BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Application No. 161/2018

Date of Institution ... 28.05.2018 Date of Decision ... 08.02.2019

The Hospital Director, Medical Teaching Institution/KTH/KMC/KCD, Peshawar and two others. (Applicants)

VERSUS

Dr. Rashid Ahmad, Medical Officer, Khyber Teaching Hospital, Peshawar and two others. ... (Respondents)

Mr. Khalid Rehman, Advocate

Mr. Mian Iqbal Hussain, Advocate Mr. Taimur Ali Khan, Advocate Miss. Roheeda Khan, Advocate

Mr. Muhammad Jan, Deputy District⁻Attorney

MR. AHMAD HASSAN, MR. MUHAMMAD AMIN KHAN KUNDI - For applicants.

- For respondent no.1.

. .

For respondents no.2 & 3.

MEMBER(Executive) MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant application as well as connected application no. 159/2018 titled Hospital Director, Medical Teaching Institution/KTH/KMC/KCD, Peshawar and application no. 160/2018 titled Hospital Director, Medical Teaching Institution/KTH/KMC/KCD, Peshawar, as similar question of law and facts are involved therein

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

ARGUMENTS

3. Learned counsel for the applicant argued that application under Section-12(2) CPC has been filed for setting aside the judgment of this Tribunal dated 05.12.2017 passed in service appeal no. 510/2017 as the same was obtained through misrepresentation/concealment of vital facts. He further argued that writ petition no. 510-P/2017 filed in Peshawar High Court by respondent no.1 was dismissed for want of jurisdiction vide judgment dated 24.04.2017. Thereafter, jurisdiction of this Tribunal was invoked by filing service appeal in this Tribunal. All the appeals including that of respondent no.1 were fixed for hearing on 30.11.2017, as evident from the cause list issued for the said date. The appeal being barred by time was dismissed by this Tribunal vide judgment dated 30.11.2017. However, service appeal of respondent no.1 was again heard by another bench and in the absence of the applicant and allowed vide impugned judgment dated 05.12.2017. Respondent no.1 deliberately failed to bring to the notice of this Tribunal earlier judgment (30.11.2017). After promulgation of MTI 2005, autonomous institutions are represented through their appointed counsel. Moreover, during the pendency of the appeal respondent no.1 was promoted to BPS-18 vide notification dated 15.11.2017, so his service appeal became infructuous.

4. On the other hand learned counsel for respondent no.1 argued that appeal no. 510/2017 was neither time barred nor mentioned in the list of cases dismissed by this Tribunal vide judgment dated 30.11.2017. That relieving order dated 30.01.2017 passed by applicant no. 2 and impugned in this Tribunal through service appeal no. 510/2017 was withdrawn by the Government of Khyber Pakhtunkhwa Health Department vide order dated 15.12.2017. Moreover, he was

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promoted to BPS-18 vide notification dated 15.11.2017 and posted in Khyber Teaching Hospital, Peshawar vide notification dated 20.12.2017, as such the aforementioned application has become infructuous. Instead of filing application under Section 12(2) of CPC the applicant should have challenged the judgment of this Tribunal in the august Supreme Court of Pakistan. As the respondent no.1 is a civil servant so only the Health Department is competent to pass posting/transfer order.

CONCLUSION

5. Before touching the merits of the present case we would like to highlight the broad parameters of cases falling under Section-12(2) of CPC 1908:-

Where a person challenges the validity of a judgment, decree or order on the plea of fraud, misrepresentation or want of jurisdiction, he shall seek his remedy by making an application to the Court which passed the final judgment, decree or order and not by a separate suit.

6. The present service appeal was not heard on 30.11.2017 in which certain cases were dismissed by this Tribunal being time barred. The appeal of respondent no.1 was heard and allowed vide judgment dated 05.12.2017. We were unable to find any element of misrepresentation/ concealment of facts in the appeal referred to above. To set record straight, it is further clarified that the above appeal was within the time span given in the rules and assertions of learned counsel for the applicant regarding limitation appeared unfounded/baseless. It would not be out of place to mention here that the respondent no.1 was promoted to BPS-18 vide notification dated 15.11.2017 and was again posted in Khyber Teaching Hospital vide notification dated 20.12.2017, as such the present application has become infructuous. In nutshell, the case in hand does not fall in the ambit of Section-12(2) of CPC.

7. As a sequel to above, the application is dismissed. Parties are left to bear

AHMAD HASSAN) MEMBER

their own costs. File be consigned to the record room.

Amin mmad (MUHAMMAD AMIN KHAN KUNDI)

MEMBER

ANNOUNCED 08.02.2019 17.01.2019

Counsel for the applicants Mr. Khaled Rahman, Advocate present. Respondent No. 1 alongwith his junior counsel Mr. Taimur Ali Khan, Advocate and Mr. Riaz Ahmad Paindakheil, Assistant AG for respondents No. 2 to 4 present. Junior counsel for respondent No. 1 requested for adjournment on the ground that learned senior counsel for respondent No. 1 is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for further proceeding on 08.02.2019 before D.B.

(Ahmad Hassan) Member

(M. Amin Khán Kundi) Member

<u>Order</u>

08.02.2019

Counsel for the applicant present. Mian Iqbal Hussain, Advocate for respondent in and Mr. Muhammad Jan, DDA for respondents no. 2 and 3 present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the application is dismissed. Parties are left to bear their own cost. File be consigned to the record room.

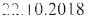
Announced: 08.02.2019

(Ahmad Hassan) Member

(Muhammad Amin Khan Kundi) Member Misc.application No. 161/18

12.10.2018

Mr. Kabirullah Khattak, AAG put appearance on behalf of the petitioner. Clerk of counsel for the respondent Dr. Abdur Rashid present and made a request for adjournment. Granted. To come up for further proceedings on 22.10.2018 before S.B.



Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore the case is adjourned. To come up on 06.1**2**:2018

Réader

Chairman

06.12.2018

None present on behalf of the applicant. Mr. Kabirullah Khattak, Addl: AG for the respondents no. 2 to 4 and counsel for respondent no. 1 present. To come up for further proceedings on

17.01.2019 before D.B. Getter warden to Hants

(Ahmad Hassan) Member

(M. Amin Khan Kundi)

M. Amin Khan Kundi Member 12.06.2018

Counsel for the applicant, Addl. AG for official respondents and private respondent no. 1 in person present. Original record may be requisitioned. To come up for further proceedings on 11.07.2018 before D.B.

(Ahmad Hassan) Member

(M. Amin Khan Kundi) Member

11.07.2018

Clerk to legal advisor for legal advisor present. Mr. Muhammad Jan, Learned Deputy District Attorney present. Subhan Ullah litigation Assistant on behalf of KTH Peshawar present. Respondent Dr. Rashid Ahmad also present. Due to general strike of the bar, the case is adjourned. To come up on 31.08.2018 before D.B.

31.08.2018

(Ahmad Hassan)

Member

(Muhammad Hamid Mughal) Member

Clerk to counsel for applicants present. Mr. Mian Iqbal Hussain, Advocate for respondent No. 1 present and submitted his Vakalat Nama alongwith written reply as well as application for interim injunction. The same are placed on record. Mr. Ziaullah, Deputy District Attorney for respondents No. 2 & 3 also present. Clerk to counsel for applicants requested for adjournment on the ground that learned counsel for the applicants is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for further proceedings on 22.10.2018 before D.B.

(Ahmad Hassan) Member

(Muhammad Amin Khan Kundi) Member Form –A

FORM OF ORDER SHEET

Court of___

Misc. Application No. 161/2018

S.No.	Date of Order	Order or other pressed in a vitil it is a vi
	Proceedings	Order or other proceedings with signature of judge
1	2	3
1	28/05/2018	
		The application (1/S 12/2) one automatic
		The application U/S 12(2) CPC submitted by Hospital
		Director MTI KTH through Mr. khaled Rehman Advocate, may be
		entered in the relevant Register and put up to the Court for
ł		proper order please.
	, - ,	
		Bacu
	31/05/18	REGISTRAR
	21102118	This application be put up before D. Bench on
.		31/05/18.
	· · ·	
· .		حے CHAIRMAN
31	1.05.2018	Counsel for the petitioners present and heard.
	Not	ice and record for 11.06.2018 before the D.B.
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		MAMEN
		Ahmad Hassan) (M. Amin Khan Kundi) Member Member
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

MISC: APPLICATION No. <u>///</u>/2018 IN S.A No.<u>510</u>/2017

Hospital Director etc......Applicants

Versus

Dr. Rashid Ahmad

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3.	Judgment of the Hon'ble High Court, Peshawar	25.04.2017	Α	6-15
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10.	Order Sheet	22.11.2017	H	62
11.	Wakalat Nama		·	63

Through

Applicants Khaled Rauman Advocate,

..... Respondents

Supreme Court of Pakistan 3-D, Haroon Mansion Khyber Bazar, Peshawar Off: Tel: 091-2592458 Cell # 0345-9337312

Dated: 28 /05/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

1

2018

	MISC: APPLICATION No. <u>161</u>	_/2018
	IN	
	S.A No. <u>510</u> /2017	Khyber Pakhtukhwa Service Tribunat
1.	The Hospital Director Medical Teaching Institution/KTH/KMC/KCD Peshawar.	Diary No. 588 Dated 28/05/2
2.	The Medical Director, Medical Teaching Institution/KTH, Peshawar.	· .
3.	Nursing Director, Medical Teaching Institution/KTH, Peshawar	<u>Applicants</u>
	VERSUS	
1.	<u>Dr. Rashid Ahmad,</u> Medical Officer, Khyber Teaching Hospital, Peshawar	
2.	<u>The Secretary</u> Govt. of Khyber Pakhtunkhwa Health Department, Civil Secretariat, Peshawar.	
3.	The Director General Health Services Khyber Pakhtunkhwa, Peshawar	<u>Respondent</u>

Application U/S 12(2) CPC for setting aside the Judgment of this Hon'ble Tribunal dated 05.12.2017 passed in Service Appeal No.510/2017 being procured by Respondents on the basis of misrepresentation.

Respectfully Sheweth,

Facts giving rise to the present application are as under:-

1. That earlier Respondent No.1 had filed Writ Petition No.510-P/2017 against her relieving order issued by the applicants. Other colleagues of Respondent No.1 had also filed similar Writ Petitions challenging identical relieving orders. All those Writ Petitions were clubbed together and dismissed on the ground of jurisdiction/ maintainability vide consolidated judgment dated 25.04.2017 (Annex:-A). The concluding para of the cited judgment is reproduced herein below:-

- 11. Admittedly, the petitioners are civil servants and their grievances relates to the terms and conditions of service, the appropriate remedy for seeking their redressal would surely be the Service Tribunal.
- 12. This Court is barred under Article-212 of the Constitution of the Islamic Republic of Pakistan, 1973 to take congnizance in the matter relating to the tierms and conditions of service of civil servant. The Apex Court in the case of <u>I.A. Sherwani and others</u> ..VS.. Government of Pakistan through Secretary, Finance <u>Division, Islamabad and others</u> (1991 SCMR 1041) and recently in <u>Ali Asghar Khan Balch's case</u> (2015 SCMR 456), has again laid down that the issue relating to the 'terms and conditions' of Service cannot be enterained by High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article-212 of the Constitution.

13. In view of the above, all these Writ Petitions being not maintainable are hereby dismissed."

- 2. That pursuant to the order of the Hon'ble Peshawar High Court Peshawar Respondent No.1 and his other colleagues invoked the Jurisdiction of this Hon'ble Tribunal by way of Service Appeals (Appeal of Respondent No.1 *Annex:-B*) which were contested by the applicants (then Respondent No.1) by filing Replies (Replies of applicants *Annex:-C*).
- 3. That all the appeals including that of Respondent No.1 were enlisted for hearing on 30.11.2017 before a Bench comprising of the worthy Chairman and another Hon'ble Member as is evident from the Cause List dated 30.11.2017 (*Annex:-D*). After lengthy arguments and discussing all the legal aspects of the cases vide consolidated judgment dated 30.11.2017 (*Annex:-E*), all the appeals were dismissed. The concluding para of the consolidated judgment is reproduced herein below:-
 - "8. This Tribunal is therefore, of the view that no sufficient cause has been shown by the appellants in pursuing their cases before a wrong forum and the application for condonation of delay cannot be accepted. All these appeals being time barred are dismissed. Parties are left to bear their own costs. File be consigned to the record Room."
- 4. That to the utter surprise of the applicants, subsequently the service appeal of the Respondent No.1 was again heard on 05.12.2017 by another Bench of this Hon'ble Tribunal comprising of the worthy Members as by then the worthy Chairman had gone for Camp Court at Mingora Swat and without hearing and in absence of the applicants, the appeal was allowed vide impugned judgment dated 05.12.2017 (*Annex:-F*). The Respondent No.1 deliberately failed to bring into the Notice of the Hon'ble Tribunal regarding the earlier judgment on the point and that the applicants being necessary and contesting Respondent No.1 be provided opportunity of hearing. It is also important to

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add that the applicants are an autonomous institution constituted under the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 and is represented through a counsel, therefore, the learned Govt. Pleader/Additional Govt. Pleader have no role in the cases of autonomous Institutions. It is also further added being essential that Respondent No.1 during the pendency of appeal has been promoted to BPS-18 by the Khyber Pakhtunkhwa Health Department vide Notification dated 15.11.2017 (*Annex:-G*) being civil servant and thus in that context his appeal before the Hon'ble Tribunal stood infructuous as after the promotion he had to be posted/adjusted and this issue was brought into the notice of the Hon'ble Tribunal and proper recorded in Order Sheet dated 22.11.2017 (*Annex:-H*).

- 5. That consequently, the Respondent No.1 procured the impugned judgment of this Hon'ble Tribunal dated 05.12.2017 under a patent and deliberate misrepresentation etc. by concealing the crucial facts having bearing on the decision of the case, therefore, the impugned is liable to be reversed in the interest of justice.
- 6. That had the Respondent brought into the notice of the Hon'ble Tribunal the earlier judgment on the same point of view, then definitely the result in the instant case would have been otherwise and the appeal of the Respondent No.1 would have been dismissed.
- 7. That the element of misrepresentation etc. on the part Respondent is quite apparent on the face of the record and he was supposed to bring into the notice of the Hon'ble Tribunal the updated position on the subject matter but he has failed in his duty and thus misled the Hon'ble Court by relying on his arguments.

For the aforesaid reasons, it is therefore respectfully prayed, that on acceptance of this application, this Hon'ble Tribunal may kindly be pleased to recall the impugned judgment dated 05.12.2017 and by restoring appeal of Respondent No.1 the same may be decided in the light of earlier judgment passed by this Honb'le Tribunal in Consolidated judgment dated 30.11.2017 and dismiss the appeal of Respondent No.1.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to applicant.

pplicants

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Through Khaled Rahman Advocate Supreme Court of Pakistan

Dated: <u>28</u>/05/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

MISC: APPLICATION No.____/2018 IN S.A No.510/2017

Hospital Director etc......Applicants Versus

Dr. Rashid Ahmad Respondents

<u>Affidavit</u>

I, DY.S. Muhammad Zahiy Sheh // Litigetion NTI, KTH, do

hereby solemnly affirm and declare on oath that the contents of this Application are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

Identified by Khaled Rahman Advocate, Peshawar

Deponent

Incharge Litigation, MTI KTH Peshawar



B ORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

MISC: APPLICATION No.____/2018 IN S.A No.510/2017

Hospital Director etc	Applicants
	Versus
Dr. Rashid Ahmad	Respondents

Application for suspending the operation of the impugned judgment dated 05.12.2017 till the final disposal of the main application.

Respectfully Sheweth,

- 1. That the above titled application is being filed today which is yet to be fixed for hearing.
- 2. That the judgment called in question was obtained by misrepresentation and without hearing applicants and even that earlier identical cases under similar circumstances have been dismissed on 30.112.17.
- 3. That the facts alleged and grounds taken in the body of main Application may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the applicants.
- 4. That the balance of convenience also lies in favour of applicants and in case the impugned Judgment is not suspended the applicants will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned judgment dated 15.12.2017 may graciously be suspended till the final disposal of the appeal.

Through

Applicant V Khaled Rahman, Advocate, Supreme Court of Pakistan

Dated: 22 / 05/ 2018

<u>Affidavit</u>

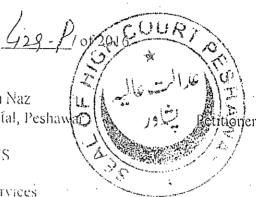
Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Shal. Deponentigation, Incharge Litigation, MTI KTH Peshawar

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N THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No.



Farrukh Jalil son of Gulzar Masih Naz Male Nurse, Lady Reading Hospital, Peshawar

VERSUS

 Director General Health Services Khyber Pakhtunkhwa, Peshawar.

2. Secretary Fiealth, Khyber Pakhtunkhwa, Peshawar.

Respondents

APR 2017

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth:

· I.

SCANNED

That the petitioner belongs to Christian Minority of the Khyber Pakhtunkhwa and hails from a very respectable family.

2. That the petitioner was appointed as a Male Nurse in Lady Reading Hospital Peshawar, way back and his services are governed by Medical Teaching Institutions Act (MTI) 2015. He, therefore, is an Institutional Employee.

3. That the recent unrest and protest of the Doctors on 30.01.2016 a meeting was held by the petitioner and other staff and some Doctors.



JUDGMENT SHEET

<u>1</u>141.

IN THE PESHAWAR HIGH COURT, PESHAWAR. JUDICIAL DEPARTMENTURI Writ Petition No. 429- **B**/2016. JUDGMENT

Date of hearing: 25.4.2017

Petitioner (Farrukh Jalil) by M/s Mian Malitaber Kakakhel & Saifullah Muhib, Advocates.

Respondent (Director General Health Services, Peshawar and another) by Mian Arshad Jan, AAG.

WAQAR AHMAD SETH, J.- Through this single judgment, we propose to dispose of instant Writ Petition as well as connected Writ Petitions No. 557-P, 593-P, 4193-P/2016, 184-P, 517-P & 667-P/2017 as common questions of law and facts are involved therein.

Writ Petition No. 429-P/2016

In essence, case of the petitioner is that he
 was appointed as Male Nurse in Lady Reading
 Hospital, Peshawar, however, vide impugned order

dated 1.2.2016, he was transferred and posted at DHQ

APR 2017

Hospital KDA, Kohat against the vacant post, which

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order has now been impugned through the instant Writ Petition and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 557-P/2016

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3. In essence, petitioners No, 1 to 3 are the President, General Secretary and Senior Vice President of Provincial Paramedical Association. Peshawar while petitioners No. 5 & 6 are the General Secretary & Vice President of Paramedic Association of LRH whereas petitioner No. 4 is the Secretary Finance of Provincial Para Medic Association and petitioners No. 7 to 20 are para-medical staff working in different low-paid categories at Medical Teaching Institutes, namely, Lady Reading Hospital and Khyber Teaching Hospital, however, vide impugned orders dated 1.2.2016 & 9.2.2016, they were transferred to far flung places of the Province; which orders have now been impugned through the instant Writ Petition and sought the

following prayer:-

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- "I. The impugned transfer orders of the petitioners are illegal, unlawful, without lawful authority and thus of no legal effect and hence liable to be set aside and reversed.
- The Respondents shall not П. petitioners, distodge the them against proceed adversely or interfere with their legal or fundamental rights in garb of the West Essential Service Pakistan (Maintenance) Act, 1958. Costs throughout" Ш.

Amended Writ Petition No.593-P/2016

4. In essence, case of the petitioners is that they were appointed as Nurses in Lady Reading Hospital, Peshawar some 25/27 years back, however, vide impugned office orders dated 9.2.2016 & 11.2.2016, they were transferred to DHQ Hospital Battagram, DHQ Teaching Hospital, D.I.Khan & THQ Hospital Chota Lahor Swabi, which orders have been impugned before this Court through Writ Petition. During the course of hearing i.e. on 25.2.2016, Mr. Abdul Latif Yousafzai, worthy Advocate General, present in Court in different matters, was put to notice, who after seeking fresh instructions, stated that the impugned transfer orders were recalled and instead the

petitioners were to DHQ Hospital, Nowshera vide transfer orders dated 24.2.2016; hence, the learned counsel for the petitioners sought adjournment to amend the Writ Petition. Subsequently, the petitioners have filed the instant amended writ petition by challenging the aforesaid modification notification dated 24.2.2016, whereby they were transferred to prayed that the DHQ Hospital, Nowshera and modification impugned transfer orders its and notifications dated 24.2.2016 be set aside being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 4193-P/2016

5. In essence, case of the petitioner is that he is serving as Medical Officer, Khyber Teaching Hospital, Peshawar, however, vide impugned orders dated 3.11.2016 & 5.11.2016, not only the petitioner's services were repatriated to his parent department but also allotted his Room No. 13 Old Doctor Hostel to Dr. Tahira Iqbal Trainee Registrar (Gynae-A Unit); hence, the petitioner has impugned the above said orders

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through the instant Writ Petition and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 184-P/2017

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6. In essence, case of the petitioner is that he is serving as Medical Officer in the Khyber Teaching Hospital, Peshawar since 8.8.1994 till date, however, he was received an office order dated 29.12:2016, whereby his services were rendered back to Health Department; hence, the petitioner has filed the instant Writ Petition by impugning the above said office order and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 517-P/2017

7. In essence, case of the petitioner is that he is serving as Medical Officer in Khyber Teaching Hospital, Peshawar, however, vide office order dated 30.1.2017, the services of petitioner were rendered back

to Health Department, which order has now been



impugned through the instant Writ Petition and sought

the following prayer:-

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学家などの意志に、「「「「「「「「」」」

To declare the impugned Office "i. Order No. 3497-3510/KTH/E dated 30.1.2017 of respondent No.1 (Annex "A") as without lawful authority and of no legal effect. AND :

To restore the Office Order No. 23097-106/KTH/E dated 18.10.2016 of respondent No.1 (Annex "B").

To restrain the respondents from implementing the impugned order and to stop the salary of the petitioner and to eject him from his allotted accommodation of Room No. Old Doctors Hostel, KTH, 09 Peshawar.

To direct the respondents to frame transparent policy and fair regulating the relieving of civil servant from KTH to Health Department.

To restrain the respondents from arbitrary exercise of powers, and policy based on making pick and discrimination in choose, relieving/transfer of the civil servants from KTH to Health Department:

Any other remedy which this august wi. court deems fit and just in the circumstances of the case, may also be granted in favour of petitioner".

Writ Petition No. 667-P/2017

In essence, case of the petitioner is that she

is serving as Charge Nurse (BPS-16) in Khyber

Teaching Hospital, Peshawar since 13.3, 1993, however,-

vide office order dated 14.11.2016, her services were

rendered back to Health Department Khyber Pakhtunkhwa for further posting. Subsequently, on 2.1.2017, respondent No.3 wrote a letter to respondent No. 1 to withdraw the above said office order and allow the petitioner to continue her duties as Charge Nurse in KTH Peshawar on humanitarian grounds. In response thereof, respondent No.1 vide letter dated 14.1.2017 communicated that all the post of Charge Nurses in BPS-16 have been filled through advertisement and presently there is no vacant post to adjust the petitioner; hence, the petitioner has filed the instant Writ Petition by impugning the transfer order dated 14.11.2016 and refusal order dated 14.1.2017 of respondent No.1 and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

Writ Petition No. 1167-P/2017

9. In essence, case of the petitioner is that he is serving as Medical Officer in Khyber Teaching Hospital, Peshawar since 8.8.1994 till date, however, he was received an office order dated 29.12.2016, whereby

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his services were rendered back to Health Department, Khyber Pakhtunkhwa: hence, the petitioner having no other remedy has filed the instant Writ Petition by impugning the office order dated 29.12.2016 and prayed for setting aside of the same being illegal, without jurisdiction and without lawful authority.

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10. Arguments heard and record perused.

11. Admittedly, the petitioners are civil servants and their grievances relate to the terms and conditions of service, the appropriate remedy for seeking their redressal, would surely be the Services Tribunal.

12. This Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance in the matter relating to the terms and conditions of service of a civil servant. The Apex Court in the case of <u>LA Sharwani and others vs.</u> <u>Government of Pakistan through Secretary, Finance</u> <u>Division, Islamabad and others (1991 SCMR 1041)</u> and recently in <u>Ali Azhar_Khan Baloch's case</u> (2015

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SCMR 456), has again laid down that the issue relating to the '*terms and conditions*' of service cannot be entertained by a High Court either in its constitutional jurisdiction or in its original civil jurisdiction being barred under Article 212 of the Constitution.

13. In view of the above, all these WritPetitions being not maintainable are hereby dismissed.

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JUDGE

semation of Application 25/4/

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT PESHAWAR.

Service Appeal No:- /2017

Dr. Rashid Ahmad S/o Haji Taj Muhammad, Medical Officer (MTI) Khyber Teaching Hospital, Peshawar, Cell No:- 0300-5860585

..... Appellant

Annex-



1. Hospital Director, MTI, KTH, Peshawar,

2. Medical Director MTI, KTH, Peshawar,

- 3. Chairman Board of Governors, MTI, KTH, Peshawar, Medical Teaching Institutions Khyber Teaching Hospital, Peshawar, Khyber Pakhtunkhwa.
- 4. Director General Health Service, Khyber Pakhtunkhwa, Khyber Road, Peshawar, near District Courts Peshawar.
- 5. Secretary Health, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar

Service appeal under section 4 of the <u>Khyber Pakhtunkhwa Service Tribunal</u> <u>Act, 1974, against the order dated</u> <u>30/01/2017 of respondent no 2.</u>

Respectfully Sheweth:-

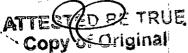
ATTESTED BE TRUE

 That the appellant is serving as Medical Officer Khyber Teaching Hospital and is qualified as: i. FCPS-1 (General Medicine), (Annex "H"). ii. Intermediate Module, IMM (General Medicine)
iii. 4 years FCPS Training in General Medicine
vide (Annex "I"),

2 ·

and is Civil Servant of Health Department of Khyber Pakhtunkhwa with experience vide (Annex "J")

- 2. That vide order dated 03/12/2007 of the Govt: of N.W.F.P Health Department, the appellant was transferred as Junior Registrar Medical D Ward KTH, Peshawar. (Copy of the order is annex "B").
- 3. That the Health Department KPK, vide office order/notification No SO(E)H-11/4-1/2013 dated 18/03/2013, transferred the appellant from KTH to Polio Eradication Duty as Medical Officer at Tehkal Bala, Peshawar, (Copy of order is annex "C"), wherein the appellant served the life threatening duty with effect from March, 2013 to October, 2016 i.e. for 3 and 1/2 years. It is to be noted that in such like duty, the colleagues of the appellant's were killed in target killing for the reason of doing polio duty and such like threats hanged on appellant during his polio duty.



4. That the Hospital Director MTI, KTH (Respondent No 1) vide letter No 22157-58/KTH/E dated 06/10/2016, addressed to the Director General

Health Services, Khyber Pakhtunkhwa, Peshawar. (Copy whereof annex "D"), inter alia requested that due to shortage of Medical Officers the management of this institution has decided to stop the appellant from performance of duty outside KTH i.e. Polio Duty

3

- 5. That the Hospital Director MTI (Respondent No 1) vide letter No 23097-106/KTH/E dated 18/10/2016, the posting/transfer of appellant was made at OPD KTH, Peshawar. (Copy whereof is annex "E").
- 6. That resultantly, vide letter No 10005-06/E-1(R-42) dated 07/11/2016 of the Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar, the duty of the appellant from Polio duty was withdrawn. (Copy of said letter is annex "F").
- 7. That the Medical Director, MTI (respondent No 2) vide impugned Office Order No 3497-3510/KTH/E dated 30/01/2017 relieved the appellant from KTH. (Copy whereof annex "A").
- 8. That the appellant was allotted Room No 9 in the Old Doctors Hostel KTH, Peshawar vide order dated 28/06/2013 (Annexure "G"):



It is pertinent to point out that the duty performed by the appellant in Polio at Tehkal Bala could not be counted as duty performed in KTH and after transfer of the services/duty of appellant from Polio to KTH, the total duty performed by appellant at KTH is w.e.f 18/10/2016-----upto----30/01/2017 (3 months and 12 days) thus on performing duty for this short period only, the appellant was relieved vide impugned order dated 30/01/2017 without completing required service tenure..

10. That meanwhile MTI Act, 2015 was legislated for KTH and other Teaching Hospitals, wherein services of civil servants (including appellant) serving in MIT, KTH are duly protected by its relevant last portion in Section 16 (3) reproduce as under:-

"That the employees (Civil Servant) who do not opt for their absorption in the Medical Teaching Institution shall serve the medical teaching institution concerned on their existing terms and conditions" (Copy of MTI Act, 2015 is annex "L")

11. That as such the Act itself, which lays-down a special provision that civil servants or those who do not opt for their absorption in MTI, shall serve the MTI concerned on their existing terms and conditions and shall serve in the MTI concerned as civil servant.

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9.

12. That the impugned order will also have the effect to stop the pay of the appellant and to eject the appellant from the accommodation provided to him in Old Doctors Hostel of KTH.

5

13. That the appellant filed Writ Petition No 517-P/2017 before the August Peshawar High Court, Peshawar, but was dismissed vide order dated 25/04/2017 on the grounds that its jurisdiction is barred under Article 212 of Constitution of Islamic Republic of Pakistan, 1973 and that the Service Tribunal alone has jurisdiction for redressal of the grievances claimed by the appellant. The appellant then filed the Review Petition No 70-P/2017 before the August Peshawar High Court, Peshawar against the order passed in Writ Petition No 517-P/2017, but was also dismissed vide order dated 16/05/2017. (Copy whereof is annex "K")

14. That thereafter facing the emergency (well explained in that appeal) to vacate the allotted room/accommodation from the appellant, he filed a separate appeal for his said redressal, confined to relief of accommodation based on accommodation rules/law, which is pending decision before this Honourable Tribunal.



- 21)
- 15. That the appellant also made Departmental Appeal, but with no response. (Copy whereof with postal receipts is annex "M").

6

16. That the appellant therefore, aggrieved from the impugned order dated 30/01/2017 annex "A" passed by Medical Director alongwith superstructure (if any) based thereupon, hence this appeal inter alia on the following grounds

Grounds:-

A)That the impugned order of the appellant is faculty wrong because the appellant was posted at Tehkal Bala for eradication of Polio vide order dated 28/03/2013 of Govt: of Khyber Pakhtunkhwa Health Department, whereas his withdrawal from Polio duty was ordered by respondent No 1 vide order dated 06/10/2016 (annex "D"), which was approved by Directorate General Health & Services KP. Peshawar vide order dated 07/11/2016, hence the tenure of the appellant in MTI KTH is to be counted from 06/10/2016 upto the passing of the impugned order dated 30/01/2017 as such the impugned order could not be justified wherein the grounds for relieving the appellant was counted w.e.f. 03/12/2007.



B) That before the completion of tenure, the transfer or the appellant by any of the respondents is against the consisting, continuing precedent, policy and rule/law, as such the appellant is to be equally treated and should not be discriminated per guarantee in fundamental rights under Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, whereunder he is to be treated equally and not discriminated, so as to transfer him before completion of his tenure of service.

7

- C) That the respondent No 2 has no jurisdiction and authority under the MTI Act, 2015 to pass the impugned order dated 30/01/2017 annex "A", the functions of the medical director is laid down in Section 13 of the MTI Act, 2015 wherein he has no power or function to pass the relieving order of the appellant (Civil Servant). As such said impugned order and superstructure (if any) based thereupon is void and would fall to the ground.
- D) That the impugned relieving order in question is also against Section 16 (3) of the MTI Act, 2015 wherein existing terms and conditions of service would apply to the Civil Servant (appellant).
- E) That the posting and transfer (if any) of the civil servant (appellant) could be made by the respondent

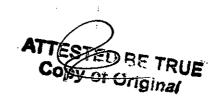


No 4 & 5/ Health Department, therefore, any such order by respondents No 1 to 3 is void.

F) That MTI being a corporate body vide Section 3 (2) of the MTI Act, 2015 has no authority for the posting and transfer of the civil servant (appellant), whereas the respondent No 2 (Medical Director) has no authority even under the MTI Act, 2015 to relieve the appellant from his duty.

G) That in any case, the transfer/relieving orders of respondents from KTH ought to be based on fair, transparent settled policy as opposed to pick and choose, arbitrary and discriminatory exercise of powers, without any policy. The respondent No 3 is under duty to frame a uniform policy in this respect vide his functions and powers under section 7 of the MTI Act, 2015, because they could not be allowed to make transfer orders on discriminatory pick and choose basis in absence of uniform policy applicable to all.

H) That in case of relieving the appellant, the senior most civil servants from appellant ought to be relieved first, whereas the impugned order of the appellant is not based on any fair, transparent policy, which is rather the result of pick and choose,



arbitrary exercise of powers/policy in disregard of any fair and transparent policy.

- 1) That the respondents have not treated, the appellant in accordance with law, and rules on the subject and thus acted in violation of Article 4 & 25 of the Constitution of Pakistan, 1973.
- J) That the impugned order is illegal, without jurisdiction and without lawful authority and unfair. The appellant was first face with life threatening polio duty and thereafter, instead of reward, he was made sacrifice goat for accommodating favorites.
- K) That the impugned order has been passed on political consideration with malafide, to accommodate some other doctors on considerations based on favoritism.
- L) That the impugned order is malafide and for ulterior motives.
- M) That the appellant has been condemned unheard and is a victim of discrimination and pick and choose, policy.

In view of the reasons stated above, it is, therefore, humbly prayed that on acceptance of this

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Service Appeal, this Honourable Court may graciously be pleased to grant the relief:-

i. To declare the impugned Office Order No 3497-3510/KTH/E dated 30/01/2017 of respondent No 2 (Annex "A") and the superstructure based thereupon as without lawful authority and of no legal effect.

AND

- ii. To restore the Office Order No 23097-106/KTH/E dated 18/10/2016 of respondent No 1 (Annex "E").
- *iii.* To restrain the respondents from, implementing the impugned order by stopping the salary of the appellant and to eject him from his allotted accommodation of Room No 09 Old Doctors Hostel, KTH, Peshawar.
- iv. To direct the respondents to frame fair and transparent policy regulating the relieving of civil servant from KTH.

AND

v. To restrain the respondents from arbitrary exercise of powers, and policy based on, pick and choose to discrimination while

relieving/transfer of the civil servants from KTH.

vi. Any other remedy which this August Court deems fit and just in the circumstances of the case, may also be granted in favour of appellant.

Dated:- 18/05/2017

Through:-

Appellant Mian Iqbal Hussain Advocate Supreme Court of Pakistan

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT PESHAWAR.

Service Appeal No:- ____/2017

Dr. Rashid Ahmad

Versus

AFFIDAVIT

I. <u>Dr. Rashid Ahmad</u> S/o <u>Haji Taj Muhammad</u>, <u>Medical Officer (MTI) Khyber Teaching Hospital</u>. <u>Peshawar</u>, do hereby solemnly affirm and declare on oath that the contents of this accompanying <u>Service Appeal</u> are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified by

DEPONENT CNIC No:- 16101-6721321-7

Mian Iqbal Hussain Advocate Supreme Court of Pakistan



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT PESHAWAR.

Misc: Application No:- _____/2017 In

Service Appeal No:-____/2017

Dr. Rashid Ahmad

Persus

Hospital Director, MTI,

KTH, Peshawar & othersRespondents

Application for grant of interim relief to suspend the operation of the impugned office order dated 30/01/2017 of medical director (Annex "A") alongwith the superstructure of the respondents based thereupon and to suspend its implementation resulting in stoppage of the salary of appellant and his ejectment from his allotted accommodation in room no 9 of old doctors hostel and to restore his such accommodation, till the final disposal of the titled appeal.

Respectfully Sheweth:-

- 1. That the titled Appeal is being filed before this Honourable Tribunal, in which no date of hearing has yet been fixed.
- 2. That the grounds of titled appeal may be read as integral part of this application.

That on the face of it, the applicant/appellant has got strong arguable case and is sanguine about its success.

- 4. That the balance of inconvenience lies in favour of grant of interim relief.
- 5. That if interim relief is not granted, the applicant/ appellant would suffer an irreparable loss, which is not redeemable in terms of money.

It is, therefore, most humbly prayed that on acceptance of this application, the interim relief as prayed for in the heading of this application may kindly be granted in favour of applicant/petitioner against the respondents till the final disposal of the titled appeal.

Dated:- 18/05/2017

3.

Through:-

Appellant

Mian Iqbal Hussain Advocate Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT PESHAWAR.

Misc: Application No:	/2017
n	
Service Appeal No:	/2017

Dr. Rashid Ahmad

..... Appellant

ersus

Hospital Director, MTI, KTH, Peshawar & othersRespondents - ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆

AFFIDAVIT

I, <u>Dr. Rashid Ahmad</u> S/o <u>Haji Taj Muhammad</u>, <u>Medical Officer (MTI) Khyber Teaching Hospital</u>, <u>Peshawar</u>, do hereby solemnly affirm and declare on oath that the contents of this accompanying <u>Application for</u> <u>interim relief</u> are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT CNIC No:- 16101-6721321-7

Mian Iqbal Hussain Advocate Supreme Court of Pakistan

Identified by

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re Service Appeal No.510/2012.

Dr. Rashid Ahmad.

Vs.

Hospital Director MTI KTH & Others.

Annex-E

Appellant



Respondents.

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1.	Written Reply		1-2
2.	Affidavit		3

Respondent No.1-3

Through

Muzammil Khan, ASC, Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re Service Appeal No.510/2012.

Dr. Rashid Ahmad.»

Vs

Hospital Director MTI KTH & Others.

(**B**) (32)

Appellant

Respondents.

REPLY FOR AND ON BEHALF OF RESPONDENT NO.1,2 AND 3.

Respectfully Sheweth:

Preliminary Objections:-

- 1. The appeal is badly barred by time.
- 2. The Appellant is estopped by his own conduct.
- 3. The appellant has got no cause of action.
- 4. The appellant has no locus standi to challenge the transfer order being a Civil Servant.
- 5. The appellant is not employee of the MTI KTH, rather is Civil Servant.
- 6. The appeal is not maintainable.
- 7. The appeal is liable to be dismissed summarily.

On Facts:-

1-2.

These para need no reply and there is no doubt regarding qualification of the petitioner as well as transfer to MTI KTH vide order dated 13.12.2007.

3-7. These paras are correct and it is evident in the very averments made in the para under reply that appellant is a Civil Servant controlled by Health Department of the Khyber Pukhtunkhwa, whose transfer was made to MTI KTH and through the impugned order, his serviced have been once again rendered back to the Health Department of the province, because the appellant has neither been absorbed in the MTI KTH service and as provided in section 10 of the Civil Servant Act 1973. He is liable to serve where ever the competent authority transfer him. Hence, he is rightly been transferred to the parent department.

This para is incorrect, it was not an allotment of accommodation, but the Doctor serving in MTI KTH is given a room in the Hospital for standby emergency duty which he cannot retain after his transfer, because the room is meant only for those who are performing emergency duties. More so the appellant has regularly drawn his house rent allowance and can't claim room No.9 as his allotted accommodation.

- 9-11
- These paras are incorrect and misconceived. If the borrowing department is not
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require service of the employee and want to repatriate him to the parent department, can at any time repatriate him, least to say that any protection has been given to the Civil Servants in the MTI Act 2015, rather it is only to the extent that if service of any employee is required so he will be retained on the existence terms & condition of his service. Hence, both the paras are incorrect.

- This para is incorrect. That the transfer of the appellant, his pay and allowances are not stop, rather Accountant General Office Khyber Pakhtunkhwa duly maintain their record from the provincial Health Department Exchequer.
- This para needs no reply, rather show that delay has not been condoned in the dismissal order passed by Peshawar High Court Peshawar.
- This para also needs no reply, however shows confuse mentality and wrong approach of the appellant for retaining room meant for emergency duties inspite of his transfer from the respondent organization.
- 15-16. Need no reply and departmental appeal has been dismissed viz-a-viz the instant appeal is barred by time and liable to be dismissed summarily.

On Grounds:-

12.

13.

14.

A-M. All the grounds taken by the appellant are stereo type, repetition and have no nexus with the moot question of transfer from MTI KTH to the parent department i.e. Health Department of the province. The appellant is a Civil Servant, transferred to MTI KTH on deputation, has neither been absorbed in the service of the MTI KTH nor has he ever opted for absorption in the service of MTI KTH hence, has no right to continue in the said organization. He has rightly been transferred to his parent department where after his parent department i.e. Secretary Health and D.G Health are competent to transfer him anywhere within the province or outside the province. All the grounds taken in appeal are totally incorrect, transfer order has been challenged after sufficient delay and as such this Hon'ble Tribunal would not violate the clear cut provision of Khyber Pukhtunkhwa Civil Servant Act 1973 by setting aside the transfer order made by competent authority.

It is therefore humbly prayed that on acceptance of this reply, appeal filed by the appellant may graciously be dismissed with cost in the interest of justice and stay already granted be vacated.

Respondent No.1-3

Through

Muzammil Khan, ASC, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re Service Appeal No.510/2012.

Dr. Rashid Ahmad.

Vs

Hospital Director MTI KTH & Others.

<u>AFFIDAVIT.</u>

I, Dr. Inayat Ullah Incharge Letigation MTI KTH Peshawar, do hereby solemnly affirm and declare that the content of the accompanying reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by:

(Muzammil Khan) ASC, Peshawar.

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Appellant

Respondents.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re Misc Application No.

Dr. Rashid Ahmad.

Vs

Appellant

Hospital Director MTI KTH & Others.

Respondents. <u>REPLY TO THE APPLICATION FOR INTERIM RELIEF.</u>

Respectfully Sheweth:

Preliminary Objections:-

- 1. The application is badly barred by time.
- 2. The Applicant is estopped by his own conduct.
- 3. The applicant has got no cause of action.
- 4. The applicant has no locus standi to challenge the transfer order being a Civil Servant.
- 5. The applicant is not employee of the MTI KTH, rather is Civil Servant.
- 6. The application is not maintainable.
- 7. The application is liable to be dismissed summarily.

On Facts:-

1

2.

- Need no reply, however the application is not maintainable because Civil Servant is liable to serve anywhere as provided u/s 10 Civil Servant Act 1973.
- This para is incorrect, all the grounds have duly been replied in the appeal, hence denied in toto.
- 3-5. These paras are totally incorrect and misconceived, rather the matter is vice versa. The applicant has no prima facie case nor balance of convenience leans in his favour hence, is not entitle to any interim relief and the relief so granted be vacated being inviolation of Civil Servant Act 1973.

It is therefore humbly prayed that on acceptance of this reply, application be dismissed with cost and the interim relief so granted be withdrawn/vacated in the interest of justice.

Respondent No.1-3

Through

Muzammil Khan. ASC, Peshawai

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re Misc Application No. Dr. Rashid Ahmad.

Vs

Hospital Director MTI KTH & Others.

AFFIDAVIT.

I, Dr. Inayat Ullah Incharge Letigation MTI KTH Peshawar, do hereby solemnly affirm and declare that the content of the accompanying reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by:

(Muzammil Khan) ASC, Peshawar.



Appellant

Respondents.

SOLL UTISIT

BEFORE THE KHYBER CONKINA SERVICE TRIBUNAL

AWAR.

SERVICE APPEAL NO. 510 OF 2017

Dr. Rashid Ahmad...

.Appellant

1. Hospital Director, MTI, KTH, Peshawar.

2. Medical Director, MTI, KTH, Peshawar.

3. Chairman Board of Governors, MTI, KTH, Peshawar.

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

Versus

5. Secretary, Health Department, Khyber Pakhtunkhwa, Peshawar.

Respondents

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 4 & 5. Preliminary Objections:-

- 1. That the appellant has no cause of action/locus standi to challenge the transfer order being a Civil Servant.
- 2. That the appellant has filed the instant appeal just to pressurize the respondents.
- 3. That the instant appeal is against the prevailing Law and Rules.
- 4. That the appeal is not maintainable in the present form and also in the present circumstances of the issue.
- 5. The appellant is estopped by his own conduct.
- 6. That the appellant has not come to the Tribunal with clean hands.
- 7. That the appeal is time barred.
- 8. The appellant is not employee of the MTI KTH, rather is Civil Servant.
- 9. The appeal is liable to be dismissed summarily.

ON FACTS:

- 1-2 These paras need no reply and there is no doubt regarding qualification of the petitioner as well as transfer to MTI KTH vide order dated 13/12/2007.
- 3.7 These paras are correct and it is evident in the very averments made in the para under reply that appellant is a Civil Servant controlled by Health Department of the Khyber Pakhtunkhwa, whose transfer was made to MTI KTH and trough the impugned order, his serviced have been one again rendered back to the Health Department of the

province, because the appellant has neither been absorbed in the MTI KTH service and as provided in section 10 of the Civil Servant Act 1973. He is liable to serve where ever the competent authority transfer him. Hence, he is rightly been transferred to the parent department. This para is incorrect, it was not an allotment of accommodation, but the doctor serving in MTI KTH is given a room in the Hospital for standby emergency duty which he cannot retain after his transfer, because the room is meant only for those who are performing emergency duties. More so the appellant has regularly drawn his house rent allowance and can't claim room No. 09 as his allotted accommodation.

These paras are incorrect and misconceived. If the borrowing department is not require service of the employee and want to repatriate him to the parent department can at any time repatriate him, least to say that any protection has been given to the Civil Servants in the MTI Act 2015, rather it is only to the extent that if service of any employee is required so he will be retained on the existence terms & condition of his service. Hence, both the paras are incorrect.

- 12. This para is incorrect. That the transfer of the appellant, his pay and allowances are not stop, rather Accountant General Office Khyber Pakhtunkhwa duly maintain their record from the Provincial Health Department Exchequer.
- 13. This para needs no reply, rather show that delay has not been condoned in the dismissal order passed by Peshawar High Court, Peshawar.
- 14. This para also needs no reply, however shows confuse mentality and wrong approach of the appellant for retaining room meant for emergency duties inspite of his transfer from the respondent organization.
- 15-16. Need no reply and department appeal has been dismissed viz-a-viz the instant appeal is barred by time and liable to be dismissed summarily.

<u>Grounds:</u>

A-M. All the grounds taken by the appellant are stereo type, repetition and have no nexus with the moot question of transfer from MTI KTH to the parent department i.e. Health Department of the Province. The

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9-11.

8.

appellant is a Civil Servant, transferred to MTI KTH on deputation, has neither been absorbed in the service of the MTI KTH nor has he ever opted for absorption in the service of MTI KTH hence, has no right to continue in the aid organization. He has rightly been transferred to his parent department where after his parent department i.e. Secretary Health and Director General Health Services are competent to transfer him anywhere within the Province. All the grounds taken in appeal are total incorrect, transfer order has been challenged after sufficient delay and as such this Honorable Tribunal would not violate the clear cut provision of Khyber Pakhtunkhwa civil Servant Act 1973 by setting aside the transfer order made by competent authority.

Praver:

Keeping in view of the above, it is prayed that the appeal may kindly be dismissed with cost in the interest of justice and stay already granted be vacated.

Director General Health Services, Khyber Pakhtunkhwa, Peshawar. Respondent No. 04

Secretary, Health Department, Khyber Pakhtunkhwa, Peshawar. Respondent No. 5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

<u>IN RE</u>

MISC. APPLICATION NO.

Dr. Rashid Ahmad...

Vėrsus

1. Hospital Director, MTI, KTH, Peshawar.

2. Medical Director, MTI, KTH, Peshawar.

3. Chairman Board of Governors, MTI, KTH, Peshawar.

Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

Secretary, Health Department, Khyber Pakhtunkhwa, Peshawar.

......Respondents

Respectfully Sheweth:

REPLY TO THE APPLICATION FOR INTERIM RELIEF

Preliminary Objections:-

- 1. That the appellant has no cause of action/locus standi to challenge the transfer order being a Civil Servant.
- 2. That the appellant has filed the instant appeal just to pressurize the respondents.

3. That the instant appeal is against the prevailing Law and Rules.

4. That the appeal is not maintainable in the present form and also in the present circumstances of the issue.

5. The appellant is estopped by his own conduct.

- 6. That the appellant has not come to the Tribunal with clean hands.
- 7. That the appeal is time barred.
- 8. The appellant is not employee of the MTI KTH, rather is Civil Servant.
- 9. The appeal is liable to be dismissed summarily.

<u>ON FACTS:</u>

- ATTE POSE TIME
- Need no reply, however the application is not maintainable because Civil Servant is liable to serve anywhere as provided u/s 10 Civil Servant Act. 1973.

2. This para is incorrect, all the grounds have duly been replied in the appeal, hence denied in toto.

3-5 These paras are totally incorrect and misconceived, rather the matter is vice

leans in his favor hence, is not entitle to any interim relief and the relief so granted be vacated being in violation of Civil Servant Act. 1973. Prayer:

Keeping in view of the above, it is prayed that on acceptance of tis reply, application be dismissed with cost and the interim relief so granted be withdrawn/vacated in the interest of justice.

Director General Health Services, Khyber Pakhtinkhwa, Peshawar. Respondent No. 04

Secretary, Health Department, Khyber Pakhtunkhwa, Peshawar. Respondent No. 5

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List of D.B –I Cases fixed for 30.11.2017, before the Chairman and Mr. Ahmad Hassan(E) KPK Service Tribuanl Peshawar.

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		284/04	Sher Kamal (2)	•	SAIBR
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	26.	704/16	Amir Hussain		Health
	27.	805/16	Dr Rizwan Ullah		do
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	31.	512/17	Shanaba: khan		
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR. Appeal No. 458/2017 12.05.2017 Date of Institution . . . 30,11.2017 Date of Decision Syed Roidar Shah, Clinical Technician(Pharmacy), (President Provincial Paramedic Association as as well President Paramedical Association Lady Reading Hospital), Presently posted at MTI,LRH, Peshawar. (Appellant) VERSUS The Govt: of Khyber Pakhtunkhwa through Secretary, Civil Secretariat, Peshawar and 3 1.

Health Department, Civil Secretariat, Peshawar and so others. ... (Respondents)

MR. SHUMAIL AHMAD BUTT, Advocate --- For appellant.

MR. MUZAMMIL KHAN, For respondent no.4

MR. JAVED IQBAL GULBELA, --- For respondent no.4. Legal Advisor

MR. USMAN GHANI, District Attorney respondents.

MR. NIAZ MUHAMMAD KHAN, MR. AHMAD HASSAN, CHAIRMAN MEMBER(Executive)

For

official

JUDGMENT



NIAZ MUHAMMAD KHAN, CHAIRMAN.-

This judgment shall dispose of the instant service appeal as well as connected service appeals no. 465/2017 entitled Shams-Ut-Taj, no. 466/2017 entitled Murad Ali, no. 467/2017 entitled Muhammad Ali, no. 468/2017 entitled Muhammad Riaz Barki, no. 469/2017 entitled Shahid Masih Gharui, no. 470/2017 entitled Mujahid Azim, no. 532/2017 entitled Rooh-ul-Amin no. 533/2017 entitled Niaz Muhammad, no. 534/2017 entitled Yaqoob Masih, no. 535/2017 entitled Hamayun, no. 536/2017 entitled Noor Rehman, 537/2017 entitled Sartaj, no. 538/2017 Imdad Ullah, no. 539/2017 entitled Johar Ali, no. 540/2017 entitled Ms. Sajida Parveen, no. 541/2017 entitled Ms. Gulshan Ara, no. 542/2017 entitled Sumbal Firdous, no. 543/2017 entitled Ms. Aster Ms. Shaheen, no. 544/2017 entitled Bilgees Rana, no. 511/2017 entitled Muhammad Asim, no. 527/2017 entitled Isam Gul and no. 552/2017 entitled Farrukh Jalil as similar questions of The The Tree law and facts are involved therein.

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

The appellants were transferred through an order dated FACTS 09.02.2016 against which they filed departmental appeals on 3. 23.02.2016 and then the appellants filed writ petition on 17.02.2016 and the worthy Peshawar High Court, Peshawar through its judgment dated 25.04.2017 dismissed the writ petition on the ground of jurisdiction in view of Article-212 of the Constitution of the Islamic Republic of Pakistan and on thereafter they filed the instant service

12.05.2017.

ARGUMENTS 4. Learned counsel for the appellant argued that delay in filing present service appeals was due to confusion qua jurisdiction of the Service Tribunal. As in the impugned transfer orders there was mention of a law i.e West Pakistan Essential Services (Maintenance) Act 1958, which misled the appellants in choosing the forum for redressal. That the appellants in good faith believed that the above mentioned Act did not fall within the terms and conditions of the civil ATTENTED Comparison servants and therefore, this Tribunal had no jurisdiction. That the appellants then bonafidely, in good faith and with duediligence preferred writ petition for redressal of their remedy before the worthy Peshawar High Court but unfortunately the same could not hold good for their lordships of the Peshawar High Court and the Peshawar High Court vide order dated writ petition for want of dismissed the 15.07.2017 alongwith the that argued further jurisdiction. He memorandum of appeals before this Tribunal the appellants filed applications for condonation of delay under Section-14 of the Limitation Act 1908. He next contended that under Section-14 of the Limitation Act pursuing remedy before wrong forum with due diligence and good faith is an established ground for condonation of delay. He next contended that such good faith and due diligence can be gathered from the circumstances of the case argued by him above. The circumstances were such in nature which would result in presuming that the appellants were misled and then they knocked the door of the Hon'ble Peshawar High Court. The learned counsel for the appellants in order to augment his stance relied upon the judgments reported as 2017 PLC (C.S) 692 and 2007 PLC (C.S) 870. The learned counsel for

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the appellant then also argued the appeal on merits by highlighting that the Government was not authorized under the West Pakistan Essential Services (Maintenance) Act, 1958 to transfer the appellants as the said law was in force at that time. He particularly referred to Section-4 of the Act in this regard. He then went on to argue that in accordance with the office transfers/postings policy of the Government, the Bearers of the Association could not be transferred. That most of the appellants are Office Bearers. That some of the appellants are menials which could also not be transferred out of the District as per the Policy of the Provincial Government. That the impugned orders speak on their own that all transfers were made as punishment which is not approved by law and also by so many judgments of the Superior Courts. That the impugned orders are therefore, void orders and no limitation, at all, shall run against the void orders which is an admitted position of law at present.

5. On the other hand Legal Advisor for respondents argued that the present appeals are hopelessly time barred. That the judgment pressed into service by the learned counsel for the appellants reported as 2017 PLC (C.S) 692 was passed under dissimilar circumstances as in the same judgment the writ was sent back to the departmental authority for treating the same as departmental appeal which is not the case here. Learned Legal Advisor also relied upon judgment reported as 2010 SCMR 1982 in support of his arguments that limitation is an issue which should be taken seriously and not lightly. The learned Legal Advisor further argued that filing of departmental appeal by the appellants on 23.02.2016 itself manifests that the appellants knew that the matter was of one of the terms and conditions of civil servants and after the filing of that departmental appeal, appellants were bound to have had recourse to Section-4 of the Khyber Pakhtunkhwa Service Tribunal 1974 but instead the appellants filed the writ petition before the Peshawar High Court which was not allowed.

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6. The learned District Attorney for official respondents argued that the very departmental appeal is defective as the same was filed by all the appellants jointly and under Rule-3(2) of the Khyber Pakhtunkhwa Government Servants (Appeal) Rules, 1986 joint appeal is not allowed. He further argued that the application for condonation of delay is moved under Section-14 of the Limitation Act 1908 but under section-9 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 Section-14 is not applicable in the proceedings before this Tribunal. That this Tribunal has already given judgments in two appeals No. 1395/2013 entitled "*Momin Khan-vs-Government*" and No. 1396/2013 entitled "*Zaheerullah-vs-Government*" on 28.11.2017 in which the effect of judgment reported as 2017 PLC(C.S) 692 has been discussed and the period was not condoned due to pursuing the case before wrong forum. He further argued that the appellants were to explain each and every day delay which has not been done by the appellants.

CONCLUSION.

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7. This Tribunal is first to decide whether the present appeals are within time and if not then this Tribunal cannot discuss the merits of the appeals. The pivotal question for determination to reach the conclusion is whether pursuing a case before a wrong forum is a valid ground for condonation of delay in appellate jurisdiction. The application for condonation of delay is moved under section-14 of the Limitation Act, 1908. Though Section-14 is not applicable in the proceedings before this Tribunal. The august Supreme Court of Pakistan in the judgment of Larger Bench reported as 2016 PLD 872 while discussing the applicability of Section-14 of the Limitation Act has decided that provision of Section-14 of the Limitation Act are not applicable in all appeals even before the normal Civil Courts. But again in the said very judgment it is held that wherever Secion-5 of the Limitation Act is applicable then the reasons given in Sectiom-14 of the Act can be taken into consideration for deciding the sufficient cause. In the said very judgment the august Supreme Court of Pakistan while discussing many judgments of the august Supreme Court of Pakistan prior to 2016 has resolved the issue once for all by declaring many judgments as per incurium. In the judgment of the larger Bench the august Supreme Court of Pakistan has allowed the condonation on the ground of pursuing the remedy in good faith and due diligence and the august Supreme Court of Pakistan has further held in that very judgment that pursuing case in wrong forum per se cannot be presumed to be pursuing in good faith and due diligence unless the valid and sufficient reasons are given in the application for condonation of delay which misled the party or for that matter their counsel for choosing wrong forum. The judgment relied upon by the counsel for the appellant reported as 2007 PLC(C.S) 870 is also discussed in the judgment of larger Bench mentioned

above. This judgment has now merged in to the judgment of the larger Bench. Now we are to see whether the appellants have mentioned any ground in the application for condonation of delay which misled them or their counsel to choose wrong forum. If we go through the applications for condonation of delay in these appeals there is only general mention of the appellants pursuing the case innocently and bonafidly. No particulars of the circumstances which misled the appellants to choose the wrong forum, are mentioned. The learned counsel for the appellants today added the ground which misled the appellants for choosing the wrong forum but this ground is not available in the applications for condonation of delay. The august Supreme Court of Pakistan in that very judgment has also cited certain examples of misleading the counsel or his client by formulating two questions on this very subject. In question No.2 regarding wrong advice of the counsel for the appellant pursuing the remedy before the wrong forum their lordship have added that the person seeking condonation of delay must explain delay of each and every day and should establish that the delay was caused by reasons beyond control of that person (or counsel) and that

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he was not indolent, negligent or careless in initiating and

pursuing the actionable right which had accrued in his favour. Mere incompetence of the counsel, inadvertence, negligence or ignorance of law is held to be no ground. One of such examples given by their lordships is that of drawing the wrong decree sheet by the trial court as to valuation for the purpose of appeal due to which a counsel was misled into choosing the appellate forum was a valid ground. In this very judgment actus-curiae per se has not been approved to be a , sweeping ground for condonation of delay while answering question no. 3. So in the light the judgment of the Larger Bench the appellants have failed to mention the specific ground in the application for condonation which misled them or their counsel for approaching a wrong forum. Secondly, if the arguments of the learned counsel for the appellants are made part of this application then we are to see whether that ground really misled the appellants or their counsel to approach the proper forum. As discussed above the crux of the arguments of the learned counsel for the appellant is that the appellants/counsel were misled in believing because the impugned order had mentioned Act of 1958 which Act was not part of the terms and conditions of the civil servants and hence, they approached the worthy Peshawar High Court. If

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we go through the impugned order the said order has simply transferred the appellants. The transfers are very much part of the terms and condition of the civil servants under the Khyber Pakhtunkhwa Civil Servants Act 1973. If any civil servant is transferred wrongly or in exercise of any of the powers given other than the Khyber Pakhtunkhwa Civil Servants Act, 1973 the matter still remains that of transfer. There arises no question of any misleading that how transfer on the basis of a law/rules other than Civil Servants Act or Rules there-under fell outside the purview of this Tribunal. Every day the civil servants are transferred on the basis of wrong notifications, by applying wrong law or rules which give cause of action to the Civil Servants to challenge the same before this Tribunal. Mentioning of any right or wrong law never misleads any person if the net outcome of the order is transfer. So far as judgment reported as 2017 PLC (C.S) 692 is concerned that judgment has got no application to the present appeal for the reason that in the said judgment the departmental authority was directed to consider the writ petition as departmental appeal. Secondly in this judgment the judgment of larger Bench was not considered. And if there any discordance between judgments of the august Supreme

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Court of Pakistan the one of larger Bench shall prevail. The learned counsel has also not been able to convince this Tribunal that how the transfer orders are void and no limitation shall run in these appeals. All illegal orders are not void orders as is jurisprudentially settled. The objection of learned District Attorney as to joint appeal is not fatal as no penal consequences are mentioned and at the most it is directory.

8. This Tribunal is therefore, of the view that no sufficient cause has been shown by the appellants in pursuing their cases before a wrong forum and the application for condonation of delay cannot be accepted. All these appeals being time barred are dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(NIAZ MUHAMMAD KHAN) CHAIRMAN

(AHMAD HASSAN) MEMBER

Certifie:

ANNOUNCED 30.11.2017

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Approved For Reporting

ANNOX -



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Appeal No. 510/2017

Date of Institution...24.05.2017Date of Decision...05.12.2017

Dr. Rashid Ahamd S/o Haji Taj Muhammad Medical Officer (MTI) Khyber Teaching Hospital, Peshawar.

(Appellant)

(Respondents)

VERSUS

1. Hospital Director, MTI, KTH, Peshawar and 4 others.

MR. MIAN IQBAL HUSAAIN, Advocate

For appellant.

MR. MUHAMMAD JAN, Deputy District Attorney

For respondents.

MR. AHMAD HASSAN, MR. MUHAMMAD AMIN KHAN KUNDI MEMBER(Executive) MEMBER(Judicial)

JUDGMENT

<u>AHMAD HASSAN. MEMBER.</u> Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was appointed as Medical Officer in KTH on 03.12.2007. Due to some administrative issues the appellant was illegally relieved by incompetent authority vide order dated 30.01.2017 and his pay was also illegally stopped. He preferred departmental appeal on 02.02.2017 which was not responded. The appellant filed writ petition on 517-P/2017 in Peshawar High Court, Peshawar which was dismissed on 25.04.2017 for want of jurisdiction. He also filed review petition no. 70-P/2017 which was also

also dismissed on 16.05.2017 on the above grounds and the appellant was directed to approach the competent forum for redressal of his grievances, hence, the instant service appeal on 24.05.2017.

<u>ARGUMENTS</u>

3. Learned counsel for the appellant argued that vide impugned order dated 30.01.2017 he was relieved of his duties from KTH Peshawar by Medical Director MTI, KTH. He further argued that the Hospital Director was not competent to pass such orders. Being a civil servant posting/transfer— of the appellant was the domain of Health Department. It is further substantiated by the fact that initial posting order of the appellant dated 03.12.2007 was issued by the Health Department. Moreover, under Section-13 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 the Hospital Director does not enjoy powers of postings/transfers. He also relied on Section-16 of the above Act. In addition to above the Health Department vide order dated 06.10.2017clarified that civil servants working in MTIs, cannot be dislodged from MTIs by Medical Director/Hospital Director/Dean but can be repatriated by Health Department only with the approval of the competent authority.

4. On the other hand learned Deputy District Attorney argued that through impugned order dated 31.01.2017 service of the appellant were placed at the disposal of the Health Department being a civil servant as such it is not posting/transfer order. As his services were more required in KTH and after having completed normal tenure of posting was repatriated to his parent department. That he has not been absorbed in MTI, KTH. Under Section-10 of Civil Servant Act, 1973, a civil servant is required to serve anywhere in the province, hence, there is no illegality in the said order.

CONCLUSION.

5. Careful perusal of record would reveal that vide order dated 03.12.2007 the appellant was posted as Junior Registrar, Medical-D Ward by respondent no.5. There is hardly any confusion about the status of the appellant being a civil servant and respondent no.5 is competent to issue posting/transfer order. It had not been disputed by the learned counsel for the respondents. Moreover, under Section-13 of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms Act, 2015 Medical Director does not enjoy powers of posting/ transfer. As order has been issued by the incompetent authority so the same is void ab-initio. Our stance is further substantiated by the Health Department letter dated 06.10.2017. Moreover, powers pertaining to appointment terms and conditions of service etc of employees borne on the strength of the MTI are vested in Board of Governors as provided in Section-7 of the above Act.

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6. As a sequel to above, the appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.

Annex-G



GOVERNMENT OF KHYBER PARHTUNKHWA

HEALTH DEPARTMENT

Dated Poshawar, the 15" November, 2017

NOTIFICATION

NO.SOH(E-V) 4-22/2017

The Covernment of Khyber Pakhtunkhwa on the of General Gadre from BS-17 to BS-18 on regular basis with Immediate effect.-

S No	NAME OF DOCTOR	-	
1	Dr. Parida Mujarid	S.NO.	NAME OF DOCTOR
2	Dr lebal Hussan	28	Dr Nisar Anmari
3	Dr Ninz Muhammad	29	Or Shehla Aman
4	Dr Neor Hanán	30	Dr. Zuhra Hasir D/O Hasir Shah
5	Dr Noor Muhamanad	31	Dr. Afsthan Sateern D/O tJuliammad Saleem
¦ ₆	Dr. Mahammari Falsi Jas	32	Dr Aneela Azam
; ;- 7	Dr Jan Hussein	33	Or Salma Gurtare 0/0, Gurtare Khae
	_ i	135	Dr. Sneuth Roobani DrC Muhammas
	Dr Multanimad Khalil Akhtar	35	Dr. Hamida Masu Shan W/O Ur Syad Hase
9	Dr.Akbar Knan	26	Dr. Samina Kalari DiO. Abdul Karim
10	Dr Muhammod Nacem		Dr. Ghazata Shahovo CiO. Sugar
111	Dr Alzai Hussain		Muhamman Shan Dr. Sabina Xaz DrC. Salimolish Kran
112	Dr Gu-Nawaz	— ₃₉ —	Dr. Falak Maz Dro Jathar Khan
13	Or.Waseein Kashi	-10	Dr. Syeda Nusral Shah D/O Sale Eadsnah
14	Dr, Akalar Ali Shah		Or Rania Menary Veheen) Or O Mehry Du
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16	Dr Shabir Alimad		D' Soha stan
17	Dr.Oalser Zaman	4.4	Dr. Zarida Parveen DiO. Amir Navas
1 18	Dr Mumlaz Muhammad		Dr. Zahlda Bior D/O. Shariisul Abrar
19	Dr Menammae Ayub	45	Dr. Syeca Shannas Janeas 200 Curry
20	Dr Yasir Murad		St Huhan Shar Gr Mahammad Magi Sid Mulaminag
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22	Dr.Hamid-ur-Rehman		Dr. Leagat Ale S/Q Mir Alam
23	Dr.Abdoli Malik		Dr. Jamahed Saled Sheran (S/O Sales) Almad Shisani
24	Dr Bisha-ul-Hag		
25	Dr. Syed Gul Syed mussa a	52	Dr. Multianmud Horces, Studi d S O
26	Or.Fatal-ur-Rehman	53	Dr. Syad Yan, / Ak Shah S/O Syed Mehrah
27	Dr.Furamoz	154 10	Dr. Tarig Munammad Saeed SiQ Muhammad Saeed
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57	D: Abdul Hameed S/O. Saadullah	94	Dr. Abdur Rehman S/O Abduilan Khan	
58	Dr. Gill Nawa: Shan S.O. Saifora: Shaa	95	Dr. Raz Aluhammad S/o Mohib Ali Khan	
59	D: Harbon Zalfar S'O Muhammad	96	Dr. Ejaz Alimad S/O Muhammad Aslam	
60	Dr. Khakl Ur Rennian	97	Dr. Ghulam Faroog S/O. Prof: Azir ur Rehman	
81	, Dr. Nazar Munammad S.O. Bakht So	98	Dr. Muhammad Ishaq Khan S/O Junais	
62	- Dri Tariq Koon S Ol Adalat Kiran	99	Dr. Habib Gul S/O. Haji Ingar Gul	
	Dr. Rehmai Saleem Khan SiO. Khan Muhammad	100	Dr. Rashid Ahmad S/OJ Hajl, Taj Muhammi	ad
8.	C: Alam Knan S O Ferez Knan	1 101	Dr. Iflishar Ali S/O. Prof. Rehman Gul	
65	FDr. Maak Knushi Muhammad S/O Malik Facir Muhamman	102	Dr Muhammad Dost Khan s/o Zahir Gul	_
35	Chinas Shan's S.O. Barmat Khan	103	Dr Grutam Fareca sto Sultan Jan	_
37	Cr. Dable Stiatt S.O. Sanvar Knan	104	Dr Muhammad Hayat s/o Meen Akbar	_
68	Dr. Taj Munamman SiO, Murao Din	105	Dr Wastuminatian s/o Sarfaraz Khun	_
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' 70	Dr. Khalil Ur Renman So Ali Rehman	107	Dr. Shalee Alam S/O. Aodul Hanan	
71	Dr. Inayatu'lan sib Knalid Khan	1 108	Dr. Khal for Rehman S/O About Hamid	
72	Dr. Mansoor Ahmad Khan sto Muhammad Setirab Khan	1 109	Dr. Sahro Gul Orakzar S/O. Malik Deen	
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81	Dr. Nisar Ahmau	118	1 Dr. Ashfaq Hussain Bangash SiOKnadin:	
82	Dr.Mousa Khan	119	- 1 waacht	
83	Dr. Muhammad Tung s/o Haleen	120	Dr. Snafiullah Khan S/O. Saidul Waitab Dr. Nazir Ahmad S/O. Shah Jenan	
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209	Igbal Hussain Bangash Dr. Shakeel Ahmad S/O. Ghulam	245	Dr. Khalid Mehmood S/O Rehmatullah
210	Mutaza Tahir Dr. Gul Nazar S/O. Samandar	246	Dr. Yousal Jan s/c. Karam Khan
211		247	Dr. Bakht Zada S/O. Gul Muhammad
212	Dr. Jamshed An S/O Llaga: Ali	248	Dr. Fazal Subhan S/O. Gnulam Habi
213	Dr. Nadar Khan S/O. Gadar Khan	249	Dr. Bakht Zamin S/O Wati Dad
	Dr. Muhammad Faheem S/O Muhammad Share	250	Dr Aymal Khan s/o. Zulgader Khan
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215	Dr. Abdul Wehab S/O. Abdul Ghalfar (late)		
216	Dr. Pir Muhammar Sto Hana	252	
217	Dr Farman All StO Muhammer		Dr Kamran Yousal sto Yousal Khan
218	Dr. Muhammad Saryar S/O Mikaram Shah	253	Dr Khairen Nabi
219		254	Dr. Asijac Ali Shah S/O. Man Muhamman Al-Shah
220	Dr. Muhainmad Noisan Yousal S/O Muhainmad Yousal	255	Dr. Tohir Hussain S/O. Ghulain Hussain
	Dr. Saood Anwar SrO Shah Hussain	256	Dr. Muhammad Tang S/O Wazir Jang
221	Dr. Muhammad Tulail S/O. Sahiu Jan	257	Dr. Mustafa S/O. Behramand
222	Dr. Muhammad Zalo S/O. Haji Said Ghani	253	Dr Muhammad Roo: S/O H M Islam Khan
223	Dr. Sajjao Ahmad S/O. Wachedultah	259	Dr. Ibrahim Inpail S/O. Saleh Khun, MB6S
224	Dr. Saeedur Rehman S/O. Haji Fazlı Rehman	260	Dr Zalfar Al-Shah slo Said Badshar.
225	Dr. Muhammad Tahir Khan S/O Faiz Muhammao Khan	261	Dr Fida Muhammad S/O Zalin Knaa MD
226	Dr. Aminullah S/C. Bawar Knon	252	Dr Aziz Khan s/o Jalfar Khan
227	Dr. Ghani Khan S/O. Abdul Qayyum	263	D' Rah Nawat S/O Mchammad Nawar
228	Dr. Inayat Khan S/O Sarwar Khan	264	Dr. Muhammag Kamal S/Q Muhammad
229	Dr. Amir Sher S/O. Pir Mubammad	265	Sharif Dr Sher Jan slo Musharaf Khun
230	Kitan Dr. Muhammad Anf Khan S/O Gulbar	 • 266	Dr. R az Ali S/O. Ser Bahadar
231	Khan Dr. Anwar Ali Khan S/O. Saidar Ali	267	Dr. Muhammag Parvez Khan s/o
	Khan		Muhammad Nasir
232	Dr. Ijaz Ahmad S/O Bashir Ahmad	268	Dr.Noor Muhammad s/o Ahmad Saeed
233	Dr. Nudar Al-Shuja S/O-Shujaud Dullah	269	Dr S til Taimur Stran stol Pir Feroz Shuti
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235	Or Ikramullah Khan S/O Khuda Bakhush	27;	Dr. Mubanimo Li Arner Shan SrQ Israuit Auteen
236	Dr. Muhammad Zubair S/O. Ghuncha Gul	272	Dr. Farld Hassan S/O. Wazir Hassan
237	Dr. Muhammad Shafiq Alud, SIQ Pay Fazal Kanm	273	Dr. Izzat Khan S/O. Rasco' Khan
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432	Muhammad Raise Mehmood	454	Dr. Mursaha d/o t/whainmad Afzai
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433	Di Khalid Haleez sig Hibzui Rehmar.		Dr. Manzeoi Almadisio Abdul Wascod
434	Or has a sig Hidzur Rehman.	1456	D: Shazia Gul d/o Masood Altimad
	Or, Irstivat Jetian d/o Shamsul Wahab		a locis Gol b/o masood Ahmad
435	Dr.MazarWali s/o Syeu Awarz	457	Dr Roobina Gul dio BadshaliGol
436	I Star Steel Awar	458	Or Bitar Shaha
	Dr Neseerullah sło Umar Kabal		Dr Rifa: Shaheen dio Oazi Ahinau
437	Dr. Musammad Ayoz Khan s/o Haj	459	Dr. Shaneen Methao d/e Munitaz Khan
	Amir Nawab	450	Di Fauricoa dura
438	Dr.Saleemuddin s/o Haji Shan Bakhi Rawan		Cr Fandcon Mehmood Khan sio Mehmood
139	Rawan	461	Dr. Syed Badsha't slo Musalar Khan
· · · ·	Dr Facal Hadi sio JumaGul	462	
440	Dr. Qasim Abbas sio SailurRehman		Dr. Abdul Ghateer sic Baustiah Knan
441	Dente and administration	453	DiForal Razig s/o Faral Liairo
	Dr HakimZada sio Purdes Kaan	1 4 6 4	
442	Dr Nusral Beguns dla Onar and	1	Dr Moneed Surana dio Mchummad Akram
		465	Dr. Saeedur Rehman sio Ashtar Khan
443	Dr.NasreenBeguum d/o Awal	466	
444	i ooudam	1400	Dr. Fayyaz Ali sio Oaiser Khan
-1-1-1	Dr Muhammad Shareer, s/o Raza Khan	467	Dr Shakuutah sto FuralGhatce: Sto
445	Dr Wah Khan s/o Mameer Khan	·	
		468	Dr. Faheern Ull Har sto Munanimau Ishng
1		469 7	Di Fahau Enabel Universitat
			Umerzai

57 - **3** T

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2. In term of Rule 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of Appoi230ntment, Promotion and Transfer Rules, 1989, they will be on probation for a period of 231one year extendable for another year.

З.

The postingsuransters of the above named doctors shall be notified later on.

SECRETARY HEALTH Govi of Khyber Pakhtunkhwa

SECTION OFFICER (E-V)

Endst.No & Date Even.

Copy to the:-

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Principal Secretary to Child Minister, Knyber Pakhtunkhwa Principal Secretary to Governer, Knyber Palatunkinwa Secretary to Governet, Rivber Pavatuathwa, Establishmeni Department Director General Health Services, Kivber Pavatuathwa Director Health Services FATA, Peshawar 1.¹⁴ PS to Minister Health, Knyber Pakhtenkhwa, Peshawar PS Secretary Health, Knyber Pakhtun Awa, Pushtwar Office sudectors concerned (JIBREEL RAZA)

line

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT PESHAWAR.

Service Appeal No:- <u>\$10</u> /2017

Diary No. Dates 24/5

Annak-H

Dr. Rashid Ahmad S/o Haji Taj Muhammad, Medical Officer (MTI) Khyber Teaching Hospital, Peshawar, Cell No:- 0300-5860585

Versus

1. Hospital Director, MTI, KTH, Peshawar,

√ √2._ Medical Director MTI, KTH, Peshawar,

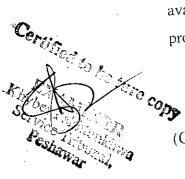
3. Chairman Board of Governors, MTI, KTH, Peshawar, Medical Teaching Institutions Khyber Teaching Hospital, Peshawar, Khyber Pakhtunkhwa.

4. Director General Health Service, Khyber Pakhtunkhwa, Khyber Road, Peshawar, near District Courts Peshawar.

 Secretary Health, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar

22.11.2017

Appellant in person present. Mr. Zia Ullah, *e* Deputy District Attorney alongwith Mr. Subhan Ullah. Assistant for the respondents present. Representative of the respondent department stated that the present appeal has become infructuous on the ground of promotion of the appellant from BS-17 to BS-18 on regular basis. Appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourn. To come up for further proceedings/arguments on 30.11.2017 before D.B.



(Gul Zeb Khan) Member (E)

(Muhammad Hamid Mughal) Member (J)

ول لنه Petition ښام و ديرك حبركم مغدم مندرم منوان بالای این طرف سے داسطے بیردی وجواب موہی وکل کاروائی متعلقہ ان تفام محمد کا مرح کے لیے صلا وکل المروض میں معرف مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کا ردائی کا کا ک استیار موکا بیز وكبل صاحب كوكرف داحى نامه وتسقررنات وفيصله برجلف وبيصحراب دمي ادرا تسال دحوتي اور مصورت وكرى كرف ايراء ادرومولى ميك درديد ادرومن دعوى اورد واست برتم كي تعديق وماس بر د خط كراست كا اختبار موكا فن معدرت عدم بردى الدكرى كمعرفه ما ابيل كى مراكد كما ومرفق بسبس فنردا وركرف ابيل تكول ونظرتان ويروى كرك كانعتبار موكا اورلعبودت فزدرت مقدمه مذكور سے سمل با جزد کی کارردائی کے داسط ادر دیمیل بالحت رفانوں کو اپنے سمراہ بابنی تجاتے تقرمہ کا معلم موركا ادرصا نب مقررتده كولعى دي حلد مذكوره مالا احتيا دات صاصل مول تح ادراس كاساختر بهداخة شطور دنبول بوكا ودوران مقدمهم جوخرج ومرماته التواشي مقدم كصب سيريوكا. المنا صمتحق د تميل صاحب موصوت بهول تح . نيز لغايا و خدجه كى ويمو كى كرف كالجمي العلنيا ر موكًا • الكر IREC كوتى ماديخ متى معام دورد يرمد با حد م ما المرمون ديل صاحب بالبدية مول سك ، كربيروى بذكوركرين والمبذاد كات فا مرتكحد ماكم تنتدر المرتوم Aedical Direct 9 (min) /ledical Teachir KTH Pes

ANNEX-E page (

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Misc Application No.- 161/2018 In Service Appeal No 510/2017

APPLICATION FOR INTERIM INJUNCTION TO RESTRAIN THE APPLICANTS FROM WITHHOLDING THE PAY AND ALLOWANCES OF RESPONDENT NO 1 TILL DECISION OF THE CASE.

Respectfully Sheweth:-

- 1) That the above noted case under Section 12(2) CPC is fixed for 31/08/2018.
- 2) That under the garb/excuse of their said application, the applicants have withheld and stopped the pay/salaries of the respondent No 1 with the object that the interest accruing on the payment of respondent No 1 be misappropriated.
- 3) That in view of the Preliminary Objections and with reply of respondent No 1, there is no justification for the

applicants to withheld the payment of salaries and allowances to respondent No 1.

• That in light of the contents of reply, submitted by the respondent No 1, prima facie, the applicants have no jurisdiction to withheld the pay of respondent No 1 which continuously cause inconveniences and hardships and deprivation of livelihood of the right of the respondent No 1, causing irreparable loss to the respondent No 1.

It is, therefore, prayed that the applicants be restrained from withholding the payment of salaries of respondent No 1 till decision of the case

Through:-

Dated:- 31/08/2018

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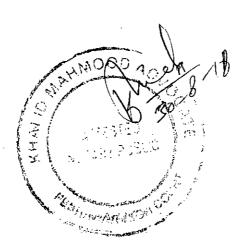
Respondent No 1

Dr. Rashid Ahmad

Lul lun Mian Iqbal Hussain Advocate Supreme Court

Misc Application No:- 161/2018 In Service Appeal No 510/2017

I, <u>Dr. Rashid Ahmad</u> S/o <u>Haji Taj Muhammad</u> R/o <u>Room No 09, Old Doctors Hostel KTH, Pehsawar</u>, (replying respondent No 1) do hereby solemnly affirm and declare on oath that the contents of this accompanying <u>Application for</u> <u>interim Injunction</u> are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



DEPONENT CNIC No:- 1601-6721321-7 VAKALAT NAMA

NO. 159 /2018

IN THE COURT OF Service Tribunal Peshan	rac.
Director MTI	(Appellant) (Petitioner) (Plaintiff)
VERSUS	(Fidmenty)
DE Jamshiel laced	(Respondent) (Defendant)
1/W/e, DE- Jamshid Saeed.	

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated /2018

(CLIENT)

<u>ACCEP</u> TAIMUR ALI KHAN Advocate High Court

OFFICE:

Room # FR-8, 4th Floor, Bilour Plaza, Peshawar, Cantt: Peshawar Cell: (0333-9390916)

Misc Application No:- 161/2018 In Service Appeal No 510/2017

Hospital Director & others	Versus	Dr. Rashid Ahmad & others
Applicants		Respondents
$\diamond \diamond $	$\diamond \diamond \diamond$ INDEX	$\diamond \diamond $

S#	Description of the Documents	Annex	Pages
, <u>i</u> ,	Written Statement/Reply on behalf of respondent No 1 with	*	1-8
1	affidavit		
2.	Copy of order dated 06/10/2017 of the Health Department	``A″	9
З.	Copy of withdrawal of relieving order of respondent No 1	"B"	10
•	dated 15/12/2017 by Health Department		
4.	Copy of promotion to BPS-18 of respondent No 1 dated	_``C"	11-18
	15/11/2017 by Health Department		
5.	Copy of posting order dated 20/12/2017 of respondent No 1	"D"	19
-	by Health Department with -stary application	E	20-21
6.	Wakalat Nama	*	2 93
L		<u> </u>	·

Dated:- 31/08/2018

Respondent No 1

Through:-

Dr. Rashid Ahmad

nol

Mian Iqbal Hussain Advocate Supreme Court

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Misc Application No:- 161/2018 In Service Appeal No 510/2017

WRITTEN STATEMENT/REPLY ON BEHALF OF DR. RASHID AHMAD (RESPONDENT NO 1)

Respectfully Sheweth:-

Preliminary Objections: -

A) That the applicants have no authority or locus standi or cause of action to raise any objection against the posting and transfer of respondent No 1 who is admittedly civil servant and only respondent No 2 and 3 are competent to make or to object to the posting and transfer of respondent No 1 (Civil Servant). (Copy of order dated 06/10/2017 of the Health Department is attached as annexure "A").

> In addition to Section 13 under Section 16(3) Read with Section 3(2) and 7 of the KPK MTI Act, 2015

only the Health Department is competent to pass the posting and transfer orders of the Civil Servants. As such the present applicants have no authority to file the above noted application, challenging the posting and transfer orders of the respondent No 1 (Civil Servant), passed by the Health Department.

B) That the applicants have no authority to file application under Section 12(2) CPC against the respondent No 2 and 3 (Health Department). As such application noted above, is barred by law and is liable to be rejected without any further proceedings.

C) That the reliving order dated 30/01/2017 passed by the applicant No 2, which was impugned in Service Appeal No 510/2017 has been withdrawn by the Government of Khyber Pakhtunkhwa Health Department vide order dated 15/12/2017. (Copy whereof is enclosed hereto as annexure "B"), which has achieved finality. As such the application noted above for restraining the relieving order dated 30/01/2017 has become infurctitous.

D) That vide notification dated 15/11/2017 (annexure "C") of the Government of Khyber Pakhtunkhwa Health Department, the respondent No 1 has been promoted to BPS-18 and has been posted in KTH, Peshawar vide

2

notification dated 20/12/2017 (Annexure "D"). As such the application noted above has been infurctitous.

E) That without challenging the withdrawal of reliving order vide order dated 15/12/2017, the order dated 15/11/2017 and order dated 20/12/2017 of Government of Khyber Pakhtunkhwa Health Department, the above noted application under Section 12(2) CPC is infurctitous and futile exercise.

- F) That the remedies of appeal under section 96 CPC and of Revision under Section 115 of CPC and under Section 12(2) CPC are not available under the Khyber Pakhtunkhwa Service Tribunal Act, 1974.
- *G)* That this Tribunal has no jurisdiction to entertain the above noted application filed by the applicants.
- *H)* That the application titled above is barred by law and is liable to be rejected.
- I) That the applicants have no authority to challenged the posting and transfer orders made by Government of Khyber Pakhtunkhwa Health Department (as referred to above).

- J) That the application noted above in futile exercise and abuse of orders passed by the competent authorities/ Health Department and as such is abuse of process of law and is barred by law, therefore, is liable to be rejected.
- K) That appeal No 510/2017 filed by the respondent No 1 was not time barred, therefore, was neither mentioned nor dismissed as time barred in the order dated 30/11/2017 passed in Appeal No 458/2017, wherein only those cases/appeals were mentioned, which was dismissed being time barred.
- L) That the above mentioned materials facts and orders have been concealed by the applicants, therefore, they have not come to the court with clean hands. Moreso they have not challenged the same in the prescribed means provided in Service Tribunal Act and Civil Servant Act, 1973 of KPK and under the Constitution of Pakistan, 1973. As such they could not be allowed to attack/challenge it indirectly through above noted application.
 - M) That he salaries/pay & allowances of respondent No 1 maintained in the record of Accountant General Officer Khyber Pakhtunkhwa/Provincial Health Department,

4

exchequer, is transferred to MTI KTH for payment to respondent No 1, which cannot be withheld from payment to respondent No 1 by the applicants under the excuse of filing above noted application.

 N) That the salaries and allowances of the applicants is prayed for to be attached and be paid to the applicant No
 1 as special cost for involving him in frivolous litigation and withholding his salaries and allowances.

O) That the application noted above is time barred.

Para-Wise Reply to the application tilted above:-

1)

That the relieving order dated 30/01/2017 passed by the applicant No 2, which was impugned by the respondent No 1 in Writ Petition No 517-P/2017 and lateron in Service Appeal No 510/2017 has been withdrawn by declaring it ab-initio by the Health Department vide order dated 15/12/2017. (Annexed "B"). Said order is never challenged before any forum in the prescribed manner under the law. Therefore, now could not be challenged indirectly through instant application under Section 12(2) CPC.

2) Para No 2 needs no reply.

Para No 3 is denied based on concealment of facts, because the judgment of Service Tribunal dated 30/11/2017 itself show that only those cases are mentioned therein where were dismissed being time barred whereas the Appeal No 510/2017 filed by respondent No 1 is neither mentioned therein nor was time barred, but was filed well within time.

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3)

- 4) Para No 4 is denied. Moreso in the light of Preliminarily Objections mentioned in the reply, the applicants have accepted.
 - a. The withdrawal of relieving order dated 30/01/2017 by the subsequent order of the Health Department dated 15/12/2017.
 - b. The promotion of the respondent No 1 to BPS-18 vice order dated 15/11/2017 of Health Department.
 - c. The posting of the respondent No 1 in MTI KTH vide order dated 20/12/2017 of Health Department, because they have not challenged said orders in the prescribed manner in competent forum, therefore, they could not be allowed to challenge the same and to render it ineffective, through instant application under Section 12(2) CPC.

Paras No 5, 6 & 7 of the application alongwith the relief prayed for in the above titled application are denied in light of the Preliminary Objections stated above.

It is, therefore, prayed that the application titled above may kindly be dismissed with costs and the pay & allowance of the applicants may be attached and forfeited and be paid as special cost to respondent No 1 and the applicants be directed to pay the salaries and allowances of respondent No 1 in the light of the Health Department and the order of this Honourable Tribunal having passed in favour of respondent No 1.

Dated:-___/08/2018

5)

Respondent No 1

Through:-

Dr. Rashid Ahmad

Som

Mian Iqbal Hussain Advocate Supreme Court

Misc Application No:- 161/2018 In Service Appeal No 510/2017

I, <u>Dr. Rashid Ahmad</u> S/o <u>Haji Taj Muhammad</u> R/o <u>Room No 09, Old Doctors Hostel KTH, Pehsawar</u>, (replying respondent No 1) do hereby solemnly affirm and declare on oath that the contents of this accompanying <u>Written</u> <u>Statement/Reply on behalf of respondent No 1</u> are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



DEPONENT CNIC No:- 1601-6721321-7

Ammex A

Government of Khyber Pakhtunkhwa

No.50H-1/HD/3-45/2017 Dated Pesh: the 6th Oct; 2017

Τo

- 1. The Hospital Director, DHQTH/MMMTH, MTI, D.I.Khan
- The Medical Director MTI, DHQTH/MMMTH, MTI, D.I.Khan
- The Dean, Gomal Medical College, D.I.Khan

SUBJECT:- HUMAN RESOURCE MANAGEMENT WITH IN MITIS AND TRANSFER/POSTING OF CIVIL SERVANTS IN MITIS '

I am directed to refer to the subject noted above and to state that in the light of MTI Act 2015 and till date clinical faculty and other staff concerned with clinical functions/health care activities of attached teaching hospitals of the medical college have to report to the Medical Director who is responsible for all clinical functions/health care activities of the MTI.

2. The Dean heads the Medical College and Academic Council has to prescribe and set principles for teaching research, training, development of curriculum, undertaking, scholarly activity, ensuring ethical and moral standard, students affairs and admission in colleges, therefore, the Dean has got nothing to do with the clinical staff working in the attached teaching hospitals.

3. The Hospital Director is responsible for non clinical functions but not management which includes transfer postings of the clinical facility and other staff related with clinical functions/health care activities of the hospital. He is responsible only for "maintenance and development" of human resource but not management of such staff.

4. Civil Servants working in MTIs, cannot be dislodged from MTIs by Medical Director/Hospital Director/Dean but can be repatriated by Health Department only with the approval of the competent authority.

The above instructions and legal positions may be followed in letter and spirit.

In Khani Section Office r-I

Endst No and date even

C.C

1. Secretary to Boards of Governor, of MTI D.I.Khan

- 2. Director Finance MTI, D.I.Khan
 - For information and necessary action -

Attested

Section Officer-I



Annex B GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

Page 10

No. SO (E) H-II/11-3/2017 (Dr. Sadaf Ijaz) Dated Peshawar, the 15th December 2017

The Hospital Director, Medical Teaching Institution, Khyber Teaching Hospital, Peshawar.

Subject:

То

JUDGMENT/ORDER IN APPEAL NO.510/17, MR. DR. RASHID AHMAD.

I am directed to refer to the Judgment of the Khyber Pakhtunkhwa Service Tribubal, Peshawar in the above captioned case dated 05.12.2017 and to request that the Medical Director, MTI KTH office order dated 30.01.2017 regarding repatriation of Dr. Rashid Ahmad s/o Haji Taj Muhammad, Medical Officer BS-17 to Health Department may be withdrawn ab anitio being void, please (comy on cloud)

Jibreel Raza) ection/Officer (E

Section Officer (E-II

Endst: No. & Date Even

Copy to the:

- 1. Director General Health Services, Khyer Pakhtunkhwa.
- 2. PS to Secretary Health, Khyber Pakhtunkhwa
- PA to Additional Secretary (E), Health Department. 3.

Attested



Ammex & Page !!

GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar, the 15" November, 2017

NOTIFICATION

NO.SOH(E-V) 4-22/2017

recommendations of the Provincial Selection Board is pleased to promote the following doctors of General Cadro from BS-17 to BS-18 on regular basis with immediate effect:-

S.No.	NAME OF DOCTOR	S.NO.	
1	Dr. Farida Mujahid		
2	Or Iqual Hussain	28	Or Nisar Ahmad
3		29	Dr. Shehla Aman
4	Dr.Nioz Muhammad	30	Dr. Zuhra Nasir D/O Nasir Shah
	Dr.Noor Hanan	31	Dr. Afshan Saleem D/O Muhammad Saleen
5	Dr.Noor Muhammad	32	Dr Aneela Azam
6	Dr. Muhammad Tahir Jan	33	Dr. Sama Guilam D/O. Guilam Khan
7	Dr. Jan Hussain	34	Dr. Saeeda Rabbani O/O Muhammad
8	Dr.Muhammad Khalil Akhtar	35	Hussain Dr. Hamida Nasir Shah W/O Dr. Syed Nasir Shah
9	Dr.Akbar Khan	36	Dr. Samina Karim D/O Abdul Karim
10	Dr.Muhammad Naeèm	37	Dr. Ghazala Shaheen D/O Syed Muhammad Shah
11	Dr. Afzal Hussain	38	Dr. Sabina Naz D/O Salimullah Khan
12	Dr.Gul Nawaz	39	Dr. Falak Naz D/O Jaffar Khan
13	Dr.Waseem Kashif	40	Or. Syeda Nusrat Shah D/O Said Badshah
14	Or Akhlar Ali Shah	41	Or. Rabia Mehar(Waheed) O/O Mehar Dil Khan
15	Dr.Aminullah	42	Dr. Zakia Abid DIO Abid Ali
6	Dr. Shabir Ahmad	43	Dr. Sofia Khan
7	Dr.Qaiser Zaman	44	Dr. Zahida Parveen D/O Amir Nawaz
8	Dr.Mumtaz Muhammad	45	Dr. Zahida Bibi D/O Shamsul Abrar
9	Dr.Muhammad Ayub	46	Dr. Syeda Shahnaz Jabeen D/O Syed Israrullah Shah
0	Dr. Yasir Murad	47	Dr. Muhammad Nazir S/O Muhammad Yousal
1	Dr. Nasir Hussain	48	Dr. Manzoor Ahmad Khan S/O Bahadar Khan
2	Dr.Hamid-ur-Rehman	49	Dr. Liagat Ali S/O Mir Alam
3	Dr. Abdul Malik	50	Dr. Jamshed Saeed Sheranii S/O Saeed Ahmad Shisani
4	Dr.Ihsan-ul-Haq	51	Dr. Fazal Ghaloor S/O Muhammad Amin
5	Dr. Syed Gul Syed Hussain	52	Dr. Muhammad Harcon Shahid S/O Hasham Khan
6	Dr.Fazal-ur-Rehman	53	Or. Syed Tahir Ali Shah S/O Syed Mehtab Hussain
7	Or Faramoz	54	Or. Tariq Muhammad Saeed S/O Muhammad Saeed

ATTEST

	Page 12	e ^k		
55	Dr. Abdul Karim SiO Mir Abbas Khar	92	Dr.Muhammad Jamil Khan s/o Fazal	
56	Dr. Alamzeb SiO Aurangzeb	93	Dr. Dildar Khan S/O Abdul Ghattars	
57	Dr. Abdul Hameed S/O. Saadullah	94	Dr. Abdur Rehman S/O Abdullah Khan	
58	Dr. Gul Nawaz Khan SiO. Sarlaraz	95	Dr. Raz Muhammad Sio Mohib Ali Khar	
59	Nhan Dr. Harcon Zaffár S/O. Muhammad	96	Dr. Ejaz Ahmad S/O Muhammad Aslan	<u></u>
60	Zaitar Dr. Khalil Ur Rehman	97	Dr. Ghulam Farooq S/O. Prof: Azir ur	
61	Dr. Nazar Muhammad S/O Bakht Sar	98	Rehman Dr. Muhammad Ishaq Khan S/O Junais	
62	Or. Tang Khan SiO Adalat Khan	99	Khan Dr. Habib Gul S/O Haji Inzar Gul	
63	Dr. Rehmat Saleem Khan S'O. Khan	100	Dr. Rashid Ahmad S/O Haji Taj Muhami	mad
64	Muhammad Dr. Alam Khan S/O Ferez Khan	101	Dr. fftikhar Ali S/O Prof. Rehman Gul	
65	Dr. Makk Knushi Muhammad S/O	102	Dr.Muhammad Dost Khan s/o Zahir Gul	
65	Malik Facir Muhammad Dr. Riaz Shahid SiO Rahmat Khan	103	Dr. Ghulam Faroco s/o Sullan Jan	
67	Dr. Zahir Shah S/O Sanvar Khan	103	Dr.Muhammad Hayat s/o Meen Akbar	
68	Dr. Taj Muhammad S/O Nurab Din	105	Or Nasruminaliah s/o Sarfaraz Khan	
69	Dr. Muhammad Tahir Ariz StO Arizur	* .	Dr Syed Touseel All shah s/o Syed Farma	_
70	Rehman Dr. Khalil Ur Rehman s/o Ali Rehman	107	shah Dr. Shahid Alam S/O Abdul Hanan	····
71	Dr. fnayatullah sio Khalid Khan	108	Dr. Khalilur Rehman S/O Abdul Hamid	_
72	Dr. Mansoor Ahmad Khan s/o	109	Dr. Sahib Gul Orakzai S/O Malik Deen	
73	Muhammad Sehrab Khan Dr. Shaukat Ali s/o Khan Bahadar	110	Orakzai Dr. Ihsanul Haq S/O Samiullah	
74	Dr. Naseer Hassan s/o Nazir Hussain	111	Or. Matiuliah S/O Fazal-E-Moula	
75	Dr. Jamałuddin s/o Rahim Din	112	Dr. Said Zaman S/O Bakht Zaman	
76	Dr. Muhammad Rehman s'o Bacha Khan	113	Dr. Syed Shaida Hussain Bukhan S/O. Firla	_
77	Dr. Rafiuliah Khan sio (Balgees Khan	114	Hussain Shah Dr. Sheikh Muhammad Farooq Azam S/O	
78	Dr. Akmal Khan slo Ayub Khan	115	Dr. Syed Imbaz Ali Shah S/O Syed Sikandar	-
79	Dr. Fawad Aslam s/o Muhammad	116	Shah Dr. Zanin Khan S/O Khan Zallah Khan	-
80	Astam Khan Dr.Imtiaz Khan s/o Aman Khan	117	Dr Najibullah Khan S/O Zabardast Khan	-
81	Dr. Nisar Ahmad	118	Dr. Ashlaq Hussain Bangash S/OKhadim	-
82	Dr.Mcusa Khan	119	Hussain Dr. Shafullah Khan S/O Saidul Wahab	-
83	Dr. Muhammad Tang s/o Haleem Khan	120	Dr. Nazir Ahmad S/O Shah Jehan	1.1~
		121	Or Muhammad Ajmal Khahi s/o Khahiur Rehman	Amul
84	Dr. Naveed lobal s/o Muhamamd Ghulam	122	Dr. Muhammad Hashim S/O Ghazi Marjan	TIES
85	Dr. Wajid Ahmad s/o Rehman Gul	123	Dr. Rafullah S/O Haji Khan Zada	
86	Dr. Zakaullah Khan s/o Meher Oil	124	Der. Ijaz Akber S/O Mir AKbar	
87	Dr. Muhammad Akait Rauf s/o Abdur Rauf	125	Dr. Javed Igbal S/O Muhammad Qasim	
88	Dr. Waqas Khallak s/o Asam/lah Khallak	1	Dr. Sher Aslam Shah S/O Pir Salam Khan	
89	Dr. Khalid Mehmood Afridi s/o Khan WaY		Dr. Jamshed Qadat SrQ. Maj. Qadat Gul	
90	Dr. Kamran Durrani s/o Bashir Durrani	128	Cr. Muhammad Sadiq S/O Haji Daraz Gul	
91	Dr. Rizwan ullah Khan s'o Habibullah	129	Or, Ajmal Khan S/O. Sultan Khan	

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	134	Dr. Nasir Jamal Sto Gul Manan	169	Dr Daryn Khan s'o Mula Khan	
	135	Dr. Jehanzeb S/O Muhammad Bashir	170	Or Azizullah Khan s/o Ihsanullah Khan	
	136	Dr. Adıl Saidullah S/O Saidullah Jan	171	Dr Ahmad shah Arbab s/o Arbab Humayun Khan	1
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		Dr. Yasin Muhammad S/O Syed Alzal	175	Or. Fayyaz Ahmad S/O Mirajud Din	•
	140	Dr.Arshad AF	176	Dr. Iqbal Ahmad S/O Khaista Bacha	
	141	Dr. Ijaz Ahmad Khan S/O Said Karim	177	Dr Sibghatullah Khan SiO Abdullah Shah	
	142	Dr. Khalilur Rehman S/O Abdul Rehman	178	Dr Mahboob Alam S/O Shah Bahadar	
	143	Dr. Khalitur Rehman S/O Abdul Jamil	179	Dr. Niaz Ali Khan S/O Raza Khan	
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	145	Dr. Hamidullah S/O. Syed Amin Khan	181	Dr.Shujaal Ah Shah	
	146	Dr. Mubarak Shah S/O Qadam Khan	182	Dr. Zaheer Muhammad S/O Nisar Muhammad	
	147	Dr. Shahzad Iqbal S/O Muhammad Iqbal	183	Dr. Muhammad Atif S/O Khwaja Muhammad Khan	
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	152	Dr.Muhammad Usman s/o Tajamul Hussain	188	Dr. Zahid Hussam SiQ Ali Zaman	
	153	Dr.Şarlaraz Khan s/o Hajjat Din	189	Dr Sahib Gul S/O Munir Gul	
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	160	Dr.Sanaullah slo Wariduliah	196	Dr Sher Zall S/O Bahadar Khan	/ ·
	161	Dr.Haroon Zafar s/o Zafar Ahmad	197	Dr. Mumtaz Ali S/O Ashrof Khan)
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	163	Dr.Muhammad Mamoon s/o	199	Dr. Azimutlah S/O Darya Khan	V
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292	Hussain Dr.Muhammad Jawad s/o Iftikhar		**************************************
293	Khan Dr.Farkhanda d/o Fahim Dil	329	Dr. Nabeela Mehmood D/O Mehmood Khan Khattak
294	Dr. Muhammad Riaz S/O	330	Dr. Muhammad Habeel S/O Mushtaq Ahmad Dar
295	Muhammad Aslam. Dr.Habib-ur-Rehman S/O Abdul Aziz	331	Dr. Sher Bahadar S/O Fazal Ahmad
296	Or Inayatullah S/O Saitullah Khan	332	Dr. Fahad Ajmal S/O Muhammad Ajmal
297	Or Abbas Khan S/O Ajab Khan	333	Dr. Muhammad Ali Khan S/O Sain Muhammad Malik
298	Or Muhammad Munib S/O SHis Ali	334	Dr. Rahat Ara D/O. Ghulam jan
299	Khan Dr.Akram Khan S/O Arbab Khan	335	Dr. Ghareebullah S/O Yaqub Khan
300	Or.Nawab Khan S/O Aslam Khan	336	Dr. Tang Jalil S/O Abdul Jalil Shaheed
301	Dr. Azəm Khan Afridi S/O Abdul Aziz	337	Dr. Abdul Hameed Khan S/O Abdul Majeed Khan
302	Or.Shah Kamin S/O Nowserawan	338	Or. Fauzia Habib DiO Habib ur Rehman Khalitak
302	Dr.Rahim Nawaz S/O Mir Dan Khan	339	Dr. Musa Khan S/O SHiszada
304	Dr.Azhar Azeem	340	Dr. Mushlaq Ahmad S/O Haji Fazal Khan
305	Dr. Muhammad Shafiq	341	Dr. Tariq Aziz S/O Shakirullah
306	Or Muhammad Shah Rawan	342	Dr. Walayat Khan S/o Kamin Badshah
307	Dr. Zill-e-Huma D/O Ajab Khan	343	Dr. Syeda Uzma Saeed D/O Syed Saeedul Hag
308	Dr. Aya Khan S/O Jamat Din	344	Or, Muhammad Yasser Sham SU
309	Dr. Fazal wahab S/O Abdul Ghaffar	345	Dr. Muhammad Kashir Illai S/O Muhammad
310	Dr. Muhammad Shoaib S/O Shamim	346	Or, Sahibzada Hilal Ahmad SrU S, Naso-
	Khan Dr. Sumaira Sardar D/O Sardar ul	347	Dr. Zershad Ahmad S/O Pir Munarteneo
311 312	Islam Dr. Alifullah Khan S/O Arif Ullah	348	Dr. Hassan Nasir S/O SHis Akbar Shah
372	Khan		

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		Pagel	7		
•	349	Dr.Salman Ahmad s/o Ajab Khan	386	Dr. Wazir Khan S/O Rukam Khan	Ja2 22
•	350	Dr. Nusrat Ara D/O Abdullah Jan	387	Dr. Munir Taj S/O Taj Malook	J X X X
: .	351	Dr. Azmat Ali S/O Muhammad Afzat	388	Dr. Muhammad Salman Khan S/O Muhammad Akbar Khan	
	352	Dr. Manzoor Ahmad S/O Rustam Khan	389	Dr. Zulfigar Ali S/O Ijaz Hussain Awan	
	353	Dr. Ali Bashir S/O Bashir Hussain	390	Dr. Mohabat Ali Khan S/O Abdul Baqi	- N.
	354	Dr. Shabir Ahmad S/O Juma Khan	391	Dr. Syed Munqadullah S/O Syed	
	.355	Or. Shafqat Younas Tanooli S/O Muhammad Younas	392	Mahldullah Dr. Liaqat Ali S/O Shah Bali Jan	
	356	Dr. Muhammad Ibrahim Khan S/O Abdul Halim Khan	393	Dr. Jehanzeb S/O Munawar Khan	
	357	Dr. Shaukat Hussain S/O Bagh Zamin	394	Dr. Farmanullah Khan S/O Jamil Ullah	
	358	Dr. Muhammad Naeem S/O Habibullah Khan	395	Khan Dr. Muhammad Tahir Iqbal S/O	
	359	Dr. Tariq Masood S/O Sher Azam	396	Muhammad Igbai Dr. Qazi Yasir Imdad S/O Qazi Imdad	
	360	Khan Dr. Muhammad Safdar Qureshi S/O	397	Hussain Dr. Roshan Zada S/O Syed Latif	
	361	Dr. Nosheen Rehman D/O Oazl Zie	398	Dr. Shahid Mehmood S/O Sardar	
	362	Dr.Najeebullah s/o Mehboobur	399	Muhammad Aslam DrSamlullah s/o Nageebullah	
	363	Rehman Dr. Akhtar Munir S/O Murad Khan	400	Dr.Lal Badshah S/O Pirzad Gul	
	364	Dr. Naheed Akhtar D/O Khuna Gul	401	Dr.Shafiuliah S/O Muhammad Gul.	
	365	Dr. Anjum Afroz D/O Muhammad	402	Dr.Haroon Nasir Khattak S/O Rab Nawaz	_
	366	Dr. Kamran Ali S/O Abdul Hameed	403	Dr.Gohar Zaman S/O Minhajuddin,	
	367	Dr. Erum Qayyum S/O Syed Qayyum	404	Dr.Abdul Wall S/O Izzat Khan	-
	368	Dr. Gohar Zaman S/O Muhammad Zaman	405	Dr.Mumnoon Elahi S/O Muhammad Khurshid	-
	369	Dr. Mazhar Hayat S/O Malik Hazrat Mir	406	Dr.Rafiuliah S/O Arsala Jan	
	370	Dr. Shah Baraz Khan S/O Guizar Khan	407	Dr.Alif Jan S/O Amir Jan	1
	371	Dr. Rubina Bangash D/O Jan Hussain Bangash	408	Dr. Sir biland Khan S/O Ghulam Gillani	
	372	Dr. Raza Ali Orakzai S/O Liagat Ali Orakzał		Dr.Zahiddin slo Yousaf Khan	~ ~ [
-	373	Dr. Syeda Nargis Jabean D/O Israrullah Shah		Dr.Rab Nawaz Khan Afridi s/o Haji Said	TESTED
	374	Dr. Sheraz Ahmad S/O Rashid Ahmad		Dr. Sardeep Kumar s/o Hukamchand	TESTE
	375	Dr. Muhammad Zamin Khan S/O Hayat			
	376	Dr. Lubna Rasool D/O Abdul Rasool		Dr.Robina Wazir D/O Haji Mumtaz	4
	377	Dr. Arshiya Ilyas D/O Muhammad Ilyas		Dr.Rowish d/o Ahmad Jan Dr.Muhammad Riaz S/O Ghulam Rasool	ł
	378	Dr. Sadia Asif D/O Muhammad Asif		Dr.Noshaba Naheed D/O Manzoor Ahmed	4
K	379	Dr. Fazal Gul S/O Haji Musa Khan	410	Dr. Muhammad Arif s/o Chand Badshah	-
N	380	Dr. Lubna Hayat D/O Fazal Hayat Taj		Dr.Asil Rahim s/o Abdul Rahim	4
-	381	Dr. Muhammad Amin Khan S/O Muhammad Usman Khan	,	Dr.Abdullah Khan s/o Abdul Mastan	
1	382	Dr. Nouman Khan S/O Nasir Khan	420	Dr.Raz Muhammad s/o Badshah	
	383	Dr. Muhammad Zubair S/O Iftikhar Ahmad Bhatti		Muhammad Dr.Fazal Wahld s/o Khan Gul	1
	384	Dr. Muhammad Ismail Sro Said		Dr. Mushtaq Ahmad s/o BadshahulMulk	
	385	Muhammao Dr. Sultan un Nisa D/O Hafiz Muhabat Khan			

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	P	age 18	
423	Dr. Nizamuddin s/o Qaandar Khan	446	Dr. Shahzad Gul s/o Muhammad Sharleeg
424	Dr.Nisar Ahmad s/o Amir Muhammad	447	Dr. Mast Ali Khan s/o Majani
425	Dr.Khizar Hayat s/o Pir Muhammad	448	Or Laizada Khan s/o Umar Gul
426	Dr.Rukhsana d/o Malik Farukh Sair Khan	449	Dr. Abdul Aziz s/o Abdur Rashidn
427	Dr.Ajab Khan sío Ismail Khan	450	Dr. Sher Umar Khan s/o Fateh Khan
428	Dr. Khalid Javed s/o Zuifigar Khan	451	Dr. Abdul Haieem Afridi s/o Fazal Shah
429	Dr. Abdul Sattar Khan s/o Rukam Khan	452	Dr. Said Ameen Shah s/o Abdullah Shah
430	Dr.Ayub Khan s/o Umar Gul	453	Dr. IjazAjmal Khan s/o Ajmal Khan
431	Dr.Muhammad Farooq s/o Muhammad Raziq Mehmood	454	Dr. Mursaha dio Muhammad Afzai
432	chivacemulian s/o Abdullah	455	Dr. Manzoor Ahmad s/o Abdul Wadood
433	Dr.Khafid Hafeez s/o Hibzur Rehman	456	Dr.Shazia Gul d/o Masood Ahmad
434	Dr.Irshrat Jehan d/o Shamsul Wahab	457	Dr.Roobina Gul d/o BadshahGul
436	Dr.NazarWali s/o Syed Awatz	458	Dr.Rifat Shaheen d/o Qazi Ahmad
437	Dr.Naseerullah s/o Umar Kabal	459	Dr. Shaheen Mehtab d/o Mumtaz Khan
438	Dr. Muhammad Ayaz Khan slo Haji Amir Nawab Dr. Sateemundin ale 11a -	460	Or Faridoon Mehmood Khan s/o Mehmood Khan
439	Dr.Saleemuddin s/o Haji Shah Bakht Rawan Dr.Fazal Hadi s/o JumaGul	461	Dr. Syed Badshah s/o Musafar Khan
440	Dr.Qasim Abbas s/o SaifurRehman	462	Dr. Abdul Ghafoor s/o Badshah Khan
441	Dr. HakimZada s/o Purdes Khan	463 464	DrFazal Razig s/o Fazal Maula
442	Or Nusrat Begum d/o Oazi Abdul	465	Dr. Naheed Sultana dio Muhammad Akram Dr. Saeedur Rehman s/o Ashtar Khan
443	Mateen Dr.NasreenBeguum d/o Awal	466	Or. Fayyaz Ali s/o Qaiser Khan
444	Saddam Dr. Muhammad Shafeeq s/o Raza	467	Dr. Shakiruliah s/o FazalGhatoor S/O
445	Khan Dr.Wali Khan s/o Mameer Khan	468	Muhammad Amin Dr. Faheem Ul Hag s/o Muhammad Ishaq
		469	Dr.Fahad Khaliki Umerzai s/o Khalid Khan Umerzai

In term of Rule 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of 2. Appoi230ntment, Promotion and Transfer Rules, 1989, they will be on probation for a period of 231one year extendable for another year.

3.

The postings/transfers of the above named doctors shall be notified later on.

ATTESTED

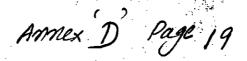
SECRETARY HEALTH Govt of Khyber Pakhtunkhwa

Endst, No & Date Even.

Copy to the:-

- Principal Secrolary to Chief Minister, Khyber Pakhtunkhwa. 1.
- Principal Secretary to Governor, Knyber Pakhlunkhwa, Secretary to Govi of Knyber Pakhtunkhwa, Establishment Department 2. 3.
- Director General Health Services, Khyber Pakhtunkhwa,
- 4, Director Health Services FATA, Peshawar
- 5, PS to Ministor Health, Khyber Pakhtunkhwa, Peshawar
- 6. PS Secretary Health, Khyber Pakhlunkinwa, Peshawar
- 7, Officers/doctors concerned. 8,

(JUGREEL RAZA) SECTION OFFICER (E-V)





· GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar, the 20th December, 2017

NOTIFICATION

NO.SOH(E-V)4-22/2017 Upon promotion to BS-18 in the General Cadre vide Notification of even number dated 15.11.2017, the competent authority is pleased to retain Dr.Rashid Ahmad SMO BS-18 at S.No.100 attached to Khyber Teaching Hospital Peshawar in the said Hospital against the vacant post of BS-18 with immediate effect in the public interest.

SECRETARY HEALTH Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

- 1. Accountant General, Khyber Pakhtunkhwa
- 2. Director General Health Services, Khyber Pakhtunkhwa.
- 3. Hospital/Medical Director KTH Peshawar
- 4. PS to Minister Health Khyber Pakhtunkhwa
- 5. PS Secretary Health, Khyber Pakhtunkhwa, Peshawar
- 6. Officer/doctor concerned.

(JIBREEL RAZA) SECTION OFFICER (E-V)

Attested

ANNER-E page = 20

Misc Application No:- 161/2018 In Service Appeal No 510/2017

Respectfully Sheweth:-

1) That the above noted case under Section 12(2) CPC is fixed for 31/08/2018.

- 2) That under the garb/excuse of their said application, the applicants have withheld and stopped the pay/salaries of the respondent No 1 with the object that the interest accruing on the payment of respondent No 1 be misappropriated.
- 3) That in view of the Preliminary Objections and with reply of respondent No 1, there is no justification for the

applicants to withheld the payment of salaries and allowances to respondent No 1.

That in light of the contents of reply, submitted by the respondent No 1, prima facie, the applicants have no jurisdiction to withheld the pay of respondent No 1 which continuously cause inconveniences and hardships and deprivation of livelihood of the right of the respondent No 1, causing irreparable loss to the respondent No 1.

It is, therefore, prayed that the applicants be restrained from withholding the payment of salaries of respondent No 1 till decision of the case

Dated:- 31/08/2018

4)

Respondent No 1

Dr. Rashid Ahmad

Through:-

Lul lun Mian Iqbal Hussain Advocate Supreme Court

Misc Application No:- 161/2018 In Service Appeal No 510/2017

I, <u>Dr. Rashid Ahmad</u> S/o <u>Haji Taj Muhammad</u> R/o <u>Room No 09, Old Doctors Hostel KTH, Pehsawar</u>, (replying respondent No 1) do hereby solemnly affirm and declare on oath that the contents of this accompanying <u>Application for</u> <u>interim Injunction</u> are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



DEPONENT CNIC No:- 1601-6721321-7



بعدالت طوت جير خير خيرال سرس لرسوم شرم م cup Cup 1 Dr. Rashid (b. Hospilal Director Ahmal K.T.H. ele منوزقته مقدر دعوكى جرم أباعث تحريرا نكبه N'lee' مقدمه مندرج بمنوان بالامين ابني طرف سے داسطے بيردي وجواب دہي دکل کاردائي متعلقه AS - Cinal / Cul & Cus - 24 - Cus - T مقررکر سے اقر ارکیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کا روائی کا کامل اختیار ہوگا۔ نیز و کیل صاحب کوراضی نامه کرنے وتقرر دالت، و نیصل برحلف دیتے جواب دہی اورا قبال دعو کی اور بسورت ذكرى كرف إجراء اورصولى چيك درويبيار عرضى دعوى اور درخواست مرتسم كى تصديق زرایں پردستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برا مدگی ادرمنسوشی نیز دائر کرنے اپیل نگرانی دنظر ثانی دیپردی کرنے کا اختیار ہوگا۔از بصورت ضر درت مقد مہذکور کے کل پاچزوی کاروائی کے داسطےاورد کیل پامختار قانونی کواپنے ہمراہ پااپنے بجائے تقرر کا اختیار ہوگا۔اورصا حب مقرر شدہ کوبھی وہی جملہ ندکورہ باا ختیارات حاصل ہوں کے اور اس کا ساختہ برواخته منظور قبول موگاردوران مقدمه میں جوخر چدد مرجانه التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ بیشی مقام دورہ پر ہویا حدب باہر ہوتو وکیل صاحب پابند ہوں گے۔ کہ بیروی مدکور کریں۔ لہذا وکالت نامہ کھندیا کہ سندر ہے۔ .2018 - (NZ: 11 المرقوم _____ *سے لئے منظور ہے ک*ے بتمقام 1 and Attested as Accepted Mian Ighan Withen Asc el: 03339480893

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

	Misc: Application No IN	2018	Market Mark
Put up to the count	S.A. No. <u>510</u> /2017 al Director		
WINE relevant JT Hospit		Appl	icants
Ol In Dr. R	versus ashid Ahmad and others	Respon	dents
Application for 1	Early Hearing/Clubbing with the Exec	<u>cution Petit</u>	tion No.162/2018
	Fixed for hearing on 1 12 - 10 - 2	I .c/8	

Respectfully Sheweth,

- That the above titled Application is pending before the Hon'ble Tribunal which is scheduled for hearing on <u>الماراط</u>
- 2. That the applicant has already filed an application under Section 12(2) CPC which is pending before this Hon'ble Tribunal. Whereas Respondent/Judgment Debtor has also filed the Execution Petition No.162/2018 (fixed on 10.2018). Thus for the justice and fair decision, clubbing of both the tiled Application and said Execution Petition is essential as in both the application/Petition, the matter is related to the judgment of this Hon'ble Tribunal dated 05.12.2017 passed in Service Appeal No.510/2017.
- 3. That it would be in the best interest of justice and to avoid conflict of judgments, it essential to club both the application and Petition and to fix the titled Application on l_{2} 10.2018 with the mentioned Execution Petition.

It is, therefore, humbly prayed that on acceptance of this application, the titled Application may graciously be fixed on 10.162/2018 with Execution Petition No.162/2018.

a: 08/10/2018

Through

Applicants

1

Khaled Rahman, Advocate, Supreme Court of Pakistan

Deponent

Verification

Verified that the contents of this application are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.