

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

**Service Appeal No. 51/2022**

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 4550

Dated 28/3/2023

Dr. Hanif Afzal -----Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health

**INDEX.**

S.No.	Description of documents	Annexure	Page
01	Parawise Comments		1 to 02

Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department

**Section Officer (Lit-II)**  
**Health Department**  
**Khyber Pakhtunkhwa**

28/3/23

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 51 OF 2022**

Dr. Hanif Afzal.....Appellant

**Versus**

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

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4**

**Respectfully Sheweth:**

**Preliminary Objections:-**

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal.
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 its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

**ON FACTS:**

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Incorrect, hence denied that the appellant is junior to all the other promoted doctors and the appellant was not eligible for promotion at that time because of non-availability of his PERs, dossier for the year 2018.
5. Pertains to record.
6. Incorrect. No junior to the appellant has been promoted on the recommendation of PSB meeting held on 31-07-2021. As total vacant posts were 63 whereas, the appellant was at

S. No. 114 of the seniority list for the year 2021 therefore, all those who were promoted were senior than the appellant. It is worth to mention that the appellant has recently been promoted to BPS-19 vide Notification dated 23-12-2022 hence the instant appeal becomes infructuous. (Copy of the Seniority list & Notification dated 23-12-2022 are annexure-A & B)

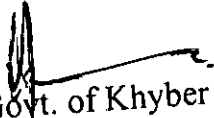
7. Pertains to record.
8. Needs no comments being formal.

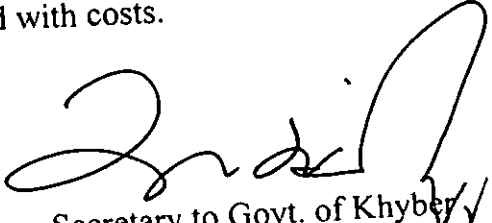
**ON GROUNDS:**

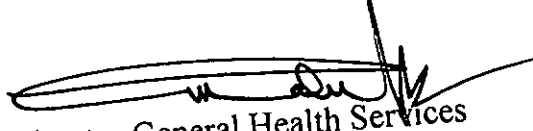
- A. Incorrect. The replying respondents acted as per law, rules and principle of natural justice.
- B. Incorrect. As per para A above.
- C. Incorrect. Already replied in para 06 of the facts.
- D. Incorrect. Already explained in the preceding paras so for as judgment or the honorable Court is mentioned in the para is concerned it is stated that the honorable Court has already laid down the principle that every case has its own facts and circumstances therefore, the same needs to be decided on its own merit.
- E. Incorrect. Already replied in para 06 of the facts hence no discrimination was occurred in the matter as explained above.
- F. Incorrect. Already explained in para A of the grounds.
- G. Incorrect. The name of the appellant was included in the panel of promotion at S. # 114 while the vacant posts-of-PMO BPS-19 were 63 that time so he could not be promoted.
- H. Answering respondents also seek prior permission of this Honorable Court to adduce additional grounds at the time of arguments.

**PRAYER:**

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.

  
Secretary to Govt. of Khyber  
Pakhtunkhwa Health Department  
Respondent No. 01 & 03

  
Secretary to Govt. of Khyber  
Pakhtunkhwa Establishment Department  
Respondent No. 02

  
Director General Health Services  
Khyber Pakhtunkhwa  
Respondent No. 04

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

**Service Appeal No. 51/2022**

Dr. Hanif Afzal ----- Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Health Department &  
others ----- Respondent

**AFFIDAVIT.**

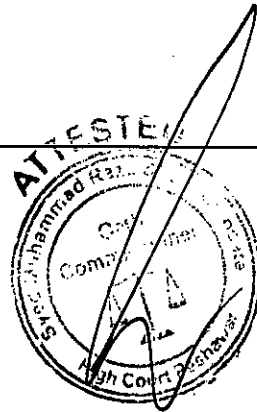
I Mohammad Tufail Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint Para-wise comments in Service Appeal No. 51/2022 at Page-1-2 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.

*Punji*  
Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department

28/3/23

Identified by:-

Addl: Advocate General,  
Khyber Pakhtunkhwa



28 MAR 2023