

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT.

Service Appeal No.13286/2020

Date of Institution ... 29.10.2020

Date of Decision ... 05.01.2022

Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil Batkhela,
District Malakand. ... (Appellant)

VERSUS

Director General Health Services government of Khyber Pakhtunkhwa Peshawar
and two others. ... (Respondents)

Qazi Fareed Ahmad,
Advocate

--- For appellant.

Mr. Muhammad Riaz Khan Paindakhel
Assistant Advocate General

--- For respondents

MIAN MUHAMMAD
SALAH-UD-DIN

--- MEMBER(Executive)
--- MEMBER(Judicial)

JUDGEMENT

MIAN MUHAMMAD , MEMBER:- The appellant has approached the Service Tribunal against the impugned order of respondent No. 3 dated 12.08.2020 whereby his appointment order as Store Keeper (Bs-06) dated 27.07.2018 was rescinded and his departmental appeal was regretted by the appellate authority on 13.10.2020. Both the orders have been assailed in the instant Service appeal and are under scrutiny for adjudication before this Bench.

02. Background and brief facts of the case, as per memorandum of the service appeal are that the appellant was working as Laboratory Attendant (BS-04) in the respondent-department since 08.02.2016. Certain posts including that of Store Keeper (BS-06) were advertised and the appellant also applied for the post of Store Keeper (BS-06). He was appointed/adjusted against the vacant post of Store Keeper

(BS-06) vide office order issued by respondent No.3 on 27.07.2018. However, his arrival report was not accepted by the successor respondent No.3. Finding no remedy to his grievance, the appellant approached the Peshawar High Court, Mingora Bench (Dar ul Qaza) Swat in writ petition which was disposed off with direction to respondent No.3 to proceed according to relevant rules and pass a final order within two months. Thereafter respondent No.3 rescinded his appointment/adjustment order as Store keeper (BS-06) vide impugned order dated 12.08.2010. His departmental appeal dated 25.08.2020 was regretted by the appellate authority on 13.10.2020 where-after he instituted the service appeal in hand on 29.10.2020.

03. Notices were issued to the official respondents to submit their reply/parawise comments alongwith connected documents. They filed reply/parawise comments supporting their stance and negating assertions of the appellant. Learned AAG argued on their behalf whereas learned counsel for the appellant pleaded the case to establish and prove the contention raised in the memorandum of service appeal. We have heard arguments of the parties and gone through the available record minutely with their assistance.

04. Learned counsel for the appellant while opening his arguments, contended that the appellant was employed as laboratory attendant (BS-04) in the respondent-department since 08.02.2016 and upon advertisement of the posts by respondent No. 3 he applied for the post of Store keeper (BS-06). After scrutiny of applications and fulfillment of all formalities by the Departmental Selection Committee, he was appointed/adjusted as Store Keeper (BS-06) in DHO Office, Malakand vide office order dated 27.07.2018. However, before he could submit arrival report, the then DHO passed away and his successor i.e incumbent respondent No. 3 did not accept his arrival report against the post of Store Keeper (BS-06) despite the fact that he

had even submitted an application to respondent No. 2 but to no avail. He ultimately sought remedy for his grievances through writ petition filed in Peshawar High Court Minogra Bench (Dar-UI-Qaza) Swat which vide its order dated 16.06.2020 directed respondent No.3 to constitute committee for probing the matter and pass consequential/ final order within two months. Respondent No. 3 however, in total disregard to the Court's directions, rescinded his appointment/adjustment order dated 27.07.2018 vide impugned office order dated 12.08.2020 simply on the ground that the said order had been issued against the law/ rules by the former DHO as he was not competent to change the cadre of any employee. During course of his arguments, learned counsel for the appellant produced office order dated 16.03.2021 issued by the incumbent respondent No.3 whereby one Mr. Wahid Ullah S/O Rehmad Ullah has been promoted/adjusted from the post of Chowkidar (BS-03) against the post of Junior Clerk (BS-11). It was further contended that if respondent No.3 was not competent to appoint/adjust the appellant as Store keeper (BS-06) then how could he rescind the office order dated 27.07.2018 in the same capacity as DHO (respondent No.3)? And how could he promote and adjust a Chowkidar (BS-03) against the post of Junior Clerk (BS-11)? The impugned order being illegal, unlawful, unconstitutional, against the fundamental rights of and discriminatory against the appellant, is requested to be set aside and allow the appellant to perform his duties as Store Keeper (BS-06).

05. Learned AAG on the other hand, contradicted arguments of learned counsel for the appellant and argued that the respondent-department has implemented judgement of the Peshawar High Court, Mingora Bench (Dar-UI-Qaza) Swat dated 16.06.2020 in letter and spirit and office order dated 12.08.2020 was passed by respondent No.3 as final order when his appointment/adjustment order as Store Keeper (BS-06) was rescinded. Moreover, no meeting of the Departmental

Selection Committee was ever held on the basis of which appointment/adjustment order of the appellant as store keeper (BS-06) dated 27.07.2018 had been issued. It was further contended that the appellant was granted 120 days leave without pay and after expiry of the leave he failed to rejoin his duty on 25.10.2019. Moreover, after having rescinded his office order as Store Keeper (BS-06) he failed to submit arrival report as Laboratory Attendant (BS-04). The service appeal being devoid of merit may therefore be dismissed.

06. Perusal of record reveals that the appellant was engaged in the respondent-department as Laboratory Attendant (BS-04) since 08.02.2016, when he applied for the post of Store Keeper (BS-06) in response to the advertisement. On recommendation of the Departmental Selection Committee, he was appointed/adjusted as Store Keeper (BS-06) at category-D Hospital Totakan vide office order dated 27.07.2018. However, the competent authority i.e DHO (Respondent No.3) passed away and the incumbent DHO did not allow him to submit his arrival report as Store Keeper (BS-06). The appellant as a last resort to seek remedy to his grievances, approached the august Peshawar High Court, Mingora Bench (Dar-UI-Qaza) Swat in writ petition No. 1130-M/2019 which was decided vide judgement dated 16.06.2020 directing respondent No.3 to constitute a committee for probing into the matter and pass consequential order within two months. In the light of said judgement, respondent No.3 was required to have probed the matter of his appointment as Store Keeper (BS-06) through a committee. Respondent No. 3 however, instead of constituting a committee, rescinded on 12.08.2020 his appointment/adjustment order as Store Keeper (BS-06) dated 27.07.2018. It is also astonishing that the incumbent respondent No.3 who rescinded office order of his predecessor dated 27.07.2018 on the ground that DHO (respondent No.3) was not competent to change the cadre of any employee, himself

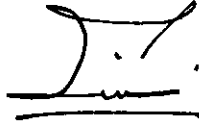
promoted/adjusted one Mr. Walid Ullah S/O Rahmad Ullah from the post of Chowkidar (BS-03) to the vacant post of Junior Clerk (BS-11). Now, if the former respondent No.3 (DHO) was not competent to change cadre of the employee then how could he be competent and from where did he draw such power/authority to rescind that office order in capacity as DHO? And how could he adjust another employee (Mr. Wahid Ullah, Chowkidar (BS-03) as junior clerk (BS-11) vide office order dated 16.03.2021?

07. There is a clear distinction between Departmental Selection Committee and departmental promotion committee constituted in government department under Rule-5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and transfer) Rules 1989 which seems to have either been misconceived or used one body interchangeable by respondent No.3. While the former is dealing with initial recruitments the later is relating to the promotion cases of certain cadres/scales. In the case of appellant, he was appointed/adjusted on recommendations of DSC as Store Keeper (BS-06) whereas in the case of quoted precedent of Mr. Wahid Ullah he was promoted/adjusted as Junior Clerk (BS-11) on the recommendations of DPC.

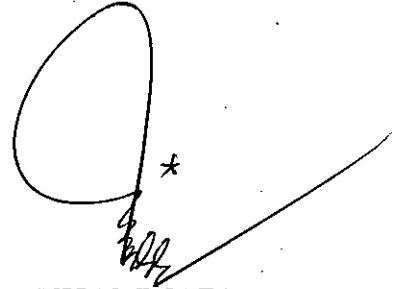
08. It can safely be concluded that Respondent No.3 neither met the ends of justice to provide the appellant reasonable opportunity of show cause nor followed the specific directions of Peshawar High Court Mingora Bench (Dar Ul Qaza) Swat dated 16.06.2020 and as such the impugned order of respondent No.3 dated 12.08.2020 to rescind office order dated 27.07.2018 in a summarily and whimsical manner as well as impugned appellate order dated 13.10.2020 are not sustainable on the touchstone of legal and constitutional standards and yardstick.

09. In view of the foregoing discussion, the service appeal is partially allowed and the matter is remanded to respondent-department with the directions to strictly follow the judgement of Peshawar High Court, Mingora Bench (Dar-UI-Qaza) Swat by constituting a committee to probe the matter and to pass a speaking order within two months. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
05.01.2022



(SALAH-UD-DIN)
Member(J)



(MIAN MUHAMMAD)
Member(E)
Camp Court Swat

ORDER

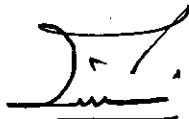
05.01.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Gohar Ayub, Senior Clinical Technician for respondents present.

Vide our detailed judgement of today placed on file (containing 06 page), the service appeal is partially allowed and the matter is remanded to respondent-department with the directions to strictly follow the judgement of Peshawar High Court, Mingora Bench (Dar-UI-Qaza) Swat by constituting a committee to probe the matter and to pass a speaking order within two months. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

05.01.2022



(Salah-Ud-Din)
Member(J)





(Mian Muhammad)
Member(E)
Camp Court Swat

03.01.2022

Appellant alongwith his counsel namely Qazi Fareed Ahmed, Advocate, present. Mr. Sagheer Alman, Coordinator LHW Program alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Partial arguments heard. To come up for remaining arguments on 04.01.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat



(Salah-ud-Din)
Member (J)
Camp Court Swat

04.01.2022

Appellant alongwith his counsel namely Qazi Fareed Ahmed, Advocate, present. Mr. Gohar Ayub, Senior Clinical Technician alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 05.01.2022 before the D.B at Camp Court Swat.

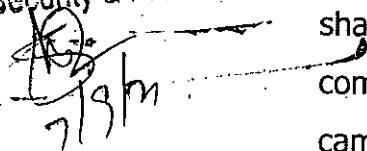

(Mian Muhammad)
Member (E)
Camp Court Swat

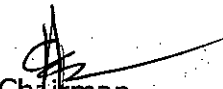

(Salah-ud-Din)
Member (J)
Camp Court Swat

23.08.2021

Counsel for the appellant present. By order dated 12.08.2019, an order previously issued in favour of the appellant has been cancelled/rescinded with the reason of its having been issued by an incompetent authority. The appellant filed appeal against the said order which was rejected on 13.10.2020. As a matter of next remedy, the appellant has filed the present service appeal. Subject to all just and legal objections including that of limitation to be determined during the course of full hearing, this appeal is admitted. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office at Peshawar within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.11.2021 before the D.B at camp court, Swat.


Appellant Deposited
Security & Process Fee

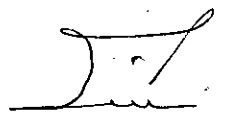



Chairman
Camp Court, Swat

01.11.2021

Appellant alongwith his counsel present. Mr. Gohar Ayub, Clinical Technician alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present and submitted reply/comments, which is placed on file and copy of the same is handed over to the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B, on 03.01.2022 at Camp Court Swat.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court Swat


(Salah-Ud-Din)
Member (J)
Camp Court Swat

4-1.2020

Due to summer vacation, case is adjourned to

1-3.2021 for the same as before.


Reader

01.03.2021

Junior to counsel for appellant.


He made a request for adjournment as senior counsel for appellant is not in attendance. Adjourned. To come up for preliminary hearing 04.05.2021 before S.B at Camp Court, Swat.



(Rozina Rehman)
Member (J)
Camp Court, Swat

26.07.2021

To come up for preliminary hearing on 23.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel, as well as respondents for the date fixed.




Chairman

Form-A

FORM OF ORDER SHEET

Court of _____

Case No.- 13286 /2020

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 29/10/2020 | <p>The appeal of Mr. Amjid Khan presented today by Qazi Farid Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted touring to S. Bench at Swat for preliminary hearing to be put up there on <u>04-01-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020.

Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil Batkhela,
District Malakand. (Appellant)

Versus

Director General Health Services Government of Khyber Pakhtunkhwa at
Peshawar and others (Respondents)

INDEX

| S.# | Description of documents | Annexure | Pages |
|-----|---|----------|-------|
| 1. | Appeal | | 1-5 |
| 2. | Certificate | | 6 |
| 3. | Affidavit | | 7 |
| 4. | Memo Of Addresses | | 8 |
| 5. | Copy of Initial appointment order | "A" | 9 |
| 6. | Copy of the office order dated 27-07-2018 | "B" | 10-11 |
| 7. | Copy of the Health Department letter dated 05-09-2019 | "C" | 12-14 |
| 8. | Copies of the order dated 16-06-2020 | "D" | 15-18 |
| 9. | Copy of the order dated 12-08-2020 | "E" | 19 |
| 10. | Copy of the order dated 13-10-2020 | "F" | 20-25 |
| 11. | Wakalat Nama | | 26 |


Appellant

Through


Qazi Farid Ahmad
Advocate Swat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 13286/2020.

Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil
Batkhela, District Malakand.

(Appellant) Pakhtunkhwa Service Tribunal

Versus

Diary No. 13666

Dated 29/10/2020

- 1- Director General Health Services Government of Khyber Pakhtunkhwa at Peshawar.
- 2- Secretary Health Government of Khyber Pakhtunkhwa at Peshawar.
- 3- District Health Officer Malakand at Batkhela.

(Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER NO. 2408-09/PERSONNEL DATED 13.10.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 12-08-2020 WAS REGRETTED/DISMISSED.

Prayer:

On the acceptance of the instant appeal, orders dated 13-10-2020 and 12-08-2020 of the respondents No. 1 & 3 respectively be set aside and the appointing order of the appellant dated 27-07-2018 may be restored and thereby accept the arrival report of the appellant for the post of Store Keeper BPS-06 with all back benefits, any other relief as may be deemed proper and just in circumstances of the case may also be granted.

Respectfully Sheweth:

- 1. That Petitioner was initially appointed as laboratory attendant BPS-04 at DHO office Malakand and performed his duty under the entire satisfaction of respondent no. 3 and there is no any complaint from any quarter. (Copy of Initial appointment order is annexed as annexure "A").
- 2. That in the year 2018 the respondent no.3 advertised posts including the post of Storekeeper BPS-06 the petitioner along with other candidates applied for the subject post being qualified.

Filed to-day
Registrar
29/10/2020

(2)

3. That the departmental selection committee after scrutinizing the applications and fulfilling all the formalities adjusted the petitioner as Storekeeper BPS-06 in DHO office Malakand vide office order no. 4974-77 dated 27-07-2018. (Copy of the office order dated 27-07-2018 is annexed as annexure "B")
4. That in the meanwhile the then DHO Malakand attained the age of superannuation and the present Dr. Wahid Gul took the charge as DHO Malakand, the petitioner submitted his Arrival Report for duty in DHO office Malakand, however, the present Respondent no 3 did not accepted the arrival report of the petitioner without any cogent reason.
5. That the petitioner contacted the respondent no. 3 time and again, however, the respondent no 3 neither accepted the request of the petitioner, nor did he mentioned any reason for his non acceptance of the Arrival Report of the petitioner in DHO Office.
6. That being aggrieved the petitioner approached the respondent no. 2 in the subject case, who by considering the request of the petitioner directed the respondent no. 3 to furnish views/comments vide Health Department letter dated 05-09-2019. (Copy of the Health Department letter dated 05-09-2019 is annexed as annexure "C")
7. That being directed the respondent no. 3 did not submitted any cogent reason to respondent no. 2 regarding the non-acceptance of the arrival report of the petitioner being appointed as Storekeeper BPS-06 by the then DHO Malakand but the respondent no. 3 ignored the directions of the respondent no. 2 being subordinate which is totally against the rules.
8. That the petitioner having no other remedy left, approached the August High Court and the August High Court vide order dated 16-06-2020 directed the respondent no. 3 to proceed by relevant rules by constituting a committee for probing into the matter and

(3)

pass a consequential order.(copy of the order dated 06-06-2020 is annexed as annexure "D")

9. That the respondent no. 3 by not following the directions of the August High Court and going against the prescribed rules, did not constituted a committee and rescinded/regretted the appointing order of the appellant vide impugned order dated 12-08-2020. (copy of the order dated 12-08-2020 is annexed as annexure "E")
10. That being aggrieved of the above mentioned order of the respondent no. 3, the appellant filed a departmental appeal and the respondent no. 3 vide impugned order no. 2408-09/Personnel dated 13-10-2020 dismissed the departmental appeal of the appellant. (copy of the departmental appeal and order dated 13-10-2020 are annexed as annexure "F")
11. That the petitioner being aggrieved from the above contradictory attitude of the respondents, therefore the petitioner approached this Honorable Tribunal *inter alia* on the following grounds.

GROUND:

- a. That the appellant was appointed according to the relevant rules hence without giving any opportunity of hearing to the appellant and adopting proper procedure as directed by the August High Court, the appellant's appointment order was Rescinded/regretted which is against the law and justice.
- b. That the respondent no. 3 in its order dated 12-08-2020 has stated about the appointment of the appellant as Store Keeper BPS_06, that, "order No-4874-77 dated 27-07-2018 of Store Keeper BPS_06 is hereby rescinded and regretted due to the reason that the above mentioned order was passed against the law and rules by the then District Health Officer, as the District Health Officer is not competent to change the cadre of any employee." If that is the case, then, how the present Respondent no. 3 having no

(4)

authority, as stated by respondent no. 3, rescinded/regretted the appointing order of the appellant as Store Keeper BPS-6, therefore it is self-contradictory.

- c. That while respondent no. 3 passed the order dated 12-08-2020 the respondent no. 3 remained silent about the previous cadre of the appellant i-e laboratory attendant BPS-04 at DHO office Malakand at Batkhela. Therefore the appellant has been pushed into a dead end which is against his basic fundamental rights.
- d. That the respondent no. 1 in the impugned order dated 13-10-2020 has considered the request of the appellant but still has regretted the same, therefore being self-contradictory the impugned orders of the Respondents may be set aside.
- e. That the act of the respondents, whereby not accepting the Arrival Report of the petitioner and thereby Rescinded/ regretted the appointing order of the appellant which are illegal, unlawful without authority / jurisdiction and being based on mala fide intentions.
- f. That the respondents are not treating the petitioner in accordance with the law and rules.
- g. That the appointment of the petitioner was made on the recommendations of the selection committee as prescribe by law and rules.
- h. That the above said act of the respondents is being discriminatory and against the basic right of the petitioner, is illegal, unlawful as well as unconstitutional.
- i. That the facts and grounds mentioned in the departmental appeal of the appellant may also be read as integral part of the instant appeal.
- j. That the appellant seeks the permission of this Honourable Tribunal to relay on additional grounds at the time of hearing of this appeal.

(5)

It is, therefore, most humbly prayed that On the acceptance of the instant appeal, orders dated 13-10-2020 and 12-08-2020 of the respondents No. 1 & 3 respectively be set aside and the appointing order of the appellant dated 27-07-2018 be restored and thereby accept the arrival report of the appellant for the post of Store Keeper BPS-06 with all back benefits.

Any other relief as may be deemed proper and just in circumstances of the case may also be granted.


Appellant

Through


Qazi Farid Ahmad
Advocate Swat.

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020.

*Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil Batkhela,
District Malakand.*

(Appellant)

Versus

*Director General Health Services Government of Khyber Pakhtunkhwa at
Peshawar and others*


(Respondents)

Certificate

*It is certified that as per instruction received from my client that no such like
other appeal has been earlier filed before this august Court except the
departmental appeal.*


Petitioner

Through Counsel


Qazi Farid Ahmad
Advocate High Court

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020.

*Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil Batkhela,
District Malakand.* (Appellant)

Versus

*Director General Health Services Government of Khyber Pakhtunkhwa at
Peshawar and others* (Respondents)

AFFIDAVIT

**I, Amjad Khan S/o Sahib Gul Store Keeper Cat-D
Hospital Totakan R/o Moh Ismail Khail, Totakan, Tehsil Batkhela,
District Malakand, do hereby solemnly affirm and declare on
oath that the contents of the titled appeal are true and
correct to the best of my knowledge and believe that nothing
has been kept back or concealed from this honourable
Tribunal.**


DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020.

*Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil Batkhela,
District Malakand.* (Appellant)

Versus

*Director General Health Services Government of Khyber Pakhtunkhwa at
Peshawar and others* (Respondents)

ADDRESSES OF THE PARTIES.

(Appellant).

*Amjad Khan S/o Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil
Batkhela, District Malakand.*

Versus

(Respondents).

- 1- *Director General Health Services Government of Khyber
Pakhtunkhwa at Peshawar.*
- 2- *Secretary Health Government of Khyber Pakhtunkhwa at Peshawar.*
- 3- *District Health Officer Malakand at Batkhela.*


Appellant

Through


Qazi Farid Ahmad
Advocate Swat.

(9)

Annexure - "A"



OFFICE OF THE DISTRICT HEALTH OFFICER MALAKAND

PHONE NO.0932-410399, FAX NO.0932-413110

E-mail dhomalakand279@gmail.com

C.T.C

(Aid)

QAZI FARID AHMAD
Advocate High Court

OFFICE ORDER

Consequent upon recommendations of the departmental selection committee in terms of rules 10(4) of the Khyber Pakhtunkhwa civil servants (appointment promotion and transfer) rules, 1989, Mr. Amjad Khan S/O Sahib Gul resident of Totakan Tehsil Batkhela District Malakand is hereby appointed against the vacant post of Laboratory Attendant (BPS-04) (Rs. 6730-300-15730) plus usual allowances admissible under government Rules on the following terms and conditions against the vacant post at CAT-D Hospital Totakan, District Malakand.

1. He shall for all intend and purposes, be Civil Servants and shall be governed by the Khyber Pakhtunkhwa civil servants act 1973 and rules made there-under.
2. He shall initially be on probation for a period of one year extendable for this period of one year as provided under section 6 (1) of the Khyber Pakhtunkhwa Civil servant act 1973 read with rules 15 (1) of the Khyber Pakhtunkhwa (appointment promotion and transfer) rules, 1989 duly amended.
3. If his work during the period of probation is not found satisfactory he shall be given one month notice for termination from service or one month pay in lieu thereof a month pay will be forfeited.
4. He has to join duty at his own expenses.
5. His appointment is subject to his medical fitness.
6. He should report for his duty to the medical officer in-charge CAT-D Hospital Totakan within fifteen days of issuance of this order otherwise the order will stand cancelled.

District Health Officer
Malakand at Batkhela

No. 810-14 /

Dated

Batkhela 08 the 2 / 2014

Copy forwarded to:

1. District Accounts Officer Malakand
2. Senior Medical Officer In-charge Totakan for information
3. Accounts clerk of this office for information and necessary action.

District Health Officer

Malakand at Batkhela



10 Annexure - B
GOVERNMENT OF KHYBER
PAKHTUNKHWA
HEALTH DEPARTMENT

No.SOH-IV/4-4/DHOAmjid/ Batkhela/2018

Dated Pesh: the 26-05-2018

C.T.C

A101

GAZI FARID AHMAD
Advocate High Court

To

The District Health Officer,
Batkhela.

SUBJECT: APPLICATION FOR POSTING AS STORE KEEPER (BPS-06)

I am directed to refer to the subject noted above and to forward herewith an application submitted by Mr. Amjid Khan presently working as Lab: Attendant (BS-04) Type-D Hospital Totakan requesting for posting against the vacant post of store keeper (BPS-06) at Type-D Hospital Totakan for approval/consideration, please.


SECTION OFFICER-IV
HEALTH DEPARTMENT

Copy to :

1. PS to Secretary Health.
2. PS to Special Secretary Health.


SECTION OFFICER-IV



11

OFFICE OF THE DISTRICT HEALTH OFFICER MALAKAND AT BATKHELA

PHONE No. (0932) 410399, fax No.413110

OFFICE ORDER

In the light of the Secretary Health Govt: of Khyber Pakhtunkhwa order No. SOH-IV/4-4/DHO Amjid/Batkheela/2018 dated 26/05/2018 and recommendation of the selection committee, Mr. Amjad Khan S/O Sahib Gul presently working as Laboratory Attendant BPS-04 is hereby appointed/Adjusted against the vacant post of Storekeeper BPS-06 at Cat-D Hospital Totakan on the following terms and conditions.

- 1- He will be governed by the rules and order issued by the Govt. from time to time.
- 2- If he wished to resign at any time he will tender his resignation in written by giving a prior notice of one month and continues the duty till acceptance of his resignation by the competent authority, failing which one month pay has to be forfeited.
- 3- His service can be terminated at any time in case of their performance as found unsatisfactory. In case of misconduct they will be proceeded against under Khyber Pakhtunkhwa removal from service (Special Power) Ordinance 2000 and the rules framed time to time.
- 4- If he accept this offer on the above terms and conditions he should report for duty within Seven (07) days after receipt of this letter failing which the offer will be treated as cancelled.
- 5- He shall for all intents and purposes, be civil servants and shall be governed by the Khyber pakhtun khwa civil servants Act 1973 and all the laws applicable to the civil servants and rules made there under.

No. 4974-77
Copy to:-

District Health Officer,
Malakand at Batkhela
Dated Batkhela the 27/07/2018

1. PS to Secretary Health Govt: of KP Peshawar
2. Medical Officer Incharge Cat-D Hospital Totakan
3. Official concerned
4. District Accounts Officer, Malakand
5. Accounts Section of this office

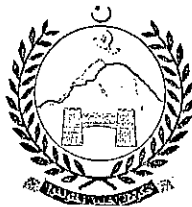
C.T.C

Aid

DAZI FARID AHMAD
Advocate High Court


District Health Officer,
Malakand at Batkhela

(11-A)



OFFICE OF THE DISTRICT HEALTH OFFICER MALAKAND AT BATKHELA

PHONE No. (0932) 410399, fax No.413110

OFFICE ORDER

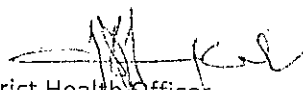
Mr. Amjad Khan Storekeeper attached to Cat-D Hospital Totakan is hereby directed to perform his duty in the office of the undersigned with immediate effect till further order in the best interest of public


No. 5500/3
Copy to:-

1. Medical Officer Incharge Cat-D Hospital Totakan
2. Official concerned
3. Accounts Section of this office

Dated Batkhela the

10/09/2018


District Health Officer,
Malakand at Batkhela


District Health Officer,
Malakand at Batkhela

C.T.C



QAZI FARID AHMAD
Advocate High Court



(11-B)
Welfare & Relief Committee

Ref: WRC/HR/1109-17

Date: 10-10-2017

TO WHOM IT MAY CONCERN

It is certified that Mr. Amjad Khan S/O Sahib Gul R/O Totakan batkhela Malakand worked as "Store Keeper" with us since March 2015 up to date at Cat-D Hospital Totakan Malakand.

Welfare & Relief Committee is in Partnership with Ministry for Health, Government of Khyber Pakhtunkhwa under "public Private Partnership" (2013-18). During his service with us, we found him honest, hardworking, obedient and dedicated to his job, He is a good team member benefited our organization by his communication skills and good organizational behavior.

He has completed all the task within the time assigned him by the supervisor. We wish him all success in his practical life.

C.T.C.

OAZI FARID AHMAD
Advocate High Court

Human Resource Officer

Human Resource Officer
Welfare & Relief Committee
Peshawar

Welfare & Relief Committee

Head Office:

First Floor UBL Bank Building Main G.T Road,
Hashtnagri Peshawar. Ph#. +92-91-2561677
Email: org.wrc@gmail.com www.wrc-pk.org

Sub Office:

WRC
Cat-D Hospital Totakan Malakand
Government of Khyber Pakhtunkhwa
Ph: 0932-430500

Sub Office:

WRC
RHC Sheikh Jana, District Swabi
Government of Khyber Pakhtunkhwa
Ph: 0938-310874

To,

(12)

"Annexure - C"

Secretary to Govt of Khyber Pakhtunkhwa
Health Department, Peshawar.

Subject:
Dear Sir,


APPOINTMENT ORDER/NOT ACCEPTANCE OF ARRIVAL REPORT

It is submitted stated that I am working as Labatatory Attended BS-04 in DHO Office Malakand Since 2015 on regular basis. It is added here that in the year 2018, the under signed applied for the post of Store Keeper in DHO Office Malaqkand. The undersigned appointed after fulfilling of all codal formalities vide District Health Officer Malakand office order dated 27.07.2018 (Copy enclosed). After receiving the appointment order of Storekeeper the undersigned submitted arrival report to the DHO Malakand.

It is pertinent to mention here that the sitting District Health Officer Malakand has not accepted the arrival report of the undersigned without any reasons.

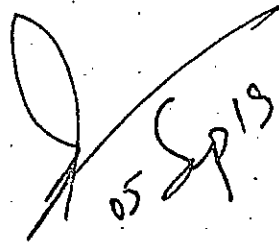
In view of the above it is therefore, humbly requested that the District Health Officer Malakand may be directed to accept the arrival report of the undersigned against the post of Storekeeper BS-06 as per my appointment order.

Yours faithfully,


(Amjad Ali Khan)
Storekeeper BS06
DHO Office Malakand

Forward to DHO Malakand
for views/comments

stand


05 Sep 19

C.T.C



QAZI FARID AHMED
Advocate High Court

(13) - (19)

~~Amjad Khan~~



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. SOH-III/10-4/2019(Amjad Ali Khan)
Dated the Peshawar 05th September, 2019

To

The District Health Officer,
Malakand.

SUBJECT: APPOINTMENT ORDER NOT ACCEPTANCE OF ARRIVAL REPORT.

I am directed to refer to the subject noted above and to enclose herewith a copy of an application alongwith appointment order of Mr. Amjid Khan working as Laboratory Attendent BS-04 attached to DHO Office Malakand. The official concerned was appointed as Storekeeper BS-06 in DHO Office, Malakand vide office order No. 4974-77, dated: 27-07-2018. It is added that the official concerned submitted the above cited application to this department wherein it has been intimated that the incumbent District Health Officer, Malakand is not accepting his arrival report as Storekeeper BS-06 in the said office.

In view of the above, views/coments in the subject matter may be conveyed at the earliest to proceed further in the matter.

Encl: As above.


Section Officer-III

Endst: even no & date.

Copy forwarded for information and necessary action to the:-

1. The Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Health, Khyber Pakhtunkhwa.
3. Mr. Amjid Khan working as Laboratory Attendent BS-04 attached to DHO Office Malakand.

C.T.C



OAZI FARID AHMAD
Advocate High Court


Section Officer-III

(13) (14)



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. SOH-III/10-4/2019(Amjad Ali Khan)
Dated the Peshawar 1st October, 2019

To *AS 10/9/19*

The District Health Officer,
Malakand.

SUBJECT: APPOINTMENT ORDER NOT ACCEPTANCE OF ARRIVAL REPORT.

I am directed to refer to the subject noted above and in the continuation of this department letter of even No. SOH-III/10-4/2019(Amjad Ali Khan) dated 5th September, 2019 and to state that the requisite reply is still pending on your part which may be expedited please.

Endst: even no & date.

Copy forwarded to the PS to Secretary Health, Khyber Pakhtunkhwa.

[Signature]
Section Officer-III

[Signature]
Section Officer-III

C.T.C.

[Signature]


CAZI FARID AHMAD
Advocate High Court

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No. of

| 1 | Date of Order or Proceedings | Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. |
|---|------------------------------|--|
| <p>C.T.C</p>  <p>QAZI FARID AHMAD Advocate High Court</p> | <p>16-06-2020</p> | <p><u>W.P No. 1130-M/2019 with Interim Relief</u></p> <p>Present: <i>Qazi Farid Ahmad, Advocate for the petitioner.</i></p> <p><i>Mr. Wilayat Ali Khan, A.A.G for the respondents.</i></p> <p>*****</p> <p><u>WIOAR AHMAD, J.-</u> Petitioner has invoked constitutional jurisdiction of this Court by filing the instant petition under Article 199 of Constitution of Islamic Republic of Pakistan, 1973.</p> <p>2. Petitioner has contended in his writ petition that he was initially appointed as Laboratory Attendant (BPS-04) in the office of District Health Officer Malakand at Batkhela (hereinafter referred to as 'DHO') vide office order dated 08.02.2016. He further contended that certain posts including the post of Storekeeper (BPS-06) were advertised by respondent No. 3 in the year 2018. He along with other candidates applied for the post and after scrutinizing application of petitioner by the Departmental Selection Committee, he was appointed/adjusted on the post of Storekeeper</p> |

(BPS-06) in Category-D Hospital, Totakan vide office order dated 27.07.2018 of respondent No. 3. In light of said order of appointment/adjustment, petitioner submitted arrival report to respondent No. 3 but same was not accepted without any reason. Later, he submitted an application to respondent No. 2 to the effect that respondent No. 3 be directed to accept his arrival report against the post of Storekeeper. On said application, comments were called from respondent No. 3 but so far same have not been submitted. Aggrieved of non-acceptance of his arrival report by respondent No. 3, petitioner has approached this Court through the instant writ petition with the following prayer;

"It is therefore very humbly prayed that;

- i. Respondents be directed to accept the arrival report of the petitioner.
- ii. Any other relief not specifically prayed but this august Court deems proper may also be granted."

3. Comments were called from respondent No. 3, who filed the same and contended that neither post of Storekeeper had been advertised in print or electronic media nor minutes of the Selection Committee meeting were available. It was also stated that DHO was not competent to change cadre of the post from Lab Attendant to Storekeeper. He further contended that due

C.T.C

(A)

HAZI FARID AHMAD
Advocate High Court

to some doubts, a letter dated 01.10.2019 had also been sent to respondent No. 2 for verification of its office letter dated 05.09.2019, whereby comments had been called from DHO but reply to said letter has not yet been received.

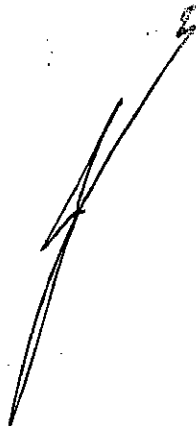
4. Arguments heard and record perused.

5. Perusal of record reveals that petitioner had earlier been appointed as Laboratory Attendant by an NGO (Welfare & Relief Committee) in BPS-02 vide order dated 01.05.2015 but his services were later on regularized in the establishment of DHO. Later, he was appointed/ adjusted on the post of Storekeeper in BPS-06 in Category-D Hospital, Totakan vide office order dated 27.07.2018 of DHO. His grievance in the instant petition is that respondent No. 3 has not been allowing him to perform his duties on said post of Storekeeper. Comments were called from respondent No. 3, who stated in his comments that appointment order of petitioner on post of Storekeeper in BPS-06 was illegal and has been issued by the then DHO, without following codal formalities. Whatever may the case, an order for appointment/adjustment of petitioner has been made in BPS-6 in category D Hospital, Totakan and said order has not been rescinded by respondent No. 3 till date.

C.T.C

(Aid)

DAZI FARID AHMAD
Advocate High Court



Respondent No. 3 has leveled serious allegations in his comments, but at his end, no subsequent order has been passed in respect thereof. In such circumstances, the appropriate course would have been that the appointing authority i.e. DHO should have constituted a committee for probing into the matter and to have passed consequential order thereafter either maintaining the order of adjustment of petitioner on the post of Storekeeper (BPS-06) or rescinding the said order dated 27.07.2018 passed by his predecessor, but no such step has been taken till date.

C.T.C

(Handwritten initials)

Advocate High Court

6. In the given situation, it is directed that respondent No. 3 shall proceed according to relevant rules, and shall pass a final order in this respect within two months of receipt of judgment in this case, whereafter petitioner shall be at liberty to approach competent forum for redressal of his grievance, if any of such grievance arises to him out of the final order of respondent No. 3.

7. The instant petition is disposed of accordingly.

Announced
Dt: 16.06.2020

(Handwritten mark)
JUDGE

~~JUDGE~~

(Handwritten signature)
10/08



(19) Annexure - E

**OFFICE OF THE
DISTRICT HEALTH OFFICER MALAKAND**
Phone No. (0932) 410399, Fax No. (0932) 413110, Email: dhomalakand279@gmail.com

Dated: 12/08/2020

OFFICE ORDER

You, Mr. Amjad Khan S/O Sahib Gul lab attendant Cat-D Hospital Totakan, are hereby informed that your order No-4874-77 dated 27-07-2018 of Store keeper BPS-06 is hereby rescinded and regretted due to the reason that the above mentioned order was passed against the law and rules by the then District Health officer, as the District Health Officer is not competent to change the cadre of any employee.

District Health Officer
Malakand at Batkhela

No. 4796-99
Copy to the: -

- Deputy Commissioner Malakand
- Registrar Peshawar High Court Mingora Bench Dar Ul Qaza Swat with reference to WP. No-1130-M/2019 Titled Amjad Khan Versus Director General Health Services Khyber Pakhtunkhwa Decided on 16/06/2020
- Mr. Amjad Khan S/O Sahib Gul Lab Attendent Cat-D Hospital Totakan District Malakand

District Health Officer
Malakand at Batkhela

C.T.C

(JAIC)

QAZI FARID AHMAD
Advocate High Court

20

BEFORE THE DIRECTOR GENERAL HEALTH SERVICES
PAKHTUNKHWA, PESHAWAR.

Amjad Khan S/O Sahib Gul
R/O Village Totakan Tehsil Batkhela
District Malakand _____ appellant

VERSES

District Health Officer Malakand at Batkhela

MERCY APPEAL AGAISNT THE IMPUGNED OFFICE ORDER DATED
12.08.2020 THROUGH WHICH THE APPOINTMENT ORDER OF THE
APPELLANT WAS RESCINDED/REGRETTED.

Respected Shewth:-

FACTS:-

I have the honour to submit my grievances as under:-

1. That the undersigned was initially appointed as laboratory attended BPS-4 at DHO office Malakand vide dated 08.02.2016 and performed his duty under the entire satisfaction having no complaint from any quarter, (copy of initial order of appointment is attached at annexure A).
2. That being qualified and experience person for the post of store keeper, Welfare & Relief Committee had been allowed to work with them as a store keeper additionally. The undersigned performed his duty with missionary zeal in the said Welfare and

C.T.C

(Aid)

DR. FARID AHMED
Advocate High Court

(21)

Relief Committee, therefore, awarded him appraisal certificate (which is attached at annexure B).

3. That thereafter, due to good performance report and experience, the undersigned has been promoted as store keeper BPS-06 vide order 4974-77 dated 27.07.2018 on the recommendation of selection committee (copy attached at annexure C).

4. That thereafter the undersigned submitted arrival report to the present DHO Batkhela but did not accept his arrival report with the connivance that he did not obey the order of then DHO and undersigned hinged in the open space due to the tassel of two officers.

c.t.c

(Signature)

5. That being aggrieved of non-acceptance of arrival report of undersigned, approached to Hon'ble Peshawar High Court,

QAZI FARID AHMAD
Advocate High Court

Mingora Bench / Dar-ul-Qaza and vide order dated 16.06.2020, the Hon'ble Peshawar High Court, Mingora Bench / Dar-ul-Qaza

directed the DHO as under:

"In such circumstances the appropriate course would have been that the appointing authority ie DHO should have constituted a committee for probing into the matter and to have passed consequential order thereafter either maintaining the order of adjustment of the petitioner on the post of store keeper (BPS-06) or rescinding the said order dated 27.07.2018 passed by his predecessor but no such step has been taken till date. In the

given situation is it directed that respondent No.3- ie DHO shall proceed according to relevant rules and shall pass a final order in this respect within two months of receipt of judgment in this case where after petitioner shall be at liberty to approached competent forum for redressal of his grievances, if such grievances arises to him out of the final order of respondent No. 3 DHO. (Copy of Hon'ble Peshawar High Court, Mingora Bench / Dar-ul-Qaza is attached at annexure E).

6. That the DHO Batkhela did not constitute a committee for probing

into the matter and rescinded / regretted the order of undersigned vide dated 12.08.2020 and violated the prescribed rules and directions Hon'ble Peshawar High Court Mingora Bench / Dar-ul-Qaza. When the farmer has not competent to issue such order then the how later rescinded the order of undersigned

Advocate High Court

(Signature)

C.T.C

(copy of rescinded order is attached at annexure F).

7. That against the impugned / rescinded order dated 12.08.2020, the DHO may be directed to withdraw the rescinded order issued vide dated 12.08.2020.

GRUNDS:-

I. That the appellant was appointed according to relevant rules, hence without hearing the stance of appellant and adopting proper procedure, the appellant appointment order was cancelled which is against the law.

(23)

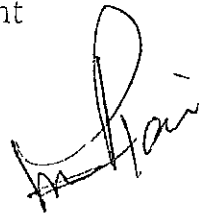
- II. That issuing the order dated 12.08.2020 is also against the law and that too made silent about the order of laboratory attended PBS-4 issued vide dated 08.02.2016, when the farmer has not ^{-the} competent to issue such order then the how later rescinded the order of undersigned which itself a speaking volume about the tassel of two arrival officers and those who stand together must fall together but no plausible explanation in defence has been offered by the present DHO and is based on surmises and conjectures.
- III. It is therefore prayed that being a poor person affected by flood, terrorism and now the covid-19, the present DHO Batkhela may be directed to withdraw the rescinded order issued vide dated 12.08.2020 and accept my arrival report from the date of 1st appointment as Store Keeper, please.

C.T.C


AMJAD KHAN
Advocate High Court

Yours sincerely,

Appellant


Amjad Khan S/O Sahib Gul
R/O Village and P.O
Totakan Tehsil Batkhela,
District Malakand.
Dated 25.08.2020



(2-1)

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

E-Mail Address: nwfdgshs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 5215 / Personnel / Attendant-585 Dated: 09/09/2020

To,

The District Health Officer
Malakand at Batkhela.

Subject:

MERCY APPEAL AGAINST THE IMPUGNED OFFICE ORDER DATED
12.08.2020 THROUGH WHICH THE APPOINTMENT ORDER OF THE
APPELANT WAS RESCINDED/REGRETTEED.

Memo:

I am directed to forward herewith a copy of an appeal submitted by Mr. Amjad Khan S/O Sahib Gul of District Malakand which is self explanatory for further necessary action with the remarks to furnish your comments so as to proceed further.

E.T.C

(FAIC)

OAZI FARID AHMAD
Advocate High Court

W. Farid
9/9
ADDITIONAL DG (ADMN)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR.

09/09/2020

25



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

E-Mail Address: nwfpdghs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 2408-09/Personnel Dated: 13/10/2020

To,

Mr. Amjad Khan S/O. Sahib Gul
R/O Village and P.O Totakan Tehsil Batkhela
District Malakand.

Subject: **MERCY APPEAL AGAINST THE IMPUGNED OFFICE ORDER DATED 12.08.2020 THROUGH WHICH THE APPOINTMENT ORDER OF THE APPELLANT WAS RESCINDED/ REGRETTE**

Memo:

Reference to your application dated 25.08.2020 on the subject noted above.

Your request has been considered by the competent authority but cannot, it is regretted be acceded to.

[Handwritten Signature]
12/10

ADDITIONAL DG (ADMIN)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

20/09/10/2020

C.C

DHO Malakand w/r to his letter No. 5814/PF dated 17.09.2020.

C.T.C

[Handwritten Signature]

LOCAL PUBLIC OFFICER
Malakand High Court

بعدالت جناب خیبر پختونخواہ سروس ٹریبونل، مقام پشاور

مورخہ 29 ماہ اکتوبر 2020

مقدمہ امجد خان بنام D.G Health وغیرہ

دعویٰ سروس ایپل

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کارروائی / متعلقہ آن مقام پشاور ٹریبونل کورٹ عمل کردہ سوات کے لئے قاضی فرید احمد / مروان خان ایڈووکیٹ کو مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تفریث ثالث و فیصلہ برحلف دینے جواب دہیا و اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف ایپل کی برآمدگی اور منسوخ مذکور کے کھل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

المرقوم 29 ماہ اکتوبر 2020

Accepted by

(M)

Marwan Khan Advocate

العبد گواہ شہد
امجد خان ولد صاحب عمل سید محبتہ اسماعیل خیل
تولمان، محفل بیٹ ضیہ ملائکہ

Accepted by

(A)

Advocate High Court

پشاور ایپل کورٹ عمل کردہ سوات کیلئے منظور ہے۔

Accepted by

(A)

Marwan Khan Advocate

BEFORE THE KHYBERPAKHTUNKHWA PESHAWAR SERVICE
TRIBUNAL PESHAWAR

APPEAL NO. 13286/2020

Amjad Khan S/O Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil
Batkhela District Malakand

.....APPELLANT

VERSUS

1. DIRECTOR GENREL HEALTH SERVICES DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.
2. SECRETARY HEALTH KYBER PAKHTUNKHWA PESHAWAR.
3. DISTRICT HEALTH OFFICER MALAKAND.

.....RESPONDENTS

SUBJECT: WRITTEN REPLY ON BEHALF OF RESPONDENTS

INDEX

| S.No | Description of documents | Annex | Page |
|------|----------------------------------|-------|------|
| 1 | Para wise Comments/written reply | | 1-3 |
| 2 | Affidavit | | 4 |

Respondent No-3


District Health officer
District Malakand

BEFORE THE KHYBERPAKHTUNKHWA PESHAWAR SERVICETRIBUNAL PESHAWARAPPEAL NO. 13286/2020

Amjad Khan S/O Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil
Batkhela District Malakand

.....APPELLANT

VERSUS

1. DIRECTOR GENREL HEALTH SERVICES DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.
2. SECRETARY HEALTH KYBER PAKHTUNKHWA PESHAWAR.
3. DISTRICT HEALTH OFFICER MALAKAND.

.....RESPONDENTS

SUBJECT: WRITTEN REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Para-wise comments/ written reply on behalf of respondents is
as under

Preliminary Objections

1. That the appellant has not come to this august court with clean hands, he has intact suppressed the material facts from the Honorable Court and tried to mislead the court, hence his petition deserves dismissal.
2. That no vested or accrued or legal right of the appellant has been infringed to warrant interference through this service appeal.
3. That the impugned order has already been challenged before the Honorable High Court and has been decided vide judgment in W.P No-1130-M-2019 dated 16/06/2020. The judgment is already annexed by the appellant as Annexure-D on page 15 of appeal. The judgment of the honorable court has been implemented by the respondent in letter and spirit by passing order No-4796-99 dated 12/08/2020 already annexed by the appellant as Annexure-E on page-19 of the appeal.

4. That the Honorable High Court after deciding the writ petition of the appellant directed the respondents for passing a final order and the same has been implemented by the respondents.

FACTS REPLY

1. That Para No-1 is correct hence needs no comments
2. Para No-2 is incorrect hence denied.
3. That Para No-3 is also incorrect hence denied because there was no departmental selection committee involved in office order No-4974-77 dated 27/07/2018.
4. Para No-4 is correct to the extent that DHO Malakand attained the age superannuation and the present DHO Dr. Wahid Gul took charge, but it is pertinent to mention here that Dr. Wahid Gul has also attained the age of superannuation and has been retired from service.
5. That Para No-5 is incorrect hence denied because the non acceptance reason has been mentioned in the office order No-4796-99 dated 12/08/2020 (Annexure-E of the appeal)
6. That Para No-6 is correct hence needs no comments.
7. Para No-7 is incorrect hence denied.
8. Para No-8 is correct hence needs no comments.
9. Para No-9 is incorrect hence denied because the respondent No-3 has passed a final order according to the judgment of the Honorable High Court bench Dar ul Qaza Swat, by passing the final regression order No-4796-99 dated 12/08/2020 (Annexure-E of the appeal)
10. Para No-10 is correct hence needs no comments.
11. No comments.

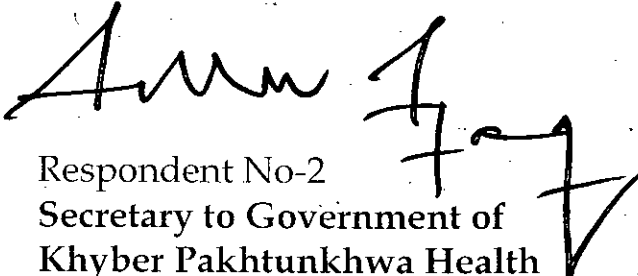
Grounds reply

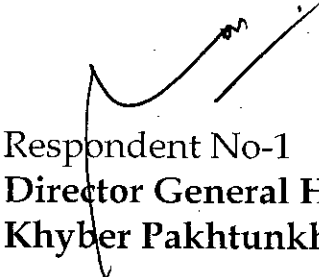
- a. Para No-a is incorrect hence denied because the order No-4796-99 dated 12/08/2020 (Annexure-E of the appeal) has been issued in accordance with law and rules.
- b. Para No-B is incorrect hence denied.
- c. Para-No C is incorrect hence denied because the petitioner was granted 120 days leave without pay with effect from

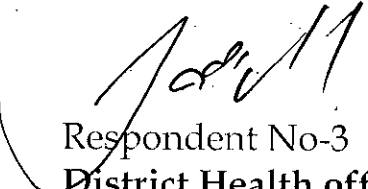
15/04/2019 to 24/10/2019. He was to re-join his duty on 25/10/2019 but he failed, after the regression of the order of store keeper he was to submit arrival report as Lab attendant and to join the same but he failed.

- d. Para No-D is incorrect hence denied because the order of the appellant was already regretted by the appointing authority.
- e. Para No-E is totally wrong and baseless hence denied because after the regression of appointment order the respondent could not accept the arrival report as store keeper.
- f. Para No-F is incorrect hence denied.
- g. Para No-G is incorrect.
- h. Para No-H is incorrect hence denied.
- i. Needs no comments
- j. That the respondents also seek permission of this honorable court to rely on additional documents at the time of hearing this appeal.

It is therefore humbly requested in your honor that on acceptance of this comments/ written reply Appeal of the appellant may kindly be dismissed with cost.


 Respondent No-2
 Secretary to Government of
 Khyber Pakhtunkhwa Health
 Department Peshawar


 Respondent No-1
 Director General Health Service,
 Khyber Pakhtunkhwa Peshawar


 Respondent No-3
 District Health officer
 District Malakand

(4)

BEFORE THE KHYBERPAKHTUNKHWA PESHAWAR SERVICE
TRIBUNAL PESHAWAR

APPEAL NO. 13286/2020

Amjad Khan S/O Sahib Gul R/o Moh Ismail Khail, Totakan, Tehsil
Batkhela District Malakand

.....APPELLANT

VERSUS

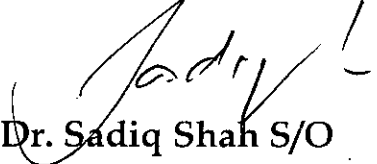
1. DIRECTOR GENREL HEALTH SERVICES DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.
2. SECRETARY HEALTH KYBER PAKHTUNKHWA PESHAWAR.
3. DISTRICT HEALTH OFFICER MALAKAND.

.....RESPONDENTS

SUBJECT: WRITTEN REPLY ON BEHALF OF RESPONDENT N0-3

AFFIDAVIT

I, Dr. Sadiq Shah S/O Said Badshah District Health Officer Malakand, office of the District Malakand at Batkhela, do here by affirm and declare on oath that the whole comments are true and correct to the best of my knowledge according to the record provided to me and nothing has been concealed from this august court.


Dr. Sadiq Shah S/O
District Health Officer
Malakand, at Batkhela
CNIC-17301-1642311-7
Mobile No-03333961919