



03.02.2023

Clerk of learned counsel for the appellant present.
Mr. Muhammad Jan, District Attorney for official respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 06.04.2023 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

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FOR


12.12.2023

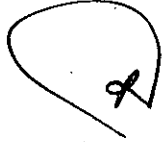
1. Appellant present. Muhammad Jan learned District Attorney for official respondents No. 1 and 2 present. Nazir Ahmad Advocate on behalf of private respondents No. 4, 51 & 55 and Habib Anwar Advocate on behalf of private respondents No. 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 26, 28 to 33, 35, 41, 44, 47, 49,50, 52,54, 58 and 59 present.

2. A miscellaneous application was submitted by private respondents on 30.08.2022 for setting aside ex-parte proceedings.

3. Record shows that ex-parte proceedings were initiated against the above mentioned private respondents vide order sheet dated 11.05.2022 and 10.06.2022. As per law ex-parte proceedings can be set aside at any stage. There is no limitation for setting aside ex-parte proceedings therefore, application is allowed and ex-parte proceedings initiated against the respondents No. 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 26, 28 to 33, 35, 41, 44, 47, 49,50, 52,54, 58 and 59 stands set aside. Reply on behalf of respondents have already been filed, therefore, file to come up for arguments on 03.02.2023 before D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

30.08.2022

*Early Hearing
notice was issued
to the respondents*

Appellant in person present. Mr. Muhammad Adeel Butt, learned Additional Advocate General for official respondents No.1 & 2 present. Private respondent No.4, 51 & 51 present through counsel.

Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 21.11.2022 before the D.B.



(Salah-Ud-Din)
Member(J)

24th Oct., 2022

Lawyers are on strike today.

To come up for arguments on 21.11.2022 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

21st Nov, 2022

Lawyers on general strike today.

To come up for arguments on 12.12.2022 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

(1)

)

11.05.2022

Appellant with counsel present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Safi Ullah S.O for official respondents No.1 & 2 present. Habib Anwar Advocate on behalf of private respondents No.5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 25, 28, 29, 30, 31, 32, 33, 35, 4, 44, 47, 49, 50, 52, 54, 58 and 59 present. Nazir Ahmad Advocate on behalf of private respondents No.4, 51 and 55 present. All the remaining respondents being absent, are proceeded ex-parte. Attendance is complete. Reply on behalf of official respondents No.1 & 2 and private respondents No.4, 51 & 55 submitted. Habib Anwar Advocate requested for time in order to submit reply/comments on behalf of private respondents No. 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 26, 28, 29, 30, 31, 32, 33, 35, 44, 47, 49, 50, 52, 54, 58 and 59. Last chance is given for submission of reply, failing which, their right of defense would be deemed as struck off. To come up for reply/comments of private respondents No. 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 25, 28, 29, 30, 31, 32, 33, 35, 4, 44, 47, 49, 50, 52, 54, 58 and 59 on 10.06.2022 before S.B.



(Rozina Rehman)
Member (J)

10.06.2022

Appellant in person present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Perusal of preceding order sheet would reveal that reply on behalf of official respondents NO.1 & 2 and private respondents No.4, 51 and 55 was submitted. A request for adjournment was sought on behalf of private respondents mentioned in detail in the preceding order sheet dated 11.05.2022. Today, they are not in attendance despite last chance for submission of reply, therefore, all are proceeded ex-parte. Attendance is complete. Reply has already been submitted on behalf of remaining respondents, therefore, case is adjourned for arguments to 30.08.2022 before D.B




(Rozina Rehman)
Member (J)

02.02.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Add: AG alongwith Mr. Muhammad Tufail, SO for official respondents No. 1 and 2, private respondent No.3 in person, Mr. Habib Anwar, Advocate on behalf of private respondents No. 5,6,9,10,11,14,15,19,21,22,23,25,28,29,30,31,32,33,35,4,44,47,49,50,52,54,58 and 59 and Mr. Nazir Ahmed, Advocate on behalf of respondents No. 4,51 and 55 present.

Nemo on behalf of private respondents No. 7, 8 ,12, 13, 16, 17,18, 20, 24, 26, 27, 28, 34, 36, 37, 38, 39, 41, 42, 43, 45, 46, 48, 54, 56, 57, 60 and 61 present

Written reply not submitted despite last opportunities. Requested for further adjournment. Respondents are directed to submit their written reply within 10 days otherwise their written of defense will be struck off. Adjourned. To come up for written reply/comments on ~~15.02~~ 2022 before D.B.


(Attiq Ur Rehman Wazir)
Member(E)

23.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 11.05.2022 for the same before D.B.


Reader

15.12.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for official respondents and private respondent No.3 in person present.

Mr. Habib Anwar, Advocate present and submitted wakalat Nama on behalf of private respondents No. 6,9,10,11,22,35,50,58 and 54. Mr. Nazir Ahmad, Advocate present and submitted wakalat Nama on behalf of private respondents No. 4,51,55. Written reply/comments not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 19.01.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

19.01.2022

Appellant with counsel present. Mr. Muhammad Adeel Butt, Addl. AG along with Mr. Safiullah Focal Person on behalf of official respondent No. 1 & 2 present. Private respondents No. 3 in person present. Mr. Nazir Ahmed Advocate present on behalf of private respondents No. 4, 51 & 55. Mr. Habib Anwar Advocate present on behalf of private respondent No. 06, 09, 10, 11, 22, 35, 50, & 54. Today he submitted Wakalatnama in favor of private respondents No. 05, 14, 15, 19, 21, 23, 25, 28, 29, 30, 31, 32, 33, 40, 44, 47, 49, 53, 58 & 59.

Nemo on behalf of private respondents No. 7, 8, 12, 13, 16, 17, 18, 20, 24, 26, 27, 28, 34, 36, 37, 38, 39, 41, 42, 43, 45, 45, 48, 54, 56, 57, 60 & 61, hence they are proceeded ex-parte.

Reply/comments on behalf of official respondents as well as private respondents are still awaited. Representative of official respondents as well as counsel for private respondents sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments. To come up for reply/comments before the S.B on 02.02.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 22.06.2021 for the same as before.


Reader

22.06.2021

Counsel for the petitioner present.

Instant application is for restoration of Service Appeal No. 209/2019, dismissed for non-prosecution on 08.10.2020. The application is accompanied with duly sworn affidavit and the reason mentioned therein seems genuine. As such the application is allowed and the appeal is restored on its original number subject to payment of cost of Rs. 2000/-. To come up for preliminary hearing on 22.09.2021 before S.B.

Cost not deposited.


Chairman

22.09.2021

Counsel for the appellant present.

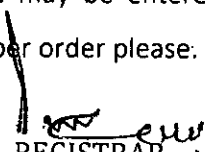
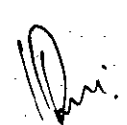
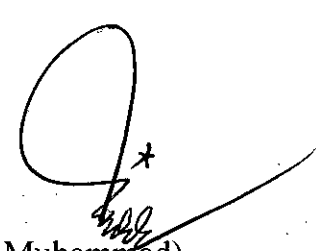
Learned counsel for the appellant deposited cost of payment of Rs. 2000/-. As per pervious order sheet dated 04.10.2019, it was required that the respondents should be served through proclamation in daily "Mashriq" for appearance. Learned counsel for the appellant is directed to do the needful. To come up for written reply/ arguments before the D.B on 15.12.2021.


(MIAN MUHAMMAD)
MEMBER (E)

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 70 /2021

S.No:	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16.02.2021	<p>The Restoration Application submitted by Dr. Fahad Iqbal through Mr. Qazi Jawad Ehsanullah Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This Restoration Application be put up before S Bench on... <u>19/03/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
19.03.2021		<p>Junior to counsel for the petitioner present.</p> <p>Former requests for adjournment as learned counsel for the petitioner is indisposed today.</p> <p>Adjourned to 28.04.2021 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

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

In Re: Service Appeal No. 209/2019.

Dr. Fahad Iqbal VERSUS Government of KPK and Others

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2	Copies of Judgment dated. 03.01.2012 Of this Hon'ble Tribunal.	A	17 - 21
3	Copy of Review Petition before the SC	B	22
4	Amended Rules 2017	C	23
5	Copy of Summary to CM & Decision on Departmental Appeal of Dr. Sahib Gul etc.	D	24 - 41
6	Copy of Suspension Order dated. 03.04.2012	E	42 - 43
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8	Misc Annex	G	47 - 74

Habib
HABIBANWAR

Advocate High Court, Peshawar

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

In Re: Service Appeal No. 209/2019.

Dr. Fahad Iqbal VERSUS Government of KPK and Others

**APPLICATION FOR SETTING ASIDE EX-PARTE PROCEEDINGS ON
BEHALF OF RESPONDENTS 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 26, 28, 29, 30,
31, 32, 33, 35, 41, 44, 47, 49, 50, 52, 54, 58, 59.**

Respectively Sheweth,

1. That the captioned appeal is sub-judice before this Hon'ble Tribunal where the next of hearing is fixed as 30th August, 2022.
2. The due to maltreatment of district administration with one of the member of a legal fraternity, the Khyber Pakhtunkhwa Bar Council lodged protest and decided to observe strike in all provinces by directing all legal fraternity to avoid appearance in any court and thus not to participate in the proceedings before any court of Khyber Pakhtunkhwa.
3. This strike remained continued and on the last date of hearing the strike remained continued which constrained the counsel of applicants to avoid attending court proceedings by submitting written reply as Bar Council initiated proceedings against some of the members of legal fraternity. Being constrained with situation as it developed, the council of the applicant could not submit their reply on that day.
4. Similarly, due to large number of applicants who are performing duties at far flung area of the province, it is inconvenient for applicants to attend and appear on each date of hearing that too, when the lawyers are observing strike on call of their bar council.
5. That even otherwise, the track record of instant appeal suggests that on one side, the case remained protracted due to own fault of the appellant as visible from order sheets that since institution of instant appeal till 15.12.2021 i.e. for



more than 2 years and 10 months the case could not proceed due to lack of interest of the appellant and since first appearance of applicants, the sword of last chance remained hanging on them.

- 6. It was in this background that the case was finally fixed for 10th June 2022 when the bar council has announced strike and all the lawyers including the counsel of applicants was not in a position to attend the case, however, the Hon'ble Tribunal while resorting to their previous order, commenced ex-parte proceedings against the applicants.
- 7. As the case has not been protracted due to the applicants rather the appellant himself was instrumental in dragging the case, therefore, the applicants cannot be punished in such terms for a single day default.
- 8. As the order impugned will frustrate the ultimate outcome of instant case and applicants undertake to remain careful in future, therefore, for interest of justice the order of ex-parte proceedings may kindly be set-aside and on the acceptance of instant application, the reply appended herewith by the applicants may kindly be considered and the applicants may kindly be allowed to participate in the proceedings.

Respondents

K Hayat

Through

Habib Nawar

HABIBANWAR
Advocate High Court, Peshawar

AFFIDAVIT

I Dr. Khizar Hayat, DGHS, Warsale Road, Peshawar.

Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant application are true and correct to the best of my knowledge and belief and that nothing has been kept concealed from this honorable tribunal.

[Signature]
30-8-22



DEPONENT

K Hayat

CNIC No. 17301-1371228-3
Cell No. 03149029065

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

In Re: Service Appeal No. 209/2019.

Dr. Fahad Iqbal VERSUS Government of KPK and Others

APPLICATION FOR CONDONATION OF DELAY

Respectively Sheweth,

1. That the captioned appeal is sub-judice before this Hon'ble Tribunal where the next of hearing is fixed as 30th August, 2022.
2. It was due to delay in recording written order of 10th June that the applicants despite their several visits, not been able to obtained attested copy of the order mentioned above.
3. As in the meanwhile the Provincial Government announced Eid Holidays with effect from 8th July till 12th of July 2022 (both days inclusive), therefore, the counsel of applicants himself approached the office of registrar of this hon'ble tribunal on 13th July 2022 for obtaining attested copies by providing his own contact and mailing address in the office.
4. The learned counsel again visited the office of relevant section, however, no response was paid. Finally the counsel of the applicants received attested copy of order dated. 10th June from the concerned section on 29th August 2022.
5. Although the law requires that any such application has to be filed within one month, i.e. by 9th July, however, due to announcement of Eid Holidays from 8th to 12th of July and thereafter due to late supply of attested copies by 29th August, the delay in filling of application cannot be attributed to the applicant and can be condoned by this hon'ble tribunal in the interest of justice.



It is therefore, very humbly prayed that on acceptance of instant application and in the interest of justice, delay in filing application for setting aside ex-parte proceedings may kindly be condoned.

K Hayat

Respondents

Through

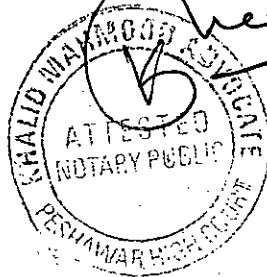
Habib Anwar

HABIBANWAR
Advocate High Court, Peshawar

AFFIDAVIT

I Dr KHIZAR HAYAT D G HS PESHAWAR

Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant application are true and correct to the best of my knowledge and belief and that nothing has been kept concealed from this honorable tribunal.



30-8-22

DEPONENT

K Hayat

CNIC No. 17361-1371228-3
Cell No. 03149029065

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

In Re: Service Appeal No. 209/2019.

Dr. Fahad Iqbal VERSUS Government of KPK and Others

**WRITTEN REPLY AND PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 26, 28, 29, 30, 31, 32, 33, 35,
41, 44, 47, 49, 50, 52, 54, 58, 59.**

Respectfully Sheweth:

Preliminary Objections:

1. That the appeal is incompetent and not maintainable in its present form.
2. That the instant appeal is hit by the doctrine of res-judicata.
3. That the appellant has neither any cause of action nor locus standi.
4. That the appellant has not approached this Hon'ble Tribunal with clean hand.
5. That the petition in hand is time-barred.
6. Impugned herein is a notification dated. 10.09.2018 whereby 59 doctors/ private respondents have been absorbed from general cadre to management cadre. It was on 11.12.2008 when the Government of Khyber Pakhtunkhwa promulgated the Khyber Pakhtunkhwa Health (Management) Services Rules, 2008 (hereinafter referred to as the Rules). These rules were challenged Dr. Sher Muhammad vide writ petition No. 2382/2009 before the hon'ble Peshawar High Court Peshawar. This petition was disposed of by the Hon'ble Peshawar High Court Peshawar by converting the writ petition to appeal and directing the respondent to decide the same. While approaching this hon'ble tribunal Dr. Sher Muhammad preferred appeal no. 513/2010 before this hon'ble tribunal which was finally decided by this hon'ble tribunal on 03.01.2012 in following terms;



"The tribunal observed that section 10 of the said rules does not provide any cushion period and denying chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Services Rules, and to join Management cadre if they succeeded in acquiring the requisite qualification as per the aforementioned rules. This would however, not entitle the appellants and others not having requisite qualification for posting in the management cadre posts but only provide them a cushion period and if they acquire the requisite qualification within two years from the date of decision, they may opt and join management cadre without effecting their seniority/ service.

With the above variation/ modification in the impugned notification dated. 11.12.2008, the present appeal is disposed of accordingly. Parties are left to bear their own costs." ~~Annex A~~

7. The aforesaid judgment was further challenged by the official as well as private respondents in C.A No. 320-324 & 126-130 of 2012 in the Hon'ble Supreme Court of Pakistan. The Hon'ble Supreme Court vide interim order dated. 03.04.2012 suspended the judgment of the KP Service Tribunal. The interim order remained intact till final decision of the Apex Court vide judgment dated. 03.11.2016 which is reproduced as under;

"There seems to be hardly any reason much less justifiable to interfere with the impugned judgment of the Tribunal more so on the grounds urged by the learned ASC for the appellants. The Civil Appeal No. 320 to 324 of 2012 are therefore, dismissed.

Annex B

8. In view of the aforesaid judgments and suspension order dated. 03.04.2012 of the august Supreme Court, Rule 10 of the KP Health (Management) Service Rules

Am

2008 was amended by adding second proviso on 10.05/2017 for providing two years cushion period for induction into management cadre which ended on 09.05.2019. In view of the judgment of this hon'ble tribunal on 03.01.2012, the cushion period would have ended on 02.01.2014, however, due to suspension of the judgment by the apex court vide interim order dated. 03.04.2012, rule 10 of the said rules remained shrouded however, on dismissal of the appeals by the Apex Court on 03.11.201, the cushion period remained operational till 09.05.2019. therefore, not only the private respondents rather more than that were inducted/ transferred from general cadre doctors to management cadre since 2008 in terms of provision of rule 10 ibid.

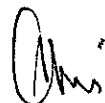
9. It was once again that Dr. Shams ur Rehman questioned the Notification on 07.05.2018 whereby the absorption/ induction of 88 private respondents/ doctors was challenged.

10. This Hon'ble Tribunal, while taking the case of co-appellant in instant departmental appeal namely, "Dr. Hamza Abbas Khan Vs. Govt of KPK etc." registered as Service Appeal No. 838/2018, decide the fate of absorption/ induction vide judgment dated. 22.03.2019. Annex-2

11. This judgment of the Hon'ble Tribunal was again assailed before the Apex Court in C.P No. 2048 to 2057 of 2019, however, the Hon'ble Supreme Court, vide Order Dated. 07.11.2019 declined leave to appeal and thus dismissed all the appeals. Annex-3

12. That the above decision of the Apex Court has now been assailed in review jurisdiction vide C.R.P No. 746 to 755 of 2019 where notice has also been issued. As such the matter is now substantially sub-judice before the apex court. Annex-

E



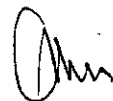
13. Furthermore, the impugned notification of 10.09.2018 which in continuation of the earlier notification of 07.05.2018, the notification which has been scrutinized till the apex court and now sub-judice before the apex court in review jurisdiction vide C.R.P No. 746 to 755 of 2019, is essentially, similar in nature to that of 7th May 2018, therefore, challenging the impugned notification is meant to involve the government as well as private respondents to un-necessary, protracted and unwanted litigation and thus, to re-agitate a decided issue afresh and thus, prevent the private respondents from the due role which they are legitimately doing since a decade.
14. That all the respondents are inducted in the management cadre after adopting all the codal formalities issued by the competent authority and meritoriously performing their duties at their designated stations. In addition to the above, the department has still vacant post in management cadre.
15. Similarly, during the process of induction under Rule 10 *ibid*, some junior doctors were inducted/ transferred at earlier stage whereas their seniors were inducted/ transferred into management cadre at later stage. Their inter se seniority was determined in terms of Section-8 of KP Civil Servant Act, 1973 & Rule 17 of the KP Appointment, Promotion and Transfer Rules, 1989 as evident from the impugned notification. Thus, the appellant has no cause of action against the private respondents.
16. Furthermore, the petitioners have no locus standi and cause of action, as neither any legal rights of the petitioner has been violated nor illegality has been committed during the entire process whatsoever. Thus, in such view of the matter, the case in hand is not maintainable in its present form, before this hon'ble tribunal.

17. As a matter of fact, the exercise of option as one time exercise as per rule-10 ibid remained shrouded due to un-necessary, un-wanted and protracted litigation which adversely affected the very object of the Government by introducing separate/ specialized (management) cadre for better service delivery as not only huge expenses have been incurred on imparting management training to the private respondents but also the answering respondents are under legitimate expectation to continue as member of the Management Cadre. Similarly, the positions of both General/ Management Cadres have recently been up-graded/ promoted and their names have been struck down from their seniority list as maintained by the General Cadre. Therefore, even otherwise, any decision in the instant appeal, favorable to the appellant, will lead to illogical consequences.

Annex-K

REPLY ON FACTS:

1. No Comments. However, rule 10 has temporary superseding powers as evident from its commencing words that "Notwithstanding anything contained in the Provision of these Rules." Hence, the purpose behind as appearing from the commencing words, is to fill all the vacant posts in Management Cadre from the one serving in the general cadre. Therefore, Rule 4 read with schedule II remain inactive till such time the exercise of option for induction/ transfer into management cadre has been exercised by the qualified Doctor of General cadre. As stated in above para that exercising of option ended on 09.05.2019 in compliance with the judgments of the Tribunal/ Apex Court. Beyond 09.05.2019 rule 10 has now become redundant due to which rule 4 has become alive/ in operation, while the appellant along with similarly placed, were recruited in terms of Rule-4 before complying the procedure of Rule-10. The relevant rule is reproduced herein-below for easy reference;



"10. One time exercise (1) *Notwithstanding anything contained in the provision of these rules, Government shall, as one time exercise, fill in posts in the service described in Schedule-I by way of permanent transfer from amongst the officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning and Management or equivalent Master's Degree/ Diploma in Health Management or allied disciplines and opt for absorption:*

Provided that the option once exercised shall be final.

(2)

2. Para 2 is misleading. In order to implement the judgments (the judgment of this hon'ble tribunal as upheld by the august Supreme Court of Pakistan), Health Department proposed the following actions, which, after due endorsement of the regulatory department of Law & Establishment and approval of the worthy Chief Minister Khyber Pakhtunkhwa, were implemented;

- i. Amending Rule-10 of the Management Cadre Rules to provide, with immediate effect, 2-years period to all in-service doctors to improve their qualifications/ obtain qualification provided for lateral induction in Management Cadre and, on expiry of 2-years period in 2019 give notice, through vide publicity as a one-time exercise for such doctors to give their option to join the Management Cadre in accordance with Rule-10; in this regard a meeting of SSRC was held under the Chairmanship of Secretary Health Department on 10.03.2017 on the captioned subject. The meeting was attended by the representative of Finance, Establishment Department, wherein the following addition in Rule-10 was agreed upon unanimously along with further amendments in Schedule-III appended to the Health Management Cadre Rules 2008 and notified in the official gazette after due approval of the competent authority:

"Provided further that for a period of two years from the date of this Notification, the officers of General Cadre who are in regular and continuous service and holding posts as such, shall be required to improve their qualification as per the Khyber Pakhtunkhwa Health (Management) Service Rules 2008 to exercise the option under this rule."

- ii. Give notice vide publicity, for exercise of option by all such doctors who have, as of that day, obtained qualification provided for lateral induction in Management Cadre to join the Management Cadre and consequently induct them under Rule-10 as one-time exercise with immediate effect. Notice was published in newspapers too.
- iii. Subsequent thereto, a list of doctors in General Cadre holding substantive positions of General Cadre was submitted vide Summary to the worthy Chief Minister for approval which was returned on the objection of Establishment Department. However, the department submitted yet another (Revised) Proposal for approval which was approved by the worthy Chief Minister. Thus, the Notification of 10.09.2018 was issued accordingly.

(Copy of Summary to Chief Minister & Decision on Departmental Appeal of Dr. Sahib Gul & Others, dated. 25.05.2018 is Annex-6)

3. Correct. However, rule 10 has temporary superseding powers as evident from its commencing words that *"Notwithstanding anything contained in the Provision of these Rules."* Hence, Rule 4 read with schedule II remain inactive till such time the exercise of option for induction/ transfer into management cadre has been exercised by the qualified Doctor of General cadre. As stated in above para that exercising of option ended on 09.05.2019 in compliance with the judgments of the Tribunal/ Apex Court. Beyond 09.05.2019 rule 10 has now become redundant due to which rule 4 has become alive/ in operation. This undoubtedly questions the appointment of appellant.

a i. Para 4 is misleading. The rules were initially impugned by one Dr. Sher Muhammad before the Hon'ble Peshawar High Court vide Writ Petition No. 2382/2009, however, the petitioner was directed to approach this hon'ble tribunal by treating their writ petition as departmental appeal. For implementing the decision, the petitioner again approached the Hon'ble Peshawar high Court in CoC No. 10/2010 which was again disposed of as the petitioner could approach this tribunal after the expiry of 90-days. Accordingly, Dr. Sher Muhammad filed Appeal No. 513/2010 before this Hon'ble Tribunal. This hon'ble tribunal vide judgment dated 03.01.2012 passed the following order;

"The tribunal observe that section 10 of the said rules does not provide any cushion period and denying chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Services Rules, and to join Management cadre if they succeeded in acquiring the requisite qualification as per the aforementioned rules. This would however, not entitle the appellants and others not having requisite qualification for posting in the management cadre posts but only provide them a cushion period and if they acquire the requisite qualification within two years from the date of decision, they may opt and join management cadre without effecting their seniority/ service.

With the above variation/ modification in the impugned notification dated 11.12.2008, the present appeal is disposed of accordingly. Parties are left to bear their own costs."

ii. The aforesaid judgment was further challenged by the official as well as private respondents in C.A No. 320-324 & 126-130 of 2012 in the



Hon'ble Supreme Court of Pakistan. The Hon'ble Supreme Court vide interim order dated. 03.04.2012 suspended the judgment of the KP Service Tribunal. The interim order remained intact till final decision of the Apex Court vide judgment dated. 03.11.2016 which is reproduced as under;

"There seems to be hardly any reason muchless justifiable to interfere with the impugned judgment of the Tribunal moreso on the grounds urged by the learned ASC for the appellants. The Civil Appeal No. 320 to 324 of 2012 are therefore, dismissed."

- iii. In view of the aforesaid judgments and suspension order dated. 03.04.2012 of the august Supreme Court, Rule 10 of the KP Health (Management) Service Rules 2008 was amended by adding second proviso on 10.05/2017 for providing two years cushion period for induction into management cadre which ended on 09.05.2019. in view of the judgment of this hon'ble tribunal on 03.01.2012, the cushion period would have ended on 02.01.2014, however, due to suspension of the judgment by the apex court vide interim order dated. 03.04.2012, rule 10 of the said rules remained shrouded however, on dismissal of the appeals by the Apex Court on 03.11.201, new proviso was inserted to Rule-10 on 10.05.2017, the cushion period remained operational till 09.05.2019. therefore, the judgment of this hon'ble tribunal would have attain finality on 02.01.2014 if its operation had not been suspended by the apex court till its decision arrived on 03.11.2016. The department action regarding implementing the judgments attains finality on 09.05.2019. In other words, one-time exercise of induction took place from 11.12.2008 and has ended on 09.05.2019 which will legally cover all inductions in the intervening periods.

(Copy of Suspension Order dated. 03.04.2012 is Annex-III)



4. As explained in the preceding paras. However, it is added that not only the department has still sufficient positions vacant as reiterated in the revised proposal. **Para 27** of the proposal is reproduced herein-below;

S. No	BPS	Sanctioned	Filled	Vacant
1.	BPS-18	295	10	285
2.	BPS-19	159	86	73
3.	BPS-20	38	30	08

Similarly, it was further clarified in **para 36** of the Revised Proposal that the inter se seniority will be determined in the new cadre in terms of Section 8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rule-17 of the Appointment, Promotion & Transfer Rules 1989. Therefore, such induction by way of permanent transfer by no mean would affect the appellant.

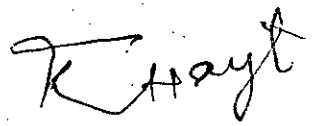
- 5. As explained in the preceding paras.
- 6. Correct.
- 7. As explained in the preceding paras.
- 8. At the cost of repetition, it is reiterated again that as a result of protracted and unwanted litigation, although this tribunal provided a cushion period of two years in its judgment dated 03.01.2012, however, the said judgment when assailed before the Apex Court, the Hon'ble Supreme Court of Pakistan suspended the operation of the above judgment on 03.04.2012 which remained intact till the final decision of all the appeals till 03.11.2016. In view of above, the right of option as allowed by this tribunal, remained shrouded till the final outcome on 03.11.2016. subsequent insertion to Rule-10 vide Notification dated. 10.05.2017, was in fact, implementing the above decisions of this hon'ble tribunal and the Apex Court. Therefore, permanent absorption by way of transfer remained operational from 2008 till 09.05.2019. More so, the true manifestation of Health Management Service Rules 2008 as evident from commencing words of Rule-10, clearly

mandates that Rule-4 would become alive once the process in Rule-10 is completed.

- 9. As explained in the preceding paras.
- 10. As the question of inter se seniority has been dealt with by these rules and as the law is explicit and clear therefore, the cited judgment would not be attracted to the facts of instant appeal. Hence, this para is overwhelmingly denied.
- 11. Incorrect. The detailed has been sufficiently explained in the preceding paras.
- 12. Incorrect. No illegality has been committed to the appellant. Furthermore, the ill-intentions of the appellant is manifested from his protracted and un-wanted litigation whereby, the present appellant has filed another constitutional petition against the same respondent on same cause vide his Writ Petition No. 3223-P/2020. The said petition was dismissed on the ground that he has already filed similar petition (instant appeal) on same ground. It is pertinent to mention here that the appellant has not only challenged the impugned notification but also the notification of 07.05.2018 which was adequately been decided by this court and appeal there against was also dismissed by the apex court.

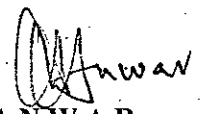
(Copy of WP No. 3223-P/2020 and Judgment is Annex-D)

THEREFORE, in view of above it is most humbly prayed that this appeal may kindly be dismissed with exemplary Costs.



Respondents

Through



**HABIBANWAR
Advocate High Court, Peshawar**

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

In Re: Service Appeal No. 209/2019.

Dr. Fahad Iqbal VERSUS Government of KPK and Others

AFFIDAVIT

I Dr. KHIZAR HAYAT DIR MCH DGHS PESHAWAR

Peshawar, do hereby solemnly affirm and declare on Oath that the contents of Reply/ Comments are true and correct to the best of my knowledge and belief and that nothing has been kept concealed from this honorable tribunal.

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30-0-22

DEPONENT

Handwritten signature

CNIC No. 17301-1371229-3

Cell No. 03149029065

11.05.2022

Appellant with counsel present.



Muhammad Adeel Butt, learned Additional Advocate General alongwith Safi Ullah S.O for official respondents No.1 & 2 present. Habib Anwar Advocate on behalf of private respondents No.5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 25, 28, 29, 30, 31, 32, 33, 35, 4, 44, 47, 49, 50, 52, 54, 58 and 59 present. Nazir Ahmad Advocate on behalf of private respondents No.4, 51 and 55 present. All the remaining respondents being absent, are proceeded ex-parte. Attendance is complete. Reply on behalf of official respondents No.1 & 2 and private respondents No.4, 51 & 55 submitted. Habib Anwar Advocate requested for time in order to submit reply/comments on behalf of private respondents No. 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 25, 28, 29, 30, 31, 32, 33, 35, 4, 44, 47, 49, 50, 52, 54, 58 and 59. Last chance is given for submission of reply, failing which, their right of defense would be deemed as struck off. To come up for reply/comments of private respondents No. 5, 6, 9, 10, 11, 14, 15, 19, 21, 22, 23, 25, 28, 29, 30, 31, 32, 33, 35, 4, 44, 47, 49, 50, 52, 54, 58 and 59 on 10.06.2022 before S.B.

(Rozina Rehman)
Member (J)

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal

10.06.2022

Appellant in person present.

Muhammad Riaz Khan, Paindakheil, learned Assistant Advocate General for respondents present.

Perusal of preceding order sheet would reveal that reply on behalf of official respondents NO.1 & 2 and private respondents No.4, 51 and 55 was submitted. A request for adjournment was sought on behalf of private respondents mentioned in detail in the preceding order sheet dated 11.05.2022. Today, they are not in attendance despite last chance for submission of reply, therefore, all are proceeded ex-parte. Attendance is complete. Reply has already been submitted on behalf of remaining respondents, therefore, case is adjourned for arguments to 30.08.2022 before D.B

(Rozina Rehman)
Member (J)

800
10-07-2022
10-08-2022
29-8-2022
29-8-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 209 /2019



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 163

Dated 08-02-2019

Dr. Fahad Iqbal
Son of Muhammad Iqbal
Officer of Health Service Management Cadre (BPS-17)
Government of Khyber Pakhtunkhwa Peshawar

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa
Through Chief Secretary
Civil Secretariat Peshawar

2. The Secretary Health
Government of Khyber Pakhtunkhwa
Civil Secretariat Peshawar

Ex-parte (3) Khan Bahadar s/o Gul Akbar (BS-19)

✓ 4. Muhammad Usman Shah s/o Muhammad Zahir Shah (BS-18)

Medto-day 5. Shiraz Ahmad s/o Rashid Ahmad (BS-18)

Registrar 6. Shafqatullah s/o Amir Hamza (BS-17)

8/2/19
Ex-parte (7) Fayyaz Ali Roomi s/o Humayun Roomi (BS-17)

(8) Muhammad Javed Khan s/o Shah Zaman Khan (BS-20)

✓ 9. Syed Gul Hussain Syed s/o Syed Shah Jehan (BS-18)

✓ 10. Wasiullah s/o Shakirullah (BS-18)

✓ 11. Jameel Ahmad s/o Abdullah (BS-18)

Ex-parte (12) Farman Ali s/o Muhammad Naseem (BS-18)

REGISTERED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Re-submitted to - day
and filed.

(1)

Before the Registrar,
KP Service Tribunal, Peshawar.

Application for provision of attested copy of
Order dated 10.06.2022 in Service Appeal
No. 209/2019 titled as "Dr. Fahad Iqbal Vs Govt"

Sir,

- 1, The above title case was fixed before the court of Hon'ble member, KP Service Tribunal on 10/6/2022
- 2, That I have been informed that on the order dtd 10.06.2022, ex-parte proceedings have been ordered on date fixed.
- 3, That as there was "strike" announced by the quarters concerned, therefore, the applicant being their counsel, could not attend the case.
- 4, That till Eid holidays, the applicant himself is asking about next date but due to absence of concerned official, next date could not be verified from the honorable tribunal
- 5, That even today after Eid holidays w.e.f 8/7/2022 till 12/7/2022, the applicant has not been able to confirm next date

Dr. A

(2).

20

in above subject appeal.

6. As the applicant intends to file an application for setting aside Ex-parte proceedings on the ground that last date of hearing i.e. 10.06.2022, was observed as a strike by the legal fraternity.

Therefore, in view of above, it is requested to kindly intimate me regarding next date of hearing in the subject Appeal and that the attested copy of Order sheet dtd 10.06.2022 may kindly be provided to me for appropriate proceedings.

Dtd. 13.07.2022.

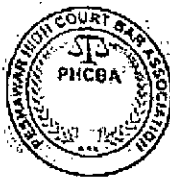
Habib Anwar

Advocate High Court

Office. Ichyber Tower near

Ander shehr Peshawar.

0336-9987282.



Peshawar High Court Bar Association

Office:
Peshawar High Court
Building, Peshawar.

Contact: 192-91-9210122
192-91-7081031
Website: www.phcba.org
phcba.pesh@gmail.com

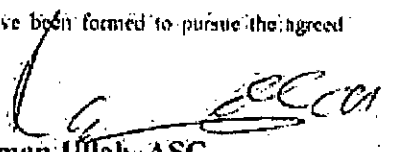
Ref No: PRE/PHCBA/21/2022

Date 08-06-2022

RESOLUTION

An Emergency Meeting was called by the Peshawar High Court Bar Association on 08-06-2022 in New Bar Room (Peshawar High Court) at 2 PM over the issue of Syed Ghuran Ullah Shah, ASC. The meeting was attended by the worthy members of Pakistan Bar Council, Vice Chairman KP Bar Council, Members KP Bar Council from Peshawar, Swabi, Kohat and Mardan. Similarly the meeting was attended by President District Bar Association Peshawar, Charsadda, Mardan, Kohat, Nowshera, Swabi, Khyber and Morkmand. The Presidents of Tehsil Bar Associations Chota Lahor, Tangi, Shabqadar and Kathang also participated in the meeting. Besides, the secretaries of all the respective Bar Associations also attended the emergency meeting. In presence of all the above respected members, the following resolutions unanimously passed:

1. Arrest of accused Aftab Ahmad, AAC along with other culprits mentioned in FIR No. 852.
2. Suspension from services of accused Aftab Ahmad AAC and his security staff involved in above mentioned FIR.
3. Speedy Judicial inquiry of the said incident and removal / dismissal from service.
4. Complete strike has been called on 9th June 2022 till 11th June 2022 at all the principal seats of Khyber Pakhtunkhwa. Furthermore, the decision of strike onward 11th June 2022 will be taken by the Tehreek Committee.
5. All Pakistan Lawyer's Convention will be held in Peshawar High Court at Principle Seat.
6. Condemn the role played by Provincial Government, as well as Advocate General in the prevailing scenario and protection of AAC Aftab Ahmad and his security guards (Police Officials).
7. Condemn the role of local police District Manselra for arrest of Munir Hussain Lughmani Advocate.
8. Condemn the Lathi Charge over students of Islamia Law College / Khyber Law College by the campus police.
9. Condemn the misbehaviour of Assistant Commissioner Charsadda with Hajra Advocate.
10. Appreciate the role of Provincial Doctors Association, Trades Association, Teachers Association, Islamia Law College, Khyber Law College, University of Peshawar etc who support the cause of our movement.
11. Various committees including Negotiation Committee have been formed to pursue the agreed agenda of the meeting held on 08.06.2022.


Rahman Ullah, ASC
President, PHCBA

PRESIDENT
High Court Bar Association
Peshawar.

854 Annex - B

SUPREME COURT OF PAKISTAN
(Review Jurisdiction)

Present:
MR. JUSTICE SYED MANSOOR ALI SHAH
MR. JUSTICE AMIN-UD-DIN KHAN

C.R.P. Nos. 746 to 755 of 2019 in
C.P. Nos. 2048 to 2057 of 2019

Dr. Muhammad Shoaib & others ...Petitioner(s)
(in all cases)

Versus

Government of Khyber Pakhtunkhwa thr. ...Respondent(s)
Chief Secretary, Khyber Pakhtunkhwa,
Peshawar & others (in all cases)

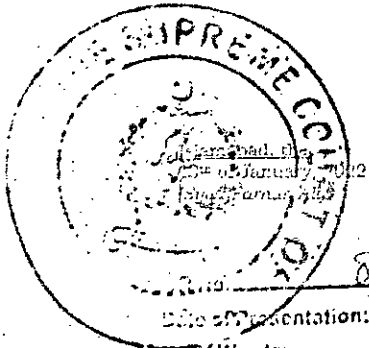
Petitioner(s): Dr. Shoaib, Dr. Salem & Dr. Aamir

For the Respondent(s): Mian Shafqat Jan, Addl. AG KP
Zia Ullah, Dy. Secy. Health

Date of Hearing: 13.01.2022

ORDER

Petitioners in person submit that they had opted for the Health Management Cadre and have referred to a letter dated 03.07.2009 issued by the Executive District Officer (Health) Mardan (placed at page No. 209 of the file). This aspect of the matter has not been considered before the Tribunal or before this Court earlier. Let notice be issued to the respondents. To be fixed in the next month i.e. February 2022.



Sd/-
Sd/-

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

854/22 Civil/Criminal

Date of presentation: 13-1-22

No of Words: 300

No of Pages: 3

Registration Fee Rs: 5.00

Copy Fee In: 1.86

Court Fee Remitted: 8.86

Date of Completion of Copy: 15/1/22

Date of Delivery of Copy: 15/1/22

Compared by/Prepared by: [Signature]

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NOTIFICATION

Annex-E

Peshawar dated the 11th February, 2022.

23

No.SOH (E-V)/4-4/Management Service Rules, 2008/2022/

In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, the following further amendments shall be made, namely:

AMENDMENTS

1. In rule 4, the existing provision shall be numbered as sub-rule (1) of rule 4 and after sub-rule (1) as so renumbered, the following new sub-rule shall be added, namely:

“(2) Notwithstanding anything contained in sub-rule (1), in cases where no suitable officer amongst the members of Service is available for appointment against any post mentioned in Schedule-I, the respective appointing authority, under rule 17 of the Khyber Pakhtunkhwa Government Rules of Business, 1985, may post any suitable doctor from amongst the General Cadre doctors, having equivalent pay scale, to such post:

Provided that the General Cadre doctors so posted shall hold office during the pleasure of the respective appointing authority:

Provided further that the respective appointing authority may also consider one grade lower candidate for any position in the Management Cadre on his own pay scale.

(3) For the purpose of sub-rule (2), the Health Department, if deemed appropriate, may determine any criteria and/ or mechanism for recommending to the relevant appointing authority, for their posting to a position in the Management Cadre.”

2. In rule 5, for the acronym and figure “BS-17”, the acronym and figure “BS-18” shall be substituted.
3. In rule 6, for the acronym and figure “BS-17”, the acronym and figure “BS-18” shall be substituted.
4. For Schedule-I, the following shall be substituted, namely:

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Section Officer (V)
Health Department
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: CIVIL APPEAL NO 320-324 OF 2012 AND CIVIL APPEAL NO 126-P TO 130-P OF 2013 GOVT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT VERSUS DR.SHER MUHAMMAD AND OTHERS

Refer Para- 1 to 21/Summary.

22. The option for induction into the Health Management Cadre was widely published in daily Newspapers and cushion period was given to the officers of the General Cadre to improve their qualification enabling them to opt the Management Cadre (**Annex-IX**). Consequent upon the circular of cushion period, the following officers of the General Cadre holding substantive positions of the General Cadre, opted for the Health Management Cadre. Their Degrees and other paraphernalia were verified. Detail is given below (**Annex-X**):-

S.NO.	NAME OF DOCTOR	FATHER NAME.	DATE OF JOINING SERVICE ON REGULAR BASIS
1.	Dr.Muhammad Saleem BS-19	Inayat-Ur-Rehman	11.03.1999
2.	Dr.Muhammad Ismail BS-17	Said Muhammad	07.09.2007
3.	Dr.Shahid Mehmood BS-18	Sardar Muhammad Aslam	07.09.2007
4.	Dr.Muhammad Mustafa Alam BS-18	Nasrullah Jan	23.7.2005
5.	Dr.Khalilur Rehman BS-18	Ali Rehman	23.7.2005
6.	Dr.Muhammad Shuaib, BS-19	Muhammad Ajab	30.12.1987
7.	Dr.Muhammad Munib BS-18	Sher Ali Khan	23.7.2005
8.	Dr.S.Muhammad Taimur Shah BS-18	Pir Ferooz Shah	23.7.2005
9.	Dr.Firdos Jabeen BS-18	Muhammad Aslam Khan	23.7.2005
10.	Dr.Kalimullah Khan BS-19	Eid Gul.	15.9.1997
11.	Dr.Niaz Muhammad BS-18	Dost Muhammad	23.7.2005
12.	Dr.Zafr Ullah Khan BS-18	Ghulam Sarwar	15.9.1997
13.	Dr.Saeed ur Rehman BS-18	Haji Fazli Rehman	23.7.2005
14.	Dr.Aamir Israr BS-18	Irsar Muhammad Khan	16.9.2000
15.	Dr.S.Shaida Hussain Shah Bukhari BS-18	S. Fida Hussain Shah Bukhari	23.7.2005
16.	Dr.Muhammad Shafiq BS-18	Akbar Gul	23.7.2005
17.	Dr.Muhammad Rahim BS-19	Gul Rahim	23.7.1988
18.	Dr.Mushtaq Ahmad BS-18	Fazal Khan	7.9.2007
19.	Dr.Shabnum Khawas BS-17	Lal Khawas Khan	4.9.2012
20.	Dr.Ahmad Tariq BS-17	Tariq Tanveer	3.6.2016
21.	Dr.Khan Askar BS-18	Muhammad Askar	15.9.1997
22.	Dr.Faisal Malik BS-17	Fazli Malik Sarim	20.3.2015
23.	Dr.Bilal Bahrawar Khan BS-17	Bahrawar Khan	3.6.2016
24.	Dr. Tanveer Inam BS-17	Inamullah	3.6.2016

26.	Dr.Alamgir Khan BS-18	Darwesh Khan	23.7.2005
27.	Dr.Majid Khan BS-17	Muhammad Humayun Khan	3.6.2016
28.	Dr.Ihsanullah BS-19	Ghulam Muhammad	27.11.1998
29.	Dr.Aurangzeb Afridi BS-18	Ghulam Hussain Afridi	23.7.2005
30.	Dr.Shafiul Mulk BS-19	Hazrat Mulk Khan	27.11.1998
31.	Dr.Muhammad Khalil Akhtar BS-18	Muhammad Yousaf Khan	15.9.1997
32.	Dr.Farhad Khan BS-18	Purdil Khan	28.5.1997
33.	Dr.Muhammad Farid BS-18	Khaista Azam	23.7.2005
34.	Dr.Aamir Rafiq Khattak BS-18	Muhammad Rafiq Khattak	23.7.2005
35.	Dr.Jehanzeb Khan BS-19	Ihsanullah Khan	14.4.1992
36.	Dr.Alif Jan BS-18	Amir Jan	24.10.2009
37.	Dr.Makhdoom Safdar BS-17	Safdar Hussain Awan	3.6.2016
38.	Dr.Shumaila Malik BS-17	Malik Farid Khan	20.3.2015
39.	Dr.Muhammad Kamal BS-18	Muhammad Sharif Khan	23.7.2005
40.	Dr.Noor Saeed Khan BS-19	Muhammad Saeed Khan	27.11.1998
41.	Dr.Aziz Khan BS-18	Jaffar Khan	23.7.2005
42.	Dr.Ghulam Rasool Khan BS-19	Shadi Gul Khan	9.12.1991
43.	Dr.Muhammad Iqbal Javed BS-20	Fatehullah Khan	12.8.2000
44.	Dr.Kamran Zakria BS-18	Ghulam Zakria Khan	28.10.2011
45.	Dr.Sheikh Muhammad Farooq Azam BS-17	Sheikh Muhammad Bashir Gohar	23.7.2005
46.	Dr.Naimatullah Zia BS-19	Amir Shah	6.12.1987
47.	Dr.Muhammad Israrul Haq BS-17	Abdur Rashid Khan	8.6.2017
48.	Dr.Qasim Abbas BS-18	Saifur Rehman	24.10.2009
49.	Dr.Muhammad Hayat BS-17	Haji Akbar Gul	20.3.2015
50.	Dr.Muhammad Ibrahim Khan BS-18	Abdul Halim Khan	7.9.2007
51.	Dr.Sheraz Ahmad Khan SB-17	Muhammad Akram Khan	9.5.2017
52.	Dr.Adnan Khan BS-17	Muhammad Zahir Shah	12.8.2016
53.	Dr.Syed Ijaz Ali Shah BS-18	Syed Abdul Qayum Shah	16.09.2000
54.	Dr.Fazal Majeed BS-17	Muhammad Aslam	2.2005
55.	Dr.Muhammad Bilal Khan BS-17	Muhammad Daud	23.07.2005
56.	Dr.Majid Saleem BS-17	Aliah Dad Khan	9.9.2016
57.	Dr.Fazal Qayum BS-17	Abdur Rehman	20.03.2015
58.	Dr.Ali Asghar Khan BS-18	Abdul Akbar Khan	24.10.2009
59.	Dr.Muhammad Azhar Shah BS-17	Israr ul Arifin	23.07.2005
60.	Dr.Saira Jabeen Shah BS-17	Amt Ali Shah	04.09.2012
61.	Dr.Roshan Zada BS-18	Said Latif	07.09.2007
62.	Dr.Javid Iqbal BS-19	Amir Bahadar	27.11.1998
63.	Dr.Shaima Malik BS-17	Fazli Malik Sarim	27.10.2011
64.	Dr.Pirzada BS-17	Bahadar	20.3.2015
65.	Dr.Shahab Ahmad BS-19	Abdur Rehman	27.11.1998
66.	Dr.Muhammad Dost Khan BS-18	Zahir Gul	23.07.2005

69.	Dr. Tariq Hayat BS-17	Fazal Hayat Taj	3.6.2016
70.	Dr. Muhammad Sohail Farooqi BS-17	Muhammad Aqeel Farooqi	20.03.2015
71.	Dr. Abdul Waheed BS-19	Abdul Hameed	15.9.1997
72.	Dr. Hafizullah Khan BS-17	Amanullah Khan	4.9.2012
73.	Dr. Zakir Hussain BS-18	Hakim Khan	23.7.2005
74.	Dr. Qazi Sabihuddin BS-19	Qazi Ghulam Mustafa	31.7.1993
75.	Dr. Ijaz Ahmad BS-17	Bashir Ahmad	23.7.2005
76.	Dr. Sher Muhammad BS-20	Shah Muhammad	19.3.1987
77.	Dr. Wakeel Muhammad BS-20	Taj-ul-Malook	19.03.1987
78.	Dr. Suffian Khan BS-17	Muhammad Tanveer	26.5.2017
79.	Dr. Muhammad Naeem BS-18	Habibullah Khan	7.9.2007
80.	Dr. Ikramullah BS-20	Amanullah Khan	14.03.1987
81.	Dr. Muhammad Shoaib BS-18	Azizur Rehman	16.09.2000

23. In view of the above, the Chief Minister Khyber Pakhtunkhwa is requested to induct the officers of the General Cadre mentioned in Para-22 into the Health Management Cadre under the amended Rule-10 of the Management Cadre. Their inter se seniority will be determined the new Cadre in terms of Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rule-17 of the Appointment Promotion Transfer Rules, 1989.

(Signature) 13 Feb 18
(Muhammad Abid Majeed)
Secretary Health.

Secretary Establishment
Khyber Pakhtunkhwa.


Chief Secretary
Khyber Pakhtunkhwa.

Chief Minister
Khyber Pakhtunkhwa.

24. The subject case has been examined. Health Department vide Para-22 of the summary has proposed 81 doctors of General Cadre to be inducted in the Management Cadre.

- i. However, the number of General Cadre doctors who have submitted their verified degrees of additional qualification is 79. (Flag-A). Health Department may clarify the position of doctors at S.No.80 & 81 at Para-22 of the summary who have not submitted their additional requisite qualification.
- ii. Administrative Department may also clarify the vacant posts in the Management Cadre against which the proposed doctors of General Cadre may be inducted in the Management Cadre.

25. Summary is returned to Health Department.


(ARSHAD MAJEED)
Secretary Establishment
February 22, 2018

~~Secret/Health~~





GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: CIVIL APPEAL NO 320-324 OF 2012 AND CIVIL APPEAL NO 126-P TO 130-P OF 2013 GOVT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT VERSUS DR.SHER MUHAMMAD AND OTHERS

Refer Para 24 and 25/Summary.

26. Revised proposal in respect of the doctors of the General Cadre for induction into the Health Management Cadre are as under:-

Table with 4 columns: S.#, NAME OF DOCTOR, FATHER NAME, DATE OF JOINING SERVICE ON REGULAR BASIS. It lists 30 doctors and their details.

32.	Dr.Farhad Khan BS-19	Purdil Khan	28.5.1997
33.	Dr.Muhammad Farid BS-17	Khaista Azam	23.7.2005
34.	Dr.Aamir Rafiq Khattak BS-18	Muhammad Rafiq Khattak	23.7.2005
35.	Dr.Jehanzeb Khan BS-19	Ihsanullah Khan	14.4.1992
36.	Dr.Alif Jan BS-18	Amir Jan	24.10.2009
37.	Dr.Makhdoom Safdar BS-17	Safdar Hussain Awan	3.6.2016
38.	Dr.Shumaila Malik BS-17	Malik Farid Khan	20.3.2015
39.	Dr.Muhammad Kamal BS-18	Muhammad Sharif Khan	23.7.2005
40.	Dr.Noor Saeed Khan BS-19	Muhammad Saeed Khan	27.11.1998
41.	Dr.Aziz Khan BS-18	Jaffar Khan	23.7.2005
42.	Dr.Ghulam Rasool Khan BS-19	Shadi Gul Khan	9.12.1991
43.	Dr.Muhammad Iqbal Javed BS-20	Fatehullah Khan	06.12.1987
44.	Dr.Kamran Zakria BS-18	Ghulam Zakria Khan	28.10.2011
45.	Dr.Sheikh Muhammad Farooq Azam BS-18	Sheikh Muhammad Bashir Gohar	23.7.2005
46.	Dr.Naimatullah Zia BS-19	Amir Shah	6.12.1987
47.	Dr.Muhammad Israrul Haq BS-17	Abdur Rashid Khan	8.6.2017
48.	Dr.Qasim Abbas BS-18	Saifur Rehman	24.10.2009
49.	Dr.Muhammad Hayat BS-17	Haji Akbar Gul	20.3.2015
50.	Dr.Muhammad Ibrahim Khan BS-18	Abdul Halim Khan	7.9.2007
51.	Dr.Sheraz Ahmad Khan SB-17	Muhammad Akram Khan	9.5.2017
52.	Dr.Adnan Khan BS-17	Muhammad Zahir Shah	12.8.2016
53.	Dr.Syed Ijaz Ali Shah BS-18	Syed Abdul Qayum Shah	16.09.2000
54.	Dr.Fazal Majeed BS-18	Muhammad Aslam	2.2005
55.	Dr.Muhammad Bilal Khan BS-17	Muhammad Daud	23.07.2005
56.	Dr.Majid Saleem BS-17	Allah Dad Khan	9.9.2016
57.	Dr.Fazal Qayum BS-17	Abdur Rehman	20.03.2015
58.	Dr.Ali Asghar Khan BS-18	Abdul Akbar Khan	24.10.2009
59.	Dr.Muhammad Azhar Shah BS-17	Israr ul Arifin	23.07.2005
60.	Dr.Saira Jabeen Shah BS-17	Amit Ali Shah	04.09.2012
61.	Dr.Roshan Zada BS-18	Said Latif	07.09.2007
62.	Dr.Javid Iqbal BS-19	Amir Bahadar	27.11.1998
63.	Dr.Shaima Malik BS-17	Fazli Malik Sarim	27.10.2011
64.	Dr.Pirzada BS-17	Bahadar	20.3.2015
65.	Dr.Shahab Ahmad BS-19	Abdur Rehman	27.11.1998
66.	Dr.Muhammad Dost Khan BS-18	Zahir Gul	23.07.2005
67.	Dr.Muhammad Riaz BS-18	Gohar Khan	23.07.2005
68.	Dr.Kashmir Khan BS-19	Aslam Khan	9.12.1991
69.	Dr.Fariq Hayat BS-17	Fazal Hayat Taj	3.6.2016
70.	Dr.Muhammad Sohail Farooqi BS-17	Muhammad Aqeel Farooqi	20.03.2015
71.	Dr.Abdul Waheed BS-19	Abdul Hameed	15.9.1997
72.	Dr.Hafizullah Khan BS-17	Amanullah Khan	4.9.2012
73.	Dr.Zakir Hussain BS-18	Hakim Khan	22.7.2005

76.	Dr. Sher Muhammad BS-20	Shah Muhammad	19.3.1987
77.	Dr. Wakeel Muhammad BS-20	Taj-ul-Malook	19.03.1987
78.	Dr. Suffian Khan BS-17	Muhammad Tanveer	26.5.2017
79.	Dr. Muhammad Naeem BS-18	Habibullah Khan	7.9.2007
80.	Dr. Ikramullah BS-20	Amanullah Khan	14.03.1987
81.	Dr. Muhammad Shoaib BS-18	Azizur Rehman	16.09.2000
82.	Dr. Muhammad Riaz Tanoli BS-18	Said Ozar	23.10.2000
83.	Dr. Inayatullah Khan BS-18	Saifullah Khan	07.09.2007
84.	Dr. Wazir Khan BS-18	Rookam Khan	07.09.2007
85.	Dr. Uzama Jabeen BS-18	Taj Muhammad	23.07.2005
86.	Dr. Dildar Khan BS-18	Abdul Ghaffar	14.02.2005
87.	Dr. Mohsin Ahmad BS-18	Taj Muhammad Khan	26.11.1995
88.	Dr. Abbas Khan (BS-18)	Ajab Khan	28.11.1995

27. Moreover the detail of the vacant positions of the Management Cadre is as under:-

S.No.	BPS	Sanctioned	Filled	Vacant
1.	BPS-18	295	10	285
2.	BPS-19	159	86	73
3.	BPS-20	38	30	08

28. Para-23 and 26 of the summary is submitted for approval of the Chief Minister Khyber Pakhtunkhwa, please.

Abid Majeed
(Muhammad Abid Majeed), 18
Secretary Health.

Secretary Establishment
Khyber Pakhtunkhwa.

Chief Secretary
Khyber Pakhtunkhwa.

Chief Minister
Khyber Pakhtunkhwa.

29. Case has been examined. The doctors of the General Cadre were allowed to opt for the Management Cadre on the condition of some specific higher qualifications vide Health Management Service Rules, 2008 but without giving them enough time. Some doctors approached the Service Tribunal against the policy and the Tribunal directed to allow the petitioners to improve their qualifications within 2 years of the announcement of the judgement to qualify for exercising option. The cut off date for improving qualifications thus happened to be 3.1.2014. However, in CPLA, the judgement *ibid* was suspended by the Apex Court and finally upheld vide order dated 3.11.2016.

30. An amendment was made in the relevant Rule on 10th May, 2017 allowing 2 years cushion period for improvement of qualifications.

31. The following points need legal scrutiny:

- i. Tribunal allowed this space to the petitioners (we may even include others similarly placed i.e those in service on the day of Tribunal judgement dated 31.1.2012). The amendment to the rule was made on 10th May, 2017 giving two years to improve qualifications which is in conflict with the spirit of the judgement allowing 2 years time from the date of decision. The issue thus is to who is to benefit- the petitioners and those similarly placed, or even others in the light of the amendment. The Administrative Department, in its summary, let it be pointed out included the doctors who joined in 2017. Shall the amendment apply exclusively to the petitioners (and those in service on the day of Service Tribunal judgement) or extend to those improving qualifications within 2 years of the amendment.
- ii. The advertisement is in sharp contrast to the amendment in that the latter allows 2 years period for improvement in qualification from the date of amendment while the advertisement stipulates one month space for submitting options with required qualification.
- iii. On joining the Management Cadre, their seniority will be counted from the date of their joining in the Management Cadre not from any earlier date. Similar direction has been passed at para-2 of the Supreme Court of Pakistan Judgement placed vide Annex-IV

32. The Chief Minister, Khyber Pakhtunkhwa before approving the proposal contained at para-28 of the summary may like to direct the Health Department to prepare a case in light of the observations/ points raised at para-31 above.

(ARSHAD MAJEED)
Secretary Establishment
April, 10, 2018

Chief Secretary, Khyber Pakhtunkhwa

Chief Minister

10/4/18
CHIEF SECRETARY
Govt. Of Khyber Pakhtunkhwa

324



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: CIVIL APPEAL NO 320-324 OF 2012 AND CIVIL APPEAL NO 126-P TO 130-P OF 2013 GOVT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT VERSUS DR.SHER MUHAMMAD AND OTHERS.

33

Page 23 + 26 are approved.

CS

[Signature]
3.5.2018

Chief Minister
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: CIVIL APPEAL NO 320-324 OF 2012 AND CIVIL APPEAL NO 126-P TO 130-P OF 2013 GOVT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT VERSUS DR.SHER MUHAMMAD AND OTHERS

Refer Para 1 to 33/Summary

34. As per approval of the competent authority (Chief Minister Khyber Pakhtunkhwa) vide Para-33 of the summary Notification regarding induction of the General Cadre doctors into the Health Management Cadre has been issued vide Health Department Notification dated 07th May, 2018(Annex-XI).

35. Director General Health Services Khyber Pakhtunkhwa has forwarded a list of the General Cadre alongwith MPH degrees duly attested and verified by the concerned authorities in respect of the following doctors for induction into the Health Management Cadre (Annex-XII, XIII).

Table with 4 columns: S.#, NAME OF DOCTOR, FATHER NAME, DATE OF JOINING SERVICE ON REGULAR BASIS. It lists 21 doctors and their details.

22.	Dr. Jamaluddin BS-18	Muhammad Din	23.07.2005
23.	Dr. Sherin Muhammad BS-17	Bacha Muhammad	10.04.2017
24.	Dr. Saeedullah Khan BS-19	Mukarram Khan	27.11.1998
25.	Dr. Erum Qayum BS-17	Syed Qayum	07.09.2007
26.	Dr. Nazar Muhammad BS-18	Bakht Sar	23.07.2005
27.	Dr. Zeeshan BS-17	Said Ali Khan	20.03.2015
28.	Dr. Fakhr-e-Alam BS-17	Sultan Room	05.09.2016
29.	Dr. Hammad BS-18	Said Badshah	23.07.2005
30.	Dr. Muhammad Arif Khan BS-18	Amir Nawaz Khan	05.09.2016
31.	Dr. Waqar Ahmad BS-17	Mehboob Ali	05.09.2016
32.	Dr. Sagheer Ahmad BS-18	Noor Elahi	23.07.2005
33.	Dr. Ikramullah BS-17	Yar Jan	20.03.2015
34.	Dr. Muhammad Sadiq BS-18	Muhammad Anis	11.03.1999
35.	Dr. Humera Semab BS-17	Malik Khan Muhammad	26.11.2011
36.	Dr. Kamran Yousaf BS-18	Muhammad Yousaf	23.07.2005
37.	Dr. Muhammad Wali Ali BS-17	Muhammad Anam	20.03.2015
38.	Dr. Naseeb Gul BS-17	Haseeb Gul	15.09.2012
39.	Dr. Muhammad Mudassar Iqbal Khan BS-17	Muhammad Iqbal Khan	27.10.2011
40.	Dr. Naik Muhammad BS-18	Khawaja Muhammad	23.07.2005
41.	Dr. Sohrab Ali BS-17	Azizullah Khan	20.03.2015
42.	Dr. Noor Islam BS-17	Sheraz Gul	8-2016
43.	Dr. Saeeda Bibi BS-18	Daud Khan	07.09.2007
44.	Dr. Muhammad Hayat BS-19	Muhammad Amir	15.04.1992
45.	Dr. Muhammad Sajjad BS-17	Muhammad Saeed	2017
46.	Dr. Muhammad Arif BS-18	Gulbar Khan	23.07.2005
47.	Dr. Attaullah BS-17	Khair Muhammad	27.02.2013
48.	Dr. Khizar Hayat BS-18	Pir Muhammad Khan	24.10.2009
49.	Dr. Jamshid Saeed BS-18	Saeed Ahmad	23.07.2005
50.	Dr. Sallem Khan BS-17	Muhammad Akbar Khan	April, 2017
51.	Dr. Tariq Khan BS-19	Rasool Khan	31.07.1993
52.	Dr. Muhammad Tahir Khan BS-18	Faiz Muhammad Khan	23.07.2005
53.	Dr. Muhammad Umar BS-18	Gul Muhammad	23.07.2005
54.	Dr. Ghani-ur Rehman BS-19	Abdul Ghani	23.01.1988
55.	Dr. Mian Habib-ur-Rehman BS-19	Mian Fazlur Rehman	15.09.1997
56.	Dr. Syed Rehmat Ali BS-17	Mian Gul Zada	2016
57.	Dr. Muhammad Kashif Shahid Khan BS-17	Jamandos Khan	20.03.2015
58.	Dr. Shahzada Muhammad Haider-ul-Mulk BS-19	Shahzada Muta-ul-Mulk	27.11.1998
59.	Dr. Daud Khan BS-18	Muhammad Rahim Khan	16.09.2000

36. In view of the above, the Chief Minister Khyber Pakhtunkhwa is requested to induct the officers of the General Cadre mentioned in Para-35 into the Health Management Cadre under the amended Rule-10 of the Management Cadre. Their inter se seniority will be determined in the new Cadre in terms of Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rule-17 of the Appointment Promotion Transfer Rules 1999

37. Para- and 36 of the summary is submitted for approval of the Chief Minister Khyber Pakhtunkhwa, please.

Muhammad Abid Majeed
(Muhammad Abid Majeed)
Secretary Health.

Secretary Establishment
Khyber Pakhtunkhwa.

Chief Secretary
Khyber Pakhtunkhwa.

Chief Minister
Khyber Pakhtunkhwa.


38. Summary for the Chief Minister Khyber Pakhtunkhwa submitted by Health Department with regard to induction of General Cadre doctors into Management Cadre has been examined.

39. It is observed that:-

- i. Health Department vide Para-35 of the summary has proposed induction of 59 General Cadre doctors into Management Cadre whereas the lists provided by Director General Health Services vide Annex-XII & XIII shows 21 doctors which needs clarification.
- ii. Administrative Department may provide the updated list of scale wise vacant/occupied posts of the Management Cadre against which the proposed doctors of General Cadre are being inducted in the Management Cadre.
- iii. Establishment Department reiterates its earlier stance at Para-31 (iii) of the summary regarding determination of seniority of newly inductees as Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 is not attracted in this case and Supreme Court Order needs to be followed.

40. Summary is returned to Health Department for clarification of the above observations.

Secretary Health


(ARSHAD MAJEED)
Secretary Establishment
August 20, 2018



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

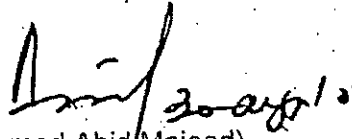
Subject: CIVIL APPEAL NO 320-324 OF 2012 AND CIVIL APPEAL NO 126-P TO 130-P OF 2013 GOVT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT VERSUS DR.SHER MUHAMMAD AND OTHERS

Refer Para-38 to 40/Summary.

41. Reply to the observations are as under:-

- i. As mentioned in Para-35 of the summary, the Director General Health Services Khyber Pakhtunkhwa has provided a list of 59-doctors of the General Cadre alongwith their MPH Degrees for induction into the Health Management Cadre duly flagged as (Annex-XII, XIII, XIV).
- ii. List of the vacant positions of the Management Cadre posts may be seen at (Annex-XV).
- iii. As and when the induction into the Health Management Cadre has been completed, the Seniority list of the Management Cadre doctors BS-17 to BS-20 will be finalized accordingly as per the judgment of the Supreme Court of Pakistan.

42. Para-35 read with Para-37 of the summary is submitted for approval of the Chief Minister Khyber Pakhtunkhwa, please.


(Muhammad Abid Majeed)
Secretary Health.

Secretary Establishment
Khyber Pakhtunkhwa.

Chief Secretary
Khyber Pakhtunkhwa.

Chief Minister

43. Summary for the Chief Minister Khyber Pakhtunkhwa submitted by the Health Department with regard to the induction of General Cadre doctors into Management Cadre was examined earlier and observations mentioned in Para-39 were conveyed to the Health Department.

44. As a pre-requisite for induction into the Management Cadre of a doctor, MPH degree is mandatory. The Health Department has clarified the observations by providing the Degrees of all 59 General Cadre doctors, mentioned in Para-35 of the summary. In addition to that, the department has provided the list of vacant positions of the Management Cadre posts as well; that is found in order.

45. The Proposal contained in Para-35 is submitted for approval of the Chief Minister Khyber Pakhtunkhwa.

(ARSIL MAJEED)
Secretary Establishment
September 4, 2018


46. Chief Secretary Khyber Pakhtunkhwa

Para 45/N- is endorsed.

Naurod
4/9/18
Chief Secretary
Govt of Khyber Pakhtunkhwa

LT CHIEF MINISTER.

Para 35 is approved.


6.9.2018
Chief Minister
Khyber Pakhtunkhwa

Secy Health

Naurod
6/9/18
Chief Secretary
Govt. Of Khyber Pakhtunkhwa

39

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No.SOH(E.V)4-26/2018
Dated Peshawar the. 25.05.2018

Dr Sahib Gul Khan & others
(Members of Service of Health Management Cadre)
Through Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST NOTIFICATION NO.SOH(E.V)4-20/2018, DATED 07.05.2018.

Dear Sir,

I am directed to refer to the subject noted above to state that the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 were notified on 11.12.2008 and the same were published in the official gazette of the Province on 02.11.2016 within the meaning of "Notification" in accordance with law.

2. Thereafter, Dr. Sher Muhammad etc, doctors of the General Cadre filed service appeals in the Khyber Pakhtunkhwa Service Tribunal for induction into Health Management Cadre. The Tribunal vide its judgment dated 03.01.2012 passed the following order:-

"The Tribunal observes that Section-10 of the said Rules does not provided any cushion period and deny chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Service Rules and to join Management Cadre if they succeeded in acquiring the requisite qualification as per the aforementioned rules. This would however, not entitle the appellants and others not having requisite qualifications for posting in the management cadre posts but only provide them a cushion period and if they acquire the requisite qualification within two years from the date of the decision, they may opt and join management cadre without effecting their seniority/service.

With the above variation/modification in the impugned Notification dated 11.12.2000, the present appeals are disposed of accordingly."

3. The Health Department as well as the Members of Service of Health Management Cadre filed appeals in the Hon'ble Supreme Court of Pakistan. The Hon'ble Supreme Court of Pakistan, vide its final judgment in the case dated 3.11.2016 passed the following order:-

"Thus, there seems to be hardly any reason much less justifiable to interfere with the impugned judgment of the Tribunal more so on the ground urged by the learned ASC for the appellants. The civil appeals No.320 to 324 of 2012 are, therefore, dismissed."

4. To implement the judgments [the Judgment of the Khyber Pakhtunkhwa Services Tribunal so upheld by the Hon'ble Supreme Court of Pakistan, as above], the Health Department proposed the following actions, which, after due endorsement of the regulatory Departments of Law & Establishment and approval of the Chief Minister Khyber Pakhtunkhwa, were implemented:-

- (i) Amending Rule 10 of the Management Cadre Rules to provide, with immediate effect, 2-years period to all in-service doctors to improve their qualifications/obtain qualifications provided for lateral induction in Management Cadre and, on expiry of 2 years period in 2019 give notice, through vide publicity as a one-time exercise for such doctors to give their option to join the Management Cadre in accordance with Rule 10; In this regard a meeting of SSRC was held under the Chairmanship of Secretary Health Department Khyber Pakhtunkhwa on 10.03.2017 on the captioned subject. The meeting was attended by the representative of Finance, Establishment Department, wherein the following addition in rule 10 was agreed upon unanimously along with further amendments in the Schedule-III appended to the Health Management Service Rules, 2008 and notified in official gazette after due approval of the competent authority:

"Provided further that for a period of two years from the date of this Notification the officers of the General Cadre who are in regular and continuous service on the said date shall be entitled to improve their qualification as per these rules to exercise the option"

- (ii) Give notice vide publicity, for exercise of option by all such doctors who have, as of that day, obtained qualifications provided for lateral induction in Management Cadre to join the Management Cadre and consequently induct them under Rule-10 as one-time exercise with immediate effect; Notice was published in newspapers too.

(iii) Subsequent to completion of such exercise, the Rules of 2008 *ibid.* may be amended to the extent of deletion of Rule-10 *ibid.* alongwith other amendment, if considered necessary to attain finality.

5. The judgment of the Tribunal would have attained finality on 02.01.2014, if its operation had not been suspended by the apex court till its decision arrived on 03.11.2016. The departmental action regarding implementing the judgments, attained finality on 29.3.2017. In other words, one time exercise of induction took place from 11.12.2008 and will end on 29.05.2019 which will cover legally all inductions started from 2008-09 and onward.

6. The Members of Health Management Cadre were also appellants as mentioned in the judgment dated 3.11.2016 of the Hon'ble Supreme Court of Pakistan. If aggrieved, remedy was available to them under the law to file review against the judgment *ibid.* However, the Members of Health Management Cadre have also exhausted the same.

7. In view of the above legal position, the appeal of the Members of Health Management Cadre submitted to the Hon'ble Chief Justice of Pakistan during the proceedings at Peshawar Registry on May 9, 2018, converted into department appeal by verbal order of his Lordship, being devoid of merit, cannot be acceded to.

8. This issues with the express approval of Secretary Health, Khyber Pakhtunkhwa.

Yours faithfully,

SECTION OFFICER (E.V)

Copy to:

1. Director General Health Services
2. PSO to CS for information of the Chief Secretary Khyber Pakhtunkhwa

(Appellate Jurisdiction)

Annex - #

- E -

32

42

Civil Appeal Nos. 320 to 324 of 2012.

Out of

Civil Petition Nos. 383 to 387 of 2012.

Dr. Muhammad Saleem and others. (App. in all cases).

VERSUS

1. Dr. Sher Muhammad and others. (Res. in C.A.320/2012).
2. Dr. Gul Akbar and others. (Res. in C.A.321/2012).
3. Dr. Wakil Muhammad and others. (Res. in C.A.322/2012).
4. Dr. Shaukat Ali and others. (Res. in C.A.323/2012).
5. Dr. Syed Mujahid, Hussain & others. (Res. in C.A.324/2012).

On appeal from the Judgment and Order of the KPK Service Tribunal, Peshawar dated 3.1.2012, in A. Nos.513-517/2010.

To,

1. Dr. Sher Muhammad son of Shah Muhammad, Provincial Manager, AIDS Control Programme, Peshawar. (Res. in C.A.320/2012). C/O D.R. (Peshawar).
2. Secretary to Government of Khyber Pakhtunkhwa Health Department, Civil Secretariat, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
3. Director General Health Services Khyber Pakhtunkhwa, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
4. Secretary to the Government of Khyber Pakhtunkhwa Law Department, Civil Secretariat, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
5. Secretary to the Government of Khyber Pakhtunkhwa Finance Department Civil Secretariat, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
6. Chief Secretary, Khyber Pakhtunkhwa Civil Secretariat, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
7. Dr. Abdul Waheed Shah son of Amin Shah (BPS-19), EDO (H), Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
8. Dr. Muhammad Zafar son of Qazi Jaffar Khan (BPS-19), Chief Executive, K.T.H., Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
9. Dr. Muhammad Zaheen son of Muhammad Amin (BPS-19), Deputy Director P.H.S.A. Khyber Pakhtunkhwa, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
10. Dr. Tahir Nadim Khan son of Ghulam Rabbani Khan, (BPS-19), Director M&ED.G.H.S., Khyber Pakhtunkhwa, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
11. Dr. Wahid Gul son of Redi Gul (BPS-18), Coordinator H.S.R.U. Health Department, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
12. Dr. Shaheen Afridi daughter of Zar Khan Afridi (BPS-18), Coordinator H.S.R.U. Health Department, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).

attested
s. bag

Put up jointly by 25/4/2012

Contd... P/2.

13. Dr. Imtiaz Ali Shah son of Sarzamin Khan (BPS-17), Coordinator H.S.R.U. Health Department, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
14. Dr. Akhtar Said son of Shah Said (BPS-17) MO ED (H), Swat. (Res. in C.As.320-324/2012)
15. Dr. Jawad Habib son of Habib Ullah Khan (BPS-17), Project Director Health Afghan Refugees, Khyber Pakhtunkhwa, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
16. Dr. Jamal Abdul Nasir son of Mukhtiar Ahmad, Chief H.S.R.U. Health FATA, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
17. Government of K.P.K. through Secretary Health, Khyber Pakhtunkhwa, Peshawar. (Res. in C.As.320-324/2012). C/O D.R. (Peshawar).
18. Dr. Gul Akbar son of Gul Khan, Medical Superintendent (MS), District Headquarters (DHQ), Hospital, Mardan. (Res. in C.A.321/2012).
19. Dr. Wakil Muhammad son of Taj Maluk, Medical Superintendent (MS), District Headquarters (DHQ) Hospital, Timergara. (Res. in C.A.322/2012).
20. Dr. Shaukat Ali son of Gul Nawaz Khan, Deputy EDO (Health), Dir Lower, Timergara. (Res. in C.A.323/2012).
21. Dr. Syed Mujahid Hussain son of Syed Shahir Hussain, Deputy Director Expanding Programme on Immunization, Khyber Pakhtunkhwa (then NWFP), Peshawar. (Res. in C.A.324/2012). C/O D.R. (Peshawar).

Take notice that the above cited cases came up for hearing before the Court on 03.04.2012, and while granting leave to appeal to the above named petitioners/appellants the court has been pleased to direct as under:-

"...The operation of the impugned judgment is suspended till then."

Take further notice that this Court has ordered hearing/fixation of these appeals at the earliest.

You are, therefore, required to enter appearance immediately after the receipt of this notice as provided by rule 1, of Order XVI, Supreme Court Rules, 1980, failing which these appeals are likely to be set down for hearing ex-parte as against the non-appearing respondents under rule 6, Order XVI, Supreme Court Rules, 1980.

Islamabad, the 19/4/ 2012.

Attested
s. bag


(IQBAL NASEER)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

Annex - B

F

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PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of the Judge
05.10.2021	<p data-bbox="414 541 702 579"><u>W.P.No.3223-P of 2020.</u></p> <p data-bbox="414 604 1061 680">Present: Qazi Jawad Ehsanullah, advocate for the petitioners.</p> <p data-bbox="550 705 1061 806">M/s Ghulam Mohy-ud-Din Mallk, Sabitullah Khan and Habib Anwar, advocates for the respondents.</p> <p data-bbox="550 831 1061 907">Mr.Muhammad Riaz, AAG for the Provincial Government.</p> <p data-bbox="470 945 1061 995"><u>LAL JAN KHATTAK, J.-</u> Petitioners through the</p> <p data-bbox="406 1020 1061 1751">instant petition have not only questioned the appointments/absorptions of the respondents No.4 to 150 in the management cadre of the Department of Health, Government of Khyber Pakhtunkwa through the writ of quo warranto but they have also sought issuance of a writ declaring the Notifications dated 07.05.2018 and 10.09.2018 as illegal and unlawful whereunder the respondents have been appointed in the Health Management Cadre by transferring from the General Cadre.</p> <p data-bbox="391 1776 1061 2003">2. In a nutshell the petitioners' case is that the Government of Khyber Pakhtunkwa in order to achieve better results in the health sector separated the</p>

Qazi

management and general cadres in the Health Department by promulgating the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 whereafter induction of the respondents No.4 to 150 by way of their permanent transfers into the management cadre from the General Cadre were made which process, according to the petitioners, has blocked all chances of their progression and promotion in the department.

3. Parawise comments to the writ petition were called for from the respondents which have been submitted wherein issuance of the desired writ has been opposed.


4. Arguments heard and record gone through.

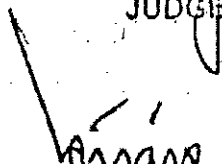
5. Admittedly the petitioners and the private respondents are civil servants and the latter's appointments through their permanent transfers into the management cadre fall within the terms and conditions of their service and a Tribunal has been established by the Government to adjudicate upon the issues pertaining to the terms and conditions of a civil servant. Not the above but it is worth to mention that on the issue raised by the petitioners in the instant petition the Services Tribunal of Khyber Pakhtunkhwa has already delivered a judgment on 03.01.2012 which was then impugned before the apex

Qaim

court through many appeals but same were dismissed vide judgment dated 03.11.2016. Besides, one of the present petitioners, namely, Dr. Fahad Iqbal has also approached the Services Tribunal against the respondents herein through service appeal bearing No.513 of 2010 which is still pending adjudication wherein appointments of the respondents made through the referred two Notifications have been impugned.

6. As the matter agitated before this court through the instant petition is pending adjudication before a proper forum, therefore, this petition is hereby dismissed for its being not maintainable.


JUDGE


JUDGE



Government of Khyber Pakhtunkhwa,
Health Department

Annex - J.

- 7 -

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Dated Peshawar the July 15, 2021

NOTIFICATION

NO. SOH (E-V)/M.Cadre/4-4/Up-gradation/2021 In pursuance to approval by the Competent Authority (Chief Minister, Khyber Pakhtunkhwa), on a summary, and in consultation with Establishment and Finance Departments of Khyber Pakhtunkhwa, sanction is hereby accorded to the up-gradation of the following incumbents of the posts of Member of Service (BS-17) of the Management Cadre doctors, with immediate effect:-

S/No	Nomenclature of the post	Current Posting	From	To
1.	Dr. Abdul Qayyum	DD IMU Health	BS-17	BS-18
2.	Dr. Hamid Muhammad Afridi	Deputy DHO, FR Peshawar	BS-17	BS-18
3.	Dr. Mehreen Aziz Khan	PHSA Peshawar	BS-17	BS-18
4.	Dr. Shams-Ur-Rehman	N-STOP officer/ MO at the disposal of DHO, Khyber	BS-17	BS-18
5.	Dr. Attaullah	Deputy Chief, HSRU	BS-17	BS-18
6.	Dr. Kifayatullah	N-STOP officer, Swat/ MO, THQ Matta Swat.	BS-17	BS-18
7.	Dr. Inayat ur Rehman	DHO, Kurram (Lower)	BS-17	BS-18
8.	Dr. Fahad Iqbal	DHIS Coordinator, DHO, Office, Mardan.	BS-17	BS-18
9.	Dr. Hamza Abbas Khan	DMS, DHQ Mardan	BS-17	BS-18
10.	Dr. Liaqat Ali	EPI Coordinator, Swat	BS-17	BS-18
11.	Dr. Muhammad Bilal Khan	DD Public Health DGHS	BS-17	BS-18
12.	Dr. Shaima Malik	DM Aids Program	BS-17	BS-18
13.	Dr. Hafizullah Khan	Provincial N-STOP officer	BS-17	BS-18
14.	Dr. Shabnum Khawas	EOC, Peshawar	BS-17	BS-18
15.	Dr. Muhammad Hayat	DHO, Mohamand	BS-17	BS-18
16.	Dr. Fazal Qayum	MO, THQ Hospital Samarbagh Lower Dir	BS-17	BS-18
17.	Dr. Pir Zada	Coordinator EPI, Kohistan	BS-17	BS-18

Section Officer (SV)
Health Department
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18.	Dr. Muhammad Sohail Farooqi	DD Public Health DGHS	BS-17	BS-18
19.	Dr. Faisal Malik	MO, HMC MTI	BS-17	BS-18
20.	Dr. Shumaila Malik	WMO, Molvi Jee Hosp. Peshawar.	BS-17	BS-18
21.	Dr. Bilal Bahrawar	PM IDSR DGHS	BS-17	BS-18
22.	Dr. Makhdoom Safdar	DD EPI, DGHS Office, Peshawar	BS-17	BS-18
23.	Dr. Tanveer Inam	DD MCH, DGHS Office, Peshawar	BS-17	BS-18
24.	Dr. Tariq Hayat Taj	Waiting for posting	BS-17	BS-18
25.	Dr. Majid Khan	N-STOP officer, Kohat	BS-17	BS-18
26.	Dr. Saira Jabeen	DD PHSA	BS-17	BS-18
27.	Dr. Majid Saleem	TSO RDSU, D.I. Khan	BS-17	BS-18
28.	Dr. Muhammad Israrul Haq	Attached to DHO Bannu	BS-17	BS-18
29.	Dr. Adnan Khan	DHO, Orakzai	BS-17	BS-18
30.	Dr. Humerea Semab	Attached to DHO, Mansehra	BS-17	BS-18
31.	Dr. Muhammad Muddasserr Iqbal Khan	DD Public Health DGHS	BS-17	BS-18
32.	Dr. Attaullah	DHO, Kurram Uper	BS-17	BS-18
33.	Dr. Ikramullah	DDHO, Mardan.	BS-17	BS-18
34.	Dr. Irfanuddin	DMS, DHQH, Batkhela	BS-17	BS-18
35.	Dr. Muhammad Kashif Shahid Khan	Demonstrator, Gajju Khan Medical College, Swabi.	BS-17	BS-18
36.	Dr. Naseeb Gul	DMS, AHQH, Bajaur.	BS-17	BS-18
37.	Dr. Muhammad Wajid Ali	EPI Coordinator, Shangla	BS-17	BS-18
38.	Dr. Fayyaz Ali Roomi	DD EPI DGHS	BS-17	BS-18
39.	Dr. Zeeshan	N-STOP Mardan/ Type-D Hospital Madian Swat	BS-17	BS-18
40.	Dr. Sherin Muhammad	MO, Attached to DHO L/Dir	BS-17	BS-18
41.	Dr. Fakhre Alam	Incharge MO, Cat-D Hospital, Barikot Swat	BS-17	BS-18
42.	Dr. Muhammad Alamgir	Attached to DHO, Charsadda	BS-17	BS-18
43.	Dr. Khalid Khan	DMS, DHQH, U/Dir.	BS-17	BS-18
44.	Dr. Muhammad Arif Khan	Attached to DHO Swabi.	BS-17	BS-18
45.	Dr. Saleem Khan	DD, AMC, Abbottabad.	BS-17	BS-18

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46.	Dr. Irshad Ali	DDHO, Dir Lower	BS-17	BS-18
47.	Dr. Muhammad Sajjad	MO, DHQH Alpurai.	BS-17	BS-18
48.	Dr. Noor Islam	MO, DHQ Swabi.	BS-17	BS-18
49.	Dr. Syed Rahmat Ali	Coordinator DHO office, Swat	BS-17	BS-18
50.	Dr. Waqar Ahmad	Coordinator LHW Programme Swabi.	BS-17	BS-18
51.	Dr. Shafqat Ullah	Attached to DHO Lakki Marwat	BS-17	BS-18

2. Moreover, the following members of Service (BS-17), presently on deputation/ Extra Ordinary Leave, will be upgraded to BS-18 upon their arrival/ report back to this department w.e.f that date:-

S/No	Nomenclature of the post	Current Posting	From	To	Remarks
1.	Dr. Rajwal Khan	On deputation	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from deputation
2.	Dr. Syed Nayyar Raza Kazmi	EOL	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from EOL.
3.	Dr. Ziaullah Khan Dawar	EOL	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from EOL
4.	Dr. Imtiaz Ali Shah	1825 days EOL w.e.f from 01.05.2011 to 30.04.2016	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from EOL
5.	Dr. Haris Mustafa	On deputation	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from deputation
6.	Dr. Syed Irfan Ali Shah	Deputation to WHO w.e.f 22.02.2021.	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from deputation
7.	Dr. Ahmad Tariq	On deputation WHO	BS-17	BS-18	He will actualize up-gradation to BS-18

Section Officer (EV)
Health Department
Khyber Pakhtunkhwa

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					after reporting back to Health Department from deputation
8.	Dr. Suffian Khan	On deputation WHO	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from deputation
9.	Dr. Sheraz Ahmad Khan	EOL/ study leave	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from EOL
10.	Dr. Sohrab Ali	EOL 24.04.2020 to 23.04.2022	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from EOL
11.	Dr. Bakht Beland	EOL	BS-17	BS-18	He will actualize up-gradation to BS-18 after reporting back to Health Department from EOL

**Secretary Health
Government of Khyber Pakhtunkhwa**

Endst. Of even No. & Date.

Copy to the -

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
5. Director General PHSA, Khyber Pakhtunkhwa.
6. Director General Drugs, Khyber Pakhtunkhwa.
7. Chief HSRU, Health Department, Khyber Pakhtunkhwa.
8. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
9. All District Health Officer, Khyber Pakhtunkhwa.
10. All Medical Superintendent, Khyber Pakhtunkhwa.
11. All Hospital Director MTIs, Khyber Pakhtunkhwa.
12. All District Accounts Officers, Khyber Pakhtunkhwa.
13. Manager Government Printing Press, Peshawar for Gazette notification.
14. PS to Minister for Health Department, Khyber Pakhtunkhwa.
15. PS to Secretary Health Department, Khyber Pakhtunkhwa.
16. All Doctors concerned.


 (Laif-Ur-Rahman)
 SECTION OFFICER (E-V)

Section Officer (EV)
 Health Department
 Khyber Pakhtunkhwa

15-7-21



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the August 23, 2021

NOTIFICATION

NO. SOH (E-V)4-4/2021 - Consequent upon the Up-gradation of Member of Service (BS-17) to (BS-18) vide this Department Notification dated 15/07/2021, the Competent Authority is pleased to order posting/ actualization of the following Management Cadre doctors, in the public interest, with immediate effect -

S/NO	NAME OF DOCTOR	FROM	TO
1	Dr. Abdul Qayyum	DD IMU Health	DD IMU Health, Peshawar
2	Dr. Hamid Muhammad Afridi	Deputy DHO, FR Peshawar	Deputy District Health Officer, FR Peshawar
3	Dr. Mshreen Aziz Awan	PHSA Peshawar	Coordinator (Public Health) DHO Office, Charsadda.
4	Dr. Shams-Ur-Rehman	N-STOP officer/ MO at the disposal of DHO, Khyber	Assistant District Health Officer BS-18 for actualization of Up-gradation and report back as N-STOP Officer, Khyber
5	Dr. Attaullah	Deputy Chief, HSRU	Deputy Chief, HSRU, Health Department, Peshawar
6	Dr. Kifayatullah	N-STOP officer, Swat/ DMS THQ Matta Swat.	DMS THQ Hospital Matta Swat BS-18 for actualization of Up-gradation and report back as N-STOP Officer, Swat.
7	Dr. Inayat ur Rehman	DHO, Kurram (Lower)	DHO, Kurram (Lower)
8	Dr. Fahad Iqbal	DHIS Coordinator, DHO, Office, Mardan.	DMS, Type-D Hospital Toru, Mardan for actualization of Up-gradation and then work as MS of the said Hospital in OPS.
9	Dr. Hamza Abbas Khan	DMS, DHQ Mardan	Deputy Medical Superintendent, DHQ Hospital, Mardan

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10.	Dr. Liaqat Ali	EPI Coordinator, Swat	EPI Coordinator, Swat
11.	Dr. Muhammad Bilal Khan	DD Public Health DGHS	DMS, Type-D Hospital Ghazi, Haripur
12.	Dr. Shaima Malik	Instructor Peshawar PGMI	Vice Principal ZAB-PGPI, Peshawar
13.	Dr. Hafizullah Khan	Provincial Officer N-STOP	Deputy Medical Superintendent, DHQ Hospital, Lakki Marwat BS-18 for actualization of Up-gradation and report back as Provincial N-STOP Officer
14.	Dr. Shabnum Khawas	TSO NSTOP, Peshawar / DMS Maulvi Ji, Hospital Peshawar	DMS Moulvi Ameer Shah Ji, Hospital Peshawar BS-18 for actualization of Up-gradation and report back as TSO N-STOP, Peshawar
15.	Dr. Muhammad Hayat	DHO, Mohmand	District Health Officer, Mohmand
16.	Dr. Fazal Qayum	MO, THQ Hospital Samar Bagh Dir Lower	Deputy Medical Superintendent, THQ Hospital Samar Bagh, Dir Lower
17.	Dr. Pir Zada	Coordinator EPI, Kohistan	Coordinator EPI, Kohistan Upper
18.	Dr. Muhammad Sohail Farooqi	DD Public Health DGHS	DMS, Cat-C Hospital Lahore, Swabi and then work as MS, of the said Hospital in OPS
19.	Dr. Faisal Malik	MO, HMC MTI	Deputy Medical Superintendent, Type-D Hospital Manki Sharif, Nowshera for actualization of promotion and then work as MS of the said hospital in OPS
20.	Dr. Shumaila Malik	DMS, Moulvi Ameer Shah Memorial Hospital Peshawar	Deputy Medical Superintendent (Admin), Moulvi Ameer Shah Memorial Hospital, Peshawar
21.	Dr. Makhdoom Safdar	DD EPI, DGHS Office, Peshawar	Deputy Director (EPI) DGHS
22.	Dr. Tanveer Inam	DD MNCH, DGHS Office, Peshawar	DD MNCH, DGHS Office, Peshawar

23.	Dr. Tariq Hayat Taj	Waiting for posting	He will actualize his upgradation against the post of DMS, Cat-C Hospital Swabi for actualization of Up-gradation and then work as MS of the said Hospital in OPS
24.	Dr. Majid Khan	N-STOP officer, Kohat / attached to DHO Bajaur	Coordinator DHO office Hangu BS-18 for actualization and report back as N-STOP Officer, Kohat
25.	Dr. Saira Jabeen	DD PHSA	DMS, THQ Hospital Shabqadar, Charsadda
26.	Dr. Majid Saleem	TSO RDSU, D.I.Khan / attached to DHO D.I.Khan	Coordinator (EPI) DHO Office D.I.Khan
27.	Dr. Muhammad Israr ul Haq	Attached to DHO Bannu	Coordinator (LHW) DHO Office Bannu
28.	Dr. Adnan Khan	DHO, Orakzai	District Health Officer Orakzai
29.	Dr. Humerea Semab	DHIS Coordinator Mansehra	DHIS Coordinator District Mansehra
30.	Dr. Muhammad Muddasi Iqbal Khan	DD Public Health DGHS	DMS, Type-D Hospital Khanpur, Haripur
31.	Dr. Attaullah	DHO, Kurram Uper	District Health Officer, Kurram (Upper)
32.	Dr. Ikramullah	DDHO, Mardan.	Coordinator DHO Office Mardan for actualization of post and report back as Deputy DHO, Mardan
33.	Dr. Irfanuddin	DMS, DHQH, Batkhela	He will actualize his upgradation against the post of Deputy Medical Superintendent THQ Hospital Dargai and then work as MS in the said Hospital in OPS
34.	Dr. Muhammad Kashif Shahid Khan	Demonstrator, Gajju Khan Medical College, Swabi.	DHIS Coordinator DHO office Swabi
35.	Dr. Naseeb Gul	DMS, AHQH, Bajaur.	Deputy Medical Superintendent, Cat-D Hospital Mayar Dir Lower BS-18 for one day actualization and then work as MS in the said Hospital in OPS

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36.	Dr. Fayyaz Ali Roomi	DD EPI DGHS	He will actualize his upgradation against the post of Coordinator (EPI) Chitral Upper for one day and then work as Deputy DHO, Chitral Upper in OPS
37.	Dr. Zeeshan	N-STOP Type-D Madyan Swat Mardan/ Hospital	Deputy Medical Superintendent, Civil Hospital Madyan Swat BS-18 for actualization of Up-gradation and report back as N-STOP Officer, Mardan
38.	Dr. Sherin Muhammad	MO, Attached to DHO L/Dir	Deputy Medical Superintendent, THQ Hospital Chikdara Dir Lower
39.	Dr. Fakhre Alam	Incharge MO, Cat-D Hospital, Barikot Swat	Deputy Medical Superintendent, Cat-D Hospital Barikot, Swat for actualization of Up-gradation and then work as MS of the said Hospital in OPS
40.	Dr. Muhammad Alamgir	Attached to DHO, Charsadda	DHIS Coordinator DHO office Charsadda
41.	Dr. Khalid Khan	DMS, DHQH, U/Dir.	Deputy Medical Superintendent, DHQ Hospital Dir Upper
42.	Dr. Muhammad Arif Khan	Attached to DHO Swabi.	Coordinator EPI DHO Office, Swabi
43.	Dr. Saleem Khan	DD, AMC, Abbottabad.	Coordinator EPI DHO office Abbottabad for actualization of Up-gradation and then report to AMC, (MTI) Abbottabad for further posting
44.	Dr. Irshad Ali	DDHO, Dir Lower	Coordinator DHO Office Dir Lower for actualization of post and report back as Deputy DHO, Dir Lower in OPS
45.	Dr. Muhammad Sajjad	MO, DHQ Alpurai, Shangla.	Deputy Medical Superintendent, THQ Hospital Puran Shangla
46.	Dr. Noor Islam	MO, DHQ Swabi.	Deputy Medical Superintendent, DHQ Hospital, Swabi

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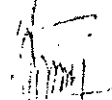
47.	Dr. Syed Rahmat Ali	Coordinator office, Swat	DHO	Public Health Coordinator DHO office Swat
48.	Dr. Waqar Ahmad	Coordinator Programme Swabi.	LHW	DMS, Cat-C Hospital Kalu Khan, Swabi
49.	Dr. Shafqat Ullah	Attached to Lakki Marwat	DHO	Coordinator (LHW) DHO office Lakki Marwat
50.	Dr. Syed Irfan Ali Shah	DD DGHS		Deputy Director/ EOC, COVID DGHS

**Secretary Health
Government of Khyber Pakhtunkhwa**

Endst. of even No. & Date.

Copy to the -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director General Health, Ministry of National Health Services, Regulations & Coordination, Islamabad.
4. Provincial Coordinator EOC, Khyber Pakhtunkhwa.
5. All Director Health Officers, Khyber Pakhtunkhwa.
6. All Medical Superintendent, DHQ Hospitals, Khyber Pakhtunkhwa.
7. All District Accounts Officers, Khyber Pakhtunkhwa
8. Assistant Director (IT), Health Department, with the direction to upload the notification on official website
9. PS to Minister for Health Department, Khyber Pakhtunkhwa
10. PS to Secretary Health Department, Khyber Pakhtunkhwa
11. Doctors concerned
12. Personal Files of the doctors concerned


(Latif-Ur-Rohman)
SECTION OFFICER (E-V)

23/8/21

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL



Service Appeal No. 830 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1065

Dated 22/06/2018

Dr. Shams Ur Rehman
Son of Zahir Gul
Officers of Health Service Management Cadre (BPS-17)
Government of Khyber Pakhtunkhwa Peshawar

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa
Through Chief Secretary
Civil Secretariat Peshawar
2. The Secretary Health
Government of Khyber Pakhtunkhwa
Civil Secretariat Peshawar
3. Muhammad Saleem s/o Inayat ur Rahman
4. Muhammad Ismail s/o Said Muhammad
5. Shahid Melmood s/o Sardar Muhammad Aslam
6. Muhammad Mustafa Alam s/o Nasrullah Jan

7. Khalil ur Rehman s/o Ali Rehman

8. Mohammad Shuaib s/o Mohammad Ajab

9. Mohammad Munib s/o Mohammad Sher Ali Khan

10. S. Muhammad Taimur Shah s/o Pir Ferooz Shah

11. Firdos Jabeen s/o Muhammad Aslam Khan

12. Kalimullah Khan s/o Eld Gul

13. Niaz Mohammad s/o Dost Mohammad

14. Zafullah Khan s/o Ghulam Sarwar

15. Saeed ur Rahman s/o Haji Fazli Rahman

Filed in-173
Registrar
22/6/18
Registered
28/6/18
Re-submitted on day
and Misc.

ATTESTED-

REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Scanned with CamScanner

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 830/2018

Date of Institution ... 22.06.2018

Date of Decision ... 22.03.2019



Dr. Shams Ur Rehman son of Zahir Gul, Officers of Health Service Management Cadre (BPS-17) Government of Khyber Pakhtunkhwa Peshawar. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others. ... (Respondents)

Present:

QAZI JAWAD EHSANULLAH,
Advocate. ... For appellant

MR. MUHAMMAD JAN,
Deputy District Attorney ... For official respondents.

MR. NOOR MUHAMMAD KHATTAQ,
Advocate ... For private respondents
Nos. 3 to 90.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER

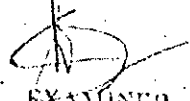
JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant judgment shall also dispose of the following appeals as common question of law and facts has been raised through all the appeals.

Besides, the grievance of appellants is also similar in nature:-

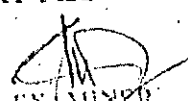
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

- (2) Appeal No. 831/2019 (Dr. Haris Mustaf Vs. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.)
- (3) Appeal No.832/2018 (Dr. S. Irfan Ali Shah Vs. -do-
- (4) Appeal No. 833/2018 (Dr. Inayat Ur Rahman Vs. -do-
- (5) Appeal No. 834/2018 (Dr. Farhad Iqbal Vs. -do-
- (6) Appeal No. 835/2018 (Dr. Kifayat Ullah Vs. -do-
- (7) Appeal No. 836/2018 (Dr. Attaullah Vs. -do-
- (8) Appeal No. 837/2018 (Dr. Liaqat Ali Vs. -do-
- (9) Appeal No. 838/2018 (Dr. Hamza Abbas Khan Vs. -do-
- (10)Appeal No. 839/2018 (Dr. Mehreen Aziz Awan Vs. -do-

2. The averments noted in the memoranda of appeals are to the effect that the appellants are civil servants and members of the Health Services Management Cadre of the Government of Khyber Pakhtunkhwa created under the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, brought into effect on 11.12.2008. The appellants are aggrieved of the notification issued by Government of Khyber Pakhtunkhwa on 07.05.2018, whereby, respondents No. 3 to 90 have been absorbed in the Management Cadre of the Health Services by way of so many transfers from General Cadre in the Health Department of Government of Khyber Pakhtunkhwa. The appellants submitted departmental appeal against the impugned order/notification which was decided by the official respondents on 25.05.2018. The appeal was considered devoid of merits, therefore, was not acceded to hence the appellants have preferred the appeals in hand.

3. We have heard learned counsel for the appellants, learned counsel for private respondents No. 3 to 90 and learned Deputy District Attorney on behalf of respondents No. 1 and 2. Relevant record was also gone through with the valuable assistance of learned counsel for the parties.


ATTESTED

 EX. OFFICER
 Khyber Pakhtunkhwa
 Service Tribunal

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It was contended by learned counsel for the appellants that the impugned notification dated 07.05.2018 was not only the result of misconception and illegality, it had also served as the back door entry for respondents No. 3 to 90. The respondents, at the time when the North-West Frontier Province Health (Management) Service Rules, 2008 were promulgated, had the requisite qualification under the rules but did not opt for their absorption in the Management Cadre. Similarly, some of them did not have the requisite qualification and acquired it later but not in the prescribed cushion period provided for the purpose through the amending notification dated 10.05.2017. It was also the argument of learned counsel that the absorption of the said respondents, through notification dated 07.05.2018, had practically and adversely affected the services of appellants in terms of seniority etc. Learned counsel in support of his arguments relied on judgment reported as 2013-SCMR-1752.

Learned counsel for private respondents, while controverting the arguments from other side, raised certain objections. He contended that the issue raised by appellant was not competent in view of Section 11 of CPC as well as Rule 3 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974 as the proposition already stood decided by the court of competent jurisdiction. It was further objected that the departmental appeal was jointly filed by the appellants which was not allowable under Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986. Learned counsel also raised the issue of limitation and stated that the appeals in hand were not preferred within the time prescribed for the purpose. He, however, withdrew from this objection when referred to the date of decision of departmental appeal as 25.5.2018 and filing of appeals in hand on 22.6.2018. It was also the argument of learned counsel for private respondents that the notification regarding promulgation of the North-West Frontier Province Health (Management) Service Rules, 2008

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 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar



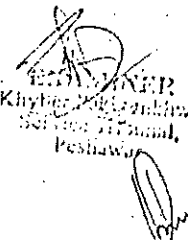
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was published in the official gazette on 02.11.2016, therefore, the provisions of the rules were to be given effect from the said date. In his view the substance contained in Rule 10 thereof, whereby the officers of General Cadre were given option for absorption into Management Cadre, was to be enlarged to a term of two years from the said date in view of the amendments incorporated in the rules on 10.05.2017. The impugned notification dated 07.05.2018 and the amendment in the rules brought about on 10.05.2017 were not exceptionable, it was added.

Learned Deputy District Attorney concurred with the learned counsel for private respondents No. 3 to 90.

4. In order to recapitulate the facts relevant for the purpose of appeals in hand it shall be useful to trace the background of amendment brought about in the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008. The available record suggests that one Dr. Sher Muhammad preferred an appeal before this Tribunal on 22.2.2010, wherein, the notification regarding promulgation of Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 was questioned, inter-alia, on the ground that no chance/time period was provided therein for improvement of qualification of the appellant in order to qualify for absorption to the Management Cadre from General Cadre. His chances of further promotion were, therefore, denied through the rules. Rule 10 of the Rules 2008 originally read as follows:-

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Attestor
Khyber Pakhtunkhwa
Tribunal,
Peshawar

"10. One time exercise (1) Notwithstanding anything contained in the provisions of these rules, Government shall, as one time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning and Management or equivalent Master's Degree/Diploma

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in Health Management or allowed disciplines and opt for absorption:

Provided that the option once exercised shall be final:

(2) Where the number of officers opting for absorption in Management Cadre is more than the available positions in respective grade, the selection under one time exercise shall be done on the basis of seniority-cum-merit only in the respective grade:

Provided that for determining the suitability of the officers, additional relevant qualifications, training/courses in the relevant field and managerial experience, as such, shall be taken into consideration."

This Tribunal, while deciding the said appeal, observed that Rule 10 did not provide any cushion period and denied chances to improve qualification for joining the Management Cadre to the appellant. The same be modified to the extent that two years cushion period be allowed to all those who wished to improve qualification as per NWFP Health (Management) Service Rules and to join Management Cadre, if they succeeded in acquiring the requisite qualification. It was further noted that the decision, however, did not entitle the appellant and others not having the requisite qualification for posting in Management Cadre posts but only provided them a cushion period and if they acquired the requisite qualification within two years from the date of the decision they may opt and join Management Cadre without effecting their seniority/service. The notification dated 13.12.2008 was, therefore, modified and the appeal was disposed of. The matter was thereafter, taken before the August Supreme Court of Pakistan in Civil Appeals No. 320 - 334 of 2012 and Civil Appeals No. 126-P to 130-P of 2013. The said appeals were decided on 03.11.2016 and in the order the following was, inter-alia, noted by the apex court:-

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal

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"As regard the submission of the learned ASC for the appellants in Civil Appeals No. 320 to 324 of 2012 he was unable to explain before us as to how the seniority of the appellants will be effected by the impugned judgment of the Tribunal more so when the respondents claim before the Tribunal itself was not that of granting them seniority but that of allowing them to acquire qualification for opting in management cadre. If the respondents at all join Management Cadre, their seniority will be counted from the date of their joining in the Management Cadre and not from any earlier period which is also established principle that a period joining fresh cadre is relegated to the lowest position of that cadre. Thus, there seems to be hardly any reason muchless justinable to interfere with the impugned judgment of the Tribunal more so on the ground urged by the learned ASC for the appellants. The Civil Appeals No. 320 to 324 of 2012 are, therefore, dismissed."

5. It appears that in pursuance to the judgments of this Tribunal as well as of the apex court an amendment was made in the rules of 2008, whereby, in sub-rule 2 of Rule 10 a second proviso was added. The amendment reads as follow:-

"Provided further that for a period of two years, from the date of issuance of this amending Notification, the officers of the General Cadre, who are in regular and continuous service and holding posts as such, shall be required to improve their qualification as per the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 to exercise the option under this rule."

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

The impugned notification dated 07.05.2018 made a reference to modified Rule 10 and also the judgments of this Tribunal and of the apex court noted here-in-above.

6. The grievance of appellants is, inter-alia, in terms that under the garb of amendment to the rules the respondents No. 3, 6, 11, 16, 23, 28, 42, 44, 47, 48, 83,

order to match the requirements contained in the rules within a period of two years and not otherwise. In such view of the matter, it can safely be held that the respondents who fell into the category of officers having prescribed qualification at the relevant time but failed to opt for their absorption into the management cadre before the coming into force of amended rules on 20.05.2017, were not eligible for the purpose of absorption subsequent to the amendment in the rules.

8. As a result of the above discussion, the appeals in hand are allowed to the effect noted herein above.

The parties are left to bear their respective costs. File be consigned to the record room.

sdf
(AHMAD HASSAN)
MEMBER

sdf
(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
22.03.2019

Certified to be true copy
(Signature)
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	<u>05-01-19</u>
Number of Pages	<u>3600</u>
Copying Fee	<u>20.00</u>
Urgent	<u>2.00</u>
Total	<u>22.00</u>
Name of Officer	<u>[Signature]</u>
Date of Completion of Copy	<u>05-01-19</u>
Date of Delivery of Copy	<u>05-01-19</u>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

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Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 834 /2018

Diary No. 1066

Dated 22/06/2018

Dr. Fahad Iqbal
Son of Muhammad Iqbal
Officers of Health Service Management Cadre (BPS-17)
Government of Khyber Pakhtunkhwa Peshawar

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa
Through Chief Secretary
Civil Secretariat Peshawar
2. The Secretary Health
Government of Khyber Pakhtunkhwa
Civil Secretariat Peshawar
3. Muhammad Saleem s/o Inayat ur Rahman
4. Muhammad Ismail s/o Said Muhammad
5. Shahid Mehmood s/o Sardar Muhammad Aslam
6. Muhammad Mustafa Alam s/o Nasrullah Jan
7. Khalil ur Rehman s/o Ali Rehman
8. Mohammad Shuaib s/o Mohammad Ajab
9. Mohammad Munib s/o Mohammad Sher Ali Khan
10. S. Muhammad Taimur Shah s/o Pir Ferooz Shah
11. Firdos Jabeen s/o Muhammad Aslam Khan
12. Kalimullah Khan s/o Eid Gul
13. Niaz Mohammad s/o Dost Mohammad
14. Zafrullah Khan s/o Ghulam Sarwar
15. Saeed ur Rahman s/o Haji Fazli Rahman

Filed to-day

Registrar

22/6/18

Resubmitted to-day
and filed.

Registrar 22/6/18

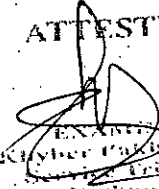
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Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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16. Aamir Israr s/o Israr Mohammad Khan
17. Syed Shaida Hussain Shah Bukhari s/o Syed Fida Hussain Shah Bukhari
18. Muhammad Shafiq s/o Akbar Gul
19. Mohammad Rahim s/o Gul Rahim
20. Mushtaq Ahmad s/o Fazal Khan
21. Shabnum Khawas d/o Lal Khawas Khan
22. Ahmed Tariq s/o Tariq Tanvir
23. Khan Askar s/o Mohammad Askar
24. Faisal Malik s/o Fazli Malik Sarim
25. Bilal Bahrawar Khan s/o Bahrawar Khan
26. Tanveer Inam s/o Inam Ullah
27. Mohammad Saleem Khan s/o Fazali Rahim Khan
28. Alamgir Khan s/o Darwesh Khan
29. Majid Khan s/o Muhammad Hamayun Khan
30. Ihsan Ullah s/o Ghulam Muhammad
31. Aurang Zeb Afridi s/o Ghulam Hussain Afridi
32. Shafiul Mulk s/o Hazrat Mulk Khan
33. Mohammad Khalil Akhter s/o Mohammad Yousaf Khan
34. Farhad Khan s/o Pordil Khan
35. Muhammad Farid s/o Khaista Azam
36. Amir Rafiq Khattak s/o M. Rafiq Khattak
37. Jahanzeb Khan s/o Ihsan Ullah Khan
38. Alif Jan s/o Amir Jan
39. Makhdoom Safdar s/o Safdar Hussain Afghan
40. Shumaila Malik d/o Malik Farid Khan
41. Mohammad Kamal s/o Mohammad Sharif Khan
42. Noor Saeed Khan s/o Mohammad Saeed Khan
43. Aziz Khan s/o Jafar Khan
44. Ghulam Rasool Khan s/o Shadi Gul Khan
45. Mohammad Iqbal Javed s/o H. Fatch Ullah Khan


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46. Kamran Zakria s/o Ghulam Zakria Khan
47. Sheikh Mohammad Farooq Azam s/o Shaikh Mohammad Bashir Gohar
48. Naimat Ullah Zia s/o Amir Shah
49. Muhammad Israr ul-Haq s/o Abdur Rashid Khan
50. Qasim Abbas s/o Saif ur Rehman
51. Mohammad Hayat s/o Haji Akbar Gul
52. Muhammad Ibrahim Khan s/o Abdul Haleem Khan
53. Sheraz Ahmad Khan s/o Muhammad Akram Khan
54. Adnan Khan s/o Muhammad Zahir Shah
55. Syed Ijaz Ali Shah s/o Syed Abdul Qayyum Shah
56. Fazal Majeed s/o Muhammad Aslam
57. Muhammad Bilal Khan s/o Muhammad Daud
58. Majid Saleem s/o Allah Dad Khan
59. Fazal Qayum s/o Abdur Rahman
60. Ali Asghar Khan s/o Abdul Akbar Khan
61. Muhammad Azhar Shah s/o Asrar ul Arifin
62. Saira Jabeen Shah s/o Amt Ali Shah
63. Roshan Zada s/o Said Latif
64. Javid Iqbal s/o Amir Bahadar
65. Shaima Malik d/o Dr Fazli Malik Sarim
66. Pirzada s/o Bahadar
67. Shahab Ahmad s/o Abdul Rahman
68. Muhammad Dost Khan s/o Zahir Gul
69. Muhammad Riaz s/o Gohar Khan
70. Kashmir Khan s/o Aslam Khan
71. Tariq Hayat s/o Fazal Hayat Taj
72. Muhammad Sohail Farooqi s/o Muhammad Aqeel Farooqi
73. Abdul Waheed s/o Abdul Hamid
74. Hafizullah Khan s/o Amanullah Khan
75. Zakir Hussain s/o Hakim Khan

ATTESTED

EXAMINER
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Service Tribunal
Peshawar

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76. Qazi Sabihuddin s/o Qazi Ghulam Mustafa
77. Ijaz Ahmad s/o Bashir Ahmad
78. Sher Muhammad s/o Shah Muhammad
79. Wakeel Muhammad s/o Tajul Malook
80. Suffian Khan s/o Muhammad Tanveer
81. Muhammad Naeem s/o Habib Ullah Khan
82. Ikramullah s/o Amanullah Khan
83. Muhammad Shoaib s/o Azizur Rehman
84. Muhammad Riaz Tanoli s/o Said Ozar
85. Inayatullah Khan s/o Saifullah Khan
86. Wazir Khan s/o Rookam Khan
87. Uzma Jabeen d/o Taj Muhammad
88. Dildar Khan s/o Abdul Ghaffar
89. Mohsin Ahmad s/o Taj Muhammad Khan
90. Abbas Khan s/o Ajab Khan

All General Cadre doctors newly inducted into Health Management Cadre, Health Department Khyber Pakhtunkhwa *Core of D.G. Health Office*

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974

Respectfully sheweth;

1. Appellant herein is a Civil Servant being a members of the Health Services Management Cadre of the Govt. of Khyber Pakhtunkhwa, which is the creation and outcome of Khyber Pakhtunkhwa Health (Management) Services Rules, 2008 promulgated on 11.12.2008. He is serving in BPS-17 and his date of appointment and place of current postings is distinctly mentioned in his appointment letters and posting orders respectively [Annexure-'A'].

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Khyber Pakhtunkhwa
Service Tribunal

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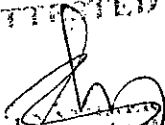
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2. Appellant is aggrieved of the Notification issued by the Govt. of Khyber Pakhtunkhwa vide No. SOH(E-V14-20/2018 dated 07.05.2018 [Annexure- 'B'], whereby Respondents No. 3-90 have been inducted / absorbed in the Management Cadre of the Health Services by way of permanent transfer from General Cadre of the Health Department of the Govt. of Khyber Pakhtunkhwa. Departmental appeal there against was also filed by the present appellant on 08.05.2018, pursuant to the order of the Supreme Court of Pakistan while hearing Human Rights cases at Peshawar Registry on the same date whereby it was ordered that the applications filed by the present appellant before the apex court was to be treated as Departmental Appeals / Representations and was to be answered in 10 days by the department. Thus, the Service Appeal / Representation was answered by the official respondents on 25.05.2018 [Annexure- 'C'], whereby the genuine plea of the appellant was turned down and was not exceeded to, hence this appeal.

3. To mention the background of the case, it is stated that the Government of Khyber Pakhtunkhwa had, in order to achieve better results for health care services delivery, separated administrative and clinical cadres in the Health Department, thereby constituting a separate Management Cadre by promulgating Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 (hereinafter referred to as '*the Rules*') vide Notification No. SOH (EV) 14-20/08 dated 11.12.2008 [Annexure- 'D']. Rule 4 thereof read with Schedule II has provided method of recruitment and appointment in the aforesaid Management Cadre. And for those who were then serving in the general cadre of the Health Department, a one-time exercise of appointment by way of permanent transfer was provided in Rule 10 with certain prescribed qualification.

4. This mechanism for induction by way of permanent transfer so prescribed in Rule 10 *ibid* was nevertheless a one-time exercise, and was not to be enjoyed or taken benefit of for all times to come. However, it seems that the way things have gone by, the induction by way of such one-time absorption (by way of permanent transfer) has been made to last and subsist forever. And because this had badly affected the progression, promotion, service carrier and prospects to flourish in their own cadre / track for those who are directly recruited / appointed through Public Service Commission, i.e. the appellant herein, they

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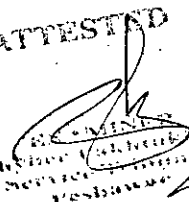

Secretary
Peshawar

have been agitating their cause with solid and convincing reasons but to no avail so far.

- Coming back to Rule 10 *ibid*, various Notifications and orders issued by Government of Khyber Pakhtunkhwa since its inception [Annexure-'E'] would show that ideally speaking induction by way of absorption (through permanent transfer) from General to Management Cadre should have been stopped *w. e. f.* 18.10.2010. However, some of the respondents who, at the relevant and crucial time, were employed in other lucrative jobs / various projects of the Health Department, had decided to protract and drag the matter for years. And this object, they had achieved by way of dragging govt. into litigation at various *fora*. At the very outset Writ Petition No. 2382/2009 was filed in the Peshawar High Court, Peshawar, questioning the *vires* of *the Rules*. Said Writ Petition was dismissed in *limini* on 10.11.2009 [Annexure-'F'], whereby the departmental authorities were directed to decide the departmental representation so filed within a month. Identical orders were passed when august Peshawar High Court, Peshawar was approached by some of the respondents in COC No. 10/2010 in the aforesaid writ Petition, which contempt case was disposed of on 09.02.2010 [Annexure-'G'].
- Thereafter Service Appeal No. 513/2010 was preferred before this august Tribunal, which was decided on 03.01.2012 [Annexure-'H'] on the following terms;

“Section 10 of the said rules does not provide any cushion period and deny chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Service Rules, and to join Management Cadre if they succeeded in acquiring the requisite qualification as per the aforementioned Rules. This would however not entitle the appellants and others not having requisite qualifications for posting in the Management Cadre posts but only provide them cushion period and if they acquire the requisite qualification within 2 years from the date of the decision, they may opt and join Management Cadre without effecting their seniority/ service”.

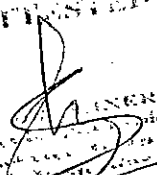
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 E. MINER
 Officer (Labour)
 Services
 Peshawar



33, 34, 35, 36, 37, 41, 43, 45, 52, 55, 56, 57, 61, 63, 64, 67, 68, 69, 70, 73, 75, 76, 77, 78, 79, 81, 82, 84, 85, 86, 87 and 90, they were serving in the General Cadre of the Health Department but they had acquired the requisite qualification thereafter have also been inducted in the Management Cadre through the impugned Notification. It is rather more exasperating to note that there are some of the respondents (Respondent No. 21, 22, 24, 25, 26, 29, 38, 39, 40, 46, 49, 50, 51, 53, 54, 58, 59, 60, 62, 65, 66, 71, 72, 74 and 80), who were not even in service and were inducted in General Cadre of Health Department long time after the issue of one time absorption of such general cadre doctors had arisen. These respondents had also been given a back door because they have recently joined the general cadre services as mentioned in the attached sheet [Annexure-'L'] showing their appointment dates, and the back door entry of absorption has been allowed to continue and flourish for all times to come. This particularly was not the intent and object of *Rule 10* of the original un-amended *Rules* and judgment of the August tribunal. And now by making amendment therein *vide* Notification dated 10.05.2017, the real purpose and intent thereof appears to have been completely distorted and outraged.


9. On this very score the impugned Notification dated 07.05.2018 appears to be misconceived and illegal, because it has actually served as a back door entry for respondent No 3-90, as at the relevant time when *the Rules* were promulgated, on 11.12.2008, they either had the requisite qualification but not opted to go for the absorption in the Management Cadre, or did not had the qualification and acquired it later but not in the prescribed cushion period for improvement in qualification, or even those who were initially appointed in the general cadre after *the Rules* were promulgated.
10. More so, the impugned Notification dated 07.05.2018 or any other dispensation in the form of amending Notification No. SOH (E-V) 4-20/2017 dated 10.05.2017 are *prima facie* are illegal and contrary what has been ruled by the august Supreme Court of Pakistan in the matter of '*Contempt Proceeding against Chief Secretary Sindh and others*' reported in 2013 SCMR 1752, whereby not only similar inductions / appointments of civil servants from non-cadre posts to a cadre posts were held to be illegal but various legislations and Statutes of Govt. of Sindh allowing and protecting such absorption / induction were held to be *ultra vires* the Constitution. The

ATTESTED

 OFFICER IN CHARGE
 HEALTH DEPARTMENT
 GOVT. OF SINDH

7. The aforesaid decision of the Tribunal was assailed in the Supreme Court of Pakistan through Civil Appeals Nos. 320-324 of 2012 and Nos. 126-P to 130-P of 2013, which appeals were decided on 03.11.2016 [Annexure-'I'], whereby the judgment of the Tribunal was maintained, and as to the issue of seniority it was held that it would be counted from the date when respondents join Management Cadre and not from any earlier period. Thereafter, a summary was initiated at the level of provincial government as to how an option of absorption as provided in Rule 10 *ibid* should be dealt with, and at last *the Rules* appeared to have been amended, on 10.05.2017 [Annexure-'J'], albeit not by the competent authority, and now a *proviso* was inserted in Rule 10 *ibid* only for the purposes of providing an opportunity 'to improve qualification' for those in the general cadre who were there in service but did not have the prescribed minimum qualification on the date when Rules were initially promulgated, and then such officials of general cadre were to exercise option for absorption within a period of two years after fulfilling the qualification benchmark as prescribed. Thereafter, through advertisements and publications in various dailies [Annexure-'K'], respondents were asked to submit option for absorption in the Management Cadre, and upon receiving the same impugned order dated 07.05.2018 was issued thereby permanently absorbing the private respondents in the Management Cadre in various pay scales as mentioned therein.

8. It is pertinent to mention that two years cushion period as provided in the judgment dated 03.01.2012 of this august Tribunal as well as given in the *proviso* added in Rule 10 *ibid* was meant only for those who were in the continuous services of the general cadre but did not have the requisite qualification at the relevant time so as to enable them to acquire the prescribed qualification during the cushion period and then to apply for absorption within the given time. This was clearly not meant to serve as a back door entry for those in the general cadre who at the relevant time did possess the requisite qualification at the time when *the Rules* were enforced back in 2008, but they did not, out of their own ulterior motives, opt for absorption when they were called on to do so back in the year 2009-10. This includes respondent no. 3, 6, 11, 16, 23, 28, 42, 44, 47, 48, 83, 88 and 89 who were holding the requisite required qualification when *the Rules* were enforced on 11.12.2008. As to the respondent no. 4, 5, 7, 8, 9, 10, 12, 13, 14, 15, 17, 18, 19, 20, 27, 30, 31, 32,

ATTESTED


 EX. ASST. DIR
 Chief District Office
 Services Division
 Government of Punjab

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9/14

idea behind such judicial pronouncement was that permanent absorption of non-cadre civil servant to cadre posts would affect promotion prospects, progression and service carrier of the cadre civil servant. Same is the case here, as most of the respondents from general clinical cadre, who have been absorbed in BPS-18 and above, have blocked all chances of progression and promotion for the present appellant serving in BPS-17 as having been appointed in the Management Cadre by way of initial appointment as prescribed in *the Rules*.

11. It may also be stated at this juncture that in view of Art. 129 of the Constitution for the purposes of exercise of executive authority provincial govt. has been described as one exercised through *Chief Minister and the Cabinet*. Now, in this case Notification No. SOH (E-V) 4-20/2017 dated 10.05.2017 amending *the Rules* has been purportedly issued by the Govt. but without the concurrence of *Chief Minister and the Cabinet* both. The amendment thus brought in *the Rules* through this Notification does not exist in the eye of law and is *coram non judice*.

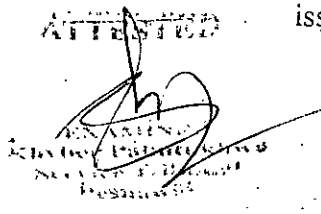
12. Having said all that, it is more than crystal clear that appellant has not been dealt with in accordance with law. Their departmental appeal too has been wrongly decided and relevant considerations to decide the same have been conveniently ignored. The indulgence of this august Tribunal is therefore all the more necessary and indispensable.

It is, therefore, prayed that on acceptance of this appeal this august Tribunal may be pleased to;

A. *Set-aside* and *quash* Notification No. SOH(E-V14-20/2018 dated 07.05.2018 by declaring the permanent absorption of Respondents 3-90 in the Management Cadre as illegal and *ultra vires*, and

B. *Declare* that Notification No. SOH (E-V) 4-20/2017 dated 10.05.2017 is *ultra vires* the Constitution of the Islamic Republic of Pakistan, 1973 with particular reference to its Art. 4, 9, 10-A, 25 and has also been issued without jurisdiction and is *coram non judice*, and / or

ATTESTED


The Tribunal
Secretary to the Tribunal
Islamabad

C. Grant any other relief considered just and appropriate in the given circumstances of the case.

[Signature]
Appellant

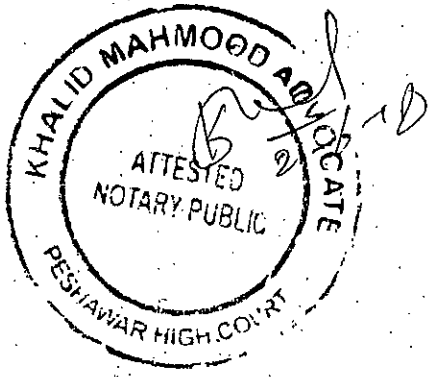
Through

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Qazi Jawad Ehsanullah
Advocate Supreme Court

AFFIDAVIT

I Dr. Fahad Iqbal Son of Muhammad Iqbal Officers of Health Service Management Cadre (BPS-17) Government of Khyber Pakhtunkhwa Peshawar Affirm and declare on oath that the content of this service appeal is true and correct to the best of my knowledge, information and belief nothing has been cancelled to this Hon'ble Service Tribunal.

[Signature]
DEPONENT



Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

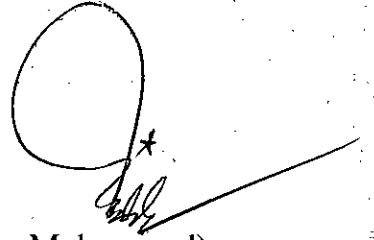
Date of Presentation of Application 25/01/22
Number of Pages 4000
Copies 421
Fees 461/-
Date of Delivery of Copy 25/01/22

18.08.2020

None for the appellant present. Mr. Ziaullah, DDA for respondents present.

Notices be issued to the appellant and his counsel for appearance and also directed to deposit requisite charges as per order sheet dated 04.10.2019.

Adjourned to 08.10.2020 before S.B.



(Mian Muhammad)
Member(E)

08.10.2020

Nemo for the appellant.

It is already past 03.40 P.M while the case has been called several times but no one appeared on behalf of the appellant, despite proper notices to him and his counsel.

Dismissed for non-prosecution. File be consigned to the record.



Chairman

ANNOUNCED

08.10.2020

21.01.2020

Nemo for appellant. Addl. AG alongwith Sher Baz Khan, S.O for respondents No. 1 & 2 present.

The record suggests that the requisite notice has been prepared for proclamation in daily "Mashriq" but the needful could not be done due to absence of appellant despite issuance of proper notice to him. Due to general strike of the Bar, instant matter is adjourned for further proceedings to 26.02.2020 before S.B.


Chairman

26.02.2020

Nemo for appellant. Mr. Kabirullah Khattak, Addl. AG for the respondents present. Fresh notices be issued to appellant/learned counsel. To come up for further proceedings on 06.04.2020 before S.B.


(Hussain Shah)
Member.

06.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 29.06.2020 for the same. To come up for the same as before S.B.


Reader

29.06.2020

The Worthy Chairman is on leave, therefore, the case is adjourned. To come up on 18.08.2020 before S.B.


Reader

11.09.2019


Nemo for the parties.

According to Moharrir of the office the department have returned the notices for respondents No. 3 to 61. Therefore, the appellant is directed to submit correct address of the private respondents, thereafter, notices be issued to them. To come up for written reply/comments on 04.10.2019 before S.B.


Chairman

04.10.2019

Counsel for the appellant present. Nemo for the respondents.

 In the instant appeal there are as many as 61 respondents who have not been served through ordinary mode. They require to be intimated through proclamation in daily "Mashriq" newspaper for 09.12.2019. The appellant shall deposit requisite charges within fifteen days.

Adjourned to 09.12.2019 before S.B.


CHAIRMAN

09.12.2019

Nemo for appellant. Addl. AG present.

On 04.10.2019 it was required that the respondents should be served through proclamation in daily "Mashriq" for appearance today. The record shows that the requisite notice has been prepared by the office but needful could not been done due to absence of appellant.

Due to general strike of the Bar the matter is adjourned to 21.01.2020 before S.B. Notice should be issued to appellant for the next date.


Chairman

22.05.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant, member of Health Services Management Cadre of Government of Khyber Pakhtunkhwa, has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 being aggrieved against the Notification dated 10.09.2018 whereby private respondents (Doctors of the General Cadre), have been inducted on their option, in the Management Cadre. Learned counsel for the appellant argued inter-alia that similar nature service appeals have already been allowed vide common judgment dated 22.03.2019 passed in Service Appeal No.830/2018.

Points urged need consideration. The appeal is admitted for regular hearing subject to all the legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 18.07.2019 before S.B.


Member

18.07.2019

Counsel for the appellant present.

Learned counsel for the appellant has submitted an application for extension of time to deposit the security and process fee. The reason noted in the application is to the effect that due to misconception the requisite deposit could not be made within time.

The application is allowed. The period for depositing the security and process fee is extended for another three days. Upon deposit notices be issued to the respondents for submission of written reply/comments on 11.09.2019 before S.B.

Appellant Deposited
Security & Process Fee

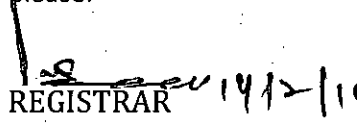

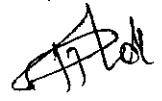

18/7/19

Chairman 

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 209/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/2/2019	<p>The appeal of Dr. Fahad Iqbal resubmitted today by Qazi Jawad Ihsanullah 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>
2-	22.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	22.04.2019	<p>Counsel for the appellant present. Notices be issued to the respondents for implementation report on <u>24.04.2019</u> before S.B.</p> <p style="text-align: right;"> Member</p>
	22.04.2019	<p>Counsel for the appellant present and seeks adjournment as he has not prepared the case. Case to come up for preliminary hearing on 22.05.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

The appeal of Dr. Fahad Iqbal son of Muhammad Iqbal officer of Health Department Management cadre received today i.e. on 08.02.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Addresses of respondent no. 3 to 61 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Annexure-D, F and G of the appeal are illegible which may be replaced by legible/better one....
- ③ Memorandum of appeal may be got signed by the appellant.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- ⑥ 63 more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 227 /S.T.

Dt. 11-2- /2019.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.
11/2/19

Qazi Jawad Ihsanullah Adv. Pesh.

1. Reply 3 to 61 are employ of health department notice is issued thru D.G health.
2. Reply These annexure are provided in the honorable court during hearing.
3. Properly then Memorandum is signed.
4. All the Annexure are properly attested.
5. All the annexure are properly flagged.
6. Also provided the complete copies of the instant appeal.

File resubmitted accordingly.

Dated 14-02-2019.


Muhammad Hayat
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 209 /2019

Dr. Fahad Iqbal

VERSUS

Government of Khyber Pakhtunkhwa and others

I N D E X

S. No	Subject	Annexure	Page No.
1	Service Appeal and Stay Application along with Memo of parties		1-17
2	Appointment letter and posting orders of appellant	A	18-20
3	Health Department Notification No. SOH(E-V)4-20/2018 dated 10.09.2018	B	21-22
4	Copy of Departmental Appeal dated 09.10.2018	C	23
5	Khyber Pakhtunkhwa Health Management	D	24-33

	Service Rules, 2008 Notification No. SOH(EV)4-20/08 dated 11.12.2008		
6	Notifications and orders issued by Government of Khyber Pakhtunkhwa since inception of Health Management Cadre	E	34-47
7	HC Order dated 10.11.2009 in Writ Petition No. 2382/2009	F	48
8	HC Order dated 09.02.2010 in Cr. Misc (COC) No. 10/2010 in W.P No. 2382/2009	G	49
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10	Civil Appeals Nos. 320-324 of 2012 and Nos. 126-P to 130-P of 2013, SC Order dated 03.11.2016	I	54-56
11	Health Department Notification No. SOH(E-V)4-20/2017 dated 10.05.2017	J	57-58

12	Advertisement in newspapers for lateral induction into Health Management Cadre	K	59
13	Details of service and qualification improvement of respondents No. 3-61, inducted into Health Management Cadre	L	60-63
14	Vakalatnama in original		64

Julaisi
Appellant

Through

Qazi Jawad Ehsanullah
Qazi Jawad Ehsanullah
Advocate Supreme Court
&

Umar Farooq
Umar Farooq
Advocate High Court
17-A The Mall Peshawar Cantt
Cell No. 0300.3950682

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 209 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 163

Dated 08-02-2019

Dr. Fahad Iqbal
Son of Muhammad Iqbal
Officer of Health Service Management Cadre (BPS-17)
Government of Khyber Pakhtunkhwa Peshawar

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa

Through Chief Secretary
Civil Secretariat Peshawar

2. The Secretary Health

Government of Khyber Pakhtunkhwa
Civil Secretariat Peshawar

Ex-parte (3) Khan Bahadar s/o Gul Akbar (BS-19)

✓ 4. Muhammad Usman Shah s/o Muhammad Zahir Shah (BS-18) ✓

Filed to-day Shiraz Ahmad s/o Rashid Ahmad (BS-18)

Registrar 6. Shafqatullah s/o Amir Hamza (BS-17)

(7) Fayyaz Ali Roomi s/o Humayun Roomi (BS-17)

(8) Muhammad Javed Khan s/o Shah Zaman Khan (BS-20)

✓ 9. Syed Gul Hussain Syed s/o Syed Shah Jehan (BS-18)

✓ 10. Wasiullah s/o Shakirullah (BS-18)

✓ 11. Jameel Ahmad s/o Abdullah (BS-18)

Ex-parte (12) Farman Ali s/o Muhammad Naseem (BS-18)

Re-submitted to-day
and filed.

Registrar
14/2-19

Ex-Parte 13. Waseem Ahmad s/o Qazi Muhammad Saleem (BS-19)

✓ 14. Irfanuddin s/o Habibul Mukhtar (BS-17)

✓ 15. Shaukat Saleem Khan s/o Saleem Khan (BS-18)

Ex-Parte 16. Sardar Aurangzeb s/o Sardar Muhammad Ashraf (BS-19)

17. Shah Faisal s/o Ronaq Zaman (BS-19)

18. Zahir Shah s/o Bahadar Khan (BS-19)

✓ 19. Irshad Ali s/o Muhammad Razzaq (BS-17)

Ex-Parte 20. Muhammad Farooq Gul s/o Gul Muhammad (BS-18)

✓ 21. Muhammad Alamgir s/o Nisar Muhammad (BS-17)

✓ 22. Bakht Belanad s/o Fazal Rehman (BS-17)

✓ 23. Khalid Khan s/o Shah Muhammad Khan (BS-17)

Ex-Parte 24. Jamaluddin s/o Muhammad Din (BS-18)

✓ 25. Sherin Muhammad s/o Bacha Muhammad (BS-17)

Ex-Parte 26. Saeedullah Khan s/o Mukarram Khan (BS-19)

27. Erum Qayum d/o Syed Qayum (BS-17)

✓ 28. Nazar Muhammad s/o Bakht Sar (BS-18)

✓ 29. Zeeshan s/o Said Ali Khan (BS-17)

✓ 30. Fakhr-e-Alam s/o Sultan Room (BS-17)

✓ 31. Hammad s/o Said Badshah (BS-18)

✓ 32. Muhammad Arif Khan s/o Amir Nawaz Khan (BS-18)

✓ 33. Waqar Ahmad s/o Mehboob Ali (BS-17)

Ex-Parte 34. Sagheer Ahmad s/o Noor Elahi (BS-18)

✓ 35. Ikramullah s/o Yar Jan (BS-17)

Ex-Parte 36. Muhammad Sadiq s/o Muhammad Anis (BS-18)

Ex-Parte

- 37. Humera Semab d/o Malik Khan Muhammad (BS-17)
- 38. Kamran Yousaf s/o Muhammad Yousaf (BS-18)
- 39. Muhammad Wajid Ali s/o Muhammad Anam (BS-17)
- 40. Naseeb Gul s/o Haseeb Gul (BS-17)
- 41. Muhammad Mudassar Iqbal Khan s/o Muhammad Iqbal Khan (BS-17)
- 42. Naik Muhammad s/o Khwaja Muhammad (BS-18)
- 43. Sohrab Ali s/o Azizullah Khan (BS-17)

✓ 44. Noor Islam s/o Sheraz Gul (BS-17)

Ex-Parte

- 45. Saeeda Bibi d/o Daud Khan (BS-18)
- 46. Muhammad Hayat s/o Muhammad Amir (BS-19)

✓ 47. Muhammad Sajjad s/o Muhammad Saeed (BS-17)

Ex-Parte

48. Muhammad Arif s/o Gulbar Khan (BS-18)

✓ 49. Attaullah s/o Khair Muhammad (BS-17)

✓ 50. Khizar Hayat s/o Pir Muhammad Khan (BS-18)

✓ 51. Jamshid Saeed s/o Saeed Ahmad (BS-18)

✓ 52. Sallem Khan s/o Muhammad Akbar Khan (BS-17)

Ex-Parte

53. Tariq Khan s/o Rasool Khan (BS-17)

✓ 54. Muhammad Tahir Khan s/o Faiz Muhammad Khan (BS-18)

✓ 55. Muhammad Umar s/o Gul Muhammad (BS-18)

Ex-Parte

56. Ghani-ur-Rehman s/o Abdul Ghani (BS-19)

57. Mian Habib-ur Rehman s/o Mian Fazlur Rehman (BS-19)

✓ 58. Syed Rehmat Ali s/o Mian Gul Zada (BS-17)

✓ 59. Muhammad Kashif Shahid Khan s/o Jamandos Khan (BS-17)

Ex-Parte

60. Shahzada Muhammad Haider-ul-Mulk s/o Shahzada Muta-ul-Mulk (BS-19)

61. Daud Khan s/o Muhammad Rahim Khan (BS-18)

Address:- All General Cadre Doctors newly inducted into Health Management Cadre, Health Department Khyber Pakhtunkhwa Care of DG Health Office

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974

Respectfully sheweth;

1. Appellant herein is a Civil Servant being a member of the Health Services Management Cadre of the Govt. of Khyber Pakhtunkhwa, which is the creation and outcome of Khyber Pakhtunkhwa Health (Management) Services Rules, 2008 promulgated on 11.12.2008. He is serving in BPS-17 and his date of appointment and place of current postings is distinctly mentioned in his appointment letters and posting orders respectively Annexure-'A'.
2. Appellant is aggrieved of the Notification issued by the Govt. of Khyber Pakhtunkhwa vide No. SOH(E-V)4-20/2018 dated 10.09.2018 Annexure-'B', whereby Respondents No. 3-61 have been inducted / absorbed in the Management Cadre of the Health Services by way of permanent transfer from General Cadre of the Health Department of the Govt. of Khyber Pakhtunkhwa. Departmental appeal there against was also filed by the present appellant on 09.10.2018. The Service Appeal / Representation was not answered by the official respondents within stipulated time, whereby the genuine plea of the appellant was turned down and was not exceeded to, hence this appeal.

3. To mention the background of the case, it is stated that the Government of Khyber Pakhtunkhwa had, in order to achieve better results for health care services delivery, separated administrative and clinical cadres in the Health Department, thereby constituting a separate Management Cadre by promulgating Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 (hereinafter referred to as '*the Rules*') vide Notification No. SOH (EV) 4-20/08 dated 11.12.2008 Annexure-'D'. Rule 4 thereof read with Schedule II has provided method of recruitment and appointment in the aforesaid Management Cadre. And for those who were then serving in the general cadre of the Health Department, a one-time exercise of appointment by way of *permanent transfer* was provided in Rule 10 with certain prescribed qualification.

4. This mechanism for induction by way of permanent transfer so prescribed in Rule 10 *ibid* was nevertheless a one-time exercise, and was not to be enjoyed or taken benefit of for all times to come. However, it seems that the way things have gone by, the induction by way of such one-time absorption (by way of permanent transfer) has been made to last and subsist forever. And because this had badly affected the progression, promotion, service carrier and prospects to flourish in their own cadre / track for those who are directly recruited / appointed through Public Service Commission, i.e. the appellant herein, they have been agitating their cause with solid and convincing reasons but to no avail so far.

5. Coming back to Rule 10 *ibid*, various Notifications and orders issued by Government of Khyber Pakhtunkhwa since its inception Annexure-'E' would show that ideally speaking induction by way of absorption (through permanent transfer) from General to

Management Cadre should have been stopped w. e. f. 18.10.2010. However, some of the respondents who, at the relevant and crucial time, were employed in other lucrative jobs / various projects of the Health Department, had decided to protract and drag the matter for years. And this object, they had achieved by way of dragging govt. into litigation at various fora. At the very outset Writ Petition No. 2382/2009 was filed in the Peshawar High Court, Peshawar, questioning the vires of the Rules. Said Writ Petition was dismissed in *limini* on 10.11.2009 Annexure-'F', whereby the departmental authorities were directed to decide the departmental representation so filed within a month. Identical orders were passed when august Peshawar High Court, Peshawar was approached by some of the respondents in COC No. 10/2010 in the aforesaid writ Petition, which contempt case was disposed of on 09.02.2010 Annexure-'G'.

6. Thereafter Service Appeal No. 13/2010 was preferred before this august Tribunal, which was decided on 03.01.2012 Annexure-'H' on the following terms;

"Section 10 of the said rules does not provide any cushion period and deny chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Service Rules, and to join Management Cadre if they succeeded in acquiring the requisite qualification as per the aforementioned Rules. This would however not entitle the appellants and others not having requisite qualifications for posting in the Management Cadre posts but only provide them cushion period and if they acquire the requisite qualification within 2 years from the date of the decision, they may opt and join

Management Cadre without effecting their seniority/ service".

7. The aforesaid decision of the Tribunal was assailed in the Supreme Court of Pakistan through Civil Appeals Nos. 320-324 of 2012 and Nos. 126-P to 130-P Of 2013, which appeals were decided on 03.11.2016 Annexure-'I', whereby the judgment of the Tribunal was maintained, and as to the issue of seniority it was held that it would be counted from the date when respondents join Management Cadre and not from any earlier period. Thereafter, a summary was initiated at the level of provincial government as to how an option of absorption as provided in Rule 10 *ibid* should be dealt with, and at last *the Rules* appeared to have been amended, on 10.05.2017 Annexure-'J', albeit not by the competent authority, and now a *proviso* was inserted in Rule 10 *ibid* only for the purposes of providing an opportunity '*to improve qualification*' for those in the general cadre who were there in service but did not have the prescribed minimum qualification on the date when Rules were initially promulgated, and then such officials of general cadre were to exercise option for absorption within a period of two years after fulfilling the qualification benchmark as prescribed. Thereafter, through advertisements and publications in various dailies Annexure-'K', respondents were asked to submit option for absorption in the Management Cadre, and upon receiving the same impugned order dated 07.05.2018 was issued thereby permanently absorbing the private respondents in the Management Cadre in various pay scales as mentioned therein.

8. It is pertinent to mention that two years cushion period as provided in the judgment dated 03.01.2012 of this august Tribunal as well as given in the *proviso* added in Rule 10 *ibid* was meant only for those who were in the continuous services of

the general cadre but did not have the requisite qualification at the relevant time so as to enable them to acquire the prescribed qualification during the cushion period and then to apply for absorption within the given time. This was clearly not meant to serve as a back door entry for those in the general cadre who at the relevant time did possess the requisite qualification at the time when *the Rules* were enforced back in 2008, but they did not, out of their own ulterior motives, opt for absorption when they were called on to do so back in the year 2009-10. This includes respondent no. 16 and 57 who were holding the requisite required qualification when *the Rules* were enforced on 11.12.2008. As to the respondent no.3, 4, 5, 8, 9, 10, 11, 13, 15, 17, 18, 20, 24, 26, 28, 31, 34, 36, 42, 48, 51, 53, 54, 55 and 56 they were serving in the General Cadre of the Health Department but they had acquired the requisite qualification thereafter have also been inducted in the Management Cadre through the impugned Notification. It is rather more exasperating to note that there are some of the respondents (Respondent No.6, 7, 12, 14, 19, 21, 22, 23, 25, 29, 30, 35, 37, 39, 40, 43, 47, 49, 50, 52, 58 and 59), who were not even in service and were inducted in General Cadre of Health Department long time after the issue of one time absorption of such general cadre doctors had arisen. Moreover for respondent no. 27, 32, 33, 38, 41, 44, 45, 46, 60 and 61 no record regarding qualification improvement was found available. These respondents had also been given a back door because they have recently joined the general cadre services as mentioned in the attached sheet Annexure-'L' showing their appointment dates, and the back door entry of absorption has been allowed to continue and flourish for all times to come. This particularly was not the intent and object of *Rule 10* of the original un-amended *Rules* and judgment of the August tribunal. And now by making

amendment therein *vide* Notification dated 10.05.2017, the real purpose and intent thereof appears to have been completely distorted and outraged.

9. On this very score the impugned Notification dated 10.09.2018 appears to be misconceived and illegal, because it has actually served as a back door entry for respondent No 3-61, as at the relevant time when *the Rules* were promulgated, on 11.12.2008, they either had the requisite qualification but not opted to go for the absorption in the Management Cadre, or did not had the qualification and acquired it later but not in the prescribed cushion period for improvement in qualification, or even those who were initially appointed in the general cadre after *the Rules* were promulgated.

10. More so, the impugned Notification dated 10.09.2018 or any other dispensation in the form of amending Notification No. SOH (E-V) 4-20/2017 dated 10.05.2017 are *prima facie* are illegal and contrary what has been ruled by the august Supreme Court of Pakistan in the matter of '*Contempt Proceeding against Chief Secretary Sindh and others*' reported in 2013 SCMR 1752, whereby not only similar inductions / appointments of civil servants from non-cadre posts to a cadre posts were held to be illegal but various legislations and Statutes of Govt. of Sindh allowing and protecting such absorption / induction were held to be *ultra vires* the Constitution. The idea behind such judicial pronouncement was that permanent absorption of non-cadre civil servant to cadre posts would affect promotion prospects, progression and service carrier of the cadre civil servant. Same is the case here, as most of the respondents from general clinical cadre, who have been absorbed in BPS-18 and above, have blocked all chances of progression and promotion for the

present appellant serving in BPS-17 as having been appointed in the Management Cadre by way of initial appointment as prescribed in *the Rules*.

11. It may also be stated at this juncture that in view of Art. 129 of the Constitution for the purposes of exercise of executive authority provincial govt. has been described as one exercised through *Chief Minister and the Cabinet*. Now, in this case Notification No. SOH (E-V) 4-20/2017 dated 10.05.2017 amending *the Rules* has been purportedly issued by the Govt. but without the concurrence of *Chief Minister and the Cabinet* both. The amendment thus brought in *the Rules* through this Notification does not exist in the eye of law and is *coram non judice*.

12. Having said all that, it is more than crystal clear that appellant has not been dealt with in accordance with law. Their departmental appeal too has been wrongly decided and relevant considerations to decide the same have been conveniently ignored. The indulgence of this august Tribunal is therefore all the more necessary and indispensable.

It is, therefore, prayed that on acceptance of this appeal this august Tribunal may be pleased to;

A. *Set-aside* and *quash* Notification No. SOH(E-V14-20/2018 dated 10.09.2018 by declaring the permanent absorption of Respondents 3-61 in the Management Cadre as illegal and *ultra vires*, and

B. *Declare* that Notification No. SOH (E-V) 4-20/2017 dated 10.05.2017 is *ultra vires* the Constitution of the Islamic Republic of Pakistan, 1973 with particular reference to its Art. 4, 9, 10-A, 25 and has also been issued without jurisdiction and is *coram non judice*, and / or

(11)

C. *Grant* any other relief considered just and appropriate in the given circumstances of the case.

Jalil
~~Appellant~~

Through

Jalil
Qazi Jawad Ehsanullah
Advocate Supreme Court

&

Umar
Umar Farooq
Advocate High Court

AFFIDAVIT

I Dr. Fahad Iqbal Son of Muhammad Iqbal Officers of Health Service Management Cadre (BPS-17) Government of Khyber Pakhtunkhwa Peshawar Affirm and declare on oath that the content of this service appeal is true and correct to the best of my knowledge, information and belief nothing has been cancelled to this Hon'ble Service Tribunal.

Jalil
DEPONENT

Jalil
8-2-19
Attested
Oath
Commissary
Peshawar Court

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No: _____ / 2019 .

Dr. Fahad Iqbal

Versus

Government of KP & Others

APPLICATION FOR GRANT OF RESTRAINING ORDER AGAINST
RESPONDENT No. 1 & 2 AND FOR SUSPENSION OF IMPUGNED
NOTIFICATIONS, AS AN INTERIM RELIEF

Respectfully Sheweth,

1. That the captioned appeal is pending adjudication before the honble tribunal, and is fixed for today
2. That the appellant through the instant appeal has challenged Notification No. SOH(E-V)4-20/2018 dated ~~10.09~~ 10.09.2018 so as to declare the absorption of respondent No. 3-~~60~~ as illegal and *ultra vires* and declaration to the effect that Notification No. SOH(E-V) 4-20/2017 dated 10.05.2017 is illegal to the constitution of Islamic Republic of Pakistan, 1973.
3. That inspite of the pendency of the appeal, the respondent No. 1 & 2 are making further orders of absorption/induction.
4. That at the moment the absorption/induction process requires to be stayed so as to avoid multiplicity of litigation.
5. That the captioned appeal has already been admitted and is fixed for final hearing.

- 6. That the applicant/appellant has got prima facie case in his favour.
- 7. That balance of convenience leans in favour of the applicant/appellant.
- 8. That if the impugned notifications are not suspended the applicant/appellant will suffer irreparable loss.

Prayer:-

It is therefore requested that on acceptance of instant application the impugned notifications may kindly be suspended and the respondents No. 1 & 2 be restrained from making any further absorption/induction orders in the Management Cadre of Health Services (Management) till the final disposal of the instant appeal.

[Signature]
Applicant/Appellant,

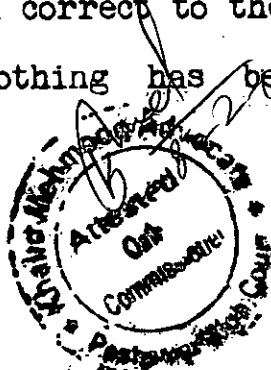
Through

[Signature]
QAZI JAWAD EHSANULLAH
Advocate Supreme Court of Pakistan

[Signature]
Umeer Farooq
Advocate High Court

AFFIDAVIT

Declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this hon'ble Tribunal.



[Signature]
Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. _____/2019

MEMO OF PARTIES

Dr. Fahad Iqbal
Son of Muhammad Iqbal
Officers of Health Service Management Cadre (BPS-17)
Government of Khyber Pakhtunkhwa Peshawar

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa
Through Chief Secretary
Civil Secretariat Peshawar
2. The Secretary Health
Government of Khyber Pakhtunkhwa
Civil Secretariat Peshawar
3. Khan Bahadar s/o Gul Akbar (BS-19)
4. Muhammad Usman Shah s/o Muhammad Zahir Shah (BS-18)
5. Shiraz Ahmad s/o Rashid Ahmad (BS-18)
6. Shafqatullah s/o Amir Hamza (BS-17)
7. Fayyaz Ali Roomi s/o Humayun Roomi (BS-17)
8. Muhammad Javed Khan s/o Shah Zaman Khan (BS-20)
9. Syed Gul Hussain Syed s/o Syed Shah Jehan (BS-18)

10. Wasiullah s/o Shakirullah (BS-18)
11. Jameel Ahmad s/o Abdullah (BS-18)
12. Farman Ali s/o Muhammad Naseem (BS-18)
13. Waseem Ahmad s/o Qazi Muhammad Saleem (BS-19)
14. Irfanuddin s/o Habibul Mukhtar (BS-17)
15. Shaukat Saleem Khan s/o Saleem Khan (BS-18)
16. Sardar Aurangzeb s/o Sardar Muhammad Ashraf (BS-19)
17. Shah Faisal s/o Ronaq Zaman (BS-19)
18. Zahir Shah s/o Bahadar Khan (BS-19)
19. Irshad Ali s/o Muhammad Razzaq (BS-17)
20. Muhammad Farooq Gul s/o Gul Muhammad (BS-18)
21. Muhammad Alamgir s/o Nisar Muhammad (BS-17)
22. Bakht Belanad s/o Fazal Rehman (BS-17)
23. Khalid Khan s/o Shah Muhammad Khan (BS-17)
24. Jamaluddin s/o Muhammad Din (BS-18)
25. Sherin Muhammad s/o Bacha Muhammad (BS-17)
26. Saeedullah Khan s/o Mukarram Khan (BS-19)
27. Erum Qayum d/o Syed Qayum (BS-17)
28. Nazar Muhammad s/o Bakht Sar (BS-18)
29. Zeeshan s/o Said Ali Khan (BS-17)
30. Fakhr-e-Alam s/o Sultan Room (BS-17)
31. Hammad s/o Said Badshah (BS-18)
32. Muhammad Arif Khan s/o Amir Nawaz Khan (BS-18)
33. Waqar Ahmad s/o Mehboob Ali (BS-17)

- 34.Sagheer Ahmad s/o Noor Elahi (BS-18)
- 35.Ikramullah s/o Yar Jan (BS-17)
- 36.Muhammad Sadiq s/o Muhammad Anis (BS-18)
- 37.Humera Semab d/o Malik Khan Muhammad (BS-17)
- 38.Kamran Yousaf s/o Muhammad Yousaf (BS-18)
- 39.Muhammad Wajid Ali s/o Muhammad Anam (BS-17)
- 40.Naseeb Gul s/o Haseeb Gul (BS-17)
- 41.Muhammad Mudassar Iqbal Khan s/o Muhammad Iqbal Khan (BS-17)
- 42.Naik Muhammad s/o Khwaja Muhammad (BS-18)
- 43.Sohrab Ali s/o Azizullah Khan (BS-17)
- 44.Noor Islam s/o Sheraz Gul (BS-17)
- 45.Saeeda Bibi d/o Daud Khan (BS-18)
- 46.Muhammad Hayat s/o Muhammad Amir (BS-19)
- 47.Muhammad Sajjad s/o Muhammad Saeed (BS-17)
- 48.Muhammad Arif s/o Gulbar Khan (BS-18)
- 49.Attaullah s/o Khair Muhammad (BS-17)
- 50.Khizar Hayat s/o Pir Muhammad Khan (BS-18)
- 51.Jamshid Saeed s/o Saeed Ahmad (BS-18)
- 52.Sallem Khan s/o Muhammad Akbar Khan (BS-17)
- 53.Tariq Khan s/o Rasool Khan (BS-17)
- 54.Muhammad Tahir Khan s/o Faiz Muhammad Khan (BS-18)
- 55.Muhammad Umar s/o Gul Muhammad (BS-18)
- 56.Ghani-ur-Rehman s/o Abdul Ghani (BS-19)
- 57.Mian Habib-ur Rehman s/o Mian Fazlur Rehman (BS-19)

58. Syed Rehmat Ali s/o Mian Gul Zada (BS-17)

59. Muhammad Kashif Shahid Khan s/o Jamandos Khan (BS-17)

60. Shahzada Muhammad Haider-ul-Mulk
s/o Shahzada Muta-ul-Mulk (BS-19)

61. Daud Khan s/o Muhammad Rahim Khan (BS-18)

Address:- All General Cadre Doctors newly inducted into Health Management Cadre, Health Department Khyber Pakhtunkhwa Care of DG Health Office.

.....RESPONDENTS

Jul mi
Appellant

Through

Umar
Umar Farooq
Advocate High Court



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 11th April, 2016

Annexure A
11
18

NOTIFICATION

No. SOH(EV)4-20/2016

The Competent Authority, on the recommendation of the Khyber Pakhtunkhwa Public Service Commission is pleased to order the appointments of the following officers of Management Cadre (BS-17) on regular basis with immediate effect.

S#	Name of Officer/Doctor	Father Name	Domicile
1	Dr. Kifayatullah	Muhammed Ismail	Swat
2	Dr. Fahad Iqbal	Muhammad Iqbal	Mardan
3	Dr. Liaqat Ali	Hassan Ahmad	Swat
4	Dr. Inayatur Rehman	Abdul Rauf	Bajaur Agency
5	Dr. Hamza Abbas Khan	Muhammad Abbas Khan	Mardan

2. Consequent upon the above, the following posting/ transfers are hereby ordered.

S.No	Name	From	TO
1.	Dr. Kifayatullah (BS-17)	On arrival from Public Service Commission	DHIS Coordinator DHO Office Swat against the vacant post of (BS-17) in the Management Cadre.
2.	Dr. Fahad Iqbal (BS-17)	On arrival from Public Service Commission	DHIS Coordinator DHO Office Mardan against the vacant post of (BS-17) in the Management Cadre.
3.	Dr. Liaqat Ali (BS-17)	On arrival from Public Service Commission	DHIS Coordinator DHO Office Malakanad against the vacant post of (BS-17) in the Management Cadre.
4.	Dr. Inayatur Rehman (BS-17)	On arrival from Public Service Commission	Services placed at the disposal of Director Health Services FATA for further posting against the vacant post of (BS-17) in the Management Cadre.
5.	Dr. Hamza Abbas Khan (BS-17)	On arrival from Public Service Commission	EPI Coordinator DHO Office Mardan against the vacant post of (BS-17) in the Management Cadre.

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- a. They shall be governed by the Khyber Pakhtunkhwa Civil Servant Act, 1973 and the rules made there-under.
- b. They shall, initially, be on probation for a period of one year extendable for further one year.
- c. Their services shall be liable to termination at any time without assigning any reason before the expiry of the period of probation/extended period of probation, if their performance during this period is not found satisfactory. In such an event, they will be given one month prior notice of termination from service or one month pay in lieu thereof. In case they wish to resign at any time, one month prior notice shall be necessary or in lieu thereof, one month's pay shall be forfeited.
- d. They will not be entitled to any TA/DA on their first appointment as Management Cadre (BS-17) officers.

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa.

Endst. of even No. & Date.

Copy forwarded to the :-

1. Accountant General Khyber Pakhtunkhwa.
2. PSO to Chief Secretary Khyber Pakhtunkhwa.
3. Director General Health Services, Khyber Pakhtunkhwa.
4. Director Health Services FATA, Peshawar.
5. District Health Officer Swat/Mardan.
6. District Accounts Officer Swat/Mardan.
7. Agency Accounts Officer Bajaur Agency.
8. PS to Minister for Health Khyber Pakhtunkhwa.
9. PS to Secretary Health Department.
10. All the Section Officers in Health Department.
11. Computer Programmer Health Department.
12. Doctors/officers concerned.

Waseem Ahmad Khan
11/4/16

(WASEEM AHMAD KHAN)
SECTION OFFICER(EV)

[Signature]
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District Health Department - Mardan
DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)
Ph: # (0937) 9230030 Fax: # (0937) 9230349
Email: mardandho@gmail.com

13/04

20

OFFICE ORDER

On their posting of Management Cadre (BS-17) vide Secretary Health Govt. of Khyber Pakhtunkhwa Notification No. SOH(EV)4-20/2016 dated 11th April 2016, Dr. Fahad Iqbal (BS-17) as DIHS Coordinator and Dr. Hamza Abbas Khan (BS-17) as EPI Coordinator at DHO Office Mardan.

Moreover, Dr. Abdul Wahab DIHS Coordinator and Dr. Muhammad Tahir EPI Coordinator of General Cadre (BS-17) working at DHO Office Mardan are adjusted against the vacant posts of MOs at THQ Hospital Takht Bhai with immediate effect.

District Health Officer
Mardan

No. 3884-92/DHO

dated Mardan the 13 / 04/2016

Copy forwarded to the:

1. Secretary Health, Govt. of Khyber Pakhtunkhwa, Peshawar for information w/ref: to Notification No. quoted above.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Nazim Mardan.
4. Deputy Commissioner Mardan.
5. District Comptroller of Accounts, Mardan.
6. Medical Superintendent THQ Hospital Takht Bhai.
7. Doctors concerned.
8. DIHS Cell, DHO Office Mardan.
9. Accountant DHO Office Mardan.

District Health Officer
Mardan

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Annexure (B)

21



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 10th September, 2018

NOTIFICATION

No.SOH(E-V)4-20/2018 In Continuation of this Department Notification of even number dated 07th May, 2018, the competent authority (Chief Minister Khyber Pakhtunkhwa) is pleased to induct the following doctors of the General Cadre, on their option, into the Health Management Cadre having the requisite qualification.

2. Their inter se seniority will be determined in the new Cadre in terms of Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rule-17 of the Appointment, Promotion Transfer Rules, 1989.

S.#	NAME OF DOCTOR	FATHER NAME
1.	Dr.Khan Bahadar BS-19	Gul Akbar
2.	Dr.Muhammad Usman Shah BS-18	Muhammad Zahir Shah
3.	Dr.Shiraz Ahmad BS-18	Rashid Ahmad
4.	Dr.Shafqatullah BS-17	Amir Hamza
5.	Dr.Fayyaz Ali Roomi BS-17	Humayun Roomi
6.	Dr.Muhammad Javed Khan BS-20	Shah Zaman Khan
7.	Dr.Syed Gul Hussain Syed BS-18	Syed Shah Jehan
8.	Dr.Wasiullah BS-18	Shakirullah
9.	Dr.Jameel Ahmad BS-18	Abdullah
10.	Dr.Farman Ali BS-18	Muhammad Naseem
11.	Dr.Waseem Ahmad BS-19	Qazi Muhammad Saleem
12.	Dr.Irfanuddin BS-17	Habibul Mukhtar
13.	Dr.Shaukat Saleem Khan BS-18	Saleem Khan
14.	Dr.Sardar Aurangzeb BS-19	Sardar Muhammad Ashraf
15.	Dr.Shah Faisal BS-19	Ronaq Zaman
16.	Dr.Zahir Shah BS-19	Bahadar Khan
17.	Dr.Irshad Ali BS-17	Muhammad Razaq
18.	Dr.Muhammad Farooq Gul BS-18	Gul Muhammad
19.	Dr.Muhammad Alamgir BS-17	Nisar Muhammad
20.	Dr.Bakht Belanad BS-17	Fazal Rehman
21.	Dr.Khalid Khan BS-17	Shah Muhammad Khan
22.	Dr.Jamaluddin BS-18	Muhammad Din
23.	Dr.Sherin Muhammad BS-17	Bacha Muhammad
24.	Dr.Saeedullah Khan BS-19	Mukarram Khan
25.	Dr.Erum Qayum BS-17	Syed Qayum
26.	Dr.Nazar Muhammad BS-18	Bakht Sar
27.	Dr.Zeeshan BS-17	Said Ali Khan
28.	Dr.Fakhr-e-Alam BS-17	Sultan Room
29.	Dr.Hammad BS-18	Said Badshah
30.	Dr.Muhammad Arif Khan BS-18	Amir Nawaz Khan
31.	Dr.Waqar Ahmad BS-17	Mehboob Ali
32.	Dr.Sagheer Ahmad BS-18	Noor Elahi
33.	Dr.Ikramullah BS-17	Yar Jan
34.	Dr.Muhammad Sadiq BS-18	Muhammad Anis
35.	Dr.Humera Semab BS-17	Malik Khan Muhammad
36.	Dr.Kamran Yousaf BS-18	Muhammad Yousaf
37.	Dr.Muhammad Wali Ali BS-17	Muhammad Anam
38.	Dr.Naseeb Gul BS-17	Haseeb Gul
39.	Dr.Muhammad Mudassar Iqbal Khan BS-17	Muhammad Iqbal Khan

Section Officer
Health Department
Khyber Pakhtunkhwa

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40.	Dr.Naik Muhammad BS-18	Khawaja Muhammad
41.	Dr.Sohrab Ali BS-17	Azizullah Khan
42.	Dr.Noor Islam BS-17	Sheraz Gul
43.	Dr.Saeeda Bibi BS-18	Daud Khan
44.	Dr.Muhammad Hayat BS-19	Muhammad Amir
45.	Dr.Muhammad Sajjad BS-17	Muhammad Saeed
46.	Dr.Muhammad Arif BS-18	Gulbar Khan
47.	Dr.Attaullah BS-17	Khair Muhammad
48.	Dr.Khizar Hayat BS-18	Pir Muhammad Khan
49.	Dr.Jamshid Saeed BS-18	Saeed Ahmad
50.	Dr.Sallem Khan BS-17	Muhammad Akbar Khan
51.	Dr.Tariq Khan BS-19	Rasool Khan
52.	Dr.Muhammad Tahir Khan BS-18	Faiz Muhammad Khan
53.	Dr.Muhammad Umar BS-18	Gul Muhammad
54.	Dr.Ghani-ur Rehman BS-19	Abdul Ghani
55.	Dr.Mian Habib-ur-Rehman BS-19	Mian Fazlur Rehman
56.	Dr.Syed Rehmat Ali BS-17	Mian Gul Zada
57.	Dr.Muhammad Kashif Shahid Khan BS-17	Jamandos Khan
58.	Dr.Shahzada Muhammad Haider-ul-Mulk BS-19	Shahzada Muta-ui-Mulk
59.	Dr.Daud Khan BS-18	Muhammad Rahim Khan

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. of Even No. & Date.

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. PSO to Chief Minister Khyber Pakhtunkhwa Peshawar
3. PSO to Chief Secretary Khyber Pakhtunkhwa
4. Director General Health Services, Khyber Pakhtunkhwa
5. Director General Provincial Health Services Academy Peshawar
6. All Medical/Hospital Directors of MTIs in Khyber Pakhtunkhwa
7. All District Health Officers in Khyber Pakhtunkhwa
8. All Medical Superintendents in DHQ Hospitals Khyber Pakhtunkhwa
9. All District Accounts Officers in Khyber Pakhtunkhwa
10. PS to Minister Health Khyber Pakhtunkhwa.
11. PS to Secretary Health Department
12. PS to Special Secretary, Health Department.
13. Manager Govt Printing Press Khyber Pakhtunkhwa
for publishing in the official gazette
14. Computer Programmer Health Department.
15. Doctor concerned.

ATTESTED

(MUHAMMAD IRFANUDDIN)
SECTION OFFICER(E-V)

Section Officer (E-V)
Health Department
Khyber Pakhtunkhwa

I.No. 1759
Date 12.10.18
Secretary Health

Amended (C)

(Departmental Appeal)

Date: 09.10.2018

To,

The Secretary

Health Department Khyber Pakhtunkhwa

23

Subject: Departmental Appeal against notification No. SOH(E-V)4-20/2018 dated 10.09.2018

The Health Department Khyber Pakhtunkhwa in continuation to the notification No. SOH(E-V)4-20/2018 dated 07.05.2018 inducted 59 doctors of General Cadre into the Health Management Cadre vide notification of even number dated 10.09.2018 (Annex-I). The appellants in this departmental representation are members of service of health management cadre BPS-17 who were initially inducted into the cadre by successfully passing Khyber Pakhtunkhwa Public Service Commission examination, under the Khyber Pakhtunkhwa Health (Management) Service Rules 2008. The same appellants submitted departmental appeal against the notification SOH(E-V)4-20/2018 dated 07.05.2018, which was answered by the Health Department in which genuine plea of the appellant was turned down. Feeling aggrieved the appellants submitted ten service appeals in Khyber Pakhtunkhwa Services Tribunal in June 2018 (Annex-II), as a result of which notice has already been issued to the Health Department to submit the reply/comments on the genuine points raised in the service appeals. However instead of submitting comments in the honorable Services Tribunal Khyber Pakhtunkhwa and taking the case to its logical conclusion, Health Department in continuation to the notification No. SOH(E-V)4-20/2018 dated 07.05.2018 inducted 59 doctors of General Cadre into the Health Management Cadre vide notification of even number dated 10.09.2018.

It is, therefore, prayed that on acceptance of this departmental appeal, the Health Department may please *Set-aside* and *quash* Notification No. SOH(E-V)4-20/2018 dated 10.09.2018 by declaring the permanent absorption of doctors of general cadre into the Management Cadre as illegal, *ultra vires*, void ab initio.

Submitted by:

1. Dr. Syed Irfan Ali Shah

2. Dr. Altaullah Khan

3. Dr. Fahad Iqbal

4. Dr. Inayat ur Rehman

5. Dr. Hamza Abbas Khan

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Annexure D

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
HEALTH DEPARTMENT.

24

NOTIFICATION

~~Annexure~~

~~(S)~~ ~~(S)~~

Peshawar, dated the 11.10.2008.

No. SOH(FV) 4-20/08. -In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province is pleased to make the following rules, namely:

THE NORTH-WEST FRONTIER PROVINCE
HEALTH (MANAGEMENT) SERVICE RULES, 2008.

PART-I
GENERAL

1. Short title and commencement.---(1) These rules may be called the North-West Frontier Province Health (Management) Service Rules, 2008.
 - (2) They shall come into force at once.
2. Definitions.---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-
 - (a) "appointing authority" in relation to a post, means the respective authority specified in para 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;
 - (b) "Commission" means the North-West Frontier Province Public Service Commission;
 - (c) "Cadre" means Health Management Cadre;
 - (d) "Government" means the Government of the North-West Frontier Province;
 - (e) "Governor" means the Governor of the North-West Frontier Province;
 - (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
 - (g) "Member of Service" means officer belonging to health management cadre as reflected in schedule I, II & III;
 - (h) "PHSA" means Provincial Health Services Academy;

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- (i) "Post" means a post specified in the Schedule-I of the rule and such other posts as may, from time to time, be determined by the Government;
 - (j) "Schedule" means the schedule appended to these rules; and
 - (k) "Service" means the North-West Frontier Province Health (Management) Service.

PART-II
RECRUITMENTS

3. Number and nature of posts.---The Service shall comprise the posts specified in the Schedule -I and such other posts as may be determined by Government from time to time.

4. Method of appointment.---Method of appointment, qualifications and other conditions applicable to a post in the Service shall be such as laid down in column 3 to 5 of the Schedule -II.

5. Syllabus and examination for appointment by initial recruitment.---Syllabus and standard for competitive examination for appointment by initial recruitment to the post in BS-17 shall be, as laid down in Schedule-III.

PART-III
CONDITIONS OF SERVICE

6. Pre-Service Training and Departmental Examinations.---(1) On appointment to a post borne on the service in BS-17, every officer so appointed shall complete six months mandatory training including attachment as specified in Schedule-IV.

(2) The training shall be followed by departmental examination to be conducted by Provincial Health Services Academy, which shall be the part of probation period.

7. In-Service Training.---Selection for in-service trainings which are linked with promotion shall be done on seniority basis and those at verge of promotion shall be given priority.

A 8. Private Practice.---(1) No Member of Service shall be allowed private practice, in lieu he shall be entitled to non-practicing allowance, at such rate as may be prescribed by Government.

(2) In case of default, the Member shall be liable to disciplinary action under the law.

9. General rule.---In all matters not expressly provided for in these rules, Members of Service shall be governed by such rules as have been or may hereafter be prescribed by Government from time to time:

Provided that in case of a dispute the Government shall have the final authority to decide the matter in any manner it deems fit.

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10. One time exercise (1) Notwithstanding anything contained in the provisions of these rules, Government shall, as one time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning and Management or equivalent Master's Degree/Diploma in Health Management or allied disciplines and opt for absorption:

Provided that the option once exercised shall be final.

(2) Where the number of officers opting for absorption in Management Cadre is more than the available positions in respective grade, the selection under one time exercise shall be done on the basis of seniority-cum-merit only in the respective grade:

Provided that for determining the suitability of the officers, additional relevant qualifications, training/courses in the relevant field and managerial experience, as such, shall be taken into consideration.

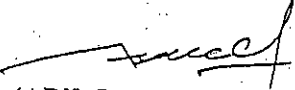
11. Deletion of posts Posts reflected in the schedule-I shall stand deleted from any other service rules for the time being in force and such rules shall be deemed to have been amended to the above extent.


SECRETARY TO GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Endst. of even No. & Date.

Copy to:-

1. The Chairman, Public Service Commission, NWFP, Peshawar.
2. PS to Minister for Health, NWFP.
3. PS to Chief Secretary, NWFP.
4. PS to Additional Chief Secretary, NWFP.
5. PS to Secretary E&A Department.
6. PS to Secretary Law Department, NWFP.
7. PS to Secretary Finance Department, NWFP.
8. PS to Secretary Health.
9. PA to DGHS NWFP.
10. Computer Programmer, Health Department.


(ADIL SAEED SAFI)
SECTION OFFICER-V


ADIL SAEED

SCHEDULE - I
(Management Cadre)

27

Members of Service in BPS-20:

S.No.	Nomenclature of post.	Number of post.
1.	Director General Health Services, NWFP, Peshawar.	01
2.	Director (Admn) DGHS NWFP Peshawar.	01
3.	Director Health Services DGHS NWFP Peshawar.	01
4.	Medical Superintendent Govt. LRH/KTH/HMC Peshawar.	03
5.	Medical Superintendent DHIQ.Hospitals Kohat, Bannu, DIKhan, Mardan, Swat, Abbottabad.	06
6.	Medical Superintendent, Mufti Mehmood Memorial Hospital DIKhan.	01
7.	Medical Superintendent, Khalifa Gul Nawaz Hospital Bannu.	01
8.	Medical Superintendent, Govt. City Hospital Kohat Road Peshawar.	01
9.	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar.	01
10.	Medical Superintendent, Ayub Teaching Hospital Abbottabad.	01
11.	Executive District Officer (Health) Peshawar.	01
12.	Executive District Officer (Health) Swat.	01
13.	Executive District Officer (Health) Mardan.	01
14.	Executive District Officer (Health) Kohat.	01
15.	Director Provincial Health Services Academy, Peshawar.	01
16.	Principal Public Health School Hayatabad Peshawar.	01
17.	Principal Public Health School Abbottabad.	01
18.	MS Mardan Medical Complex.	01
	Total:	25

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SCHEDULE - I
(Management Cadre)

Members of Service in BPS-19:

S.No.	Nomenclature of post.	Number of post.
1.	Executive District Officers (Health) in NWFP.	20
2.	DDHOs/Coordinators EDO(H) Offices in NWFP.	31
3.	Medical Superintendent DHQ. Hospitals in NWFP.	17
4.	Medical Superintendent Govt. ID Children Hospital Peshawar.	01
5.	Medical Superintendent Police/Services Hospital Peshawar.	01
6.	Medical Superintendent Mental & General Hospital Dadar Manshara.	01
7.	Medical Superintendent. City Hospital Lakki Marwat.	01
8.	DMS Women and Children Hospital DIKhan.	01
9.	DMS in DHQ. Hospital, Mardan, Swat, Nowshera, Haripur, Abbottabad and DIKhan.	06
10.	District TB Control Officer, Peshawar, Mardan, Swabi, DIKhan, Haripur, Battagram, Manshara, Swat, Chitral, Upper Dir.	10
11.	Deputy Administrator Mardan Medical Complex Mardan.	01
12.	MS/Incharge Civil/THQ. Hospital Tangi, Shabqaddar, Dargai, Pabbi, Matta, Darosh (Chitral), Rehana, Kulachi.	08
13.	SMO I/C Women & Children Hospital Bannu.	01
14.	Vice Principal Paramedical Institute, Abbottabad, DIKhan, Swat.	03

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15.	SMO (Health) Municipal Corporation Peshawar.	01
16.	Deputy Directors in DGHS NWFP Peshawar.	05
17.	DMS (Stores) Govt. LRH/KTH Peshawar.	02
18.	Principal Postgraduate Paramedical Institute Peshawar.	01
19.	Deputy Director (HRD) PHSA NWFP.	01
20.	Deputy Director (Monitoring and Research) PHSA NWFP.	01
21.	Deputy Director (Management) PHSA NWFP Peshawar.	01
22.	Course Directors (PH/CDC and Management, Trg. & Development) PHSA NWFP.	02
23.	DD HRD / Vice Principals DHDC Bannu, Chitral, Mardan, Abbottabad and Swat.	05
24.	DMS, Khalifa Gul Nawaz Hospital Bannu.	01
25.	DMS Ayub Teaching Hospital Abbottabad.	01
26.	Director Health Services FATA Peshawar.	01
27.	MS AHQ, Hospital Parachinar, Ghallanai, Wana, Bajaur.	04
	TOTAL	128

Note: All Program Manager/Provincial Coordinators of Vertical Programs/ Projects & FATA Health positions would be filled from amongst Management Cadre.

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SCHEDULE - I
(Management Cadre)

Members of Service in BPS-18:

S.No.	Nomenclature of post.	Number of post.
1.	Incharge Civil/THQ Hospital Ziarat Kaka Sahib Nowshera, Rustam, Lund Khawar Mardan, Topi Swabi, Kalu Khan Swabi, Shakar Darra (Kohat), Thall Hangu, Serai Naurang Lakki Marwat, Balakot Mansehra and Thana Malakand Agency.	10
2.	Senior Instructors DHDCs in NWFP (Abbottabad, Swat and D.I. Khan).	03
3.	Instructors in Public Health School, Hayatabad Peshawar and D.I. Khan.	03
4.	Instructor Public Health School, Nishtarabad Peshawar.	01
5.	Epidemiologist Govt. LRF and HMC Peshawar.	02
6.	Course Director (MCH & Family Planning) PHSA NWFP.	01
7.	Epidemiologist PHSA NWFP.	01
8.	DMS Govt. Maternity Hospital Peshawar.	01
9.	DMS (Admn) KTH Peshawar.	01
10.	District TB Control Officer, Abbottabad, Kohistan, Nowshera, Charsadda, Malakand, Buner, Shangla, Lower Dir, Kohat, Hangu, Karak, Bannu, Lakki Marwat and Tank.	14
11.	Deputy Director Admn./Deputy Director Dev.(02), Assistant Director EPI(02), DIIS FATA.	04
12.	Agency Surgeon Mohmand, Bajaur, Orakzai, Kurram, NW Agency, SW Agency, Khyber, FR Peshawar, FR Kohat, FR DIKhan, FR Bannu.	10
13.	DMS(Admn), DMS(Stores) DMS (Dispensary) at Ayub Teaching Hospital Abbottabad.	03
14.	Assistant Directors in Directorate General Health Services, NWFP, Peshawar.	13
15.	ADHO FATA Health.	4
	Total:	71

Note: All Program/Project positions & FATA Health positions in BPS-18 would be filled from amongst Management Cadre.

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Members of Service in BPS-17:

S.No.	Nomenclature of post.	Number of post.
1.	Health Educator Directorate General Health Services. NWFP Peshawar.	01
2.	Assistant Director (Homeo & Tibb) AD Personnel, AD Administration Directorate General Health Services. NWFP. Peshawar.	04
3.	MO Trainer DHDC (02 each) in Mardan, Kohat, Bannu, Dikhan, Abbottabad, Swat and Chitral.	14
4.	Instructors in PHSA, NWFP.	03
5.	Evaluation Officer PHSA, NWFP.	01
6.	Instructors Public Health School, Hayatabad Peshawar and Abbottabad.	03
7.	Secretary Medical Faculty, NWFP Peshawar.	01
8.	DMS Maintenance HMC Peshawar.	01
9.	DMS Stores HMC Peshawar.	01
10.	DMS Casualty, OPD and OTs HMC Peshawar.	01
11.	Coordinator EDO(H) Offices in NWFP.	71
	Total:	101

Note: All Program/Project positions in BPS-17 & FATA Health positions would be filled from amongst Management Cadre.

Ar
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1	2	3	4	5
4.	Members of Service (BS-18).	(a) MBBS/BDS or equivalent qualification, from any institute recognized by the PMDC; and (b) (i) Doctorate/M.Phil in Public Health or Health Administration or Health Management or equivalent qualification from any University recognized by the H.E.C or PMDC; or (ii) Master in Public Health/Health Administration/Health Management, allied discipline or equivalent qualification from any University recognized by H.E.C or PMDC with 5 years experience in the relevant field.	30-40 years	(i) Eighty percent by promotion, on the basis of seniority cum-fitness, from amongst Members of the Service in BS-17 having at least five years service as such, with two months in service training in Management from a recognized institution or PHSA; and (ii) twenty percent by initial recruitment.
5.	Members of Service (BS-17).	(a) MBBS/BDS or equivalent medical qualification from any institute recognized by PMDC; and (b) Master in Public Health/Health Administration/Health Management or equivalent qualification from any institute recognized by H.E.C or PMDC.	25-32 years	By initial recruitment.

ATTESTED

39

SCHEDULE - II

S. No.	Nomenclature of post.	Qualification for appointment by initial recruitment.	Age limit.	Method of Appointment.
1	Director General Health Services (BS-20).			By transfer, on the basis of selection on merit, from amongst the ten senior most Members of the Service in (BS-20).
2	Members of Service (BS-20).			<p>Note: Preference will be given to those having additional postgraduate relevant qualifications or specialized courses.</p>
3	Members of Service (BS-19).	<p>PhD/M.Phil in Health Management, Hospital Administration, Health Planning Policy Formulation or allied disciplines with Eight years experience in management field. OR Master's Degree in Public Health or Hospital Administration or Health Planning Management or Health Planning Policy Formulation or equivalent, with twelve years experience in the relevant field.</p>	55-50 years	<p>(a) By promotion, on the basis of selection on merit, from amongst the Members of Service in (BS-19) with 5 years service as such or 17 years service in (BS-17) and above; and</p> <p>(b) four months advance in-service training in Management from a recognized institution or PHSA NWFP.</p> <p>(i) (a) Eighty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Members of the Service (BS-18) with 7 years service, as such or twelve years service in (BS-17) and above;</p> <p>(b) three months prescribed in-service training in Management from a recognized institution or PHSA; and</p> <p>(ii) fifteen percent by initial recruitment.</p>

ATTESTED

670
23/6/09

NO.SOH(EV)4-20/08
Dated Peshawar the 20.6.09

11)

To:

The Director General Health
Services, NWFP, Peshawar.

Annexure (E)

SUBJECT: FORMATION OF MANAGEMENT CADRE IN THE HEALTH DEPARTMENT.

34

I am directed to refer to the subject noted above and to state that option may be sought from the doctors having the required qualification for absorption in the Management Cadre through wide circulation amongst all as required under the Rules-10 of NWFP Health (Management) Services Rules-2008.

It is clarified that the option exercised, confer no right for in the said cadre. Attention is invited to Rules-10 of the rules referred above.

It is therefore requested that the list of qualified doctors opting for management cadre in accordance with their respective grades may be furnished to this department within a period of one month positively.

Muhammad Qasim
(MUSAMMAD QASIM)
SECTION OFFICER-V

Copy to:

PS to Secretary Health.

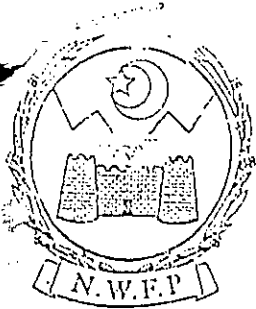
SECTION OFFICER-V

Personnel-I

25/6/09

B.S.P.
26/6

Q
ATTESTED



DIRECTORATE GENERAL HEALTH SERVICES
GOVERNMENT OF N.W.F-P PESHAWAR.

Office Ph# 091-9210269

Exchange# 091-9210187

091-9210196

Fax # 091-9210230

No: 114/5-532-1

Dated: 30/01/2009

35

To,

1. The Principal,
Gomal Medical College D.I.Khan, Bannu Medical College Bannu,
KMC/ KCD/ KGMC Peshawar, SMC Swat, AMC Abbottabad.
2. The Chief Executive,
KTH/ LRH/ MMC Peshawar/ ATH Abbottabad
3. The Director PHSA, Peshawar
4. The Director Health Services FATA, Peshawar
5. All EDOs (Health) in NWFP.
6. All Agency Surgeons, NWFP FATA.
6. The Deputy Director (Personnel) DGHS NWFP, Peshawar
7. All Medical Superintendents of Hospitals in NWFP
8. All Provincial Programme Managers/ Provincial Coordinators/
Project Directors in the Health Department.
9. Chief HSRU Health Secretariat NWFP Peshawar

may
M

Subject: - FORMATION OF MANAGEMENT CADRE IN THE HEALTH DEPARTMENT

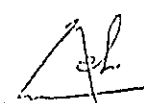
Memo,

As the formation of Management Cadre in the Health Department is going to be implemented very soon and the Govt. of NWFP Health Department, has directed to get option from the doctors who fulfill the qualification under the rules-10 of the NWFP Health Management Services rules-2008 notified on 11.12.2008.

According to rules-10 of Health Management Cadre, the doctors having the following qualification can opt.

01. Master of Public Health (MPH)
02. Postgraduate Diploma in Public Health (DPH)
03. Postgraduate Diploma in Hospital Administration (DHA)
04. Postgraduate Diploma in Health Planning & Management (DHPM)
05. Or Equivalent Master's Degree/ Diploma in Health Management or allied disciplines.

You are requested to furnish the written option of the doctors opting for Management Cadre alongwith their respective grade within a week's time positively through Fax No. 091-9210230.


DIRECTOR ADMINISTRATION
DIRECTORATE GENERAL HEALTH
SERVICES NWFP, PESHAWAR

Cc:

The Secretary to Govt. of NWFP Health Department Peshawar for information with reference to their letter No.SOH(EV)4-20/08 dated 20.06.2009.


ATTESTED

DIRECTORATE GENERAL HEALTH SERVICES
GOVERNMENT OF N.W.F-P PESHAWAR.

Office Ph# 091-9210269

Exchange# 091-9210187

091-9210196

Fax # 091-9210230

No: 22738/E-1

Dated: 14/10/2009

[Handwritten signatures and initials]

36

To

The Secretary to Government of NWFP,
Health Department Peshawar.

Subject: FORMATION OF MANAGEMENT CADRE IN HEALTH DEPARTMENT

Dear Sir,

Reference your office letter NO. SOH (E) 4-20/08 dated 20.06.2009
It is to inform you that all general cadre doctors were informed about the formation of Management cadre in Health Department through their heads of institutions by this office letter NO- 21413-532/E- dated 30.06.2009 through registered letters, faxes, telephones and mobile phones. Copy of the same letter has already been sent to your good office.

The options as well as necessary required documents in respect of above mentioned cadre under Rule-10 of Health Management Services Rules-2008, have been received by this Directorate from MOs, SMOs, Dental Surgeons and the final list of options is submitted to your kind honour according to existing seniority of GDMOs and Dental Surgeons as Annexure A, B, C, D & E for the needful at your end please.

[Handwritten signature]

DIRECTOR GENERAL HEALTH SERVICES NWFP, PESHAWAR

14/07

[Handwritten signature]
ATTESTED



V.
GOVERNMENT OF NWFP
HEALTH DEPARTMENT

NO.SOH(EV)4-20/07
Dated Peshawar the 19.08.2009

To

The Director General,
Health Services, NWFP,
Peshawar.

8721
20/8/09

37

SUBJECT: FORMATION OF MANAGEMENT CADRE IN HEALTH DEPARTMENT:

I am directed to refer to your letter No. 22738/E.I dated 14.07.2009 on the subject noted above and to say that the tentative seniority of SMOs of Management Cadre as well as General Cadre from bottom to top may be prepared separately and circulate amongst the officers for their information and objection, if any. The appeals pertaining to the objection on the seniority if received may be decided in accordance with the rules/regulation and thereafter a final/undisputed seniority may be notified for information concerned.

2. After completion of the whole process the case of promotion of SMOs may be furnished to this department for further processing/consideration of PSB.

3. The case may please be given priority.

AZC (M)
20/8/09

(MUNAMMAD QASIM)
SECTION OFFICER-V

ATTESTED



DIRECTORATE GENERAL HEALTH SERVICES
GOVERNMENT OF N.W.F-P PESHAWAR.

Office Ph# 091-9210269
Exchange# 091-9210187
091-9210196
Fax # 091-9210230

38

No. 35421-502/E-I

Dated Peshawar the 27 /08/2009

To,

1. All Chief Executives of Teaching Hospitals in NWFP
2. All Principal of Medical Colleges in NWFP
3. The Director PHSA NWFP Peshawar
4. The Director Health Services, FATA, Peshawar
5. The Chief HSRU Health Department, NWFP, Peshawar
6. All Provincial Programme Managers/ Provincial Coordinators/ Project Directors in Health Department, NWFP
7. All Executive District Officers (Health) in NWFP
8. All Medical Superintendents of Hospitals in NWFP

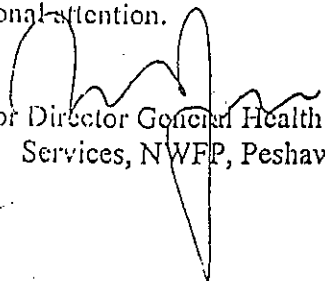
SUBJECT:- FORMATION OF MANAGEMENT CADRE IN THE HEALTH DEPARTMENT.

Memo:

As approved by the Govt. of NWFP Health Department vide letter No.SOH (EV) 4-20/07 dated 19.08.2009 on the subject noted above, enclosed are tentative seniority lists of doctors of Management as well as General Cadre from top to bottom for your information and circulation amongst all the concerned doctors for their information and objections, if any.

In case of any objection/query, the same may be submitted to this Directorate within a period of one month after the issuance of this communication, which will be decided in accordance with the rules/regulations and thereafter a final seniority list will be notified.

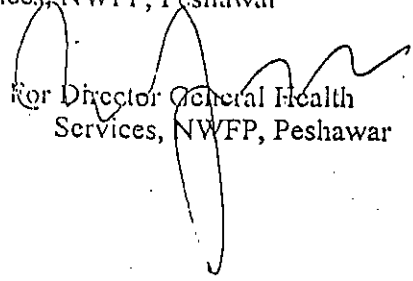
Matter most urgent and requires your personal attention.


For Director General Health
Services, NWFP, Peshawar

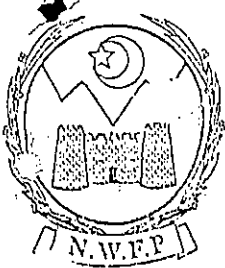
No. 35503-04/E-I

Copy forwarded to the:-

1. Secretary to Govt. of NWFP Health Department Peshawar for information with reference to their letter quoted above.
2. PA to Director General Health Services, NWFP, Peshawar


For Director General Health
Services, NWFP, Peshawar


ATTESTED



**DIRECTORATE
GENERAL HEALTH SERVICES
N.W.F.P PESHAWAR**

No: 40188 / E-I
Date 28/08 / 2009

To: cer
The Secretary to Govt. of NWFP,
Health Department, Peshawar

SUBJECT:- FORMATION OF MANAGEMENT CADRE IN HEALTH
DEPARTMENT.

3-40
8/11/09
Dear Sir,

With reference to your letter No.SOH(EV)4-20/07 dated 19.08.2009 on the subject noted above, I have the honour to state that tentative seniority lists of Doctors of Management Cadre as well as General Cadre were circulated amongst all the concerned for information and objections if any vide this Directorate letter No.35421-502/E-I dated 27.08.2009.

In response thereof some doctors have submitted their degree of qualifications and some have raised observations against the formation of the subject cadre. Separate files containing applications/presentations of those doctors whose names are not included in the management cadre and have requested after due date for inclusion of their names having the requisite qualifications and those who have raised observations on the Management Cadre while those whose qualifications are not in line with Rules-10 of Management Cadre and disputed, are enclosed at Annexure-A, B & C respectively.

The following committee is proposed to scrutinize the observations and qualifications of the doctors in light of rules notified in the Management Cadre:

- | | |
|---|-----------|
| 1. Secretary to Govt. of NWFP Health Department | Chairman |
| 2. Director General Health NWFP | Secretary |
| 3. Chief HSRU Health Department | Member |
| 4. EDO(H) Peshawar | Member |
| 5. EDO(H) Chitral | Member |
| 6. EDO(H) DIKhan | Member |
| 7. Representative from PMDC | Member |
| 8. Director PHSA NWFP | Member |

It is therefore, requested to please constitute a committee and convene a meeting for scrutiny/consideration of the appeals/observations at the earliest.

Yours Faithfully,

[Signature]
Dr.Fazal Mehmood
Director General Health
Services, NWFP, Peshawar

[Signature]
28/8/09
ATTESTED

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

E-Mail Address: nwfdghs@yahoo.com
Office Ph# 091-9210269
Exchange# 091-9210187, 9210196
Fax # 091-9210230

39



GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Dated Peshawar the 13.10.2009

NOTIFICATION.

NO.SOH(EV)4-20/2008. The Competent Authority has been pleased to constitute a committee of the following officers to scrutinize all the applications/appeals of the doctors for induction into Management Cadre covered under Rules-10 of Health (Management) Service Rules,2008:-

- | | |
|--|-----------|
| 1. Additional Secretary Health (Estab:) Govt. of NWFP Health Department. | Chairman |
| 2. Director General Health Services, NWFP | Secretary |
| 3. Director, PHSA NWFP, Peshawar. | Member |
| 4. Chief HSRU, Health Department. | Member |
| 5. EDO (Health) Peshawar. | Member |
| 6. Representative of PMDC. | Member |

SECRETARY HEALTH

Endst. of even No. & Date.

Copy to:

1. The Director General Health Services, NWFP.
2. The Director, PHSA Peshawar.
3. The Chief HSRU, Peshawar.
4. The Secretary, PMDC Islamabad.
5. The EDO (Health) Peshawar.
6. The PS to Secretary Health.
7. The PS to Special Secretary Health.
8. PA to Additional Secretary Health.

(MUHAMMAD QASIM)
SECTION OFFICER-V

ATTESTED

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

No.SOH(EV)4-20/08/M.Cadre
Dated Peshawar the 17.11.2009

To:

1. The Director General Health Services, NWFP Peshawar.
2. The Director, Higher Education Commission, NWFP.
3. Secretary, Pakistan Medical & Dental Council, Islamabad.

41

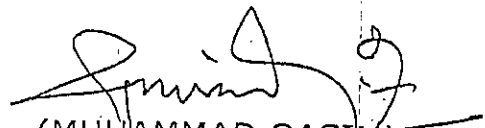
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19/11/09

SUBJECT: MINUTES OF THE MEETING REGARDING FORMATION OF MANAGEMENT CADRE IN HEALTH DEPARTMENT.

I am directed to forward herewith Minutes of the Meeting regarding Formation of Management Cadre in Health Department held on 13-11-2009 at 10.00 AM under the chairmanship of Additional Secretary Health in his office for information and further necessary action.


(MUHAMMAD QASIM)
SECTION OFFICER-V

Endst. of even No. & Date.

Copy to:

1. The PS to Secretary Health.
2. The PA to Additional Secretary Health.

SECTION OFFICER-V

*DD (D) ...
Please circulate among the
all heads of institutions to
stop.*


ATTESTED

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 11.05.2010

NOTIFICATION.

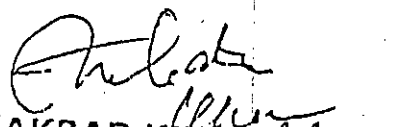
NO.SOH(EV)4-20/2007. In terms of Section-8 of the Khyber Pakhtunkhwa Act:1973 read with Establishment & Administration Department circular letter No.SOR-I(E&AD)3-15/88(Vol.I) dated 9-5-2002, the final seniority list of the Member of the Service (BS-20 & BS-19) of Health Management Cadre as stood on 1-1-2010 is hereby notified for the information of all concerned.

SECRETARY HEALTH

Endst. of even No. & Date.

Copy to:

1. The Director General Health Services, Khyber Pakhtunkhwa.
2. The Accountant General, Khyber Pakhtunkhwa.
3. The Chief Executive/MS LRH, KTH, HMC, Peshawar/ATH Abbottabad, STH Swat.
4. All the the EDOs (Health) in Khyber Pakhtunkhwa.
5. All the MS-DHQ Hospitals in Khyber Pakhtunkhwa.
6. The Director Health Services, FATA.
7. All the District Account Officers, in Khyber Pakhtunkhwa.
8. PS to Secretary to Govt. of Khyber Pakhtunkhwa Establishment Deptt.
9. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Finance Deptt.
10. The PS to Minister for Health.
11. The PS to Secretary Health.
12. Computer Programmer Health Department.
13. Doctor concerned.


(AKBAR KHAN)
SECTION OFFICER-V


ATTESTED

X.
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(43)

[Signature]

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 23.07.2010

NOTIFICATION.

NO.SOH(EV)4-20/2007. In terms of Section-8 of the Khyber Pakhtunkhwa Act:1973 read with Establishment & Administration Department circular letter No.SOR-I(E&AD)3-15/88(Vol.I) dated 9-5-2002, the final seniority list of the Member of the Service (BS-17 & BS-18) of Health Management Cadre as stood on 1-1-2010 is hereby notified for the information of all concerned.

SECRETARY HEALTH

Endst. of even No. & Date.

Copy to:

1. The Director General Health Services, Khyber Pakhtunkhwa.
2. The Accountant General, Khyber Pakhtunkhwa.
3. The Chief Executive/MS LRH, KTH, HMC, Peshawar/ATH Abbottabad, STH Swat.
4. All the the EDOS (Health) in Khyber Pakhtunkhwa.
5. All the MS DHQ Hospitals in Khyber Pakhtunkhwa.
6. The Director Health Services, FATA.
7. All the District Account Officers, in Khyber Pakhtunkhwa.
8. The Section Officer-I,II and Litigation Health Deptt.
9. PS to Secretary to Govt. of Khyber Pakhtunkhwa Establishment Deptt.
10. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Finance Deptt.
11. The PS to Minister for Health.
12. The PS to Secretary Health.
13. Computer Programmer Health Department.
14. Doctor concerned.

A
ATTESTED

[Signature]
7317
(AKBAR KHAN)
SECTION OFFICER



DIRECTORATE GENERAL HEALTH SERVICES, KHYBER PAKHTUNKHWA PESHAWAR

General Health Service Peshawar and not to any official by name.

E-Mail Address: nw/pdghs@yahoo.com
Office Ph# 091-9210269
Exchange# 091-9210187, 9210188
Fax # 091-9210230

No: 25981 /E-1
Date 26/10/2010.

44

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department, Peshawar

SUBJECT:- MINUTES OF THE MEETING-ORDER.

Dear Sir,

With reference to your Office Order bearing No.SOH(EV)4-20/2008 dated 14.09.2010 wherein a committee was constituted to examine all the representations of doctors for the induction of their names in the seniority lists of Management Cadre, I have the honour to submit herewith minutes of the meeting of the committee held under the Chairmanship of the undersigned on 18.10.2010 at 11.00 AM, for favour of further necessary action.

Yours Faithfully,

Director General Health Services,
Khyber Pakhtunkhwa, Peshawar

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ATTESTED

MINUTES OF THE MEETING

A meeting of the committee notified vide Govt. of Khyber Pakhtunkhwa Health Department vide Office Order No.SOH(EV)4-20/ 2008 dated 14.09.2010 was held on 18.10.2010 at 11.00 AM under the Chairmanship of the Director General Health Services Khyber Pakhtunkhwa Peshawar to examine all the representations submitted for inclusion of the names in the seniority lists of Management Cadre.

The following attended the meeting:

1. Dr.Sajid Shaheen
Director General Health Services,
Khyber Pakhtunkhwa Peshawar
2. Dr.Anees Akhtar
Deputy Director(Personnel) DGHS KPK Peshawar
3. Mr.Akbar Khan
Section Officer(EV) Health Department
Govt. of Khyber Pakhtunkhwa Peshawar

(In Chair)

The committee examined the appeals in light of Rule-10 of the Management Cadre. Applications provided by the government and pending in this Directorate were examined by the committee and recommended as under:

S.No.	Name of Applicant with BPS and place of posting	Qualification with year of passing	Name of Institution	Recommendations of the committee
1.	Dr.Bakht Jamal BPS-19 EDO(H) Swat	MCPS(Pak) Leadership Development in International Health/ 1993- 94 equivalent to MPH (Pak) by PMDC	Health Services Academy Islamabad	To be included in the seniority list
2.	Dr.Jamshed Ahmad BPS-19 SMO I/C ESC Nahaqi Peshawar	DHPM- 2002- 03	IMS- University of Peshawar.	To be included in the seniority list
3.	Dr.Muhammad Idrees BPS-19 EDO(H) Haripur	-MPH-2007 -MPH (Undergoing 3 rd semester)	-University of Sindh -Frontier Institute of Medical Sciences Islamabad	The committee unanimously recommended that before entering his name in the seniority list, his degree may be verified from the concerned university, hence regretted at this stage
4.	Dr.Syed Ahmad BPS-19 TMO Pathology HMC Peshawar	-DHPM-1997- 98 -MPH-2003- 04	-IMS University of Peshawar -PHSA- University of Peshawar	To be included in the seniority list
5.	Dr.Tariq Masood BPS-19 PMO DHQH: DIKhan	MPH-2006-07	Gomal University DIKhan	To be included in the seniority list


[Signature]
ATTESTED


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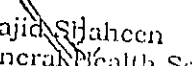
6.	Dr. Muhammad Saeed BPS-18 SMO MMC Mardan	MPH-2005-06	PHSA- University of Peshawar	To be included in the seniority list
7.	Dr. Muhammad Wali Qureshi BPS-18 DDHO Kohistan	MPH-2005-06	PHSA- University of Peshawar	To be included in the seniority list
8.	Dr. Muhammad Khan BPS-18 SMO HMC Peshawar	-Diploma in Tropical Medicine- 1998 -Diploma in International Health (MPH- Pak)- 1998	Ireland	To be included in the seniority list
9.	Dr. Abdur Rehman BPS-18 Assistant Director (Admn) DGHS Peshawar	MPH-2007	PHSA- University of Peshawar	To be included in the seniority list
10.	Dr. Naseer Khan BPS-17 MNCH Coordinator Mohmand Agency	DHPM-1997- 98	IMS- University of Peshawar	To be included in the seniority list
11.	Dr. Malik Niaz Khan BPS-17 Coordinator EPI EDO(H) Bannu	MPH-2007	Gandhara University Peshawar	To be included in the seniority list
12.	Dr. Fakhr-e-Alam Dental Surgeon BPS-17 DHQH: Karak	MPH-2006-07	PHSA- University of Peshawar	To be included in the seniority list
13.	Dr. Adnan Khattak BPS-17 Dental Surgeon Assistant Director (PH) DGHS KPK Peshawar	MPH-2009-10	Gandhara University Peshawar	To be included in the seniority list
14.	Dr. Fazal Rabbi BPS-17 DMS (Stores) IKD HMC Peshawar	MPH-2009-10	Gandhara University Peshawar	To be included in the seniority list

The committee recommended that revised seniority lists may be issued by the government after observing all other required formalities.

The meeting ended with vote of thanks.


Akbar Khan
Section Officer(V)
Govt. of Khyber Pakhtunkhwa
Health Department
(Member)


Dr. Anees Akhtar
Deputy Director(Personnel)
Directorate General Health Services
Khyber Pakhtunkhwa, Peshawar
(Member)


Dr. Sajid Shahcen
Director General Health Services,
Khyber Pakhtunkhwa, Peshawar
(Chairman)


ATTESTED

(46)



DIRECTORATE
GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR.

No. 2933/1
Dated: 6/12/2010

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

E-Mail Address: pw@dghs.gov.pk
Office Ph# 091-9210269
Exchange# 091-9210187, 9210186
Fax # 091-9210230

To,

The Secretary to the Govt: of Khyber Pakhtunkhwa,
Health Department, Peshawar.

Subject: ISSUANCE OF FINAL SENIORITY LIST OF HEALTH MANAGEMENT CADRE DOCTORS AFTER FINALIZATION OF PENDING APPEALS.

Sir,

It is submitted to your kind honour that the seniority list of members of the service (BS-20 and BS-19) of Health Management Cadre was notified by the Govt: on 11/05/2010 while the final seniority list of the members of the services (BS-17 and BS-18) of Health Management Cadre was notified on 23/07/2010.

Certain appeals were pending with the Government for inclusion in the Health-Management Cadre. A committee was constituted for the finalization of the appeals under the chairmanship of Director General Health Services KPK Peshawar. The appeals were decided under rule 10 of the Health Management Cadre on October 18, 2010. The minutes were conveyed to the Government for information. Now final seniority list has been prepared after inclusion of the names of the appellants and submitted to the Government for notification and circulation among all for their information. The list is final and undisputed.

Moreover one time exercise of Health Management Cadre may be considered as stopped with effect from 18 October, 2010. Now if any doctor wishes to apply for inclusion in the Health management cadre it will be only processed through public service commission as per Health Management cadre rules December 11, 2008.

W. 6/12/10
DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.

No. 29332-33/1
Copy forwarded to the:

Dated: 6/12/2010

- 1) Dr. Faheem Hussain, Assistant Director (P-I) DGHS Office, Peshawar.
- 2) PA to Director Administration, DGHS Office, Peshawar.

o/c
DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.

o/c
ATTESTED

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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....
Case No..... of.....

Annexure (F)

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge:
1	2	3
	<u>ORDER</u> 10.11.2009	<p><u>Writ Petition No.2382/2009 with Interim Relief.</u></p> <p>Present: Mr. Aminur Rehman, Advocate, for Dr. Sher Muhanimad, etc., petitioners.</p> <p style="text-align: center;">*****</p> <p><u>EJAZ AFZAL KHAN, CJ.</u> - Petitioners</p> <p>through the instant petition have questioned the vires of the rules promulgated by the Provincial Government vide Notification bearing No.S.O.II(EV)4-20/08, dated 11.12.2008.</p> <p>2. The learned counsel appearing on behalf of the petitioners contended that the rules mentioned above have seriously marred the prospects of the petitioners for being promoted, as such, they being <u>discriminatory</u> are liable to be struck down.</p> <p>3. We have gone through the available record carefully and considered the submissions made by the learned counsel for the petitioners.</p>

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EXAMINER
Peshawar High Court

(Signature)
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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Announced

Court of
Case No. of

(G)

(49)

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3

ORDER
09.02.2010

Cr. Misc (COC) No. 10/2010 in W.P. No. 2382/2009

Present: Mr. Aminur Rehman, Advocate,
for Dr. Sher Muhammad etc.; petitioners.

EJAZ AFZAL KHAN, C.J.:-As the petitioner after the expiration of ninety days from the date of filing of his representation can file an appeal before the Service Tribunal, it would be just an exercise in futility to issue a direction to respondents for deciding his representation. This petition is disposed of accordingly.

Announced.
09. 02. 2010

Ejaz Afzal Khan CJ
Sher Muhammad Khan etc

CERTIFIED TO BE TRUE COPY

[Signature]
Peshawar High Court Peshawar
Authorized Under Section 15 A of Order

12-2-10

8890

2010
11/2

Pishawar

Attestd

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 513/2010

Date of Institution ... 22.2.2010
Date of Decision ... 03.1.2012

Dr. Sher Muhammad S/O Shah Muhammad,
Provincial Manager, Aids Control Programme,
Peshawar.



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VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Health Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Department, Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
4. Chairman, Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
5. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
6. Secretary Law Department, Government of Khyber Pakhtunkhwa, Peshawar.
7. Secretary, Finance Department, Khyber Pakhtunkhwa, Peshawar.
8. Dr. Ali Ahmad (BPS-19) Programme Manager, DHIS, Khyber Pakhtunkhwa, Peshawar and 22 others. (Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT R/W RELEVANT SERVICE RULES AGAINST THE IMPUGNED NOTIFICATION ISSUED BY RESPONDENT NO.1 U/S 26 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACT, 1973 WHEREBY NOTIFICATION DATED 11.12.2008 KNOWN AS KHYBER PAKHTUNKHWA HEALTH (MANAGEMENT) SERVICE RULES, 2008, VIDE WHICH SERVICE STRUTURE WAS CHANGED AND "MANAGEMENT CADRE" WAS INTRODUCED IN HEALTH DEPARTMENT.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

MR. AMINUR RAHMAN,
Advocate

... For appellant.

MR. SERAFGAN KHATTAK,
Addl. Government Pleader

... For official respondents.

MR. BILAL AHMAD KAKAIZAI,
Advocate,

... For respondents.

SYED MANZOOR ALI SHAH,
MR. KHALID HUSSAIN,

... MEMBER.
... MEMBER.

ATTESTED

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed by Dr. Sher Muhammad, appellant under Section 4 of the Khyber Pakhtunkhwa, Service Tribunal Act, 1974, against the notification 11.12.2008 known as Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 vide which service structure was changed and "Management Cadre" was introduced in the Health Department. It has been prayed that on acceptance of the appeal, the impugned notification may be declared as illegal, unlawful, void-abinitio and of no legal effect, being coram non-judice.

2. Brief facts of the case as averred in the memo: of appeal are that the appellant being MBBS Graduate, entered into government service, Health Department, Government of Khyber Pakhtunkhwa in the year, 1985. Respondent No.1, in exercise of the powers conferred by Section 26 of the North West Frontier Province Civil Servants Act, 1973 vide notification dated 11.12.2008 made Rules known as Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, vide which Service Structure was changed and "Management Cadre" was introduced in Health Department. Feeling aggrieved, the appellant filed Writ Petition No. 2382/2009 before the Hon'ble Peshawar High Court, Peshawar which was disposed off in limine on 10.11.2009, with direction to the departmental authority, to decide the representations of the appellant pending before them within one month positively in accordance with the law. The respondents did not comply with the direction of the Hon'ble Peshawar High Court, Peshawar, therefore, the appellant filed contempt of court petition No. 10/2010, for implementation of order dated 10.11.2009, which was disposed off on 9.2.2010, with observation that the appellant could file appeal before the Service Tribunal after the expiry of ninety days, hence this appeal.

3. After admission of the appeal, notices were issued to the respondents. Respondents No. 1,2,3,5 and 7 have filed their joint written reply. Respondent No.4 was not a necessary party; hence his name was deleted from the list of respondents vide order dated 19.8.2010. Private respondents have filed written reply through their counsel and contested the appeal.

4. Arguments heard and record perused.

5. The learned AAG at the very outset pointed out that Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 have been formulated by the Governor of the province in exercise of powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. according to which the Governor or any

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

persons authorized by him in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purpose of this Act i.e. Civil Servant Act, 1973; Section 2(b) which is a general statute i.e. rules can be framed for Civil Servants Act, 1973 and under it rules for any particular cadre cannot be made, delegatory legislation for Health Department can not be performed under this Section. Any rules for a particular cadre can be done only through Act of parliament and the Section 2(b) does not confer inherited power for further legislation for any specific cadre. He further argued that this Tribunal has no jurisdiction to entertain the present appeal as the validity of the notification/rules should have been challenged and that the present appeal is time-barred.

4. On the point of jurisdiction, the learned counsel for the appellant argued that through the impugned notification/rules, terms and conditions of service of the appellant have been affected, which can be challenged before this Tribunal, having vast power to confirm, set aside, vary or modified the order challenged before it. The Service Tribunal has vast jurisdiction to redress the grievances of the persons before it. The learned counsel for the appellant relied on PLD. 2003-Supreme Court-724(d). Regarding limitation, the counsel for the appellant stated that the appellant had been diligently pursuing his remedy before the Hon'ble Peshawar High Court and the period spent before the wrong forum can be condoned by the Service Tribunal in view of the august Supreme Court judgment reported in 2004-SCMR-1419.

The learned counsel for the appellant stated that the appellant is mainly aggrieved from Rule 10 of Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, wherein it has been stated, that notwithstanding anything contained in the provision of those rules, Government shall, as one-time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning and Management or equivalent Master's Degree/Diploma in Health management or allied disciplines and opt for absorption. It shows that no chance/time period has been given to the appellant to improve his qualification required and has been confined to General Cadre and is to be carried out as one time exercise, whereby denying him chances of further promotion which is highly discriminatory. In this respect, he referred to Provincial Management Service Rules notified on 11.5.2007. In para-7 of the said rules the cushion period of seven years has been provided. The General Headquarters MS. Branch, Rawalpindi, issued MS Branch Policy Compendium 2003, Amendment No.2/2010, wherein two

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years cushion period has been provided to enable max GDMOs to acquire LPG, the Med Directorate was directed to ensure that equal opportunity is afforded to all GDMOs to acquire LPG, and that modalities may also be evolved to get LPG; through evening programme/distant learning approved from PM&DC.

7. The learned counsel for private respondents argued that the government felt to achieve better results for which Administrative and Professional Cadres were separated and introduced "Management Cadre" & "General Cadre" through the Health (Management) Service Rules, 2008. Since the appellant basically belongs to General Cadre and had not acquired the requisite qualification for Management Cadre, therefore, his name has been brought on the strength of General Cadre. He further argued that on formation of Management Cadre, no financial loss occurred to the appellant nor his seniority has been disturbed. He requested that the appeal may be dismissed.

Rule

8. The Tribunal observes that Section 10 of the said rules does not provide any cushion period and denying chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Service Rules, and to join Management cadre if they succeeded in acquiring the requisite qualification as per the aforementioned Rules. This would however, not entitle the appellants and others not having requisite qualifications for posting in the Management Cadre posts but only provide them a cushion period and if they acquire the requisite qualification within 2 years from the date of the decision, they may opt and join Management Cadre without effecting their seniority/service.

9. With the above variation/modification in the impugned notification dated 11.12.2008, the present appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record.

10. This order will also dispose of the following connected appeals No. 514/2010, Dr. Gul Akbar, No. 515/2010, Dr. Wakeel Muhammad, No. 516/2010, Dr. Shaheer Ali, and No. 517/2010, Dr. Syed Mujahid Hussain, in the same manner.

ANNOUNCED

3.1.2012.

(KHAJIB HUSSAIN)
MEMBER

(SYED MANZOOR ALI SHAH)
MEMBER

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Filed to be true copy
Tribunal
3.1.2012

Supreme Court of Pakistan
(Appellate Jurisdiction)

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Annexure I

Present:
Mr. Justice Gulzar Ahmed
Mr. Justice Umar Ata Bandial

~~Annexure~~
I

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C.A. No. 320-324 of 2012

AND

C.A. No. 126-P to 130-P of 2013

(On appeal against common Judgment dated 03.01.2012 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar, in Appeals No. 513-517 of 2010)

Dr. Muhammad Saleem & others.
Government of KPK through Secretary
Health Department, Peshawar and others:

(In C.As.No.320-324)
(In C.As.No.126-130-P)
Appellant (s)

VERSUS

Dr. Sher Muhammad & others.
Gul Akbar & others.
Dr. Wakil Muhammad & others.
Dr. Shaukat Ali & others.
Dr. Syed Mujahid Hussain & others.

(In C.As.No.320 & 126-P)
(In C.Ad.No.321 & 127-P)
(In C.As.No.322 & 128-P)
(In C.As.No.323 & 129-P)
(In C.As.No.324 & 130-P)
Respondent (s)

For the Appellant (s)
(In C.As.No.320-324)

: Mr. Ijaz Anwar, ASC

For the Appellant (s)
(In C.As.No.126-130-P) & for Government
Respondents in C.As.No.320-324)

: Mr. Waqar Ahmed Khan,
Addl. A.G.KPK

For Respondent No.1
(In C.As.No.320-321)

: Mian Muhibullah Kakakhel, ASC

For Respondent No.1
(In C.As.No.126-130-P)

: Mr. Ismat Ali Qazi, ASC

Date of Hearing

: 03.11.2016

ORDER

GULZAR AHMED, J.-- Civil Appeals No.320 to 324 of 2012 have been filed by Dr. Muhammad Saleem & others while Civil Appeals No.126-P to 130-P of 2013 have been filed by the Government of KPK against one and single judgment dated 03.01.2012 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar. Learned ASC for the

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Court Associate
Appellate Court of Pakistan
Islamabad

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appellants in Civil Appeals No.320 to 324 of 2012 has contended that if the judgment of the KPK Service Tribunal (Tribunal) is allowed to prevail, the appellants seniority is likely to be effected. On the other hand, learned Additional Advocate General, KPK appearing for the appellants in Civil Appeals No.126-P to 130-P of 2013 has contended that the Tribunal has exceeded its jurisdiction by enlarging the scope of Rule- 10 of Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 (Rules) as it did not make provision for providing cushion period for acquiring requisite qualification within two years for joining management, cadre. It was noted that the Civil Appeals filed by the Government of Khyber Pakhtunkhwa (C.A.No.126-P for 196 days while C.A.Nos.127-P to 130-P for 203 days) were time barred and in the applications for condonation of delay common ground has been taken that filing of the appeals against the impugned judgment was delayed due to process of rendering opinion by the committee constituted in law department. It is obvious that this ground for condonation of delay in filing of a petition or appeal before this Court has never been accepted and the learned Additional Advocate General, KPK, himself was quite at pains to substantiate the ground of condonation of delay as pleaded in the application. The rule for condonation of delay is well established and there has to be sufficient ground with explanation of each day's delay. In the present case before us neither any sufficient ground is urged nor each day's delay has been explained. We are not persuaded to allow the applications for condonation of delay filed by the Government of KPK, therefore, all these applications are dismissed. Resultantly, Civil Appeals No.126-P to 130-P of 2013 are dismissed as time barred.

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Court Associate
Supreme Court of Pakistan

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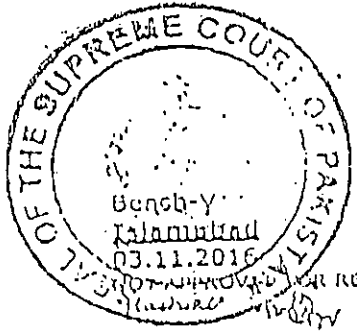
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2. As regard the submission of the learned ASC for the appellants in Civil Appeals No.320 to 324 of 2012 he was unable to explain before us as to how the seniority of the appellants will be effected by the impugned judgment of the Tribunal more so when the respondents claim before the Tribunal itself was not that of granting them seniority but that of allowing them to acquire qualification for opting in management cadre. If the respondents at all join Management Cadre, their seniority will be counted from the date of their joining in the Management Cadre and not from any earlier period which is also established principle that a person joining fresh cadre is relegated to the lowest position of that cadre. Thus, there seems to be hardly any reason muchless justifiable to interfere with the impugned judgment of the Tribunal more so on the ground urged by the learned ASC for the appellants. The Civil Appeals No.320 to 324 of 2012 are, therefore, dismissed.

Sd/- Gulzar Ahmed, J
Sd/- Umar Ata Bandial, J

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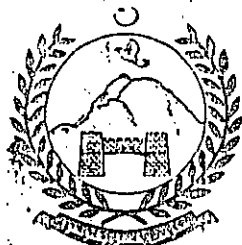
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Court Assistant
Supreme Court of Pakistan
Islamabad



FOR REPORTING
12/11/16

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EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
GAZETTE

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KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 29th May, 2017.

GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

NOTIFICATION

Dated: 10th May, 2017.

NO.SOH(E-V)4-20/2017 : In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, the following amendments shall be made, namely:

AMENDMENTS.

1. In rule 10, in sub-rule (2), the full stop appearing at the end of the first proviso shall be replaced by colon and thereafter, the following second proviso shall be added, namely;

"Provided further that for a period of two years, from the date of issuance of this amending Notification, the officers of the General Cadre, who are in regular and continuous service and holding posts as such, shall be required to improve their qualification as per the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 to exercise the option under this rule".

2. In Schedule III,-

- (a) at serial No.3, for the figures "350", "300" and "150", the figures "250", "200" and "100" shall respectively be substituted;
- (b) serial No.4, shall be deleted; and
- (c) under the heading "General Compulsory subject" (350 marks), in the table", for serial No.5 and 6, the following shall be substituted, namely:

"5.	"Pakistan Affairs and Islamiyat"	100".
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3. In schedule-IV, in heading "Topics" for the existing entries, the following shall, respectively, be substituted, namely;

"Topics"

- Communication and advocacy in Health.
- Existing Health Policies;
- Health system in Pakistan and its Challenges;
- DHIS Roles and responsibilities of Secretariat, Director General and DHO/MS;
- Role of Government and district government's in context of Local Government Act;

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818 KHYBER PAKHTUNKHWA GOVT: GAZETTE, EXTRAORDINARY, 29th May, 2017

- Monitoring and supervision;
- Primary and Healthcare, Hospital Management, Waste disposal quality Management.
- Vertical programs and their linkages within the Health System.
- Rules of Business.
- Auditing and Accountant, General Financial Rules, ESTA Code etc; and :
- The Khyber Pakhtunkhwa Civil Servant Act, 1973 "Fundamental rules and supplementary rules".

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

Printed and published by the Manager,
State. Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

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Amenure (16)

~~Amenure (16)~~

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اطلاع عام

ان تمام ڈاکٹرز کو اطلاع دی جاتی ہے جو کہ محکمہ صحت میں جنرل کیڈر سے میجمنٹ کیڈر میں آنا چاہتے ہیں اور میجمنٹ کیڈر کے قواعد / تعلیمی قابلیت پر پورا اترتے ہیں اپنی درخواست کے ساتھ متعلقہ تصدیق شدہ تعلیمی اسناد (فوٹوکاپی) لف کر کے اس اشتہار کے شائع ہونے کی تاریخ سے ایک ماہ کے اندر مندرجہ ذیل پتہ پر ارسال کریں ورنہ اس کے بعد موصول ہونے والے درخواستوں پر غور نہیں کیا جائے گا۔

INF(P)3803



ڈائریکٹر جنرل ہیلتھ سروسز خیبر پختونخوا ایشاور

فون نمبر:- 091-9214155 , 091-9210269

SAY NO TO CORRUPTION DRUGS

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Annexure I
Details of Doctors inducted from General Cadre to Management Cadre

Respondent No	Name of Doctor	Father Name	Date of Joining Service on Regular Basis	BPS	Degree Title	Degree Awarding Institution	Date
3	Khan Bahadar	Gul Akbar	27-11-1998	19	Master of Management Sciences in Public Health	Abasyn University Peshawar	10-06-2014
4	Muhammad Usman Shah	Muhammad Zahir Shah	23-07-2005	18	MPH	Sarhad University of Science & Information Technology	20-04-2010
5	Shiraz Ahmad	Rashid Ahmad	07-09-2007	18	MPH	Abdul Wali Khan University	29-04-2015
6	Shafqatullah	Amir Hamza	05-09-2016	17	MPH	Khyber Medical University	25-08-2017
7	Fayyaz Ali Roomi	Humayun Roomi	20-03-2015	17	MPH	University of Melbourne	16-12-2016
8	Muhammad Javed Khan	Shah Zaman Khan	16-04-1986	20	MPH	Hazara University	19-05-2015
9	Syed Gul Hussain Syed	Syed Shah Jehan	16-09-2000	18	Master of Science in Public Health	Quaid-e-Azam University	25-08-2017
10	Wasiullah	Shakirullah	16-09-2000	18	MPH	Abdul Wali Khan University	19-08-2016
11	Jameel Ahmad	Abdullah	01-07-2001	18	MPH	Khyber Medical University	10-04-2012
12	Farman Ali	Muhammad Naseem	24-10-2009	18	MPH	Abdul Wali Khan University	03-04-2013
13	Waseem Ahmad	Qazi Muhammad Saleem	31-07-1993	19	MPH	Sarhad University of Science & Information Technology	15-04-2013
14	Irfanuddin	Habibul Mukhtar	10-04-2017	17	MPH	Gomal University	23-10-2014
15	Shaukat Saleem Khan	Saleem Khan	09-07-2007	18	MPH	Abdul Wali Khan University	03-09-2013
16	Sardar Aurangzeb	Sardar Muhammad Ashraf	23-01-1988	19	MPH	University of Wollongong	01-03-2000
17	Shah Faisal	Ronaq Zaman	15-09-1997	19	MPH	Sarhad University of Science & Information Technology	20-10-2009
18	Zahir Shah	Bahadar Khan	15-09-1997	19	MPH	Abdul Wali Khan University	03-09-2013
19	Irshad Ali	Muhammad Razzaq	10-04-2017	17	MPH	Abdul Wali Khan University	05-10-2015
20	Muhammad Farooq Gul	Gul Muhammad	24-01-2002	18	MPH	Gomal University	30-12-2016
21	Muhammad Alamgir	Nisar Muhammad	10-04-2017	17	MPH	Abdul Wali Khan University	27-08-2012
22	Bakht Belanad	Fazal Rehman	10-04-2017	17	MPH	University of Peshawar	14-04-2017
23	Khalid Khan	Shah Muhammad Khan	10-04-2017	17	MPH	Abdul Wali Khan University	27-08-2012

Annexure I

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Annexure L
Details of Doctors inducted from General Cadre to Management Cadre

Respondent No	Name of Doctor	Father Name	Date of Joining Service on Regular Basis	BPS	Degree Title	Degree Awarding Institution	Date
24	Jamaluddin	Muhammad Din	04-07-2002	18	MPH	Abdul Wali Khan University	03-04-2013
25	Sherin Muhammad	Bacha Muhammad	10-04-2017	17	MPH	Abdul Wali Khan University	03-09-2013
26	Saeedullah Khan	Mukarram Khan	27-11-1998	19	MPH	Abdul Wali Khan University	03-09-2013
27	Erum Qayum	Syed Qayum	07-09-2007	17	NA		
28	Nazar Muhammad	Bakht Sar	24-01-2002	18	MPH	Abdul Wali Khan University	05-04-2012
29	Zeeshan	Said Ali Khan	20-03-2015	17	MPH	Abdul Wali Khan University	09-10-2014
30	Fakhr-e-Alam	Sultan Room	05-09-2016	17	MPH	Abdul Wali Khan University	09-10-2014
31	Hammad	Said Badshah	01-07-2001	18	MPH	Abdul Wali Khan University	23-04-2017
32	Muhammad Arif Khan	Amir Nawaz Khan	05-09-2016	18	NA		
33	Waqar Ahmad	Mehboob Ali	05-09-2016	17	NA		
34	Sagheer Ahmad	Noor Elahi	03-02-2005	18	Master of Science in Public Health	The University of Haripur	06-10-2015
35	Ikramullah	Yar Jan	20-03-2015	17	MPH	Bacha Khan University Charsadda	13-09-2016
36	Muhammad Sadiq	Muhammad Anis	11-03-1999	18	MPH	Sarhad University of Science & Information Technology	06-02-2017
37	Humera Semab	Malik Khan Muhammad	27-10-2011	17	MPH	Hazara University	12-05-2016
38	Kamran Yousaf	Muhammad Yousaf	01-07-2001	18	NA		
39	Muhammad Wajid Ali	Muhammad Anam	20-03-2015	17	MPH	Gandahara University Peshawar	01-01-2011
40	Naseeb Gul	Haseeb Gul	08-06-2017	17	Master of Management Sciences in Public Health	Abasyn University Peshawar	10-05-2013
41	Muhammad Mudassar Iqbal Khan	Muhammad Iqbal Khan	27-10-2011	17	Master of Science in Public Health	Quaid-e-Azam University	NA
42	Naik Muhammad	Khawaja Muhammad	04-09-2002	18	MPH	Gomal University	18-02-2011
43	Sohrab Ali	Azizullah Khan	20-03-2015	17	Master of International Public Health	University of Sydney	02-04-2012
44	Noor Islam	Sheraz Gul	12-08-2016	17	NA		

ATTESTED



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Annexure L
Details of Doctors inducted from General Cadre to Management Cadre

Respondent No	Name of Doctor	Father Name	Date of Joining Service on Regular Basis	BPS	Degree Title	Degree Awarding Institution	Date
45	Saeeda Bibi	Daud Khan	09-07-2007	18		NA	
46	Muhammad Hayat	Muhammad Amir	15-04-1992	19		NA	
47	Muhammad Sajjad	Muhammad Saeed	08-06-2017	17	MPH	Abdul Wali Khan University	05-10-2015
48	Muhammad Arif	Gulbar Khan	08-02-2005	18	MPH (Community Eye Health)	Khyber Medical University	11-07-2014
49	Attaullah	Khair Muhammad	27-02-2013	17	Master of International Public Health	University of Sydney	07-09-2015
50	Khizar Hayat	Pir Muhammad Khan	24-10-2009	18	MPH	Khyber Medical University	07-06-2017
51	Jamshid Saeed	Saeed Ahmad	26-01-2004	18	Master of Management Sciences in Public Health	Abasyn University Peshawar	03-12-2011
52	Sallem Khan	Muhammad Akbar Khan	06-06-2017	17	Master of Science in Public Health	The University of Haripur	06-10-2015
53	Tariq Khan	Rasool Khan	31-07-1993	19	MPH	Abdul Wali Khan University	05-04-2012
54	Muhammad Tahir Khan	Faiz Muhammad Khan	01-07-2001	18	MPH	Abdul Wali Khan University	01-10-2010
55	Muhammad Umar	Gul Muhammad	08-02-2005	18	Master of Management Sciences in Public Health	Abasyn University Peshawar	29-04-2011
56	Ghani-ur-Rehman	Abdul Ghani	23-01-1988	19	MPH	Abdul Wali Khan University	27-08-2012
57	Mian Habib-ur Rehman	Mian Fazlur Rehman	15-09-1997	19	MPH	University of Peshawar	01-01-2007
58	Syed Rehmat Ali	Mian Gul Zada	09-09-2016	17	MPH	Abdul Wali Khan University	03-04-2013
59	Muhammad Kashif Shahid Khan	Jamandos Khan	20-03-2015	17	MPH	Sarhad University of Science & Information Technology	10-12-2013
60	Shahzada Muhammad Harder-ul-M	Shahzada Muta-ul-Mulk	27-11-1998	19		NA	
61	Daud Khan	Muhammad Rahim Khan	16-09-2000	18		NA	

ATTESTED

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50	 	35133
ایڈویکٹ: <u>M. Waqas</u>	پشاور بار ایسوسی ایشن، خیبر پختونخوا	
بار کونسل ایسوسی ایشن نمبر: <u>bc-14-2747</u>		
رابطہ نمبر: <u>300 395082</u>		

Defence Service Tribunal Peshawar پاکستان: بعدالت جناب

Appellant: <u>Dr. Farhad Iqbal</u> بنام <u>The Govt of Peshawar</u>	دعویٰ: <u>Service Appeal</u> علت نمبر: مورخہ: جرم: تھانہ:
بابت تحریر آگے	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام Peshawar کیلئے قائمہ جواز اوروں کے سپریم کورٹ کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور

دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند کے

QAZI JAWAD EHSANULLAH
Advocate Supreme Court of Pakistan
17-A, The Mall, Peshawar Cantt.

Muhammad Waqas
Advocate High Court
17-A, The Mall, Peshawar Cantt.

08-02-2019

مقام Peshawar کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted
Umar Farooq
(Umar Farooq Advocate)

DR. FARHAD IQBAL
S/O MUHAMMAD IQBAL

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar.

Dr Fahad Iqbal

vs Govt KPK etc.

Application for extension of time for deposit of Security.

Respectfully submit.

- 1- with due veneration that the above mentioned Service appeal is pending before this honorable Tribunal.
- 2- that on previous date Appeal was admitted and Security deposit order was issued but during announcement only order of admission announced and did to miscommunication and mis understanding the undersigned's client also not get the written order of Tribunal, and the deposit of Security was intentionally delayed and not deliberate.
- 3- the Tribunal has ample power to extend the time.

Therefore it is prayed to extend the time for deposit of Security.

dt 18/7/18

Dr Fahad Iqbal

11/11/18

Umer Farid Advocate