

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

--- For applicants.

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

--- For respondent no.1.

Mr. Muhammad Jan,
Deputy District Attorney

--- For respondents no.2 & 3.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

--- 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

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.

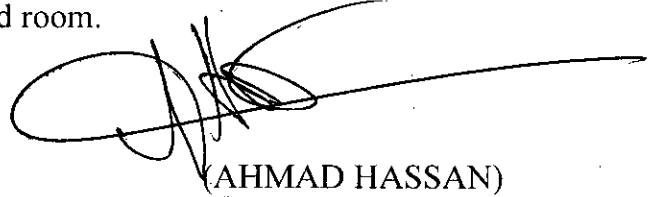
CONCLUSION

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



(AHMAD HASSAN)
MEMBER


(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 Khan Kundi)
Member

Order

08.02.2019

Counsel for the applicant present. Mian Iqbal Hussain, Advocate for respondent no.1 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

(Muhammad Amin Khan Kundi)
Member

(Ahmad Hassan)
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.


Chairman

22.10.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore the case is adjourned. To come up on 06.12.2018


Reader

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.



(Ahmad Hassan)
Member


(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

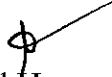
Clerk to legal advisor for legal advisor present. Mr. Muhammad Jan, Learned Deputy District Attorney present. Subhan Ullah litigation Assistant on behalf of KTH Peshawar present. Respondent Dr. Rashid Ahmad also present. Due to general strike of the bar, the case is adjourned. To come up on 31.08.2018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



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

31.08.2018

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

MISC: APPLICATION No. 161 /2018

IN

S.A No. 510/2017

Hospital Director etc.....Applicants

Versus

Dr. Rashid Ahmad Respondents

INDEX

S.No.	Description of case	Date	Annexure	Page
1.	Memo of Application U/S 12(2) with Affidavit			14
2.	Stay Application with Affidavit			5
3.	Judgment of the Hon'ble High Court, Peshawar	25.04.2017	A	6-15
4.	Appeal of Respondent No.1		B	16-30
5.	Replies of applicants		C	31-41
6.	Cause List	30.11.2017	D	42
7.	Consolidated judgment of this Hon'ble Tribunal	30.11.2017	E	43-54
8.	Impugned judgment	05.12.2017	F	55-57
9.	Promotion Notification of Respondent No.1	15.11.2017	G	58-61
10.	Order Sheet	22.11.2017	H	62
11.	Wakalat Nama			63

Applicants

Through

Khaled Rahman
Advocate,
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

MISC: APPLICATION No. 161 /2018

IN

S.A No. 510/2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 588

Dated 28/05/2018

1. **The Hospital Director**
Medical Teaching Institution/KTH/KMC/KCD
Peshawar.
2. **The Medical Director,**
Medical Teaching Institution/KTH, Peshawar.
3. **Nursing Director,**
Medical Teaching Institution/KTH, Peshawar..... **Applicants**

VERSUS

1. **Dr. Rashid Ahmad,**
Medical Officer,
Khyber Teaching Hospital, Peshawar
2. **The Secretary**
Govt. of Khyber Pakhtunkhwa
Health Department,
Civil Secretariat, Peshawar.
3. **The Director General Health Services**
Khyber Pakhtunkhwa, Peshawar **Respondent**

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:-

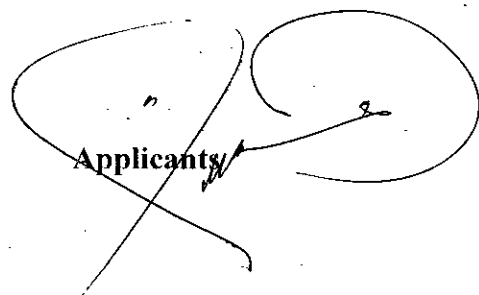
11. *Admittedly, the petitioners are civil servants and their grievances relates to the terms and conditions of service, the appropriate remedy for seeking their redressal would surely be the Service Tribunal.*
12. *This Court is barred under Article-212 of the Constitution of the Islamic Republic of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

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 Hon'ble 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.


Applicants

Through

Khaled Rahman
Advocate
Supreme Court of Pakistan

Dated: 28 /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

Affidavit

I, Dr. S. Muhammad Zahir Shah *litigation MTI, 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

Shah
Deponent

Incharge Litigation,
MTI KTH Peshawar

(5) (B)

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

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 30.11.17.
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

Khaled Rahman
Khaled Rahman,

Advocate,

Supreme Court of Pakistan

Dated: 28 / 05/ 2018

Affidavit

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.

Shah
Deponent
Incharge Litigation,
MTI KTH Peshawar.

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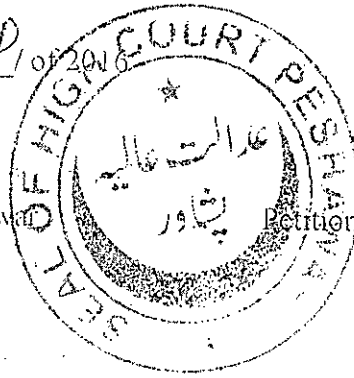
~~Attention: H.C. Clerk~~

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No.

429-P1 of 2016

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



Petitioner

VERSUS

1. Director General Health Services
Khyber Pakhtunkhwa, Peshawar.

2. Secretary Health, Khyber Pakhtunkhwa,
Peshawar.

Respondents

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

Respectfully Sheweth:

1. 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.

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Peshawar High Court
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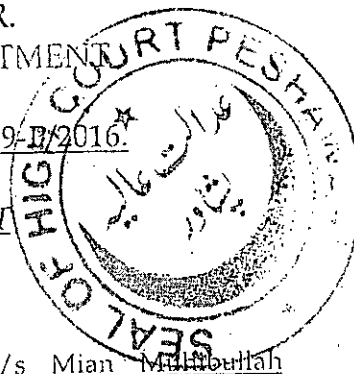
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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,
PESHAWAR.
JUDICIAL DEPARTMENT

Writ Petition No. 429-P/2016.

JUDGMENT



Date of hearing: 25.4.2017

Petitioner (Farrukh Jalil) by M/s Mian Mubtullah
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

2. 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 Hospital KDA, Kohat against the vacant post, which

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29 APR 2017

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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

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 Medie 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.
- II. The Respondents shall not dislodge the petitioners, proceed against them adversely or interfere with their legal or fundamental rights in garb of the West Pakistan Essential Service (Maintenance) Act, 1958.
- III. Costs throughout

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

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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 DHQ Hospital, Nowshera and prayed that the impugned transfer orders and its modification 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

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

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impugned through the instant Writ Petition and sought the following prayer:-

- i. To declare the impugned Office 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
- ii. To restore the Office Order No. 23097-106/KTH/E dated 18.10.2016 of respondent No.1 (Annex "B").
- iii. 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. 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 to Health Department.
- v. To restrain the respondents from arbitrary exercise of powers, and policy based on making pick and choose, discrimination in relieving/transfer of the civil servants from KTH to Health Department.
- 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 petitioner".

Writ Petition No. 667-P/2017

8. 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

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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.

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 I.A. Sharwani and others vs. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041) and recently in Ali Azhar Khan Baloch's case (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 Writ Petitions being not maintainable are hereby dismissed.

146 Muzeyy Hussain

147 Muzeyy Hussain
JUDGE

JUDGE



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29 APR 2017

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No. 2624
Date of Presentation of Application 28/4/17
No of Pages 10
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Total 40-00
Date of Payment 28/4/17
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- ii. *Intermediate Module, IMM (General Medicine)*
- iii. *4 years FCPS Training in General Medicine vide (Annex "I"),*

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.*

ATTESTED BY TRUE
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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

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"):

ATTESTED BE TRUE
Copy of Original

9. *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”)

ATTESTED AS TRUE
Copy of Original

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.*

(20)

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.*

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.*

ATTESTED TO BE TRUE
Original

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

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- 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.*
- 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*

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(23)

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,

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

- I) 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

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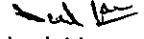
relieving/transfer of the civil servants from
KTH.

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.**

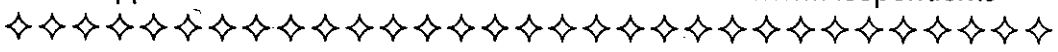
Service Appeal No:- _____/2017

Dr. Rashid Ahmad

Versus

Hospital Director, MTI,
KTH, Peshawar & others
.....Respondents

..... Appellant



AFFIDAVIT

I, Dr. Rashid Ahmad S/o Haji Taj Muhammad,

Medical Officer (MTI) Khyber Teaching Hospital,

Peshawar, do hereby solemnly affirm and declare on oath

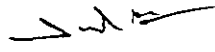
that the contents of this accompanying Service Appeal are

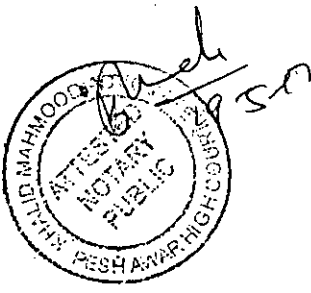
true and correct to the best of my knowledge and belief and


nothing has been concealed from this Honourable Court.

Identified by

DEPONENT
CNIC No:- 16101-6721321-7


Mian Iqbal Hussain
Advocate Supreme Court
of Pakistan



ATTESTED TO BE TRUE
AND CORRECT



- (29)
3. *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


Appellant

Through:-


Mian Iqbal Hussain
Advocate Supreme Court
of Pakistan

ACCEPTED BE TRUE
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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, AT PESHAWAR.

(B)

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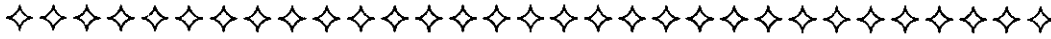
Misc: Application No:- _____/2017
In
Service Appeal No:- _____/2017

Dr. Rashid Ahmad

Versus

Hospital Director, MTI,
KTH, Peshawar & others
..... Respondents

..... Appellant



AFFIDAVIT

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

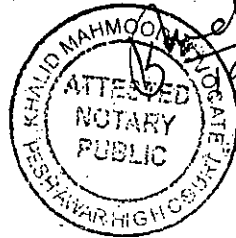
Identified by

DEPONENT
CNIC No:- 16101-6721321-7

R/A

Mian Iqbal Hussain

Mian Iqbal Hussain
Advocate Supreme Court
of Pakistan



ATTESTED BE TRUE
K.C. [Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re
Service Appeal No.510/2012.

Dr. Rashid Ahmad.

Vs

Hospital Director MTI KTH & Others.

Appellant

Respondents.

~~31~~

Annex 'E'

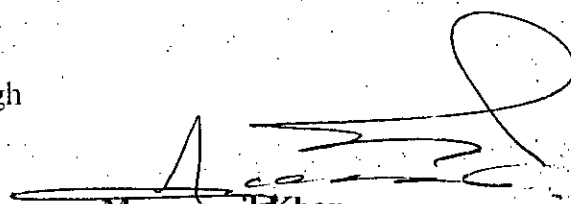
31

INDEX.

S.No	Description of document	Annexure	Page No.
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.

(48)
(32)

In Re
Service Appeal No.510/2012.

Dr. Rashid Ahmad.^s

Appellant

Vs

Hospital Director MTI KTH & Others.

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.
8. 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

ATTESTED
3/12/2012

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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.

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 departmental appeal has been dismissed viz-a-viz the instant appeal is barred by time and liable to be dismissed summarily.

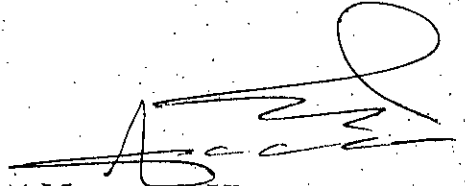
On Grounds:-

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.

REGISTERED
31/12/2012

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

(34)

In Re
Service Appeal No.510/2012.

Dr. Rashid Ahmad.

Appellant

Vs

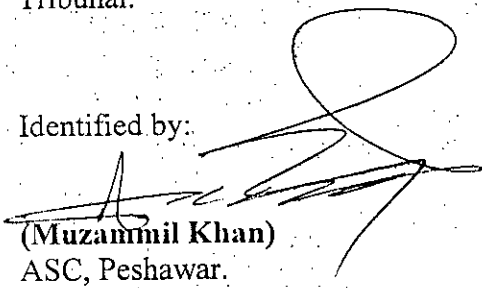
Hospital Director MTI KTH & Others.

Respondents.

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.

deponent

24/4/17

ATTESTED BY THE
Copy of Original

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re
Misc Application No. /

Dr. Rashid Ahmad.

Vs

Hospital Director MTI KTH & Others.

Appellant

Respondents.

REPLY TO THE APPLICATION FOR INTERIM RELIEF.

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. 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 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

Muzamil Khan,
ASC, Peshawar.

ATTESTED
COPY OF ORIGINAL

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re
Misc Application No. /

Dr. Rashid Ahmad.

Vs

Hospital Director MTI KTH & Others.

Appellant

Respondents.

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.

deponent
24/8/17

TESTED & TRUE
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 510 OF 2017

(23)

Dr. Rashid Ahmad.....Appellant

Versus

(37)

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.
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 through the impugned order, his serviced have been one again rendered back to the Health Department of the

DEPT. OF HEALTH
PESHAWAR

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.

8. 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.
- 9-11. 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.

Grounds:

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

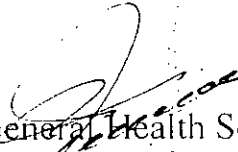
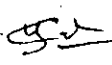
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Copy of the appeal


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.

(28)
(39)

Prayer:

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

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(40)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

IN RE

MISC. APPLICATION NO.

Dr. Rashid Ahmad..... **Appellant**

Versus

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.
5. 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.

ON FACTS:

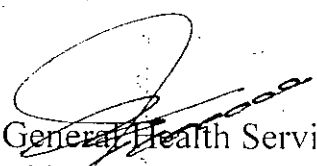
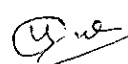
1. Need no reply, however the application is not maintainable because Civil Servant is liable to serve anywhere as provided u/s 10 Civil Servant Act 1973.
2. This para is incorrect, all the grounds have duly been replied in the appeal, hence denied in toto.
- 3-5 These paras are totally incorrect and misconceived, rather the matter is vice


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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 Pakhtunkhwa, 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 Tribunal Peshawar.

Annex-D

42

ARUGMENTS

1. 640/15	Issa Dad (29)	Education
2. 537/17	Sartaj (8)	Health
3. 455/17	Shams ul Taj (5)	do
4. 532/17	Rooh ul Amin (5)	do
5. 480/17	Dr. Jamshed Saeed	do
6. 479/10	Dr Rashid Ahmad (1)	do
7. 458/17	Syed Roidar shah	do
8. 1104/16	Mehnaz Begum	Health
9. 723/15	Neelam	do
10. 1384/15	Fazal-i- Qadir	do
11. 846/15	Dr Qaser Zaman (1)	Education
12. 284/04	Sher Kamal (2)	SMBR
13. 673/15	Umbaras Khan	Education
14. 1942/11	Muhammad Nawaz	Education
15. 640/11	Ghazala Abreen (4)	Education
16. 345/14	Mashaal Khan	do
17. 693/14	Din Mohammad	do
18. 1356/09	Mumlikat	Education
19. 20/14	Zabta Khan	Education
20. 1160/10	Noor Rahim	do
21. 1830/11	Awal Badshah	Health
22. 850/13	Dr Ali Raza	do
23. 1380/13	Amina Jan	do
24. 1498/13	Dr Misal Khan (1)	do
25. 150/14	Dr Abdul Ghafoor	Finance
26. 704/16	Hazrat Younas	Health
27. 805/16	Amir Hussain	do
28. 1134/14	Dr Rizwan Ullah	Health
29. 1388/14	M Ijaz	SMBR
30. 1178/16	Sajid Saleem	Education
31. 512/17	Ikram Ullah	
32. 620/17	Shanabaz Khan	Enormt
33. 694/17	Dr Hussain Ahmad	Education
34. 667/16	Zenat Ara	Health
35. 304/17	Khan Mir	Education
36. 262/17	Mahajra	Police
37. 284/17	Muhammad Zaman	Education
38. 1071/12	Mujeeb ur Rehman (1)	

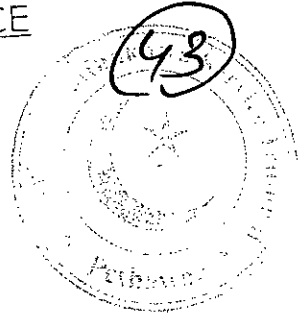
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Annex 'E'

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(43)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 458/2017

Date of Institution ... 12.05.2017

Date of Decision ... 30.11.2017

Syed Roidar Shah,
Clinical Technician(Pharmacy),
(President Provincial Paramedic Association as well as
President Paramedical Association Lady Reading Hospital),
Presently posted at MTI,LRH, Peshawar. ... (Appellant)

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Secretary,
Health Department, Civil Secretariat, Peshawar and 3
others. ... (Respondents)

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

MR. MUZAMMIL KHAN,
Legal Advisor ... For respondent no.4

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

MR. USMAN GHANI,
District Attorney respondents. --- For official

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

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BY
CHAIRMAN

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JUDGMENT

(Scribble)
(44)

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 Ms. Sumbal Firdous, no. 543/2017 entitled Ms. Aster Shaheen, no. 544/2017 entitled Bilqees Rana, no. 511/2017 entitled Muhammad Asim, no. 527/2017 entitled Isam Gul and no. 552/2017 entitled Farrukh Jalil as similar questions of law and facts are involved therein.

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

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FACTS

3. The appellants were transferred through an order dated 09.02.2016 against which they filed departmental appeals on 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 thereafter they filed the instant service appeals on 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

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servants and therefore, this Tribunal had no jurisdiction. That the appellants then bonafidely, in good faith and with due diligence 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 15.07.2017 dismissed the writ petition for want of jurisdiction. He further argued that alongwith the 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 transfers/postings policy of the Government, the office 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.

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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.

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,

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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.

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 Section-5 of the Limitation
Act is applicable then the reasons given in Section-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

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COUNSEL FOR THE APPELLANT

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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 he was not indolent, neqligent or careless in initiating and

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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 is 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.

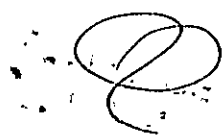
8. This Tribunal is therefore, of the view that no sufficient cause has been shown by the appellants in pursuing their cases before a wrong forum and the application for condonation of delay cannot be accepted. All these appeals being time barred are dismissed. Parties are left to bear their own costs.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

SD/-

(NIAZ MUHAMMAD KHAN)
CHAIRMAN

SD/-

(AHMAD HASSAN)
MEMBER



ANNOUNCED
30.11.2017

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Approved For Reporting

ANNEX - F

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 510/2017

Date of Institution ... 24.05.2017

Date of Decision ... 05.12.2017

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

... (Appellant)

VERSUS

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

... (Respondents)

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

AHMAD HASSAN, MEMBER.- 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

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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.

ARGUMENTS

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 06.10.2017 clarified 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 ^{no} 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.

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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 has 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.

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.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annex - G

58

NOTIFICATION

Dated Peshawar, the 15th November, 2017

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

The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following doctors of General Cadre from BS-17 to BS-10 on regular basis with immediate effect:-

S No.	NAME OF DOCTOR	S.NO.	NAME OF DOCTOR
1	Dr Farida Mujahid	28	Dr Nisar Anwar
2	Dr Iqbal Hussain	29	Dr Shehla Aman
3	Dr Niaz Muhammad	30	Dr. Zuhra Nasir D/O Nasir Shah
4	Dr Noor Hanan	31	Dr. Afshan Saleem D/O Muhammad Saleem
5	Dr Noor Muhammad	32	Dr Azeela Azam
6	Dr. Muhammad Tahir Jan	33	Dr. Seema Gulzar D/O Gulam Khan
7	Dr Jan Hussain	34	Dr. Saeeda Raabani D/O Muhammad Hussain
8	Dr Muhammad Khalid Akhtar	35	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 Naeem	37	Dr. Ghazala Shabeen D/O Syed Muhammad Shah
11	Dr Atzar Hussain	38	Dr. Sabina Naz D/O Sahibullah Khan
12	Dr. Gul Nawaz	39	Dr. Faruk Naz D/O Jamil Khan
13	Dr. Waseem Kashif	40	Dr. Syeda Nusrat Shah D/O Saad Badshah
14	Dr. Akhtar Ali Shah	41	Dr. Rabia Menar (Waneed) D/O Mehar Dil Khan
15	Dr. Amrullah	42	Dr. Zakia Aab D/O Aab Ali
16	Dr. Shahid Ahmad	43	Dr. Sofia Khan
17	Dr. Qaiser Zaman	44	Dr. Zarida Parveen D/O Amir Nawaz
18	Dr. Mumtaz Muhammad	45	Dr. Zahida Bior D/O Shamsul Abrar
19	Dr. Muhammad Ayub	46	Dr. Syeda Sharmaz Jabeen D/O Syed Saifullah Shah
20	Dr. Yasir Murad	47	Dr. Muhammad Nazir S/O Muhammad Yousof
21	Dr. Nasir Hussain	48	Dr. Manzoor Ahmad Khan S/O Banagar Khan
22	Dr. Hamid-ur-Rehman	49	Dr. Laqat Ali S/O Mir Alam
23	Dr. Abdul Malik	50	Dr. Jamshed Saeed Sherani S/O Saeed Ahmad Shisani
24	Dr. Bushra-ul-Haq	51	Dr. Faqar Ghaffar S/O Muhammad Amir
25	Dr. Syed Gul Syed Hussain	52	Dr. Muhammad Farooq Shahid S/O Hasham Khan
26	Dr. Faisal-ur-Rehman	53	Dr. Syed Tahir Ali Shah S/O Syed Mehtab Hussain
27	Dr. Furamoz	54	Dr. Tariq Muhammad Saeed S/O Muhammad Saeed

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55	Dr. Abdul Karim S/O Mir Abbas Khan	92	Dr. Muhammad Jamil Khan s/o Fazal Mabeed
56	Dr. Amanzeb S/O Aurangzeb	93	Dr. Dildar Khan S/O Abdul Ghaflar
57	Dr. Abdul Hamid S/O Saadullah	94	Dr. Abdur Rehman S/O Abdullhan Khan
58	Dr. Gul Nawaz Khan S/O Sarforaz Khan	95	Dr. Raz Muhammad S/O Mohib Ali Khan
59	Dr. Haroon Zakir S/O Muhammad Zaffar	96	Dr. Ejaz Ahmad S/O Muhammad Aslam
60	Dr. Khalid Ur Rehman	97	Dr. Ghulam Farooq S/O Prof. Aziz ur Rehman
61	Dr. Nazir Muhammad S/O Bakht Sar	98	Dr. Muhammad Ishaq Khan S/O Junais Khan
62	Dr. Tanq Khan S/O Adalat Khan	99	Dr. Habib Gul S/O Haji Inzar Gul
63	Dr. Rehma Saleem Khan S/O Khan Muhammad	100	Dr. Rashid Ahmad S/O Haji Taj Muhammad
64	Dr. Alam Khan S/O Feroz Khan	101	Dr. Iftikhar Ali S/O Prof. Rehman Gul
65	Dr. Majid Khushi Muhammad S/O Malik Fiaz Muhammad	102	Dr. Muhammad Dost Khan s/o Zahir Gul
66	Dr. Riaz Shaid S/O Rammat Khan	103	Dr. Ghulam Farooq s/o Sultan Jan
67	Dr. Zaid S/O Sarwar Khan	104	Dr. Muhammad Hayat s/o Meen Akbar
68	Dr. Taj Muhammad S/O Nurad Din	105	Dr. Nasruminallah s/o Sarforaz Khan
69	Dr. Muhammad Tahir Aziz S/O Azizur Rehman	106	Dr. Syed Touseef Akshan s/o Syed Farman shah
70	Dr. Khalid Ur Rehman s/o Ali Rehman	107	Dr. Shahid Alam S/O Abdul Hanan
71	Dr. Inayatullah s/o Khalid Khan	108	Dr. Khalid Rehman S/O Abdul Hamid
72	Dr. Mansoor Ahmad Khan s/o Muhammad Sehab Khan	109	Dr. Saira Gul Orakzai S/O Malik Deen Orakzai
73	Dr. Shaikat Ali s/o Khan Bahadar	110	Dr. Insaaf Haid S/O Samullah
74	Dr. Naeem Hassan s/o Naeem Hussain	111	Dr. Mahulak S/O Faza-E-Moua
75	Dr. Jamaluddin s/o Ram Din	112	Dr. Saad Zaman S/O Bakht Zaman
76	Dr. Muhammad Rehman s/o Bacha Khan	113	Dr. Syed Shadia Hussain Buhari S/O Fida Hussain Shah
77	Dr. Rafiqullah Khan s/o Balqees Khan	114	Dr. Sheikh Muhammad Farooq Azam S/O Sheikh Muhammad Bashir Gohar
78	Dr. Akmal Khan s/o Ayub Khan	115	Dr. Syed Imtiaz Ali Shah S/O Syed Sikandar Shah
79	Dr. Fawad Aslam s/o Muhammad Aslam Khan	116	Dr. Zann Khan S/O Khan Zafiq Khan
80	Dr. Imtiaz Khan s/o Aman Khan	117	Dr. Waheed Khan S/O Zabarhas Khan
81	Dr. Nisar Ahmad	118	Dr. Ashfaq Hussain Bangash S/O Kadim Hussain
82	Dr. Mousa Khan	119	Dr. Saifiullah Khan S/O Saadul Warab
83	Dr. Muhammad Tanq s/o Haleem Khan	120	Dr. Nazir Ahmad S/O Shan Jehan
		121	Dr. Muhammad Aymal Khalid s/o Khalid Rehman
84	Dr. Naveed Iqbal s/o Muhammad Ghulam	122	Dr. Muhammad Haqim S/O Ghazi Mujahid
85	Dr. Waqif Ahmad s/o Rehman Gul	123	Dr. Rafiqullah S/O Haji Khan Zada
86	Dr. Zakirullah Khan s/o Meher Dil	124	Dr. Ijaz Akber S/O Mir Akbar
87	Dr. Muhammad Akmal Raul s/o Abdur Raul	125	Dr. Javed Iqbal S/O Muhammad Ghulam
88	Dr. Wasim Khalid s/o Asadullah Khalid	126	Dr. She. Aslam Shah S/O Pt. Sultan Ghani
89	Dr. Khalid Farooq Ahmad s/o Khan Was	127	Dr. Jamshed Qadar S/O Waq. Qadar Gul
90	Dr. Kamran Durrani s/o Bashir Durrani	128	Dr. Muhammad Saadq S/O Haji Qadar Gul
91	Dr. Rowan ullah Khan s/o Habibullah	129	Dr. Ajmal Khan S/O Sultan Khan

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205	Dr. Khallim Jan S/O Abdul Ghaffar Khan	242	Dr. Masood Jalal S/O Khushlim Khan
206	Dr. Tikka Khan Orakzal S/O Gul Khan	243	Dr. Saghir Ahmad S/O Noor Etahli
207	Dr. Ali Shah S/O Fazli Ghaffoor	244	Dr. Jamaluddin S/O Muhammad Din
208	Dr. Mujahid Hussain Bangash S/O Iqbal Hussain Bangash	245	Dr. Khalid Mahmood S/O Rehmatullah
209	Dr. Shakeel Ahmad S/O Ghulam Murtaza Tahir	246	Dr. Yousaf Jan s/o Karam Khan
210	Dr. Gul Nazar S/O Samandar	247	Dr. Bakht Zada S/O Gul Muhammad
211	Dr. Jamshed A/S/O Liaqat Ali	248	Dr. Fazal Subhan S/O Ghulam Nabi
212	Dr. Nadar Khan S/O Qadar Khan	249	Dr. Bakht Zamin S/O Wahi Dad
213	Dr. Muhammad Faheem S/O Muhammad Shah	250	Dr. Aymal Khan s/o Zulfqader Khan
214	Dr. Sanaullah Khan S/O Shauar Khan	251	Dr. Sharifulah s/o Muhammad Zaman Khan
215	Dr. Abdul Wahab S/O Abdul Ghaffar (late)		
216	Dr. Pir Muhammad S/O Habibur Rehman	252	Dr. Kamran Yousaf s/o Yousaf Khan
217	Dr. Farman Ali S/O Muhammad Nasim	253	Dr. Khairun Nabi
218	Dr. Muhammad Sayyar S/O Muzaram Shah	254	Dr. Anwar Ali Shah S/O Man Muhammad A/S Shah
219	Dr. Muhammad Noman Yousaf S/O Muhammad Yousaf	255	Dr. Tahir Hussain S/O Ghulam Hussain
220	Dr. Saood Anwar S/O Shah Hussain	256	Dr. Muhammad Tanq S/O Wazir Jang
221	Dr. Muhammad Tufail S/O Sahib Jan	257	Dr. Mustafa S/O Behramand
222	Dr. Muhammad Zaib S/O Haji Saib Ghani	258	Dr. Muhammad Noor S/O H. M. Islam Khan
223	Dr. Sajjad Ahmad S/O Waseedullah	259	Dr. Ibrahim Iqbal S/O Saleh Khan, MBBS
224	Dr. Saeedur Rehman S/O Haji Fazl Rehman	260	Dr. Zaifur Ali Shah s/o Saib Badshah
225	Dr. Muhammad Tahir Khan S/O Faiz Muhammad Khan	261	Dr. Fida Muhammad S/O Zarin Khan MD
226	Dr. Amirullah S/O Bawar Khan	262	Dr. Aziz Khan s/o Jalfar Khan
227	Dr. Ghani Khan S/O Abdul Qayyum	263	Dr. Rab Nawaz S/O Muhammad Nawaz
228	Dr. Inayat Khan S/O Sarwar Khan	264	Dr. Muhammad Kamal S/O Muhammad Shanf
229	Dr. Amir Sher S/O Pir Muhammad Khan	265	Dr. Sher Jan s/o Musharaf Khan
230	Dr. Muhammad Anif Khan S/O Gulbar Khan	266	Dr. Raz Ali S/O Ser Bahadar
231	Dr. Anwar Ali Khan S/O Sardar Ali Khan	267	Dr. Muhammad Parvez Khan s/o Muhammad Nasir
232	Dr. Ijaz Ahmad S/O Bashir Ahmad	268	Dr. Noor Muhammad s/o Ahmad Saeed
233	Dr. Nadar Ali Shuja S/O Shujaud Dillah	269	Dr. S. M. Tahir Shah s/o Pir Feroz Shah
234	Dr. Niaz Ahmad S/O Bakhtyar	270	Dr. Sajid Khan s/o Ghaffoor Khan
235	Dr. Iftikharullah Khan S/O Khuda Bakhtash	271	Dr. Muhammad J. Anwar Shah S/O Ismail Anwar
236	Dr. Muhammad Zubair S/O Ghuncha Gul	272	Dr. Faraf Hassan S/O Wazir Hassan
237	Dr. Muhammad Shafiq Ahmad S/O Fay Fazal Karim	273	Dr. Izzat Khan S/O Rasool Khan
238	Dr. Rehmat Etah S/O Muhammad Qasim	274	Dr. Muhammad Zahid s/o Qasim Ahmad
239	Dr. Fazaal Rehman Bangash S/O Anwar Rehman Bangash	275	Dr. Abdul Jalil S/O Mahabulah

NOTED TO BE TRUE
Copy of Original

423	Dr. Nizamuddin s/o Qaandar Khan	446	Dr. Shahzad Gul s/o Muhammad Sharfeeq
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	Dr. Lalzada Khan s/o Umar Gul
426	Dr. Rukhsana d/o Malik Farukh Sair Khan	449	Dr. Abdul Aziz s/o Abdur Rashid
427	Dr. Ajab Khan s/o Ismail Khan	450	Dr. Sher Umar Khan s/o Fatah Khan
428	Dr. Khalid Javed s/o Zulfiqar Khan	451	Dr. Abdul Haleem Afridi s/o Fazal Shah
429	Dr. Abdul Sattar Khan s/o Rukam Khan	452	Dr. Saifi Armeen Shah s/o Abdullah Shah
430	Dr. Ayub Khan s/o Umar Gul	453	Dr. Ijaz Aymal Khan s/o Aymal Khan
431	Dr. Muhammad Farooq s/o Muhammad Raza Mehmood	454	Dr. Mursana d/o Muhammad Afzal
432	Dr. Naeemullah s/o Abdullah	455	Dr. Manzoor Ahmad s/o Abdul Waddod
433	Dr. Khalid Haleez s/o Hibzar Rehman	456	Dr. Shazia Gul d/o Masood Ahmad
434	Dr. Irshat Jehan d/o Shamsul Wahab	457	Dr. Roobina Gul d/o Badshah Gul
435	Dr. Nazar Wali s/o Syed Awaz	458	Dr. Rafiq Shahbaz d/o Qazi Ahmad
436	Dr. Naseerullah s/o Umar Kabal	459	Dr. Shabeen Mehtab d/o Mumtaz Khan
437	Dr. Muhammad Ayaz Khan s/o Haj Amir Nawab	460	Dr. Fardeen Mehmood Khan s/o Mehmood Khan
438	Dr. Saleemuddin s/o Hajj Shah Basht Rawan	461	Dr. Syed Badshah s/o Musafar Khan
439	Dr. Fazal Hadi s/o Juma Gul	462	Dr. Abdul Ghateer s/o Badshah Khan
440	Dr. Qasim Abbas s/o Saifur Rehman	463	Dr. Faraz Razaq s/o Faraz Mehtab
441	Dr. Hakim Zada s/o Purdes Khan	464	Dr. Muneed Surana d/o Muhammad Akram
442	Dr. Nusrat Begum d/o Qazi Abdul Maleen	465	Dr. Saeedur Rehman s/o Ashtar Khan
443	Dr. Nasreen Begum d/o Awal Saddam	466	Dr. Fayyaz Ali s/o Qaiser Khan
444	Dr. Muhammad Shafeen s/o Roza Khan	467	Dr. Shakirah s/o Faraz Ghateer s/o Muhammad Amin
445	Dr. Wah Khan s/o Mameer Khan	468	Dr. Faeem Ul Haq s/o Muhammad Ishaq
		469	Dr. Faraz Khateer Umriazi s/o Khalid Khan Umriazi

2. In term of Rule 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of Appoi230nment, Promotion and Transfer Rules, 1989, they will be on probation for a period of 231one year extendable for another year

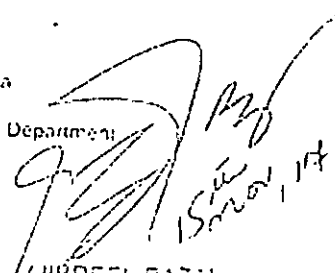
3. The postings/transfers of the above named doctors shall be notified later on.

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa

Endst.No & Date Even.

Copy to the:-

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


(JIBREEL RAZA)
SECTION OFFICER (E-V)



Live

1

Annex-H



**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, AT PESHAWAR.**

Service Appeal No:- 510 /2017

Khyber Pakhtunkhwa
Service Tribunal

Order No. 554

Date: 24/5/2017

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

Appellant

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


Respondents

22.11.2017

Appellant in person present. Mr. Zia Ullah. 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.

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


(Gul Zeb Khan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

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

- 4) 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

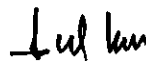
Dated:- 30/08/2018

Respondent No 1



Dr. Rashid Ahmad

Through:-



Mian Iqbal Hussain
Advocate Supreme Court

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Misc Application No:- 161/2018

In

Service Appeal No 510/2017

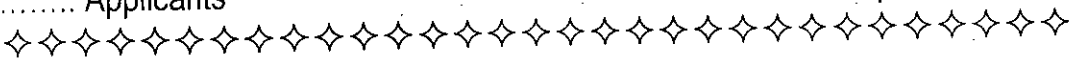
Hospital Director & others

Versus

Dr. Rashid Ahmad & others

..... Applicants

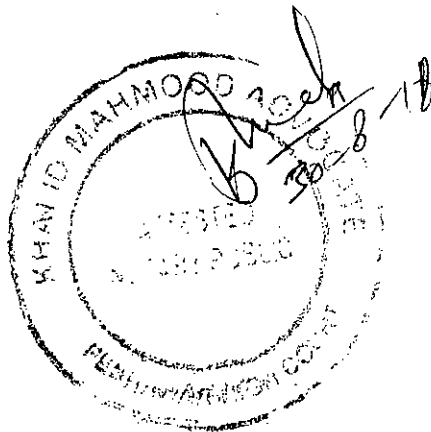
..... Respondents



AFFIDAVIT

I, Dr. Rashid Ahmad S/o Haji Taj Muhammad R/o Room No 09, Old Doctors Hostel KTH, Peshawar, (replying respondent No 1) do hereby solemnly affirm and declare on oath that the contents of this accompanying Application for interim Injunction 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 Peshawar

Director MTI

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Dr. Jamshid Saeed

(Respondent)
(Defendant)

I/We, Dr. 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.

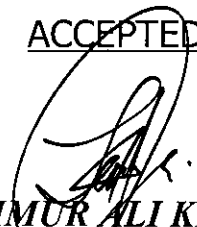
I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding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

Dated _____/2018



(CLIENT)

ACCEPTED



TAIMUR ALI KHAN
Advocate High Court

OFFICE:

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

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Misc Application No:- 161/2018

In

Service Appeal No 510/2017

Hospital Director & others

Versus

Dr. Rashid Ahmad & others

..... Applicants

..... Respondents



INDEX

S#	Description of the Documents	Annex	Pages
1.	Written Statement/Reply on behalf of respondent No 1 with affidavit	*	1-8
2.	Copy of order dated 06/10/2017 of the Health Department	"A"	9
3.	Copy of withdrawal of relieving order of respondent No 1 dated 15/12/2017 by Health Department	"B"	10
4.	Copy of promotion to BPS-18 of respondent No 1 dated 15/11/2017 by Health Department	"C"	11-18
5.	Copy of posting order dated 20/12/2017 of respondent No 1 by Health Department with stay application	"D" E	19 20-22
6.	Wakalat Nama	*	21-23

Dated:- 31/08/2018

R.Ah
Respondent No 1

Dr. Rashid Ahmad

Through:-

Mian Iqbal Hussain
Mian Iqbal Hussain
Advocate Supreme Court

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 relieving 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 infructitious.*
- 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*

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

- 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 infurctitious 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,*

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 later on 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.

- 3) *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.*
- 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.*

- 5) *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

Respondent No 1



Dr. Rashid Ahmad

Through:-



Mian Iqbal Hussain
Advocate Supreme Court

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Misc Application No:- 161/2018

In

Service Appeal No 510/2017

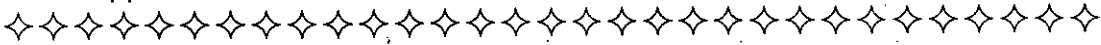
Hospital Director & others

Versus

Dr. Rashid Ahmad & others

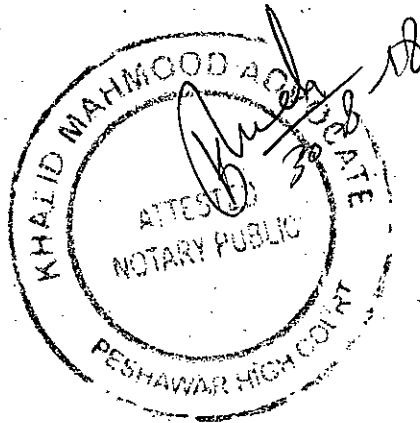
..... Applicants

..... Respondents



AFFIDAVIT

I, Dr. Rashid Ahmad S/o Haji Taj Muhammad R/o Room No 09, Old Doctors Hostel KTH, Peshawar, (replying respondent No 1) do hereby solemnly affirm and declare on oath that the contents of this accompanying Written Statement/Reply on behalf of respondent No 1 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

Government of Khyber Pakhtunkhwa
Health Department



No. SOH-1/HD/3-45/2017
Dated Pesh: the 6th Oct, 2017

To

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

**SUBJECT:- HUMAN RESOURCE MANAGEMENT WITH IN MTIs AND TRANSFER/POSTING OF
CIVIL SERVANTS IN MTIS**

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 faculty 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.


Fasih Khan)
Section Officer-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


Section Officer-I

Attested




Annex B Page 10

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

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

To

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

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

I am directed to refer to the Judgment of the Khyber Pakhtunkhwa Service Tribunal, 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 initio being void, please. *(copy enclosed)*

(Jibreel Raza)
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
3. PA to Additional Secretary (E), Health Department.

Section Officer (E-II)

Attested

Jibreel Raza



HEALTH DEPARTMENT

Dated Peshawar, the 15th November, 2017

NOTIFICATION

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

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

S.No.	NAME OF DOCTOR	S.NO.	NAME OF DOCTOR
1	Dr Farida Mujahid	28	Dr Nisar Ahmad
2	Dr Iqbal Hussain	29	Dr Shehla Aman
3	Dr Niaz Muhammad	30	Dr. Zuhra Nasir D/O Nasir Shah
4	Dr Noor Hanan	31	Dr. Afshan Saleem D/O Muhammad Saleem
5	Dr.Noor Muhammad	32	Dr Aneela Azam
6	Dr. Muhammad Tahir Jan	33	Dr. Saima Gulam D/O Gulam Khan
7	Dr. Jan Hussain	34	Dr Saeeda Rabbani D/O Muhammad Hussain
8	Dr.Muhammad Khalil Akhtar	35	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 Naeem	37	Dr. Ghazala Shaheen D/O Syed Muhammad Shah
11	Dr.Afzal Hussain	38	Dr. Sabna Naz D/O Sakrullah Khan
12	Dr.Gul Nawaz	39	Dr. Fa'ak Naz D/O Jaffar Khan
13	Dr.Waseem Kashif	40	Dr. Syeda Nusrat Shah D/O Sa'id Badshah
14	Dr.Akhtar Ali Shah	41	Dr. Rabia Mehar(Waheed) D/O Mehar Dil Khan
15	Dr.Aminullah	42	Dr. Zakia Abid D/O Abid Ali
16	Dr.Shabir Ahmad	43	Dr. Sofia Khan
17	Dr.Qaiser Zaman	44	Dr. Zahida Parveen D/O Amir Nawaz
18	Dr.Mumtaz Muhammad	45	Dr. Zahida Bibi D/O Shamsul Abrar
19	Dr.Muhammad Ayub	46	Dr. Syeda Shahnaz Jabeen D/O Syed Israrullah Shah
20	Dr.Yasir Mureed	47	Dr Muhammad Nazir S/O Muhammad Yousaf
21	Dr.Nasir Hussain	48	Dr. Manzoor Ahmad Khan S/O Bahadar Khan
22	Dr.Hamid-ur-Rehman	49	Dr. Liaqat Ali S/O Mir Alam
23	Dr.Abdul Malik	50	Dr. Jamshed Saeed Sherani S/O Saeed Ahmad SHisani
24	Dr.Ihsan-ul-Haq	51	Dr. Fazal Ghafoor S/O Muhammad Amin
25	Dr.Syed Gul Syed Hussain	52	Dr. Muhammad Haroon Shahid S/O Hasham Khan
26	Dr.Fazal-ur-Rehman	53	Dr. Syed Tahir Ali Shah S/O Syed Mehtab Hussain
27	Dr.Faranoz	54	Dr. Tariq Muhammad Saeed S/O Muhammad Saeed

ATTESTED

55	Dr. Abdul Karim S/O Mir Abbas Khan	92	Dr. Muhammad Jamil Khan s/o Fazal Mabood
56	Dr. Alamzeb S/O Aurangzeb	93	Dr. Dildar Khan S/O Abdul Ghafoor
57	Dr. Abdul Hameed S/O Saadullah	94	Dr. Abdur Rehman S/O Abdullah Khan
58	Dr. Gul Nawaz Khan S/O Sarfaraz Khan	95	Dr. Raz Muhammad S/O Mohib Ali Khan
59	Dr. Haroon Zaffar S/O Muhammad Zaffar	96	Dr. Ejaz Ahmad S/O Muhammad Aslam
60	Dr. Khalil Ur Rehman	97	Dr. Ghulam Farooq S/O Prof. Aziz ur Rehman
61	Dr. Nazar Muhammad S/O Bakht Sar	98	Dr. Muhammad Ishaq Khan S/O Junais Khan
62	Dr. Tanq Khan S/O Adalat Khan	99	Dr. Habib Gul S/O Haji Inzar Gul
63	Dr. Rehmat Saleem Khan S/O Khan Muhammad	100	Dr. Rashid Ahmad S/O Haji Taj Muhammad
64	Dr. Alam Khan S/O Feroz Khan	101	Dr. Ifkhar Ali S/O Prof. Rehman Gul
65	Dr. Malik Khushi Muhammad S/O Malik Faqir Muhammad	102	Dr. Muhammad Dost Khan s/o Zahir Gul
66	Dr. Raz Shahid S/O Rahmat Khan	103	Dr. Ghulam Farooq s/o Sultan Jan
67	Dr. Zahir Shah S/O Sarwar Khan	104	Dr. Muhammad Hayat s/o Meen Akbar
68	Dr. Taj Muhammad S/O Nurab Din	105	Dr. Nasruminaallah s/o Sarfaraz Khan
69	Dr. Muhammad Tahir Aziz S/O Azizur Rehman	106	Dr. Syed Touseef Ali shah s/o Syed Farman shah
70	Dr. Khalil Ur Rehman s/o Ali Rehman	107	Dr. Shahid Alam S/O Abdul Hanan
71	Dr. Inayatullah s/o Khalid Khan	108	Dr. Khalilur Rehman S/O Abdul Hamid
72	Dr. Mansoor Ahmad Khan s/o Muhammad Sehrab Khan	109	Dr. Sahib Gul Orakzai S/O Malik Deen Orakzai
73	Dr. Shaukat Ali s/o Khan Bahadar	110	Dr. Ihsanul Haq S/O Samiullah
74	Dr. Naseer Hassan s/o Nazir Hussain	111	Dr. Mafizullah S/O Fazal-E-Moula
75	Dr. Jamatuddin 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 Bukhari S/O Fida Hussain Shah
77	Dr. Rafiullah Khan s/o Bakteer Khan	114	Dr. Sheikh Muhammad Farooq Azam S/O Sheikh Muhammad Bashir Gohar
78	Dr. Akmal Khan s/o Ayub Khan	115	Dr. Syed Imbaz Ali Shah S/O Syed Sikandar Shah
79	Dr. Fawad Aslam s/o Muhammad Aslam Khan	116	Dr. Zarin Khan S/O Khan Zafiah Khan
80	Dr. Imtiaz Khan s/o Aman Khan	117	Dr. Najibullah Khan S/O Zabardast Khan
81	Dr. Nisar Ahmad	118	Dr. Ashfaq Hussain Bangash S/O Khadim Hussain
82	Dr. Mousa Khan	119	Dr. Shafiqullah Khan S/O Saidul Wahab
83	Dr. Muhammad Tanq s/o Haleem Khan	120	Dr. Nazir Ahmad S/O Shah Jehan
		121	Dr. Muhammad Ajmal Khali s/o Khalilur Rehman
84	Dr. Naveed Iqbal s/o Muhammad Ghulam	122	Dr. Muhammad Hashim S/O Ghazi Marjan
85	Dr. Wajid Ahmad s/o Rehman Gul	123	Dr. Rafiullah S/O Haji Khan Zada
86	Dr. Zakariah Khan s/o Meher Dil	124	Dr. Ijaz Akber S/O Mir Akbar
87	Dr. Muhammad Akail Raul s/o Abdur Raul	125	Dr. Javed Iqbal S/O Muhammad Qasim
88	Dr. Waqas Khattak s/o Asadullah Khattak	126	Dr. Sher Aslam Shah S/O Pir Satam Khan
89	Dr. Khalid Mehmood Afridi s/o Khan Wali	127	Dr. Jamshed Qadir S/O Atiq Qadir Gul
90	Dr. Kamran Durrani s/o Bashir Durrani	128	Dr. Muhammad Saadiq S/O Haji Daraz Gul
91	Dr. Rizwan ulah Khan s/o Habibullah	129	Dr. Ajmal Khan S/O Sultan Khan

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130	Dr. Muhammad Javed Iqbal S/O Allah Divya	166	Dr. Miraj Gul s/o Sahib Din
131	Dr. Jamshed Alam S/O Rustam Khan	167	Dr Syed Anwar Hussain s/o Noor Saad Khan
132	Dr. Nayyar-uz- Zaman S/O Malakur Rehman	168	Dr Daryab Wali Khan s/o Nazar Wah Khan
133	Muhammad Ishaq s/o Taj Ali	169	Dr Daryn Khan s/o Muta Khan
134	Dr. Nasir Jamal S/O Gul Manan	170	Dr Azizullah Khan s/o Ihsanullah Khan
135	Dr. Jehanzeb S/O Muhammad Bashir	171	Dr Ahmad shah Arbab s/o Arbab Humayun Khan
136	Dr. Adil Saidullah S/O Saidullah Jan	172	Dr Fazal Rabbi s/o Haji Badshah
137	Dr. Badshah Khan S/O Rais Khan	173	Dr Iqbal Hussain s/o Nowsherman
138	Dr. Hamidullah S/O Muhammad Safim	174	Dr. Sultan Mahmood S/O Saad Khatib
139	Dr. Yasin Muhammad S/O Syed Afzal	175	Dr. Fayyaz Ahmad S/O Mirajud Din
140	Dr.Arshad Ali	176	Dr. Iqbal Ahmad S/O Khaista Bacha
141	Dr. Ijaz Ahmad Khan S/O Said Karim	177	Dr Sroghatullah Khan S/O Abdullah Shah
142	Dr. Khalilur Rehman S/O Abdul Rehman	178	Dr Mahboob Alam S/O Shah Bahadar
143	Dr. Khalilur Rehman S/O Abdul Jamil	179	Dr. Niaz Ali Khan S/O Raza Khan
144	Dr. Muhammad Asad Khan S/O Muhammad Ayub Khan	180	Dr. Inayatullah Khan S/O Sheikh Fand Khan
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 Alif S/O Khwaja Muhammad Khan
148	Dr. Imran Khan S/O Muhammad Siraj	184	Dr. Mansoor Qasim S/O Muhammad
149	Dr.Sajjad Akbar s/o Said Akbar	185	Dr. Rehmatullah Jan S/O Malik Ghazi Marjan
150	Dr.Shah Jehan s/o Paimda Khan	186	Dr. Muhammad Farooq Gul S/O Gul Muhammad
151	Dr.Munawar s/o Moulvi Hassan	187	Dr.Muhammad Younas Khan S/O Abdul Sattar Khan.
152	Dr.Muhammad Usman s/o Tajamul Hussain	188	Dr. Zahid Hussain S/O Ali Zaman
153	Dr.Sarfraz Khan s/o Hajjal Din	189	Dr Sahib Gul S/O Munir Gul
154	Dr.Ramzan Ali s/o Haji Marjan Ali	190	Dr. Muhammad Hayat Khan S/O Bad Shah Gul
155	Dr.Sherzada s/o Ahmad	191	Dr. Sardar Ali S/O Mardan Ali
156	Dr.Zafar Iqbal s/o Muhammad Amin	192	Dr. Syed Muhammad Tariq Shah S/O Ghulam Mustafa Shah
157	Dr.Abdul Hadi s/o Mirajuddin	193	Dr. Shuja Ahmad S/O Shaukat Ah
158	Dr.Akhtar Nawaz s/o Muhammad Amir Khan	194	Dr. Habibullah Khan S/O Hamidullah Khan
159	Dr.Karimullah Khan s/o Sakhi Jan	195	Dr. Ashiq Muhammad S/O Muhammad Ishaq
160	Dr.Sanaullah s/o Waridullah	196	Dr Sher Zali S/O Bahadar Khan
161	Dr.Haroon Zafar s/o Zafar Ahmad shah	197	Dr. Mumtaz Ah S/O Ashraf Khan
162	Dr.Lalzada s/o Bakhtiar Khan	198	Dr. Fida Hussain S/O Haji Kifayat Hussain
163	Dr.Muhammad Marmoon s/o Muhammad Usman	199	Dr. Azimullah S/O Darya Khan
164	Dr.Pervez Khan s/o Habibur Rehman	200	Dr. Arshad Hussain S/O Nijat Hussain
165	Dr.Basil Ijaz s/o Ijaz Ahmad	201	Dr. Mumtaz Ahmad S/O Zareeb Khan
		202	Dr. Amir Rafiq S/O Muhammad Rafiq Khatlak

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Page 14

203	Dr. Syed Amir Hamza S/O Syed Akhnoozada Gadoon	240	Dr. Muhammad Mustafa Alam S/O Nasrullah Jan
204	Dr. Syed Umair Hussain S/O Syed MAJid Hussain	241	Dr. Saadullah Khan S/O Ayub Khan
205	Dr. Khalim Jan S/O Abdul Ghaffar Khan	242	Dr. Masood Jalal S/O Khushlim Khan
206	Dr. Tikka Khan Orakzal S/O Gul Khan	243	Dr. Saghir Ahmad S/O Noor Elahi
207	Dr. Ali Shah S/O Fazli Ghalfoor	244	Dr. Jamaluddin S/O Muhammad Din
208	Dr. Mujahid Hussain Bangash S/O Iqbal Hussain Bangash	245	Dr. Khalid Mehmood S/O Rehmatullah
209	Dr. Shakeel Ahmad S/O Ghulam Murtaza Tahir	246	Dr. Yousaf Jan s/o Karam Khan
210	Dr. Gul Nazar S/O Samandar	247	Dr. Bakht Zada S/O Gul Muhammad
211	Dr. Jamshed Ali S/O Liaqat Ali	248	Dr. Fazal Subhan S/O Ghulam Nabi
212	Dr. Nadar Khan S/O Qadar Khan	249	Dr. Bakht Zamin S/O Wali Dad
213	Dr. Muhammad Faheem S/O Muhammad Shafiq	250	Dr. Ajmal Khan s/o Zulfqadar Khan
214	Dr. Sanatullah Khan S/O Shawar Khan	251	Dr. Sharifullah s/o Muhammad Zaman Khan
215	Dr. Abdul Wahab S/O Abdul Ghaffar (late)		
216	Dr. Pir Muhammad S/O Habibur Rehman	252	Dr. Kamran Yousaf s/o Yousaf Khan
217	Dr. Farman Ali S/O Muhammad Nasim	253	Dr. Khairun Nabi
218	Dr. Muhammad Sayyar S/O Mukaram Shah	254	Dr. Amjad Ali Shah S/O Mian Muhammad Ali Shah
219	Dr. Muhammad Noman Yousaf S/O Muhammad Yousaf	255	Dr. Tahir Hussain S/O Ghulam Hussain
220	Dr. Saood Anwar S/O Shah Hussain	256	Dr. Muhammad Tariq S/O Wazir Jang
221	Dr. Muhammad Tufail S/O Sahib Jan	257	Dr. Mustafa S/O Behramand
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226	Dr. Aminullah S/O Bawar Khan	262	Dr. Aziz Khan s/o Jaffar Khan
227	Dr. Ghani Khan S/O Abdul Qayyum	263	Dr. Rab Nawaz S/O Muhammad Nawaz
228	Dr. Inayat Khan S/O Sarwar Khan	264	Dr. Muhammad Kamal S/O Muhammad Sharif
229	Dr. Amir Sher S/O Pir Muhammad Khan	265	Dr. Sher Jan s/o Musharaf Khan
230	Dr. Muhammad Arif Khan S/O Gulbar Khan	266	Dr. Riaz Ali S/O Ser Bahadar
231	Dr. Anwar Ali Khan S/O Sardar Ali Khan	267	Dr. Muhammad Parvez Khan s/o Muhammad Nasir
232	Dr. Ijaz Ahmad S/O Bashir Ahmad	268	Dr. Noor Muhammad s/o Ahmad Saeed
233	Dr. Nadar Ali Shuja S/O Shujaud Dullah	269	Dr. S.M. Taimur Shah s/o Pir Feroz Shah
234	Dr. Niaz Ahmad S/O Bakhtyar	270	Dr. Sajid Khan s/o Ghalfoor Khan
235	Dr. Ikramullah Khan S/O Khuda Bakhsh	271	Dr. Muhammad Azhar Shah S/O Israrul Aifeen
236	Dr. Muhammad Zubair S/O Ghuncha Gul	272	Dr. Farid Hassan S/O Wazir Hassan
237	Dr. Muhammad Shafiq Afridi S/O Haji Fazal Karim	273	Dr. Izzat Khan S/O Rasool Khan
238	Dr. Rehmat Elahi S/O Muhammad Qorib	274	Dr. Muhammad Zehid s/o Qaiser Ahmad
239	Dr. Fazalur Rehman Bangash S/O Abdur Rehman Bangash	275	Dr. Abdul Jalil S/O Mohibullah

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206	Dr. Tikka Khan Orakzal S/O Gula Khan	243	Dr. Saghir Ahmad S/O Noor Elahi
207	Dr. Ali Shah S/O Fazli Ghaffoor	244	Dr. Jamaluddin S/O Muhammad Din
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209	Dr. Shakeel Ahmad S/O Ghulam Murtaza Tahir	246	Dr. Yousaf Jan s/o Karam Khan
210	Dr. Gul Nazar S/O Samandar	247	Dr. Bakht Zada S/O Gul Muhammad
211	Dr. Jamshed Ali S/O Liaqat Ali	248	Dr. Fazal Subhan S/O Ghulam Nabi
212	Dr. Nadar Khan S/O Qadar Khan	249	Dr. Bakht Zamin S/O Wali Dad
213	Dr. Muhammad Faheem S/O Muhammad Shafiq	250	Dr. Ajmal Khan s/o Zulqadar Khan
214	Dr. Sanaullah Khan S/O Shawar Khan	251	Dr. Sharifullah s/o Muhammad Zaman Khan
215	Dr. Abdul Wahab S/O Abdul Ghaffar (late)		
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232	Dr. Ijaz Ahmad S/O Bashir Ahmad	268	Dr. Noor Muhammad s/o Ahmad Saeed
233	Dr. Nadar Ali Shuja S/O Shujaud Dullah	269	Dr. S.M. Tamur Shah s/o Pir Feroz Shah
234	Dr. Niaz Ahmad S/O Bakhtiyar	270	Dr. Sajid Khan s/o Ghafoor Khan
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227	Dr. Ghani Khan S/O Abdul Qayyum	263	Dr. Rab Nawaz S/O Muhammad Nawaz
228	Dr. Inayat Khan S/O Sarwar Khan	264	Dr. Muhammad Kamal S/O Muhammad Sharif
229	Dr. Amir Sher S/O Pir Muhammad Khan	265	Dr. Sher Jan s/o Musharaf Khan
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231	Dr. Anwar Ali Khan S/O Sardar Ali Khan	267	Dr. Muhammad Parvez Khan s/o Muhammad Nasir
232	Dr. Ijaz Ahmad S/O Bashir Ahmad	268	Dr. Noor Muhammad s/o Ahmad Saeed
233	Dr. Nadar Ali Shuja S/O Shujaud Dullah	269	Dr. S.M. Taimur Shah s/o Pir Feroz Shah
234	Dr. Niaz Ahmad S/O Bakhtiyar	270	Dr. Sajid Khan s/o Ghafoor Khan
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236	Dr. Muhammad Zubair S/O Ghuncha Gul	272	Dr. Farid Hassan S/O Wazir Hassan
237	Dr. Muhammad Shafiq Afridi S/O Haji Fazal Karim	273	Dr. Izzat Khan S/O Rasool Khan
238	Dr. Rehmat Elahi S/O Muhammad Qarib	274	Dr. Muhammad Zahid s/o Qaiser Ahmad
239	Dr. Fazalur Rehman Bangash S/O Abdur Rehman Rangash	275	Dr. Abdul Jalil S/O Mohibullah

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276	Dr. Gulab Khan S/O Inayatullah	313	Dr. Nosroon Haider D/O Haider Khan
277	Dr. Muhammad Mehdi s/o Sardar Ali Khan	314	Dr. Niaz Ali S/O Fazal Hadi
278	Dr. Muhammad Ayub Khan s/o Badshah Gul	315	Dr. Gul Sanga Imron D/O Matiullah Nashad
279	Dr. Muhammad Karim S/O Samiullah Khan	316	Dr. Muhammad Safim Khan S/O Sarfaraz Khan
280	Dr. Hanif Afzal S/O Sher Afzal	317	Dr. Nadia Ashiq D/O Muhammad Ashiq Khan
281	Dr. Wali Muhammad S/O Gul Ghanir Khan	318	Dr. Muhammad Tariq Kamal S/O Sheikh Abdul Malik
282	Dr. Rozal Shah S/O S. Mursafin Shah	319	Dr. Mustafa Abbas S/O Tabb Ali
283	Dr. Azizur Rehman S/O Shah Tareen	320	Dr. Sadaf Zahoor D/O ahcor ul Haq Aziz
284	Dr. Jamil Ahmad S/O Abdullah	321	Dr. Shamsul Qamar D/O Muhammad Hanif
285	Dr. Saïd Muhammad S/O Ali Bai Khan	322	Dr. Ziaullah S/O Aman Ullah
286	Dr. Tasneem Fatima d/o Muhammad Aslam Malik	323	Dr. Taranum Taj D/O Rahmat Jee
287	Dr. Zaffar Ali S/O Amir Ghawas	324	Dr. Saira Gulzar D/O Atiaullah Jan
288	Dr. Tehmina Jafid d/o Abdul Jalil	325	Dr. Shaukat Saleem Khan S/O Saleem Khan
289	Dr. Muhammad Gul S/O Rehmat Gul	326	Dr. Robina Karim D/O Fazal Karim
290	Dr. Aurangzeb Afridi S/O Ghulam Hussain	327	Dr. Muhammad Ishaq S/O Abdul Karim
291	Dr. Mumtaz Hussain S/O Asghar Hussain	328	Dr. Jalal Mohyuddin S/O Ghulam Mohyuddin
292	Dr. Muhammad Jawad s/o Ifkhar Khan		
293	Dr. Farkhanda d/o Fahim Dil	329	Dr. Nabeela Mehmood D/O Mehmood Khan Khattak
294	Dr. Muhammad Riaz S/O Muhammad Aslam	330	Dr. Muhammad Hafeel S/O Mushtaq Ahmad Dar
295	Dr. Habib-ur-Rehman S/O Abdul Aziz	331	Dr. Sher Bahadar S/O Faza! Ahmad
296	Dr. Inayatullah S/O Saifullah Khan	332	Dr. Fahad Ajmal S/O Muhammad Ajmal
297	Dr. Abbas Khan S/O Ajab Khan	333	Dr. Muhammad Ali Khan S/O Sain Muhammad Malik
298	Dr. Muhammad Munib S/O SHis Ali Khan	334	Dr. Rahat Ara D/O Ghulam Jan
299	Dr. Akram Khan S/O Arbab Khan	335	Dr. Ghareebullah S/O Yaqub Khan
300	Dr. Nawab Khan S/O Aslam Khan	336	Dr. Tariq Jalil S/O Abdul Jalil Shaheed
301	Dr. Azam Khan Afridi S/O Abdul Aziz	337	Dr. Abdul Hameed Khan S/O Abdul Majeed Khan
302	Dr. Shah Karim S/O Nowserawan	338	Dr. Fauzia Habib D/O Habib ur Rehman Khattak
303	Dr. Rahim Nawaz S/O Mir Dari Khan	339	Dr. Musa Khan S/O SHiszada
304	Dr. Azhar Azeem	340	Dr. Mushtaq Ahmad S/O Haji Fazal Khan
305	Dr. Muhammad Shafiq	341	Dr. Tariq Aziz S/O Shakinullah
306	Dr. Muhammad Shah Rawan	342	Dr. Walayat Khan S/O Karim Badshah
307	Dr. Zill-e-Huma D/O Ajab Khan	343	Dr. Syeda Uzma Saeed D/O Syed Saeedul Haq
308	Dr. Aya Khan S/O Jamat Din	344	Dr. Muhammad Yasser Sharif S/O Muhammad Sharif
309	Dr. Fazal wahab S/O Abdul Ghaffar	345	Dr. Muhammad Kashif Iltaf S/O Muhammad Iltaf
310	Dr. Muhammad Shoaib S/O Shamim Khan	346	Dr. Sahibzada Hilal Ahmad S/O S. Naseer Ahmad
311	Dr. Sumaira Sardar D/O Sardar ul Islam	347	Dr. Zarshad Ahmad S/O Pir Muhammad
312	Dr. Alifullah Khan S/O Arif Ullah Khan	348	Dr. Hassan Nasir S/O SHis Akbar Shah

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349	Dr. Salman Ahmad s/o Ajab Khan	386	Dr. Wazir Khan S/O Rukam Khan
350	Dr. Nusrat Ara D/O Abdullah Jan	387	Dr. Munir Taj S/O Taj Malook
351	Dr. Azmat Ali S/O Muhammad Afzal	388	Dr. Muhammad Salman Khan S/O Muhammad Akbar Khan
352	Dr. Manzoor Ahmad S/O Rustam Khan	389	Dr. Zulfiqar Ali S/O Ijaz Hussain Awan
353	Dr. Ali Bashir S/O Bashir Hussain	390	Dr. Mohabat Ali Khan S/O Abdul Baqi
354	Dr. Shabir Ahmad S/O Juma Khan	391	Dr. Syed Munqadullah S/O Syed Mahdullah
355	Dr. Shafqat Younas Tanooli S/O Muhammad Younas	392	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 Khan
358	Dr. Muhammad Naeem S/O Habibullah Khan	395	Dr. Muhammad Tahir Iqbal S/O Muhammad Iqbal
359	Dr. Tariq Masood S/O Sher Azam Khan	396	Dr. Qazi Yasir Imdad S/O Qazi Imdad Hussain
360	Dr. Muhammad Safdar Qureshi S/O Muhammad Sarwar Quresh	397	Dr. Roshan Zada S/O Syed Latif
361	Dr. Nosheen Rehman D/O Qazi Zia Ur Rehman	398	Dr. Shahid Mehmood S/O Sardar Muhammad Aslam
362	Dr. Najeebullah s/o Mehboobur Rehman	399	Dr. Samiullah s/o Naqeebullah
363	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. Shafiqullah 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 Wali 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. Rafiqullah S/O Arsaia Jan
370	Dr. Shah Baraz Khan S/O Gulzar Khan	407	Dr. Alif Jan S/O Amir Jan
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 Liaqat Ali Orakzai	409	Dr. Zahiddin s/o Yousaf Khan
373	Dr. Syeda Nargis Jabeen D/O Israrullah Shah	410	Dr. Rab Nawaz Khan Afridi s/o Haji Saif Jan Afridi
374	Dr. Sheraz Ahmad S/O Rashid Ahmad	411	Dr. Sardeep Kumar s/o Hukamchand
375	Dr. Muhammad Zamin Khan S/O Hayat Khan	412	Dr. Khalida Yasmeen D/O Haji Ali Hussain
376	Dr. Lubna Rasool D/O Abdul Rasool	413	Dr. Robina Wazir D/O Haji Mumtaz
377	Dr. Arshiya Ilyas D/O Muhammad Ilyas	414	Dr. Rowish d/o Ahmad Jan
378	Dr. Sadia Asif D/O Muhammad Asif	415	Dr. Muhammad Riaz S/O Ghulam Rasool
379	Dr. Fazal Gul S/O Haji Musa Khan	416	Dr. Noshaba Naheed D/O Manzoor Ahmed
380	Dr. Lubna Hayat D/O Fazal Hayat Taj	417	Dr. Muhammad Arif s/o Chand Badshah
381	Dr. Muhammad Amin Khan S/O Muhammad Usman Khan	418	Dr. Asif Rahim s/o Abdul Rahim
382	Dr. Nouman Khan S/O Nasir Khan	419	Dr. Abdullah Khan s/o Abdul Mastan
383	Dr. Muhammad Zubair S/O Iftikhar Ahmad Bhatti	420	Dr. Raz Muhammad s/o Badshah Muhammad
384	Dr. Muhammad Ismail S/O Said Muhammad	421	Dr. Fazal Wahid s/o Khan Gul
385	Dr. Sultan un Nisa D/O Hafiz Muhabat Khan	422	Dr. Mushtaq Ahmad s/o BadshahulMulk

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424	Dr. Nisar Ahmad s/o Amir Muhammad	447	Dr. Masr Ali Khan s/o Majani
425	Dr. Khizar Hayat s/o Pir Muhammad	448	Dr. Lalzada 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 s/o Ismail Khan	450	Dr. Sher Umar Khan s/o Fateh Khan
428	Dr. Khalid Javed s/o Zulfqar Khan	451	Dr. Abdul Haleem 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. Ijaz Aimal Khan s/o Aimal Khan
431	Dr. Muhammad Farooq s/o Muhammad Raziq Mehmood	454	Dr. Mursaha d/o Muhammad Afzal
432	Dr. Naeemullah s/o Abdullah	455	Dr. Manzoor Ahmad s/o Abdul Wadood
433	Dr. Khalid 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 Badshah Gul
435	Dr. Nazar Wali s/o Syed Awaz	458	Dr. Rifat Shaheen d/o Qazi Ahmad
436	Dr. Naseerullah s/o Umar Kaba	459	Dr. Shaheen Mehtab d/o Mumtaz Khan
437	Dr. Muhammad Ayaz Khan s/o Haji Amir Nawab	460	Dr. Faridoon Mehmood Khan s/o Mehmood Khan
438	Dr. Saleemuddin s/o Haji Shah Bakht Rawan	461	Dr. Syed Badshah s/o Musafar Khan
439	Dr. Fazal Hadi s/o Juma Gul	462	Dr. Abdul Ghafoor s/o Badshah Khan
440	Dr. Qasim Abbas s/o Saifur Rehman	463	Dr. Fazal Raziq s/o Fazal Maula
441	Dr. Hakim Zada s/o Purdes Khan	464	Dr. Naheed Sultana d/o Muhammad Akram
442	Dr. Nusrat Begum d/o Qazi Abdul Mateen	465	Dr. Saeedur Rehman s/o Ashtar Khan
443	Dr. Nasreen Begum d/o Awal Saddam	466	Dr. Fayyaz Ali s/o Qaiser Khan
444	Dr. Muhammad Shafeeq s/o Raza Khan	467	Dr. Shakirullah s/o Fazal Ghafoor s/o Muhammad Amin
445	Dr. Wali Khan s/o Mameer Khan	468	Dr. Faheem Ul Haq s/o Muhammad Ishaq
		469	Dr. Fahad Khalid Umerzai s/o Khalid Khan Umerzai

2. In term of Rule 6 (3) of Civil Servants Act, 1973 and Rule 15 (1) of Appointment, 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.

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa

ATTESTED

Endst, No & Date Even.

Copy to the:-

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

(JIBREEL 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

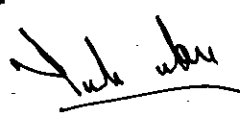
Endst. No. & Date Even

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



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

- 4) 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

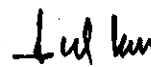
Dated:- 30/08/2018

Respondent No 1



Dr. Rashid Ahmad

Through:-



Mian Iqbal Hussain
Advocate Supreme Court

22

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Misc Application No:- 161/2018

In

Service Appeal No 510/2017

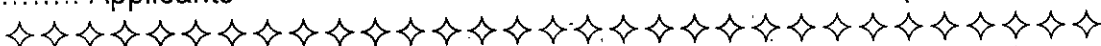
Hospital Director & others

Versus

Dr. Rashid Ahmad & others

..... Applicants

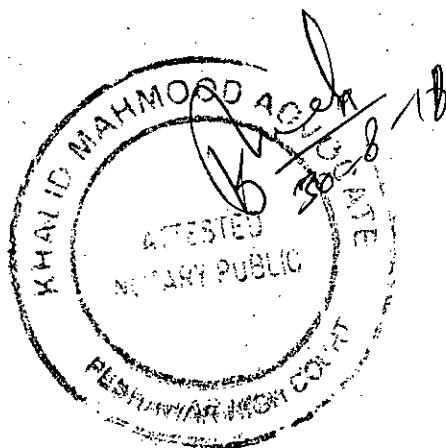
..... Respondents



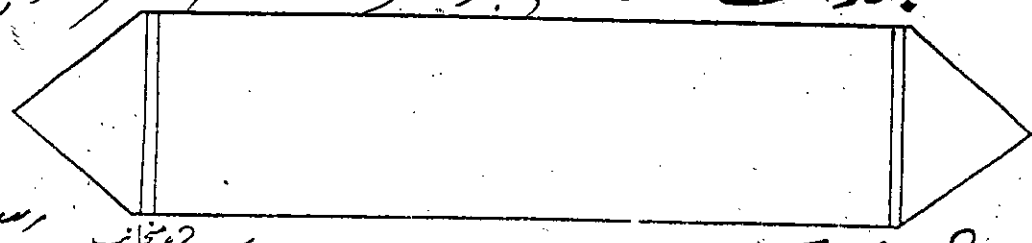
AFFIDAVIT

I, Dr. Rashid Ahmad S/o Haji Taj Muhammad R/o Room No 09, Old Doctors Hostel KTH, Peshawar, (replying respondent No 1) do hereby solemnly affirm and declare on oath that the contents of this accompanying Application for interim Injunction 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 حکومت صدر محکمہ حکومتی خواہ مسدود شدہ کیسوں میں سے



موزعہ 11.7.2018
 مقدمہ Hospital Director بنام Dr. Rashid Ahmad
 دعویٰ K.T.H. etc
 جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آج مقام مسدود شدہ کیسوں میں سے کیلئے مسدود شدہ کیسوں میں سے مسدود شدہ کیسوں میں سے
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک در و پیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کیلئے طرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تقریر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا اوقات نامہ لکھ دیا کہ سند ہے۔

المرقوم 11 ماہ 2018

بمقام مسدود شدہ کیسوں میں سے کے لئے منظور ہے۔

Attested and Accepted

Mian Iqbal Hussain

Mian Iqbal Hussain A S C
 cell: 03339480893

اصلاحی کونسل
 ڈائریکٹر ایف ڈی

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Misc: Application No. _____ 2018
IN

S.A. No. 510/2017

1186
9-10-18

Put up to the court
with relevant app.

Hospital Director..... Applicants

Versus

Dr. Rashid Ahmad and others Respondents

10/10/18

Deocher

Application for Early Hearing/Clubbing with the Execution Petition No.162/2018

Fixed for hearing on 12-10-2018

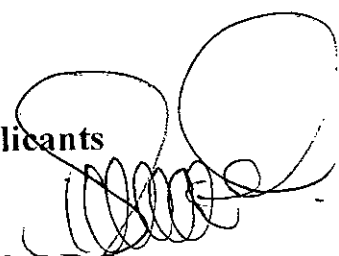
Respectfully Sheweth,

1. That the above titled Application is pending before the Hon'ble Tribunal which is scheduled for hearing on 22/10/18
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 10.10.2018). 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 12.10.2018 with the mentioned Execution Petition.

It is, therefore, humbly prayed that on acceptance of this application, the titled Application may graciously be fixed on 12.10.2018 with Execution Petition No.162/2018.

Amw-BL
filed on 12.10.2018
12/10/2018

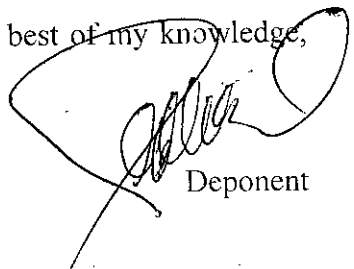
Dated: 08/10/2018

Applicants

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Through

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.


Deponent