

23.10.2019

Learned counsel for the petitioner present. Mr. Usman Ghani
learned District Attorney present.

Arguments heard. File perused.

Learned counsel for the petitioner argued that this Tribunal accepted the Service Appeal No.1325/2014 filed by the petitioner vide common judgment dated 19.09.2017, in Service Appeal No.1329/2004, with all back benefits, however vide order dated 30.11.2017, respondent department implemented the judgment to the extent of reinstatement of the petitioner and without allowing back benefits. Learned counsel for the petitioner stressed that under the common judgment passed in Service Appeal No.1329/2014, the petitioner is also entitled to the back benefits.

On the other hand, learned District Attorney argued that no back benefits were granted to the petitioner rather the issue of back benefits was left to be decided in the de-novo proceedings; that consequent upon the de-novo proceedings the petitioner was reinstated with immediate effect vide order dated 30.11.2017.

Perusal of common judgment in question dated 19.09.2017 would show that, the petitioner was reinstated in service leaving the respondent department at liberty to conduct fresh inquiry and the issue of back benefits was made subject to the outcome of de-novo proceedings.

Admittedly the petitioner has been reinstated in service. Learned counsel for the petitioner remained unable to demonstrate that back benefits were also allowed to the petitioner vide common judgment dated 19.09.2017 in Service Appeal No.1329/2014.

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



(Muhammad Hamid Mughal)
Member
Camp Court, A/Abad

ANNOUNCED.

23.10.2019

19.06.2019

Counsel for the petitioner and Mr. Muhammad Bilal, DDA alongwith Dr. Minhaj Ul Haq, DHO, Battagram (respondent no.3), Mr. Muhammad Naeem, Assistant Director and Mr. Jafar Ali, Assistant for respondents present.

Representative of the respondents produced implementation report as asked for vide order sheet dated 16.04.20196 alongwith a copy of de-novo enquiry report conducted against the petitioner. Both the documents are placed on record. Case to come up for further proceedings on 20.08.2019 before S.B at camp court Abbottabad.



(Ahmad Hassan)
Member
Camp Court A/Abad

20.08.2019


Learned counsel for the petitioner present. Mr. Muhammad Bilal learned Deputy District Attorney present. Learned counsel for the petitioner seeks adjournment. Adjourn. To come up for further proceedings on 23.10.2019 before S.B at Camp Court, Abbottabad.



Member
Camp Court A/Abad


18.02.2019

Counsel for the petitioner present. M/S Amjid Ali, Assistant and Jaffar Shah, Assistant alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present and requested for adjournment. Adjourned to 16.04.2019 for further proceedings before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

16.04.2019

Counsel for the petitioner present. Mr. Muhammad Bilal, DDA alongwith Mr. Jafar Ali, Assistant for respondents present. Implementation report not submitted. Last opportunity is granted to the respondents for submission of implementation report, failing which coercive measures in the shape of attachment of salary and civil imprisonment would be adopted against them. Case to come up for further proceedings on 19.06.2019 before SB at camp court Abbottabad.


(Ahmad Hassan)
Member
Camp Court A/Abad

19.09.2018

Since 21st September, 2018 has been declared as public holiday on account of Moharram, therefore, case is adjourned to 15.11.2018 for implementation report before the S.B at camp court, Abbottabad.



Chairman

Camp court, A/Abad

15.11.2018

Counsel for the appellant and Tauseef Ullah SO for the respondents present. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 15.01.2019 at camp court Abbottabad.



Reader

A/Abad

15.01.2019

Petitioner with counsel and Mr. Muhammad Bilal learned Deputy District Attorney alongwith Amjid Ali Assistant present. Implementation report not submitted. Representative of respondent department requested for time to furnish implementation report. Granted. To come up for further proceedings/implementation report 18.02.2019 before S.B at camp court Abbottabad.



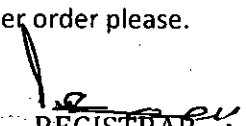


Member

Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _181/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.06.2018	<p>The execution petition submitted by Mr. Amraiz Khan through Hamayun Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	13.06.2018	<p>This execution petition be put before Touring S. Bench at A.Abad on <u>18-07-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
18.07.2018		<p>Mr. Hamayun Khan, Advocate on behalf of the petitioner present. Notices be issued to the respondents. To come up for implementation report on 20.09.2018 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp Court, A/Abad</p>

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Execution Petition No. 125 /2018

Ayaz Muhammad son of Khan Bahadur, resident of Gulzar Abad Koza Banda, Tehsil and District, Battagram, (EPI Technician BHU Jambera Allai)

...PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Health Peshawar & others.

...RESPONDENTS

APPLICATION

INDEX

<i>S. #</i>	<i>Description</i>	<i>Page #</i>	<i>Annexures</i>
1.	Application	1 to 2	
2.	Copy of judgment	<u>3-7</u>	"A"
3.	Copy of order dated 16/11/2017	<u>8-10</u>	"B"
4.	Copy of appeal/ representation	<u>11</u>	"C"

...PETITIONER

Through

Dated: 24-5 /2018


(HAMAYUN KHAN)

Advocate High Court, Abbottabad
Office No. 15, New Lawyers Plaza,
Kutchery Compound Abbottabad
Cell No. 0312-0861681

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Execution Petition No. 175 /2018

Ayaz Muhammad son of Khan Bahadur, resident of Gulzar Abad Koza Banda, Tehsil and District, Battagram, (EPI Technician BHU Jambura Allai)

...PETITIONER

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 616

Dated 31/05/2018

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa Peshawar.
3. District Health Officer Battagram.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 19/09/2017 PASSED BY
THIS HONOURABLE TRIBUNAL IN APPEAL
NO. 1325/2014 TITLED "AYAZ MUHAMMAD
V/S DHO & OTHERS.

Respectfully Sheweth:-

1. That petitioner filed service appeal No. 1325/2014 against impugned order passed by respondent No 3.
2. That on 19/09/2017 after hearing of arguments this Honourable tribunal accepted appeal of the petitioner alongwith all back benefits. Copy of judgment is attached as annexure "A".

3. That on 30/11/2017 respondent No. 3 partially implemented judgment to the extent of reinstatement and refused back benefits. Copy of order is annexed as Annexure "B".
4. That after laps of 90 days respondents not fully implemented judgment of this Honourable Tribunal and similarly they have not filed any appeal before August Supreme Court of Pakistan against the judgment of this Honourable Tribunal.
5. That petitioner filed application before respondent No. 2 for full implementation of judgment instead of complying with the direction of this Honourable Tribunal, but till date not comply with the direction of this Honourable Tribunal. Copy of application is annexed as Annexure "C".
6. That other point would be raised at the time of arguments with kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed forth with comply with the direction of this Honourable Tribunal contained in judgment dated 19/09/2017 in it true letter and spirit



...PETITIONER

Through

Dated: 24-5/2018



(HAMAYUN KHAN)

Advocate High Court, Abbottabad

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR



Service Appeal No 1325 2014

1304
23-10-2014

Ayaz Muhammad S/O Khan Bahadar R/O Village Gulzar Abad,
Kooza Banda, Tehsil and District Battagram

(Appellant)

V E R S U S

1. District Health Officer, Battagram
2. Government of Khyber Pakhtunkhwa, through Secretary Health, Peshawar
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar
4. Secretary to Government, Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar
5. District Accounts Officer, Battagram
6. Dr. Shehzad Ali Khan, The Ex-DHO, Battagram
7. Dr. Aqeel Bangash, The Ex-DHO, Battagram
8. Muhammad Jamil, Assistant Director (Personnel-II), Directorate General, Health Services, Peshawar
9. Dr. Niaz Muhammad, SMO, Civil Hospital, Battal, Battagram
10. Deputy Commissioner, Battagram
11. Secretary to Government of Khyber Pakhtunkhwa, Establishment & Administration Department

[Handwritten signature]

[Handwritten signature]
23/10/14

re-submitted to-day and filed.

ATTENDED
[Handwritten signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Abbottabad

(Respondents)

4

19.07.2017

Clerk of counsel for the appellant and Mr. Muhammad Bilal, DDA for the respondents present. Due to general strike of the Bar, counsel for the appellant is not in attendance. Adjourned. To come up for final hearing on 19.09.2017 before the D.B.

[Signature]
Member

[Signature]
Chairman
Camp court, A/Abad

19.09.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Dr. Muhammad Irshad, Dr. Ashfaq, Amjad Ali, Assistant and Yar Gul, Senior Clerk for the respondents present. Arguments heard and record perused.

This appeal is also accepted as per our detailed judgment of today in connected service appeal No.1329/2014, entitled "Afsar Muhammad Khan Vs. District Health Officer, Batagram and others". Parties are left to bear their own costs. File be consigned to the record room.

*sd/ Chairman, Camp Court
Abbottabad*

Announced sd/ Member

19-9-17

Date of Presentation of Application: *19-9-17*
Number of Petitions: *1*
Court Fee: *600*
Date of Delivery of Copy: *20-9-17*

Certified to be true copy

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Abbottabad

*Attested
14
[Signature]*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD



Service Appeal No. 1329/2014

Date of Institution... 23.10.2014

Date of decision... 19.09.2017

Afsar Muhammad Khan S/O Muhammad Khan
R/O Village Gidri Khair Abad, Tehsil & District Battagram ... (Appellant)

Versus

1. District Health Officer, Battagram and 9 others (Respondents)

MR. ABDUL AZIZ TANOLI,

Advocate

... For appellant.

MR. MUHAMMAD BILAL

Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,

MR. MUHAMMAD AMIN KHAN KUNDI,

... CHAIRMAN

... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall dispose of the instant service appeal as well as service appeals No. 1325/2014 Muhammad Ayaz, No. 1327/2014 Mst. Mumtaz, No. 1328/2014 Muhammad Shakeel and No. 1330/2014 Niaz Muhammad as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

All the five appellants were served with show cause notice on 10.06.2014 under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rule, 2011.

All the appellants submitted replies to the show cause notice and thereafter the impugned order dated 03.07.2014 was passed by the competent authority, imposing major penalty

Camp Court, Abbottabad
 Khyber Pakhtunkhwa
 Service Tribunal
 EXAMINER

Alleged
 4/11/17

of removal from service. Against this impugned order, the appellants filed departmental appeals on 5.07.2014 which were not responded to and thereafter the present appeals on 23.10.2014.

ARGUMENTS

4. The learned counsel for the appellant argued that no specific charge has been leveled in the show cause notice. That the charge is only in general terms regarding violation of the rules/slandered criteria of the Government in the appointment. That in the show cause notice the regular enquiry has not been dispensed with nor any enquiry was conducted. That no charge sheet and statement of allegations were served on the appellants as there was no enquiry at all. That it is not made known to the appellants that under which specific charge show cause notice has been served upon them. That only in the reply of the respondents in present appeals in ground-C, it has been mentioned that the appellants were terminated on the ground of fake diploma. That even in the impugned order no specific detail of proof of any charge has been mentioned. That in the light of such casual approach of the authority, the penalties imposed on the appellants, cannot be sustained.

5. On the other hand, the learned Deputy District Attorney, argued that the then DHO Batagram (Dr. Aqeel Bangash) had made certain appointments in violation of law and rules. That an enquiry was conducted against that DHO and in that enquiry certain irregularities were pin pointed by the enquiry committee. That those illegalities/irregularities were made the basis of the show cause notices against the appellants. He further argued that there is no illegality in the disciplinary proceedings.

CONCLUSION.

The very show cause notice is in general term giving no specific detail of the charge/charges against the appellants. In absence of any specific charge/charges no proceedings could be initiated against the appellants. The authority has also not mentioned that why a regular enquiry was not being conducted. So much so that no order

Allesed
14
Dr

of dispensing with the regular enquiry was made by the authority much less the reasons for dispensing with the enquiry. The appellants have approached the departmental authority against the impugned order and have approached this Tribunal well within time. It is clear from the above facts and circumstances that the whole proceedings are illegal and cannot be sustained in the eyes of law. If any specific charge like fake diploma was leveled against the appellants, then that should have been mentioned in the show cause notice, at least. Non mentioning of this charge or any other charge, has deprived the appellants from defending themselves in proper way,

7. In view of the above, the appeals are accepted and the appellants are reinstated in service. However, the department is at liberty to conduct fresh enquiry by following the concerned law and rules and if the department decides that fresh proceedings should be initiated then those should be completed within a period of 3 months from the date of receipt of this judgment. The issue of back benefits of the appellants shall be subject to the final outcome of denovo proceedings, if any. Parties are left to bear their own costs.

File be consigned to the record room.

*Sd/- Niaz Muhammad Khan, Chairman
Camp Court, Abbottabad.*

*Sd/- Muhammad Amin Khan Kundi,
Member.*

Announced
19-09-17

*Attested
19/9/17
Ja*

Certified to be true copy

Sd/- Suble

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Abbottabad

Date of Presentation of Application 19-9-17
 Number of Words 1200
 Copying Fee 8-00
 Urgent 8
 Total 8-00
 Name of Copyist FAZ LE SUBHAN
 Date of Completion of Work 20-9-17
 Date of Delivery of Copy 20-9-17



3 Amare 18th (8)

OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

No. 9245-50 / Dated 30/11/2017

OFFICE ORDER.

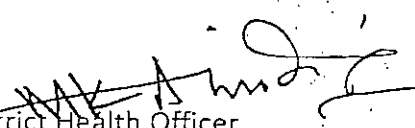
As per the decision of Honorable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbott Abad vide judgment dated 19/09/2017, Director General Health Services KPK Peshawar vide his letter No 6594-97 Dated 12/10/2017 and on the recommendation of enquiry committee the following officials are hereby re-instated/ posted/ adjusted into services with immediate effect.

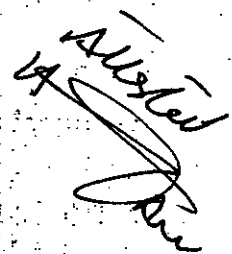
1. Mr. Niaz Muhammad EPI Technician BPS-12 BHU Pashto
2. Mr. Shakeel Ahmed EPI Technician BPS-12 BHU Sakargah
3. Mr. Afsar Muhammad EPI Technician BPS-12 BHU Paimal
4. Mr. Ayaz Muhammad EPI Technician BPS-12 BHU Jambera
5. Mst: Mumtaz Begaum EPI Technician BPS-12 RHC Thakot

District Health Officer,
Battagram

Copy forwarded to the;--

- 1) Chairman Honorable Service Tribunal Camp Court Abbott Abad Bench for information please
- 2) Director General Health Services KPK with reference to his letter No 6594-97 Dated 12/10/2017 please
- 3) District Accounts officer Battagram for information
- 4) Incharge BHU Pashto, BHU Sakargah, BHU Jambera, BHU Paimal Sharif & RHC Thakot for information.
- 5) Account Section office of the undersigned for information and N/A
- 6) Officials concerned for information and compliance


District Health Officer,
Battagram


Assistant District Health Officer

##

9



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997310507)

OFFICE ORDER

As per decision of Honorable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad vide Judgment dated 19.09.2017 and Director General Health Services Khyber Pakhtunkhwa Peshawar vide his letter No. 6594-97 dated 12.10.2017, the following officials are hereby re-instated into services with immediate effect:-

1. Afsar Muhammad PHCT (MP) EPI BPS-12
2. Ayaz Muhammad PHCT (MP) EPI-BPS-12
3. Miss Mumtaz PHCT (MP) EPI - BPS-12
4. Muhammad Shakeel PHCT (MP) EPI BPS-12
5. Niaz Muhammad PHCT (MP) EPI BPS-12

District Health Officer
Battagram

No. 9170-74
/2017

Dated: 20 / 11

Copy forwarded to the:-

1. Honorable Service Tribunal Court Camp Court Abbott Abad Bench for information.
2. Director General Health Services KPK with reference to his No. 6594-97 dated 12.10.2017.
3. District Accounts Officer Battagram for information.
4. Account Section undersigned office for further necessary action under the rule.
5. Officials concerned for compliance.


District Health Officer
Battagram


Allasted
Dan

10

10

To,

The District Health Officer,
Battagram

Subject;- ARRIVAL REPORT.

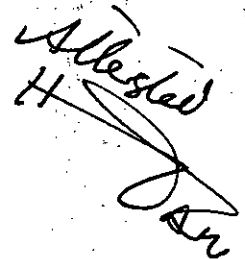
Sir,

Most respectfully that under your office order number 9170-74 Dated 20.11.2017 I submit my arrival today on 20-11-2017 After noon in your office. So the report is submitted for your kind information and further necessary action please.

Your Obediently



Ayaz Muhammad PHCT (MP) EPI
BPS-12 DHO Office Battagram.
20.11.2017



بخدمت جناب ڈائریکٹر جنرل ہیلتھ سروسز صوبہ خیبر پختونخواہ

Amar

11

اپیل برائے سابقہ تمام مراعات / تنخواہیں Back Benefits

عنوان:

اپیل برخلاف حکم محررہ 30/11/017 ڈسٹرکٹ ہیلتھ آفیسر بگرام جسکی رو سے ایپلانٹ کو DHO بگرام نے نوکری پر بحال تو کیا لیکن سابقہ تمام مراعات / تنخواہوں سے محروم رکھا۔ جو کہ خلاف قانون و خلاف واقعات ہے۔ اور حقوق ایپلانٹ پر باطل و کالعدم ہے۔ استدعا ہے کہ ایپلانٹ کو تمام سابقہ مراعات / تنخواہوں Back Benefits سمیت بحال کی جاوے۔

جناب عالی!

اپیل ذیل عرض ہے۔

- 1- یہ کہ ایپلانٹ کی تعیناتی بحیثیت PHC Technician 10-09-2013 کو ہوئی (نقل لف ہے)۔
- 2- یہ کہ ایپلانٹ نے اس کے بعد باقاعدگی سے اپنے فرائض سرانجام دینا شروع کئے۔
- 3- یہ کہ 03/07/2014 تک ایپلانٹ کے خلاف کوئی Complaint نہیں تھی۔ اور ایپلانٹ نے 03/07/2014 تک اپنے فرائض مکمل ذمہ داری سے سرانجام دیتا رہا۔
- 4- یہ کہ 10/06/2014 کو DHO بگرام نے ایپلانٹ کو شوکاژ نوٹس جاری کیا اور نوٹس میں ایپلانٹ پر مختلف الزامات لگائے گئے۔
- 5- یہ کہ ایپلانٹ نے 19/06/2014 کو شوکاژ کا جواب جمع کیا۔
- 6- یہ کہ 26/06/2014 کو ایپلانٹ روبرو DHO آفس بگرام میں حاضر ہوا۔ مگر ڈسٹرکٹ ہیلتھ آفیسر بگرام نے بغیر صفائی کے اور ایپلانٹ کو موقع فراہم کئے بغیر حاضری لگا کر ایپلانٹ کو فارغ کر دیا۔
- 7- یہ کہ 03/07/2014 کو DHO بگرام نے ایپلانٹ کو غیر قانونی خود ساختہ آرڈر کے ذریعے برطرف کیا (نقل لف ہے)۔
- 8- یہ کہ ایپلانٹ نے مجبور ہو کر DHO بگرام کے آرڈر کیخلاف سروس ٹریبونل میں اپیل دائر کیا۔
- 9- یہ کہ تین سال بعد 19/09/2017 کو عدالت نے فیصلہ ایپلانٹ کی حق میں کر دیا۔ جس پر DHO بگرام نے عمل کرتے ہوئے ایپلانٹ کو نوکری پر بحال تو کر دیا لیکن سابقہ تمام مراعات، تنخواہوں اور Back Benefits سے محروم رکھا۔
- 10- یہ کہ ایپلانٹ ایک غریب گھرانے سے تعلق رکھتا ہے اور پچھلے چار سالوں سے مختلف دفاتر اور عدالتوں میں در بدر کے ٹھوکریں کھاتا رہا ہے۔ اور مالی لحاظ سے بھی ایپلانٹ کو کافی نقصان پہنچا ہے۔ لہذا آپ سے استدعا ہے کہ ایپلانٹ کو سابقہ تمام مراعات، تنخواہیں اور Back Benefits دئے جائیں۔

المرقوم: 3-2-18

Ayaz Muhammad
ایاز محمد ولد خان بٹنادر ڈاک خانہ کوزہ بانڈہ تحصیل و ضلع بگرام

Attested
4/8/18

وکالت نامہ

کورٹ فیس

بعدالت Before the KPK Service Tribunal

عنوان: Ayaz Mehdi نام Govt

منجانب: Petitioner

نوعیت مقدمہ: Execution Petition

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی نکل کاروائی متعلقہ آن مقام

Hamayun Khan & Fazulullah Khan

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی نکل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر فائٹ و فیصلہ بر طرف دہینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دخل کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی نکل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب مالونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بتایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بتایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برادر استجارت نالٹر بیسٹہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

الرقوم: 24-5-18

بمقام Ayaz Muhammad

Accepted by

[Signature]

ال

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL AT CAMP COURT ABBOTTABAD**

**EXECUTION PETITIONS NO. 174 TO 181 OF 2018
IN SERVICE APPEAL NO. 1322 TO 1330 OF 2014**

Afsar Mohammad and others.....Appellant

Versus

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

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1 TO 3

Preliminary Objections:-

1. That the Appellants have got neither cause of action nor locus standi to file the instant Petitions.
2. That the Appellants have filed the instant Petitions just to pressurize the respondents.
3. That the instant Petitions are against the prevailing Law and Rules.
4. That the Petitions are not maintainable in the present form and also in the present circumstances of the issue.
5. That the Appellants have filed the instant Petitions with mala-fide intention hence liable to be dismissed.
6. That the Appellants have not come to the Tribunal with clean hands.
7. That the Petitions are time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.

ON FACTS:

1. Para No. 1 pertains to record, needs no comments.
2. Para No. 2 is correct upto the acceptance of appeal, rest of the para regarding back benefits is wrong, incorrect, and misleading. The Honorable Tribunal in his Judgment about the issue of back benefits, directed the department to affix this issue subject to the final outcome of De-novo Enquiry.
3. Para No. 3 is wrong, incorrect and misleading, hence denied. The respondents implemented the Judgment of this Honorable Court in letter and spirit. The concluding para of the Judgment is reproduce as under:

“The Appeals are accepted and the Appellants are reinstated in service. However, the department is at liberty to conduct fresh enquiry by following the concerned law and rules and if the department

decides that fresh proceedings should be initiated then those should be completed within a period of 3 months from the date of receipt of this judgment. The issue of back benefits of the Appellants shall be subject to the final outcome of denovo proceedings, if any. Parties are left to bear their own costs”.

From the above concluding para, it is crystal clear that the issue of back benefits was subjected to the final outcome of De-novo Proceeding and after de-novo Enquiry and in the recommendation of the said enquiry, the Appellants were reinstated/posted/adjusted into services with immediate effect, which reflects from the order dated 22/11/2017 already annexed as Annex-C in Appeal of the Appellant.

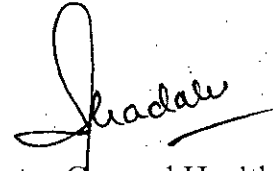
4. Para No. 4 is wrong & incorrect. Detailed reply has already been furnished in the preceding paras.
5. Para No. 5 is misleading and concocted, hence denied. The respondents implemented the Judgment of this Honorable Court in letter and spirit, detailed reply has already been furnished in preceding para.
6. Para No. 6 is Legal, needs no comments.

PRAYER:

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



Secretary Health, Khyber Pakhtunkhwa.
Respondent No. 01



Director General Health Services,
Khyber Pakhtunkhwa.
Respondent No. 02



District Health Officer Battagram.
Respondent No. 03



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

No. _____ / Dated 16/11 /2017.

OFFICE ORDER.

In the light of the court judgment vide Honorable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbott Abad decision dated 19/09/2017, the fresh enquiry committee has been constituted to enquire the whole process of first appointment of 03 officials name mentioned in the judgment:-

- | | |
|--|--------|
| 1. Dr. Adil Nawaz Medical Officer RHC Thakot | Member |
| 2. Dr. Muhammad Saleem Coordinator NP | Member |
| 3. Mr. Amin ul Haq Drug inspector | Member |

The enquiry committee will examine the academic and professional documents of above noted officials and furnish the report along with their recommendation with immediate effect, but not later than 13th ~~December~~ 2017 to proceed further in the matter.

District Health Officer,
Battagram.

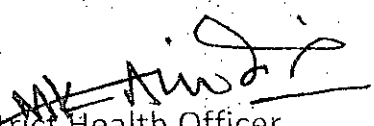
9146-49

No. _____ /

Dated / /2017,

Copy forwarded to the:-

1. Director General Health Services KPK Peshawar for information please
2. Chairman Honorable Service Tribunal Camp Court Abbott Abad Bench for information please.
3. Dr. Adil Nawaz Incharge Medical Officer RHC Thakot for information.
4. Dr. Muhammad Saleem Coordinator NP Program for information
5. Mr. Amin ul Haq Drug Inspector DHO Office Battagram for information.


District Health Officer,
Battagram.

To,

The District Health Officer
Battagram

Dated 20.11.2017

Subject: DENOVO ENQUIRY REPORT

Reference your letter No 9146-69 Dated 16.11.2017 on the subject. An Inquiry committee was constituted by your good self on the following officer to conduct an the inquiry of the court case decided in favour of the appellants Mr. Afsar Muhammad Khan, Ayaz Muhammad, Muhammad Shakeel, Niaz Muhammad and Mst; Mumtaz Begum EPI Tech BPS-12 and submit the factual position along with recommendation to implement the court decision in later & spirit.

1. Dr. Muhammad Saleem BPS-18 Coordinator LHW Program
2. Dr. Adil Nawaz Medical Officer BPS-17 Incharge RHC Thakot
3. Mr. Amin ul Haq Provincial Drug Inspector BPS-17

SCOPE OF INQUIRY

1. Implementation of the court decision Dated 19.09.2017
2. Re-Instatement of the Paramedics staff mentioned in the court decision
3. Comments of the DGHS vide his letter No. 6594-97 Dated 12.10.2017 the following officials are hereby re-instated

- Mr. Afsar Muhammad Khan
- Ayaz Muhammad
- Muhammad Shakeel
- Niaz Muhammad
- Mst; Mumtaz Begum

CONCLUSION

1. The court decide and clear the point that at that time of appointment the appellants are not a government servant and they cannot come under the preview of misconduct.
2. The Honorable court decide we are left with no option but to accept the present appeal set aside the impugned order 8373-76 and re-instate the appellants in service by placing the responded at liberty to proceed against the appellants in accordance with law and subject to affording them opportunity of hearing, which process shall be conducted and concluded with a period of 03 Months from the date of receipt of this judgment

RECOMMENDATION

1. The appellants may be re-instated on their position in the light of decision of Honorable service (Prayog) Subot Ared Bench dated 19/09/2017
2. The period from 30.07.2014 to 30.11.2017 may be treated as leave the kind due.

1. Dr. Muhammadiyah Saleem BPS-18 Coordinator LHW Program
2. Dr. Adil Nawaz Medical Officer BPS-17 Incharge RHC Thakot
3. Mr. Asif ul Haq Provincial Drug Inspector BPS-17

[Handwritten signature]
20/11/17
20/11/17
[Handwritten signature]
20/11/17

*Received on 20.11.2017
Incharge Establishment
Section DHO office
Baitang
Jamil
20.11.2017*

*Mr. Foyaz Shah
Litigation Incharge
A*