revision petition as representation on behalf of the appellant.
- e) Needs no reply.

PRAYER

It is, therefore, most humbly prayed that on acceptance of this para-wise comments, the appeal being devoid of legal footings and merit may graciously be dismissed with cost.

M. M. M.

Secretary (Health)
Govt Of Khyber Pakhtunkhwa, Peshawar
Respondent No 1

M. M. M.
Director General (Health Services)
Khyber Pakhtunkhwa, Peshawar
Respondent No 2

[Signature]
(Deputy Commissioner)
Tank
Respondent No 3

[Signature]
(District Health Officer)
Tank
Respondent No 4

Vetted

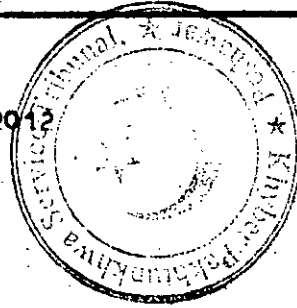
Nahay
G/S/Minister

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M

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

S.F.A No. 460 2012



M. W. J. Durrani
Secretary
Story No. 369
Dated 17-3-12

Saifullah Khan S/O Inayatullah Khan
R/O Gul Imam Tehsil and Distt:
Tank.

Appellant.

V/S

1. Govt of Khyber Pakhtunkhwa through Secretary Health Deptt: Peshawar.
2. The Director General K.P.K. Health Department Peshawar.
3. D.C.O. Distt: Tank.
4. Executive Distt: Officer Health Distt Tank. ✓
- X 5. Distt: Accounts Officer Tank. ✓
6. Raees Khan S/O Jumma Khan
R/O Gul Imam Tehsil and Distt:
Tank, C/C Incharge; R.H.C. Imma Khel Distt: Tank.

ATTESTED

Secretary
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Su
17/3/12

Appeal u/s 4 of Service Tribunal Act 1974
(FURTHER) REPRESENTATION AGAINST THE ORDER DATED. Su

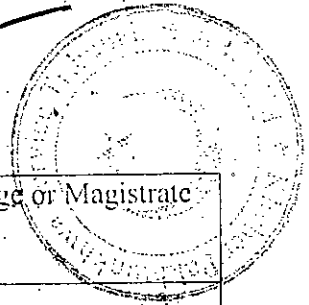
Filed to Su
17/3/12

18.02.2012 PASSED BY THE RESPONDENT NO.1 TERMED AS APPELLATE AUTHORITY BY THE HON'BLE PESHAWAR HIGH COURT D. I. KHAN IN CIVIL REVISION NO. 347/2009 VIDE ORDER DATED. 27.5.2011 ; WHEREBY THE SAID MEMO OF APPEAL IN THE FORM OF C.R.No. 347/2009 HAS BEEN TURNED DOWN AND THE RESPONDENT NO. 5 HAS BEEN RE-INSTATED IN SERVICE WITH IMMEDIATE EFFECT VIDE ORDER NO. SOH/Lit/12-1317 /2011 DATED. 18.2.2012 CIRCULAR NO. 754 DATED. 25.2.2012 OF

Co-submitted to Su
and filed.


Registrar
13/4/12

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S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	22.02.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT D.I KHAN.</u></p> <p style="text-align: center;">APPEAL NO.460/2012</p> <p style="text-align: center;">(Saifullah Khan-vs-Govt. of Khyber Pakhtunkhwa through Secretary Health Department Peshawar and others.)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH. MEMBER:</u></p> <p>Counsel for the appellant (Mr. Rustam Khan Kundi, Advocate) and Dr. Kashif Adnan, alongwith Mr. Farhaj Sikandar, GP for official respondents No. 1 to 5 and counsel for private respondent No.6 (Mr. Gul Taiz Khan Marwat, Advocate) present.</p> <p>2. The facts stated before the Tribunal are that respondent No.6 Raees Khan was appointed as X-ray Attendant vide order dated 05.07.2007 which order was cancelled vide another order dated 01.11.2007 and on the said post appellant was appointed vide order dated 07.11.2007. This appointment order of the appellant was also cancelled by another order dated 04.06.2008 against which appellant filed a civil suit. The matter went up before the Hon'able Peshawar High Court D.I Khan Bench which vide its order dated 27.05.2011 held that the Civil Court has no jurisdiction and thus remitted the case to Secretary Health Services to be treated as representation of the appellant. Secretary Health vide his impugned order dated 18.02.2013 restored appointment</p>

ATTESTED


MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

order of private respondent No.6 meaning whereby that representation/departmental appeal of the appellant was rejected.

3. Arguments heard and record perused.

4. It was submitted by learned counsel for the appellant that no opportunity of hearing was provided to the appellant before passing the impugned order and that the same has also non-speaking order.

5. While assisting learned counsel for private respondent no.6, learned GP stated that appointment of the respondent No.6 as on contract basis and that this Tribunal has got no jurisdiction in the matter.

6. After hearing pro-contra arguments, The Tribunal is of the considered view that since opportunity of hearing is a substantial right of a civil servant before any adverse order against him, therefore, by following up this cardinal principle of justice, The Tribunal deem, it appropriate to remit the case to the respondent-department to give full opportunity of hearing to the appellant and to pass a speaking order in accordance with law. Appeal disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

Sd/- Dr Bakhsh Shah, Member

Sd/- Abdul Latif, Member

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

22.02.2016

Date of Presentation of Application 04-03-2016
Number of Words 1200
Copying Fee 8-00
Urgent 2-00
Total 10-00
Name of Copyist [Signature]
Date of Completion 04-03-2016
Date of Payment 04-03-2016

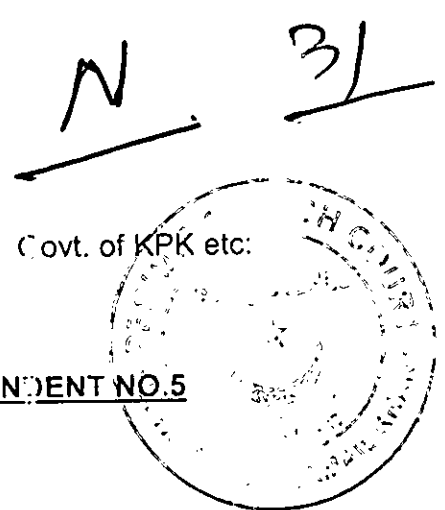
BEFORE THE PESHAWAR HIGH COURT. D.I.KHAN BENCH

W.P.No.70-D/2018

Raees Khan

Versus

Covt. of KPK etc:



PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO.5

RESPECTFULLY SHEWETH:

1. That the petitioner has got no cause of action or locus standi to file the instant petition.
2. That the petitioner deliberately concealed the material facts from this Honorable Court
3. That the petition is liable to dismissal due to mis-joinder and non-joinder of necessary parties.
4. That the petitioner does not come to this Honorable Court with clean hands.
5. That the instant writ petition is not maintainable in its present form.

ON GROUNDS:

1. That the para No.1 of the writ petition does not relate to the answering respondent hence, no comments.
2. That the Para No.2 of the writ petition is correct, because the then District Coordination officer, District Tank cancelled the appointment order of petitioner and one Saif Ullah was appointed.

ATTES DEL
24-06-18
EXAMINOR
Peshawar High Court
D.I. Khan Bench

3. That the Para No.3 of the writ petition does not relate to the answering respondent.

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4. This Para is correct. Pertains to record.

5. This Para is correct. But as such no powers of delegation is consigned to the answering respondent to probe into the matter of payment of arrears of salaries to the petitioner, this matter is already in progress at Principal office i.e. the office of Director General Health Services and no final decision has been received so far.

6. That the reply already submitted through Para No.5 above.

7. The matter of arrears of the petitioner is still pending before respondent No.3 and does not relate to the answering respondent.

8. That the petitioner has not an aggrieved person hence no rights to invoke the jurisdiction of this Honorable Court with filing of writ petition in hand.

ON GROUNDS.

A. That all the actions of respondents are just, legal under the prescribed law and policy and no discrimination was made on the part of answering respondent. As the petitioner has not performed any duties so no salary can be given to the petitioner.

B. The reply submitted through above paras, hence no comments.

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D.I. Khan Sec. 03

C. Incorrect. Denied. The issue of petition: already in progress in the office of DG Health, no comments.

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D. No comments.

E. This Para is legal, hence no comments.

It is, therefore, most humbly prayed that on acceptance of Para Wise comments, this Honorable Court may very graciously be please to d smiss the writ petirion of the petitioner with costs throughout.

N. N. N.
DISTRICT HEALTH OFFICER
District Tank. (Respondent No.5)

ATTEST
24-06-18
EXAMINOR
Peshawar High Court
District Tank