

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 630/2015

Date of Institution ... 10.06.2015

Date of Decision ... 23.11.2020

Dr. Jehanzaib Khan, Ex-Medical Officer, Agency Head Quarter Hospital Ghalanai Mohmand Agency son of Zahir Shah R/O Pehlwan Qilla Shabqadar Forte District Charsadda. ... (Appellant)

VERSUS

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

Present.

Mr. Fazal Shah Mohmand,
Advocate. ... For appellant

Mr. Muhammad Riaz Khan Paindakhel,
Asstt. Advocate General ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. MIAN MUHAMMAD, ... MEMBER(E)

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of notification dated 09.02.2015 issued by respondent No. 2, whereby, he was removed from service with immediate effect while the period of his absence was treated as unauthorized absence from duty without pay. It is the claim of appellant, though categorically denied by the respondents, that a departmental appeal was preferred against the impugned order which was not responded to.

2. As per the memorandum of appeal, the appellant was appointed as Medical Officer on 23.11.1995 on contract basis. He was posted at Basic Health Unit Pandiyali, Mohmand Agency. During the course of his service the appellant performed duty at various stations. In the year 2008, while posted as TMO



Government Lady Reading Hospital Peshawar, the appellant sent a request for ex-Pakistan extraordinary leave for proceeding abroad. It was sanctioned vide notification dated 14.10.2008. Subsequently, the un-availed portion of leave was cancelled on 23.05.2009, while the gap period from 12.03.2010 was regularized through notification dated 07.10.2010. The appellant proceeded abroad and during his stay, as such, applied for extension in his ex-Pakistan leave which request was never acceded to. On account of absence from duty, the impugned order dated 09.02.2015 was ultimately issued. His departmental appeal also remained un-responded, therefore, the appeal in hand was submitted on 10.06.2015.

3. Learned counsel for the appellant as well as learned Asstt. Advocate General on behalf of respondents heard. The available record also examined with their assistance.

4. Learned counsel for the appellant vehemently contended that the gap period was regularized by the respondents. Besides, the travel and stay abroad by the appellant was initiated with sanction of competent authority. The appellant was in dire need of staying in U.S.A alongwith his family for which he requested time and again for extension of ex-Pakistan leave. The respondents, despite having knowledge of the circumstances of appellant, did not opt to accept his request. Further, the due process for proceedings against the appellant departmentally was not followed rendering the impugned order as void.

Learned Asstt. A.G, while rebutting the assertions from the other side, argued that the appellant was willfully absent from his duty in the Health Department Khyber Pakhtunkhwa. The regularization of entire period of absence of appellant was not done. Besides, no departmental appeal against the

impugned order was ever received by the respondents, therefore, the service appeal was not competent.

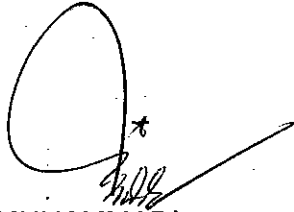
5. The record suggests that the appellant could not procure any further extraordinary leave after its initial sanction for 365 days on 14.10.2008. It is categorically noted in the service appeal, as well as the purported departmental appeal, that after the appellant proceeded abroad, he time and again made requests for extension in his ex-Pakistan extraordinary leave. Nothing in response was, however, communicated to him by the respondents. It is, therefore, not unsafe to hold that the appellant remained willfully absent from duty after expiry of ex-Pakistan extraordinary leave. It is also a matter of record that in the impugned order and other documents the appellant has been shown to have remained absent w.e.f. 01.03.2011. The fact could not be denied by the appellant throughout the record.

6. The argument of learned counsel for appellant, in respect of non-observance of codal formalities during departmental proceedings against the appellant, does not have much force. In connected Service Appeal No. 788/2015 (Dr. Sarafaraz Khan Afridi Vs. Government) the record of issuance of absence notices was relied upon by the learned AAG which clearly suggested that the requisite notices were duly sent to the appellant. Similarly, notices were published in daily newspapers "Aaj" Peshawar and "Dawn" Islamabad on 02.11.2014 and 08.11.2014, respectively. The impugned order, therefore, cannot be attacked on the said pretext.

It also requires to be noted that the initial appointment of appellant was on contract basis, while he has neither claimed nor substantiated through any document, his regularization in service. This fact may put a question mark regarding the jurisdiction of this Tribunal in deciding the appeal in hand.

7. Consequent to what has been discussed above, instant appeal is found meritorious and is accordingly dismissed.

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





(MIAN MUHAMMAD)
MEMBER(E)



(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
23.11.2020


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	23.11.2020	<p><u>Present.</u></p> <p>Mr. Fazal Shah Mohmand, ... For appellant Advocate</p> <p>Mr. M. Riaz Khan Paindakhel, Asstt. Advocate General, ... For respondents.</p> <p>Learned counsel for the appellant as well as learned Asstt. A.G on behalf of the respondents heard. The available record also examined with their assistance.</p> <p>Vide our detailed judgment, instant appeal is found meritless and is accordingly dismissed.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (MIAN MUHAMMAD) Member(E) </div> <div style="text-align: center;">  CHAIRMAN </div> </div> <p><u>ANNOUNCED</u> 23.11.2020</p>


13.07.2020

Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General respondents present.

Again, a request was made for adjournment despite the fact that last chance was given on the preceding ~~order~~ ~~sheet~~. Learned counsel's request for adjournment is allowed but with direction to argue the case positively on 13.10.2020 before D.B.


(Attiq ur Rehman)
Member (E)

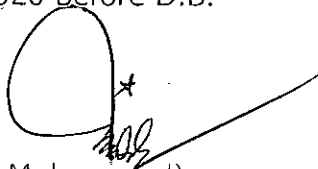

(Rozina Rehman)
Member (J)

13.10.2020

Junior counsel present on behalf of appellant.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Former made a request for adjournment as senior counsel is not in attendance. Adjourned but on the cost of Rs.2000/- to be paid on behalf of appellant. To come up for arguments on 23.11.2020 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

16.12.2019

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Being an old case of the year 2015, adjourned by way of last chance. To come up for arguments on 18.12.2019 before D.B.

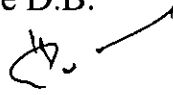

Member


Member

18.12.2019


Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 19.02.2020 before D.B.


Member


Member


19.02.2020

Appellant absent. Learned counsel for the appellant absent, however, junior to counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned but as a last chance. To come up for arguments on 16.04.2020 before D.B. Appellant and his counsel be put on notice for the date fixed.


Member


Member


Due to Covid-19 the case is adjourned. To come up for the same on - 13-07-2020-


Reader


15.05.2019


Counsel for the appellant and Addl. AG for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 22.07.2019 for arguments before the D.B.


Chairman

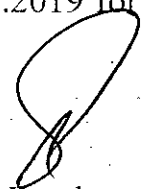
22.07.2019 : Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

07.10.2019

Due to official tour of Hon'ble Members to Camp Court Swat, the instant matter is adjourned to 16.12.2019 for the same.


Reader

13.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 02.01.2019 before D.B.



Reader

02.1.2019

Mr. Fazal Shah Momand, Advocate for the appellant and Addl. AG for the respondents present.

Learned counsel for the appellant states that instant appeal was adjourned on the strength of Reader note on the last date and, therefore, he has not noted the date of hearing for today. Adjourned to 13.03.2019 for arguments before the D.B.



Member



Chairman

13.03.2019

Junior to counsel and Mr. Ziaullah, DDA for the respondents present.

Request for adjournment is made due to engagement of learned senior counsel for the appellant before the Honourable High Court in so many cases today.

Adjourned to 15.05.2019 before the D.B.



Member



Chairman

20.04.2018.


Counsel for the appellant and Addl:AG alongwith Mr. Hazrat Shah, Supdt for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.07.2018 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

05.07.2018

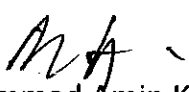
Counsel for the appellant and Mr. Sardar Shoukat Hayat, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 04.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

04.09.2018

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

05.10.2018


Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 13.11.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

09.11.2017

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents also present. Learned counsel for the appellant stated at the bar that similar nature appeal is fixed 08.12.2017 therefore, the present appeal may also be clubbed with that appeal. Request accepted. Adjourned. To come up for arguments on 08.12.2017 before D.B alongwith similar nature appeal.


(Gul Zeb Khan)


Member

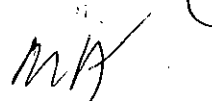

(Muhammad Amin Khan Kundi)

Member

08.12.2017

Counsel for the appellant present. Asst. AG for the respondents also present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.02.2018 before D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

14.02.2018

Clerk of the counsel for appellant present. Mr. Kabir Ullah Khattak, Additional AG for the respondents present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for arguments on 20.04.2018 before D.B.


Member


Chairman

630/2015

02.12.2016

Counsel for the appellant and Additional AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjournment granted. To come up for arguments on 10.04.2017 before D.B.

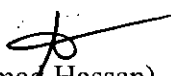

(MUHAMMAD AAMIR NAZIR)
MEMBER


(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN

10.04.2017

None present on behalf of the appellant. Mr. Amjid Ali, Assistant alongwith Mr. Muhammad Jan, Government Pleader for respondents present. Notice be issued to appellant and his counsel for arguments for 11.07.2017 before D.B.


Ahmad Hassan
28/4/17

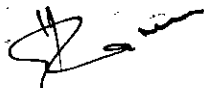

(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

11. 11.07.2017

Appellant in person and Asst: AG for respondents present. Appellant requested for adjournment. Adjourned. To come up for arguments on 09.11.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

27.1.2016

Counsel for the appellant and Mr. Muhammad Arshed, SO alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 11.4.2016 before S.B.


Chairman

11.04.2016


Appellant in person and Mr. Muhammad Arshad, SO alongwith Sr.GP for the respondents present. Reply submitted by respondents No. 2, 3 and 4. Learned Sr.GP relies on the same on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 01.08.2016.


Chairman

01.08.2016

Counsel for the appellant and Mr. Amjid Ali, Assistant alongwith Mr. Usman Ghani, Sr.GP for respondents present. Rejoinder submitted, copy whereof handed over to learned Sr.GP. To come up for arguments on 2-12-16 before D.B.





MEMBER


MEMBER

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 630/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.06.2015	<p>The appeal of Dr. Jehanzeb Khan resubmitted today by Mr. Fazal Shah Mohmand Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>23-6-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	23.06.2015	<p>Agent of counsel for the appellant present. Requested for adjournment. Adjourned to 27.7.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

27.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Medical Officer when subjected to inquiry on the allegations of wilful absence from duty and removed from service vide impugned order dated 9.2.2015 regarding which he preferred departmental appeal on 6.3.2015 which was not responded and hence the instant service appeal on 10.6.2015.

That the inquiry was not conducted in the prescribed manners and no opportunity of hearing was afforded to the appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 15.10.2015 before S.B.

Appellant Deposited Security & Process Fee

Chairman

15.10.2015

Since 15.10.2015 has been declared as public holiday on account of 1st Muharram-ul-Haram, therefore, case is adjourned to 27-1-15 for the same.

Reader

~~_____~~
~~_____~~
~~_____~~
~~_____~~

The appeal of Dr. Jehanzeb Khan Ex- Medical Officer Agency Head Quarter Hospital received to-day i.e. on 10.06.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Law under which appeal is filed is not mentioned.
- 2- Annexures of the appeal may be attested.

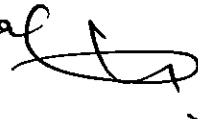
No. 915 /S.T,

Dt. 10/6 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal Shah Mohmand Adv. Pesh.

Resubmitted After necessary

cal  Adv
12/6/15

Completion

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No 630 /2015.

Dr. Jehanzeb Khan.....Appellant.

V E R S U S

Chief Secretary & Others.....Respondents

INDEX

S No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-54
2.	Copy of appointment Order	A	5-
3.	Copy of Notification dated 14-10-2008	B	6-8
4.	Copies of Notifications	C & D	7-8
5.	Copy of Notification dated 09-02-2015	E	9
6.	Copy of departmental appeal & Post office receipt	F & G	10-13
7.	Wakalat Nama		14

Dated:-09-06-2015

J. Zeb
Appellant

Through

Fazal Shah
Fazal Shah Mohmand
Advocate, Peshawar

OFFICE:-Cantonment Plaza Flat 3/B Khyber Bazar Peshawar.

Cell # 03018804841

1

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No: 630 /2015.

Dr. Jehanzeb Khan Ex- Medical Officer, Agency Head Quarter Hospital Ghalanai Mohmand Agency S/O Zahir Shah R/O Pehlwan Qilla Shabqadar Forte District Charsadda.....Appellant.

V E R S U S

**A.W.F. Province
Service Tribunal
Quary No. 603
Dated 10-6-2015**

1. Chief Secretary, Govt. of KPK Peshawar.
2. Secretary, Health Govt. of KPK Peshawar.
3. Director General Health Services Govt. of KPK Peshawar.
4. Director Health Services FATA, FATA Secretariat Warsak Road Peshawar.

.....Respondents.

U/S 4 of the Service Tribunal Act

APPEAL AGAINST THE NOTIFICATION NO. SOE (H-II/10-25/2014 DATED 09-02-2015, WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE WITH IMMEDIATE EFFECT AND THE PERIOD OF ABSENCE HAS BEEN TREATED AS UNATHORISED ABSENCE FROM DUTY WITHOUT PAY, AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN NINETY DAYS.

PRAYER:-

On acceptance of this appeal the impugned Notification No. SOE (H-II/10-25/2014, dated 09-02-2015, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits

Respectfully Submitted:-

1. That the appellant was appointed as Medical Officer, vide Order dated 23-11-1995 on contract basis and was posted to Basic Health Unit Pandyal Mohmand Agency, and since then he performed his duties with honesty and full devotion. **(Copy of the Appointment Order is enclosed as Annexure A).**

*Filed to-day
10/6/15*

2. That the appellant was time and again transferred and while posted as TMO Govt. Lady Reading Hospital Peshawar in the year 2008, he made a request for Ex Pakistan Extra Ordinary Leave for proceeding abroad, which was sanctioned vide Notification dated 14-10-2008. **(Copy of Notification, is enclosed as Annexure B).**

*re-submitted to-day
and filed.*

11/6/15
Registrar

2

3. That even the un-availed portion of Ex Pakistan Leave was cancelled vide Notification dated 23-05-2009 and vide Notification dated 07-10-2010 the gape period from 12-03-2010 was regularized. **(Copies of Notifications are enclosed as Annexure C & D).**
4. That accordingly the appellant proceeded abroad and he time and again made request for extension in his Ex Pakistan Extra Ordinary Leave but nothing was communicated to him and he was thus kept in dark.
5. That finally the appellant along with 14 others was awarded the penalty of Removal from service vide Notification dated 09-02-2015 treating the period of absence as unauthorized leave without pay. **(Copy of Notification is enclosed as Annexure E).**
6. That the appellant filed departmental appeal on 06-03-2015 vide registered post No 1571 which has not been responded so far despite the lapse of more than ninety days. **(Copy of departmental appeal & post office receipt are enclosed as Annexure F & G).**
7. That the impugned Notification/Order dated 09-02-2015 is against the law, facts and principles of justice on grounds interalia as follows:-

GROUND:-

- A. That the impugned Notification/order is illegal and void ab initio.
- B. That mandatory provisions of law have been violated by the respondents while taking action against the appellant.
- C. That exparte action has been taken against the appellant and he has been condemned unheard, thus the impugned order is void.
- D. That no charge sheet and show cause notice was communicated to the appellant and no inquiry was conducted in the matter to have found out the true facts and circumstances.
- E. That the absence from duty was not willful and deliberate, rather the same was because of circumstances compelling in nature and were beyond the

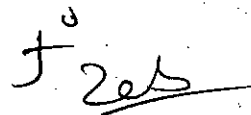
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control of the appellant as well, and the appellant had made request for extension in same.

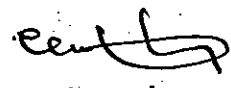
- F. That the appellant did nothing that could amount to misconduct.
- G. That even otherwise the period of absence has been regularized by treating the same as leave without pay, thus the impugned Notification is not maintainable in the eyes of law.
- H. That the impugned order is defective and as such not maintainable in the eyes of law.
- I. That the appellant was not afforded the opportunity of personal hearing.
- J. That the appellant has about 20 years of service with unblemished service record.

It is therefore prayed that on acceptance of this appeal, the impugned Notification/Order dated 09-02-2015, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Dated:-09-06-2015.


Appellant

Through


Fazal Shah Mohmand
Advocate Peshawar.

9

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No _____/2015.

Dr. Jehanzeb Khan.....Appellant.

V E R S U S

Chief Secretary & Others.....Respondents

AFFIDAVIT

I, Dr. Jehanzeb Khan Ex Medical Officer, Agency Head Quarter Hospital Ghalanai Mohmand Agency S/O Zahir Shah R/O Pehlwan Qilla Shabqadar Forte District Charsadda, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Jes

Identified by

Fazal Shah

Fazal Shah Mohmand

Advocate Peshawar

Jes

DEPONENT



5

A

DIRECTORATE GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

NO. _____/E-I,

DATED: /1995.

To,

Dr. Jehanzeb S/O Zahid Shah

SUBJECT:- OFFER OF APPOINTMENT ON CONTRACT BASIS.

MEMORANDUM:-

Reference your application on the above subject for the post of Medical Officer/ Women Medical Officer/ Dental Surgeon.

1. The Competent authority is hereby appoint you as Medical Officer/ Women Medical Officer/ Dental Surgeon in the Health Department, Govt. of NWFP, on contract basis in B-17 for a period of one year or till the availability of Public Service Commission selectee/ return of original incumbent from leave/deputation whichever is earlier, on the terms and conditions laid down in the attached Agreement Deed. You shall be posted to BHU Peshawar Mahmud. This contract appointment is not transferable.
2. This contract appointment is subject to your physical fitness for which you will appear before the Medical Board constituted by the Government.
3. If you accept the offer of appointment on contract basis as a Medical Officer/Women Medical Officer/Dental Surgeon, the attached Agreement Deed should be filled in duly signed by you and should report at your own expense.
4. If you fail to report for duty at the station specified in para-3 above, within Ten (10) days, the offer of appointment on contract basis will be deemed to have been withdrawn automatically and no further correspondence shall be entertained in this respect.

Contract

(DR. AZMAT KHAN AFRIDI)
DIRECTOR GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

NO. 28745-48/E-I,

Dated Peshawar, the 23/11/1995.

Copy forwarded to the :-

1. Secretary to Govt. of NWFP, Health Deptt: Peshawar for information with reference to his letter No. SO(H)IV/3-78/93, dated 16th Nov. 1995.
2. Medical Supdt: _____ for information & n/action.
3. Divisional Director Health Services Peshawar
4. District Health Officer/Agency Surgeon Mahmud
5. Accountant General, NWFP, Peshawar.
6. District/Agency Accounts Officer Mahmud for information and n/action please.

(DR. AZMAT KHAN AFRIDI)
DIRECTOR GENERAL HEALTH SERVICES, NWFP, PESHAWAR.

KHUSHDIL

Handwritten signatures and initials at the bottom of the page.

6

B

GOVERNMENT OF N.W.F.P.
HEALTH DEPARTMENT.

Dated Peshawar, the 14th October 2008.

NOTIFICATION.

No. SO(E)H-II/1-5/2006. Sanction is hereby accorded to the grant of 355 days Extra Ordinary Leave Ex-Pakistan with effect from the date of availing (not later than 21 days) in favour of Dr. Jehanzeb, TMO Govt. LRH, Peshawar.

The Provincial Health Department has no objection on his proceeding abroad.

SECRETARY TO GOVT. OF NWFP,
HEALTH DEPARTMENT.

Endst. No. & date even.

Copy to the:-

1. Director General, Health Services, NWFP Peshawar.
2. Accountant General, NWFP, Peshawar.
3. Dean PGMI Peshawar.
4. Doctor concerned.

(Ilam Khan Khattak)
Section Officer - II.

OFFICE OF THE DG HEALTH SERVICES NWFP, PESHAWAR.
NO. 33061-457E-I, dated Peshawar the, 11.11.2008.
Copy forwarded to the:-

1. AG NWFP, Peshawar.
 2. Dean PGMI, Peshawar.
 3. Doctor concerned.
 4. AE-II, DGHS, Office, Peshawar.
- for information and n/action.

PTB

FOR DIRECTOR GENERAL HEALTH SERVICES NWFP, PESHAWAR

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GOVERNMENT OF N.W.F.P
HEALTH DEPARTMENT

Dated Peshawar, the 14th October 2008

NOTIFICATION

No.SO(E) H-II/1-5/2006. Sanction is hereby accorded to the grant of 355 days Extra Ordinary Leave Ex-Pakistan with effect from the date of awaiting (not later than 21 days) in favour of Dr. Jehanzeb, TMO Govt. LRH, Peshawar

1. The Provincial Health Department has no objection on his proceeding abroad.

Secretary to Govt. NWFP
Health Department

Endst. No. & date even

Copy of the:-

1. Director General, Health Services, NWFP, Peshawar
2. Accountant General, NWFP, Peshawar
3. Dean PGMI Peshawar
4. Doctor Concerned.

Sd/-
Ham Khan Khattak
Section Officer-II

OFFICE OF THE DG HEALTH SERVICE NWFP, PESHAWAR

No.33041-45/E-1, dated Peshawar the, 11.11.2008

1. AG NWFP, Peshawar.
2. Dean PGMI, Peshawar
3. Doctor concerned.
4. AE-II, DGHS, Office Peshawar
For information and n/action

Sd/-
For Director General Health
Services NWFP, Peshawar

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GOVERNMENT OF N.W.F.P
HEALTH DEPARTMENT

Dated Peshawar, the 23/05/2009

NOTIFICATION

HEH-II/1-5/2006

The un-availed portion of 365 days Extra
leave Ex-Pakistan with effect from 14.10.2008 in favour of Dr.
TMO LRH Peshawar granted vide this department's
order of even No. dated 14.10.2008 is hereby cancelled beyond

Handwritten signature/initials

SECRETARY TO GOVT. OF N.W.F.P
HEALTH DEPARTMENT

date even.

to the:-

- Accountant General, NWFP, Peshawar.
- Director General, Health Services, NWFP Peshawar.
- Dean PGMI Peshawar.
- Doctor concerned.

Handwritten signature
(Muhammad Jamil)
Section Officer-II

OF THE DG HEALTH SERVICES NWFP, PESHAWAR.

1/E-I, dated Peshawar the, 04/06.2009.

- Copy forwarded to the:-
- DGHS, Office, Peshawar.
- DGHS, Office, Peshawar.
- for information.

FOR DIRECTOR GENERAL HEALTH
SERVICES NWFP, PESHAWAR

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GOVERNMENT OF N.W.F.P
HEALTH DEPARTMENT

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Dated Peshawar, the 23/05/2009

NOTIFICATION

No.SO(E) H-II/1-5/2006. Sanction is hereby accorded to the grant of 355 days Extra Ordinary Leave Ex-Pakistan with effect 14.10.2008 in favour of Dr. Jehanzeb TMO LRH Peshawar granted vide his departments Notification of even No. dated 14.10.2008 is hereby cancelled beyond 2009.

SECRETARY TO GOVT. NWFP
HEALTH DEPARTMENT

Endst. No. & date even

Copy of the:-

1. Accountant General, NWFP, Peshawar
2. Director General, Health Services, NWFP, Peshawar
3. Dean PGMI Peshawar
4. Doctor Concerned.

Sd/-

Muhammad Jamil
Section Officer-II

OFFICE OF THE DG HEALTH SERVICE NWFP, PESHAWAR

No.19481-82/E-1, dated Peshawar the, 04.06.2009.

1. AE-II, DGHS, Officer Peshawar
 2. AE-IV, DGHS Officer Peshawar
- For information and n/action

Sd/-

For Director General Health
Services NWFP, Peshawar

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

Dated Peshawar, the 7.10.2010.

NOTIFICATION.

DE(H-II/4-1/2010). The gap period with effect from 12.3.2010
7.2010 in respect of Dr. Jehanzeb, Medical Officer, AHQ Hospital,
Mohmand Agency is hereby regularized as Extra Ordinary
(without pay).

SECRETARY HEALTH

No. even & date even.

to the:-

- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Director General, Health Services, Peshawar.
- MS AHQ Hospital, Ghallani, Mohmand Agency.
- DHS FATA.
- SO (Establishment), FATA Secretariat w/r to his letter dated
16.8.2010.
- AAO Mohmand.
- Officer concerned.

Muhammad Jamil
(Muhammad Jamil)
Section Officer-II

Building, Health Department Govt. of Khyber Pakhtunkhwa,
Peshawar Road Peshawar Phone # 091-9210570, Fax # 091-9210419

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar, the 7.10.2010

NOTIFICATION

No.SOE(H-II/4-1/2010). The gap period with effect from 12.03.2010 to __/7/2010 in respect of Dr. Jehanzeb, Medical Officer, AHQ Hospital, Ghallani Mohmand Agency is hereby regularized as Extra Ordinary leave (without pay).

SECRETARY HEALTH

Endst. No. & date even

Copy of the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Peshawar
3. DHS FATA.
4. SO (Establishment), FATA Secretariat w/r to his letter dated 16.08.2010.
5. AAO Mohmand.
6. Officer concerned.

Sd/-
Muhammad Jamil
Section Officer-II

Building, health Department Govt. of Khyber Pakhtunkhwa
Khyber Road, Peshawar Phone # 091-9210570, Fax # 091-9210419

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 9th February, 2015

NOTIFICATION

No. SOE (H-II/10-25/2014): WHEREAS, disciplinary proceedings were initiated against the following doctors for their continuous willful absence from duty:

S. #	NAME OF DOCTOR/FATHER'S NAME/DESIGNATION/PLACE OF LAST POSTING	Date Of Absence
1.	Dr. Amir Hussain shah S/O Nazar Hussain Shah Ex-MO (BS-17) KATH Mansehra	27.10.2010
2.	Dr. Farmanullah S/O Mohammad Altaf Hussain Ex-Dental Surgeon (BS-17) Attached to Mian Rashid Hussain Memorial Hospital Pabbi	05.01.2014
3.	Dr. Jehanzeb Khan S/O Zahir Shah Ex-MO (BS-17) AHQ Hospital Ghalanai Mohmand Agency	01.03.2011
4.	Dr. Liaqat Ali Khan S/O Hijab Gul Ex-MO (BS-17) attached to A/S Mohmand Agency	Since long
5.	Dr. Muhammad Imran Khan S/O Muhammad Ibrahim Khan Ex MO (BS-17) RHC Barawal Distt: Upper Dir	04.11.2011
6.	Dr. Muhammad Ishaq S/O Izat Khan MO (BS-17) Health Department	17.05.2005
7.	Dr. Muhammad Saeed S/O Muhammad Miskeen Ex-MO (BS-17) under transfer from DHQ Hospital Haripur to DHQ Hospital Battagram	12.01.2011
8.	Dr. Muhammad Younas S/O Imam Sadar Ex-Dental Surgeon (BS-17) Type "D" Hospital Shahbaz Ghari Distt: Mardan	07.06.2013
9.	Dr. Musa Khan S/O Sher Zada Ex-MO (BS-17) BHU Gunagar Distt: Shangla	20.09.2013
10.	Dr. Nida Murad D/O Murad Ali Khan Ex-Dental Surgeon (BS-17) RHC Reggi Distt: Peshawar	13.03.2013
11.	Dr. Noor Ali Khan S/O Gul Khan Ex-MO (BS-17) Women & Children Hospital Bannu	05.08.2011
12.	Dr. Sabahatullah Khan Tareen S/O Sakhiullah Khan Tareen Ex-Dental Surgeon (BS-17) THQ Hospital Phar Pura Distt: D.I Khan	15.10.2008
13.	Dr. Saeed-ur-Rehman S/O Ghulam Rasool Khan Ex-MO (BS-17) Health Department	19.03.2014
14.	Dr. Sarfaraz Khan Afridi S/O Lal Bad Shah Afridi Ex-MO (BS-17) Health Department	Working with WHO for the last 13-years un-Lawfully
15.	Dr. Shabana Fida D/O Fida Muhammad Ex-WMO (BS-17) AHQ Hospital Ghalanai Mohmand Agency	02.06.2014

AND WHEREAS, absence notices were served upon them at their home addresses and also through press with the direction to resume duty within stipulated period.

AND WHEREAS, they failed to resume duty in the stipulated period given in the notices.

NOWHEREFORE, exercise of powers conferred under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules, 2011, competent Authority is please to impose the major penalty of **REMOVAL FROM SERVICE** upon the above mentioned doctors with immediate effect. The period from the date of absence till the date of imposition of penalty in respect of the above, shall be treated as un-authoritised absence from duty without pay.

Sd/-xxxxxx

SECRETARY HEALTH
KHYBER PAKHTUNKHWA

(Back page)

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Copy of the above is forwarded to:-

- 01 to 05. MS MRHSMH Pabbi Nowshera/MS KATH Mansehra/MS DHQ Hospital Battagram/MS Women & Children Hospital Bannu/MS DHQH Haripur.
- 06 to 12. DHO Peshawar/Nowshera/Mardan/Dir Upper/Shangla/D.I.Khan/Bannu.
13. DHS FATA, Peshawar.
- 14 to 15. MS AHQ Hospital Ghalanai Mohmand Agency/AHQ Hospital Landi Kotal Khyber Agency.
- 16 to 17. A/S Mohmand Agency/Khyber Agency at Jamrud.
18. AG office Khyber Pakhtunkhwa.
- 19 to 27. DAO Mansehra/Nowshera/Mardan/Dir Upper/Shangla/D.I Khan/Bannu/Battagram/Haripur.
- 28 to 29. AAO Khyber at Jamrud/Mohmand Agency at Ghalanai.
For information and necessary action.

REGISTERED:-

30. Dr. Amir Hussain Shah S/O Nazar Hussain Shah Village Banda Batang, P.O Public School Distt: & Tehsil Abbottabad.
31. Dr. Farmanullah S/O Mohammad Altaf Hussain, House No. 401, D-3, Near Khyber Park, Phase-I, Hayatabad, Peshawar.
32. Dr. Jehanzeb Khan S/O Zahir Shah Village Pehlawan Qila P.O Shabqadar Fort, Distt: Charsadda.
33. Dr. Liaqat Ali Khan S/O Hijab Gul Village & P.O Sheikh Yousaf Tehsil & Distt: Mardan.
34. Dr. Muhammad Imran Khan S/O Muhammad Ibrahim Khan, House No. 344, St.-9, Sector-P-2, Phase-IV, Hayatabad Peshawar.
35. Dr. Muhammad Ishaq S/O Izat Khan Village Derwaizi, Palosa, Tehsil & Distt: Hangu.
36. Dr. Muhammad Saced S/O Muhammad Miskeen, House No. E-129, P.O Fs Havalian Cantt: Distt: Abbottabad.
37. Dr. Muhammad Younas S/O Imam Sadar Village Chail Bagh Kally Lund Khwar Tehsil Takht Bhai Distt: Mardan.
38. Dr. Musa Khan S/O Sher Zada House No.155, Street No.66, Sector D-1 Phase-I, Hayatabad Peshawar.
39. Dr. Nida Murad D/O Murad Ali Khan Phase-3, House No. 64, Street No. 5 Sector K-5, Hayatabad Peshawar.
40. Dr. Noor Ali Khan S/O Gul Khan, Village & P.O Shewa Spinwam NW Agency Miranshah.
41. Dr. Sabahatullah Khan Tareen S/O Sakhiullah Khan, House No. 223, Block K-1, Street No. 06, Phase-3, Hayatabad Peshawar.
42. Dr. Saced-ur-Rehman S/O Ghulam Rasool Khan, Village Alwar Bandar P.O Shahcedan Banda Tehsil & Distt: Karak.
43. Dr. Sarfaraz Khan Afridi S/O Lal Bad Shah Afridi Shaheen Town Street No. 8, Jarud Road P.O Tckal Bala, Near Jchangir Abad Peshawar.
44. Dr. Shabana Fida D/O Fida Muhammad Khan C/O Anwar Khan House #-3, Doctor's Colony Fauji Foundation Hospital Peshawar
For information & Necessary action.

(Signature)
23/2/15
Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
KHYBER PAKHTUNKHWA

(10) E

BEFORE THE CHIEF MINISTER KHYBER PAKHTUNKHWA
PESHAWAR.

Subject: Departmental Appeal against Notification No. SOE (H-II/10-25/2014 dated 09-02-2015, whereby the appellant has been removed from service with immediate effect and the period of absence has been treated as unauthorised absence from duty without pay.

Respectfully Submitted:-

1. That the appellant was appointed as Medical Officer, vide Order dated 23-11-1995 on contract basis and was posted to Basic Health Unit Pandjali Mohmand Agency, and since then he performed his duties with honesty and full devotion. (Copy of the Appointment Order is enclosed as Annexure A).
2. That the appellant was time and again transferred and while posted as TMO Govt Lady Reading Hospital Peshawar in the year 2008, he made a request for Ex Pakistan Extra Ordinary Leave for proceeding abroad, which was sanctioned vide Notification dated 14-10-2008. (Copy of Notification, is enclosed as Annexure B).
3. That even the un-availed portion of Ex Pakistan Leave was cancelled vide Notification dated 23-05-2009 and vide Notification dated 07-10-2010 the gape period from 12-03-2010 was regularized. (Copies of Notifications are enclosed as Annexure D & D/1).
4. That accordingly the appellant proceeded abroad and time and again made request for extension in his Ex Pakistan Extra Ordinary Leave but nothing was communicated to him and he was thus kept in dark.
5. That finally the appellant along with 14 others was awarded the penalty of Removal from service vide Notification dated 09-02-2015 treating the period of absence as unauthorized leave without pay. (Copy of Notification is enclosed as Annexure E).

Atty to
Chief
Adm

6. That the impugned Notification/Order dated 09-02-2015 is against the law, facts and principles of justice on grounds inter alia as follows:-

GROUNDS:-

- A. That the impugned Notification/order is illegal and void ab initio.
- B. That mandatory provisions of law have been violated by the respondents while taking action against the appellant.
- C. That exparte action has been taken against the appellant and he has been condemned unheard, thus the impugned order is void.
- D. That no charge sheet and show cause notice was communicated to the appellant and no inquiry was conducted in the matter to have found out the true facts and circumstances.
- E. That the absence from duty was not willful and deliberate, rather the same was because of circumstances compelling in nature and were beyond the control of the appellant as well, and the appellant had made request for extension.
- F. That the appellant did nothing that could amount to misconduct.
- G. That even otherwise the period of absence has been regularized by treating the same as leave without pay, thus the impugned Notification is not maintainable in the eyes of law.
- H. That the impugned order is defective and as such not maintainable in the eyes of law.
- I. That the appellant was not afforded the opportunity of personal hearing.
- J. That the appellant has about 20 years of service with unblemished service record.

Attest
 [Signature]
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It is therefore prayed that on acceptance of this appeal, the impugned Notification/Order dated 09-02-2015, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Jzeb

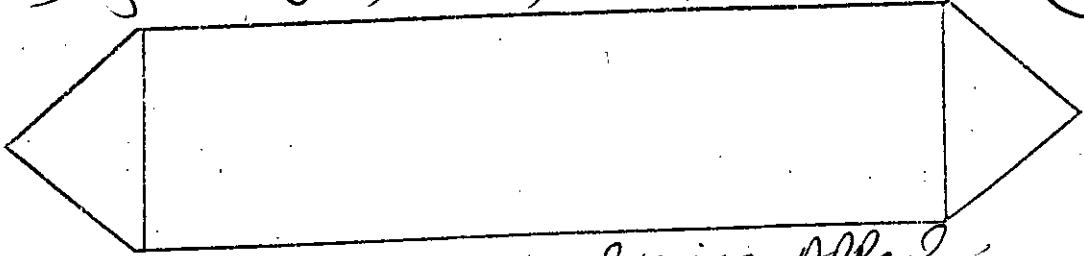
DR. JEHAZEB KHAN
Ex Medical Officer
Agency Head Quarter Hospital
Ghalanai Mohmand Agency
S/O Zahir Shah R/O Pehlwan
Qilla Tehsil Shabqadar
District Charsadda.
Cell No.0347-2626209

Dated:06-03-2015.

Attest
[Signature]
[Signature]

بعد الت جناب سروس ٹریبونل RPK لاہور

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Service Appeal

2ء منجانب
ڈاکٹر جہانزیب خان بنام صنف سلیٹنگ لاہور

مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ کی
آن مقام لدا کیلئے فضل شاہ محمد اللہ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب اور ارضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلقہ دینیے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی براندگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائہ التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم ۱۵ جون ۲۰۲۰

Attested & Accepted

Adh

9-6-20

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR
Appeal No. 630/2015

Dr. Jehanzeb Khan, Ex-MO

Appellant

Versus

Chief Secretary Khyber Pakhtunkhwa & Others

Respondents

Para wise joints comments on behalf of respondent No. 2, 3 & 4.

Respectfully Sheweth;

Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honorable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for mis joinder & non-joinder of parties.
5. That the present appeal is barred by law.
6. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed.
7. That, the appellant had concealed the facts from this Honourable Court.

ON FACTS

1. Correct, to the extent of appointment but has neither served honestly nor with full devotion as his file is full of absenteeism.
(Copy attached as Annex-A)
2. Correct, pertains to the record.
3. Correct, pertains to record and the gap period was regularized as Extra Ordinary Leave without pay from 12-03-2010 to 12-07-2010.
(Copy attached as Annex-B)
4. Incorrect, the appellant applied for 3 months Ex-Pakistan Leave for the renewal of his GREEN CARD of USA as he is GREEN CARD holder but did not reported for duty for more than a year, so it is

also incorrect that the appellant applied for extension of the said leave or any communication have been made. (Copy attached as Annex-C)

5. Incorrect, the notification dated 09-02-2015 is issued after fulfilling all the codal formalities for the removal from service of a civil servant.
6. Incorrect, no departmental appeal has been received. Furthermore, this para seems false as if the appellant was in Pakistan why he preferred to the post office for filing departmental appeal though register post/AD.
7. Incorrect, the notification is according to law as all the codal formalities were adopted while issuing the notification dated 09-02-2015 and is also not against the Principle of natural justice.

ON GROUNDS

- A. Incorrect, the impugned notification is according law and does not fall within the ambit of void ab initio.
- B. Incorrect, no mandatory provision of Law has been violated by the respondents as all the codal formalities were properly adopted while issuing the impugned notification.
- C. Incorrect, as stated above all the codal formalities were adopted which shows that chances have been offered to the appellant, so, the question of ex parte action, condemned unheard does arise.
- D. Incorrect, as properly explained in the above para's all the codal formalities were adopted.
- E. Incorrect, as stated above the appellant is GREEN CARD holder and is properly settled the in United States of America.
- F. Incorrect, the absence from official duties without prior permission or properly extension amounts to misconduct of the appellant.
- G. Incorrect, each and every time he absented himself, his gap period was regularized, this sympathetic attitude of the

(3)

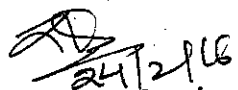
respondent became a natural and normal habit for the appellant in the performance of duty.

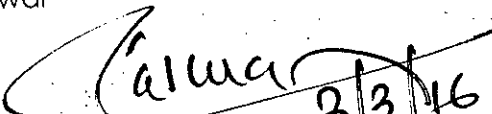
- H. Incorrect, the impugned notification is according to law as all the codal formalities were properly adopted.
- I. Incorrect, the appellant was properly given chance by issuing a registered post at his home address, which shows that he was properly given chance of personal hearing.
- J. Correct, to the extent of 20 years but the whole of his service record show OFF & ON attitude which does not attract to be an unblemished service record.

It is therefore most humbly prayed that the appeal devoid of merits/legal footing, may be dismissed with cost.



Director General Health Services,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 03


24/2/16
Director Health Services,
FATA Peshawar
Respondent No. 04


2/3/16
Secretary (Health),
Govt. of Khyber Pakhtunkhwa,
Health Department, Peshawar
Respondent No. 02

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Directorate of Health & Population, Welfare, FATA,
FATA Secretariat, Warsak Road, Peshawar

No. 2216 /FATA/Admn:

Dated 13 /2/2008

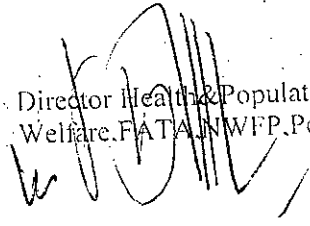
To,

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

Subject: POSTING/TRANSFER OF DR:JEHANZEB,MO

Sir,

With reference to your letter No. 13/28/SO(E)H-II/07 dated 26.1.2008, on the subject noted above. I have the honour to state that Dr. Jehan Zeb MO has not reported his arrival to this Directorate and as such his where about is not known to this. The undersigned recommends strict disciplinary action against the doctor concerned on account of dis-obedience of orders.


Director Health & Population,
Welfare, FATA, NWFP, Peshawar.

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DIRECTORATE OF HEALTH & POPULATION WELFARE

FATA SECRETARIAT WARSAK ROAD PESHAWAR

No. 19934 /DHS/FATA/Admn. Dated. 16/9 /2010

To

**The Medical Superintendent,
AHQ: Ghallanai.**

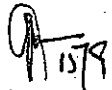
Subject: **APPLICATION FOR EX- PAKISTAN 365 DAYS LEAVE WITH PAY.**

Memo:

Reference your letter No. 1415 dated 18/08/2010 on the subject noted above.

The request of Dr. Jahanzeb, MO received with your letter under reference is regretted by the competent authority.

The Officer concerned may be informed accordingly.

dc
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Director Health Services,
FATA, Peshawar.

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**DIRECTORATE OF HEALTH & POPULATION WELFARE
FATA SECRETARIAT WARSAK ROAD PESHAWAR**

No. 5302 /DHS/FATA/Admn. Dated. 23 / 4 / 2011

To


The Medical Superintendent
AHQ: Hospital Ghallanai.

Subject: - **ABSENT REPORT OF MEDICAL OFFICER WOMEN MEDICAL
OFFICER & PARAMEDICAL STAFF OF AHQ: HOSPITAL
GHALLANAI MOHMAND AGENCY.**

Memo:

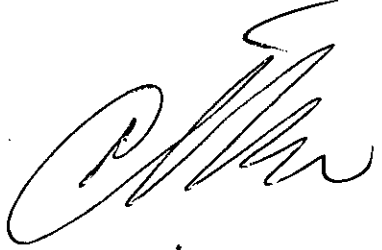
Reference your letter No. 1041 dated 16-04-2011 on the cited subject above.

You are directed to stop the pay of Dr. Jehanzeb, Medical Officer if he is still absent from duty, under intimation to this Directorate.


23/4/11
Director Health Services
FATA, Peshawar

Acknowledgement

I received an amount of Rs. 2000/-
in each Service Appeal 788/15 Dr Sur Faraz and
Service Appeal 630/15 Dr Jehanzeb vs Health
Department from the appellant side where
is total amount Rs. 4000/-.


24/11/2020
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal Peshawar

~~AK~~

209

FAX NO.

May 24 2011 11:10AM PT

OFFICE OF THE MEDICAL SUPERINTENDENT
AHQ HOSPITAL GHALLANAI

No 1585 /MS Dated 24/05/2011

To,

The Director Health & Population Welfare
FATA, Peshawar.

3641
28/5

Subject:- **ABSENT REPORT OF DR. JEHAN ZEB MO.**
Memo:

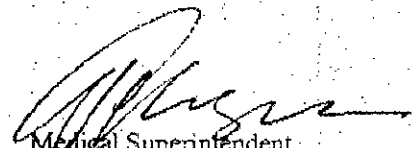
Reference vide this office letter No. 1041/M/S dated 16/04/2011 on the subject noted above.

I have the honour to inform your good self that Dr. Jehan Zeb Medical officer which is remained absent from March 2011.

It is Therefore, request to you that please take strict disciplinary action against the above mentioned medical officer, pay of Dr. concerned has been already stopped.

(Report submitted for further necessary action, please)

ut up
disapproved
Action No _____ /MS


Medical Superintendent
AHQ Hospital Ghallanai
Dated _____ /05/2011.

Copy forwarded to the:-

- 1. Political Agent Mohmand at Ghallanai for information and necessary action, please

A
24/5

ADA
Put up
O.S. 28/5

Medical Superintendent
AHQ Hospital Ghallanai

215



Establishment Section

FATA SECRETARIAT
(COORDINATION & ADMINISTRATION DEPARTMENT)
WARSAK ROAD PESHAWAR

No.FS/E/100-81 (Vol-6)/ 7257-58
Dated 5/6/2011

Secretary,
Health Department,
Khyber Pakhtunkhwa, Peshawar.

4311
17-6-2011

Subject: ABSENCE REPORT

Dear Sir,

I am directed to state that Dr. Jehanzeb Medical Office, Agency Headquarters Hospital Ghallanai Mohmand Agency is absent from duty since March 2011.

2- The matter is therefore brought to notice for further appropriate action under intimation to this Secretariat.

Yours faithfully,

Sd/-
(Muhammad Abbas Khan)
Section Officer (Estab)

Copy to:-

- Director Health Services (FATA) for information.

3
Section Officer (Estab)

ADA

9/18/16

3
18/16

DS

221

OFFICE OF THE MEDICAL SUPERINTENDENT AHQ HOSPITAL GHALLANAI

No 2/47 /M/S

Dated 12 /07/2011.

To,

6554
29/9

The Director Health Services
FATA, Peshawar.

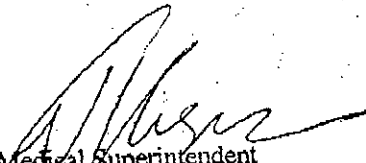
Subject:
Sir,

ABSENT REPORT OF DR. JEHAN ZEB

Reference vide this office letter No. 1041/M/S dated 16/04/2011 on the subject cited above.

I have the honour to inform your good self that Dr. Jehan Zeb Medical Officer is found absent from the last 3-Months Continuously his pay stopped and report submitted to your good office of even Nos and date.

It is once again report submitted for your kind information and disciplinary action please.


Medical Superintendent
AHQ Hospital Ghallanai.
Dated _____ /07/2011.

No _____ /M/S

Copy forwarded to the Additional political Agent Mohmand at Ghallanai for information please.

Medical Superintendent
AHQ Hospital Ghallanai.

AYA

P.V. 29/9

05

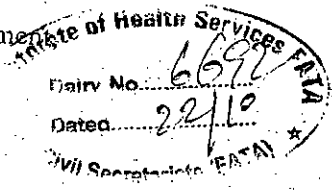
No. 7892 /M

Dated Ghallanai the 18 / 10 / 2011

From : The Political Agent,
Mohmands at Ghallanai.

To : The Secretary,
Administration & Coordination Department,
FATA Secretariat, Peshawar.

Subject : Absent Report of Dr. Jehanzeb.
Memorandum



Please refer to Director Health Services (FATA), Peshawar letter No.15055-57 dated 05.10.2011, addressed to Medical Superintendent AHQ Hospital Ghallanai and copy thereof endorsed to you and this office on the subject noted (copy enclosed for ready reference please).

It is requested that the quarter concerned may please be asked for transfer of Dr. Jehanzeb from AHQ Hospital Ghallanai and provision of a suitable substitute doctor in his place on urgent basis in order to ensure efficient services delivery.

[Handwritten Signature]
Political Agent Mohmands
Ghallanai

No. 7893 - 95 /M
Copy forwarded to :-

- ✓ 1. Director Health Services (FATA), Peshawar.
- 2. Agency Surgeon, Mohmand Agency at Ghallanai.
- 3. Medical Superintendent, AHQ Hospital Ghallanai.

[Handwritten Signature]

[Handwritten Signature]
Political Agent Mohmands
Ghallanai

21/11/11

DIRECTORATE OF HEALTH & POPULATION WELFARE
FATA SECRETARIAT WARSAK ROAD PESHAWAR

235

No. 15055-57 /DHS/FATA/Admn.

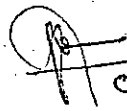
Dated. 5/10 /2011

The Medical Superintendent,
AHQ: Hospital; Ghallanai.

Subject:- ABSENT REPORT OF Dr. JEHNAZEB.

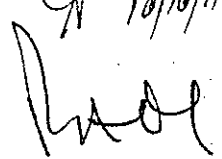
Reference your letter No. 2147/ dated 12.07.2011 on the subject noted above.

The absence of Dr. Jehanzeb Medical Officer, AHQ: Hospital:Ghallanai since March 2011 has already been intimated to Secretary Health Khyber Pakhtunkhwa vide Secretary A&C FATA letter No. FS/E/100-81 (Vol-6) / 7257-58/ dated 15.06.2011 and the case for disciplinary action against the Medical Officer concerned is under process in the Provincial Health Department.


Director Health Services,
FATA, Peshawar.

CC:

1. Secretary Administration & Coordination FATA.
2. Political Agent Mohmand at Ghallanai.

Ag
ask for substitute Dr.
10/10/11




Establishment Section

239
FATA SECRETARIAT
(COORDINATION & ADMINISTRATION DEPARTMENT)
WARSAK ROAD PESHAWAR

No.FS/E/100-81 (Vol-8)/ 16814-15
Dated 11/11/2011

Secretary,
Health Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: ABSENCE REPORT

Dear Sir,

I am directed to refer to this department letter No.FS/E/100-81 (Vol-6)/7257-58 dated 15-06-2011 on the subject noted above and to request to kindly intimate present position regarding disciplinary action against Dr. Jehanzeb Medical Officer, Agency Headquarters Hospital Ghallanai Mohmand Agency on account of his absence from duty.

Yours faithfully,

Sd/-

(Muhammad Abbas Khan)
Section Officer (Estab-I)

Copy to:-

- ✓ Director Health Services (FATA) for information.

Section Officer (Estab-I)

22
2-5 11/11

OFFICE OF THE MEDICAL SUPERINTENDENT AHQ HOSPITAL GHALLANAI.No 836 /M/SDated 06 /03/2012.

To,

The Director Health Services
FATA, Peshawar.

Subject: REGULARIZATION OF SERVICE AND RELEASE
OF PAY.(DR.JEHAN ZEB MO.)

Sir,

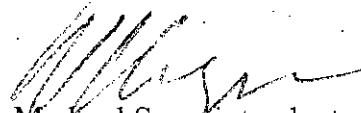
Reference your good office letter No:2875/DHS/
FATA/Admn;/PF, dated 22.02.2012 on the subject noted above and to state
is as under:

1. That pay of the Doctor concern was stopped from 01.03.2011.
2. That he was remained absent from Govt: duty from the above mentioned date as he himself stated/quoted in his application.
3. That his explanations were called several times and submitted to your good office for disciplinary action under the rules.

COMMENTS.

1. Now he has signed his charge report as arrival report and submitted on 01.01.2012 to the undersigned and since then he is performing his duty regularly.

Keeping in view the above, it is therefore requested that to proceed further in the matter as per Govt: rules/policy please.


Medical Superintendent
AHQ Hospital Ghallanai.

DDA

8/3/12

DIRECTOR HEALTH SERVICES,
FATA, PESHAWER,
KHYBER PUKHTHUN KHWA

SUBJECT " 3 YEARS EX PAKISTAN LEAVE
WITHOUT PAY "

Sir, Respectfully I say that I am working as
regular medical officer in AHO Ghelani Mohmand.
I went to United States on 16/10/2010 on God's
ex-pakistan leave, but due to unavoidable family
matters I overstayed there and resumed my duty
back on my original post on 1/1/2012. I was marked
absent since March 2011. I have applied already
for regularization of my absent period without
pay.

Now ~~as~~ my family is living in United
States and I need to go back for their
last after. I need 3 years ex-pakistan leave
without pay.

I therefore kindly request that my
absent period should kindly be regularized
without pay (case already under process) and
I shall be granted 3 years leave ex-pakistan
without pay.

Thanks

Date, 8/3/2012.

Respectfully
Dr. JEHAN ZEB
Medical Officer
AHO Ghelani

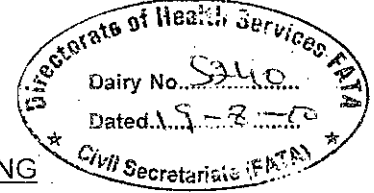


Establishment Section

FATA SECRETARIAT
(COORDINATION & ADMINISTRATION DEPARTMENT)
WARSAK ROAD PESHAWAR

No.FS/E/100-81 (Vol-2) 736-38
Dated 16/8/2010

Secretary,
Health Department,
Khyber Pakhtunkhwa, Peshawar.



Subject: REGULARIZATION OF GAP PERIOD OF POSTING

Dear Sir,

I am directed to state that services of Dr. Jehanzeb Medical Officer (BS-17) were placed at the disposal of Directorate of Health Services (FATA) vide your department Notification No.SO(E)/H-II/4-1/2010 dated 10-06-2010 and on his arrival, he was posted in Agency Headquarters Hospital Mohmand Agency against the vacant post of Medical Officer with effect from 14-06-2010 (FN) vide this Secretariat Order bearing No.FS/E/100-81/7464-70 dated 05-07-2010 with a copy thereof endorsed to your department as well. As there is a gap of four months service between his arrival to DGHS Office & then Agency Headquarters Hospital Ghallanai, Mohmand Agency which requires regularization.

2- The officer vide his attached application has requested for regularization of period from 12-03-2010 to 12-07-2010. In this connection it is stated that the officer was taken on our strength with effect from 14-06-2010, therefore period prior to his posting to FATA concerns the Provincial Health Department which needs regularization.

Yours faithfully,

(WAQAR HUSSAIN)
Section Officer (Estab)

Encl: (Application)

Copy to:-

1. Director Health Services (FATA) with reference to his Office Note dated 05-08-2010.
2. Medical Superintendent, AHQs Hospital Ghallani Mohmand Agency with reference to his letter No.1277/M/S dated 15-07-2010.

(for information)

Section Officer (Estab)

19/8/10

265

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications Should be Addressed to The Director General
Health Services Peshawar and not to any official by name
Office Ph: 091 - 9210269 Exchange 091 - 9210187, 091 - 9210196 Fax: 091 - 9210230

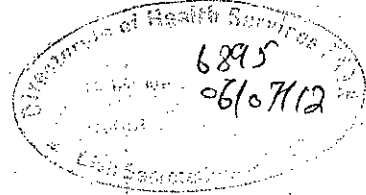


No 18618 /E-I

Dated: - 28/06/2012

To

Director Health Services
FATA.



Subject: - EXPLANATION

I am directed to forward herewith a copy of explanation in respect of Dr. Jehanzeb Khan MO (B-17) AHQ Hospital Ghalani Mohmand Agency. It may be served upon him and his reply be obtained and submitted to this Directorate alongwith the comments of his controlling officer.

Wali *md* 28/6/12

Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No _____ /E.I

Q/1
27/6

Copy of the above alongwith a copy of explanation is forwarded to:-

1. Secretary to Govt: of Health Department for information w/r to his letter No. SO (E) H-II/1-1/2011 dated 11.06.2012.
2. A/S Mohmand at Ghalanai for information and similar necessary action.

ASA
05/7
Endorsement
3
6/7
D.S

Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR



FATA SECRETARIAT
(SOCIAL SECTORS DEPARTMENT)
WARSAK ROAD, PESHAWAR

No. FS/SO/(H)/SSD/2012/ 1347-49
Dated: 24/12/2012

To

The Secretary Health,
Government of Khyber Pukhtunkhwa
Peshawar.

Subject: EXPLANATION

Dear Sir,

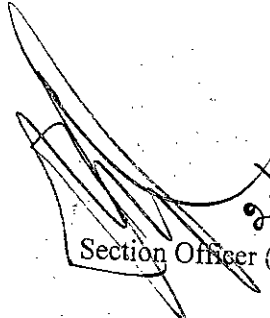
I am directed to refer to the subject noted above and to enclose a copy of an explanation of Dr: Jehan Zeb Medical Officer Agency Headquarter Hospital Ghallanai Mohmand Agency and to request to initiate disciplinary action against the concerned doctor on account of willful absence from duty.

Yours faithfully

Javed Hassan
Section Officer (H)

CC:

1. ✓ Director Health Services FATA
2. P.S to Secretary SSD


24/12/12
Section Officer (Health)

3
26/12
D.S Endorsed
R.H. C



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications Should be Addressed to The Director General
Health Services Peshawar and not to any official by name.

Office Ph (091-9210269) Exchange (091-9210187, 091-9210196) Fax (091-9210230)
No. 16029-33 /E.I Dated: 5/9/2014

Registered

To,

Dr. Jehan Zeb S/O Zahir Shah,
Village Pehlawan Qila P.O Shabqadar Fort,
Distt: Charsadda.
(Ex-MO AHQ Hospital Ghalanai)

Subject: - **ABSENCE NOTICE**

As per report of DHS FATA vide his letter No. 14622/DHS/FATA/Admn dated 07.08.2014, you are absent from duty since 01.03.2011 without any information or prior permission of the competent authority.

You are hereby directed to report arrival at your place of posting within 14-days of the issuance of this notice and also explain reasons for willful absence from duty.

In case of failure disciplinary action will be initiated against you under E & D Rules, 2011.

[Signature]
Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Cc:-

1. Secretary to Govt: of Health Department KPK, Peshawar for information.
2. DHS FATA.
3. MS AHQ Hospital Ghalanai Mohmand Agency.
4. AE-II DGHS.

For information.

[Signature]
18/9/14
DDA

File

[Signature]
19/9/14

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91

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BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No 630/2015.

Dr. Jehanzeb Khan.....Appellant.

V E R S U S

Govt. & Others.....Respondents

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the preliminary objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action/locus standi, instant appeal maintainable in its present form being not barred by law, and he is not stopped by his conduct to file instant appeal. This honorable tribunal has got jurisdiction to entertain and adjudicate upon the matter, the appellant has concealed nothing from this honorable tribunal and in instant appeal all necessary parties have been imp leaded.

RELY TO FACTS/GROUNDS.

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the appellant did anything that would amount to misconduct. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant. Respondents have admitted that no charge sheet and show cause notice were communicated to the appellant, and that no inquiry was conducted in the matter, thus no charge was framed against the appellant. Even respondents have failed to prove that the procedure set forth by law in case of absence has been adopted thus the impugned order is illegal and not maintainable in the eyes of law. It is worthwhile to mention here respondents have admitted that the

period of absence has been condoned by treating the same as leave without pay, and the appellant could not be punished on this ground again. Even otherwise the absence from duty was not willful and deliberate rather the same was because of circumstances compelling in nature which were beyond his control as well.

In the circumstances the appellant has been punished without any omission or commission on his part and he has not committed any misconduct. The respondents have failed to substantiate their version and bring anything on record in support of their version; as such the impugned order is not maintainable in the eyes of law and liable to be set aside on this score alone. It is also important to mention here that the request of the appellant regarding extension in deputation was pending with the respondents. Even the respondents have also admitted that the appellant has been discriminated as others similarly placed Doctors have been reinstated whereas the appellant is treated differently in violation of law and constitution of the land. Even Dr Shabana Fida Dr of Fida Muhammad and Dr Saeed-Ur-Rehman S/O Ghulam Rasool Khan removed vide the same order, have been reinstated in service, as such the appellant also deserve the same treatment and should not be discriminated.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-01-08-2016


Appellant

Through


Fazal Shah Mohmand

Advocate Peshawar

A F F I D A V I T

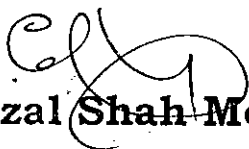
AFFIDAVIT

I, Dr. Jehanzeb Khan Ex. Medical Officer, Agency Head Quarter Hospital Ghallanai Mohmand Agency (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



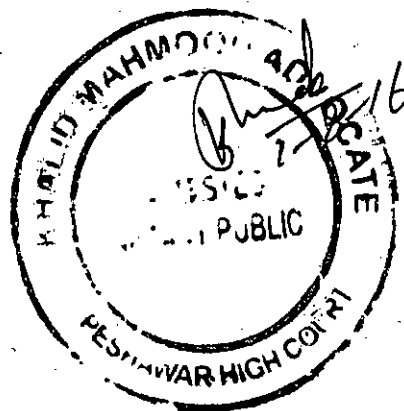
DEPONENT

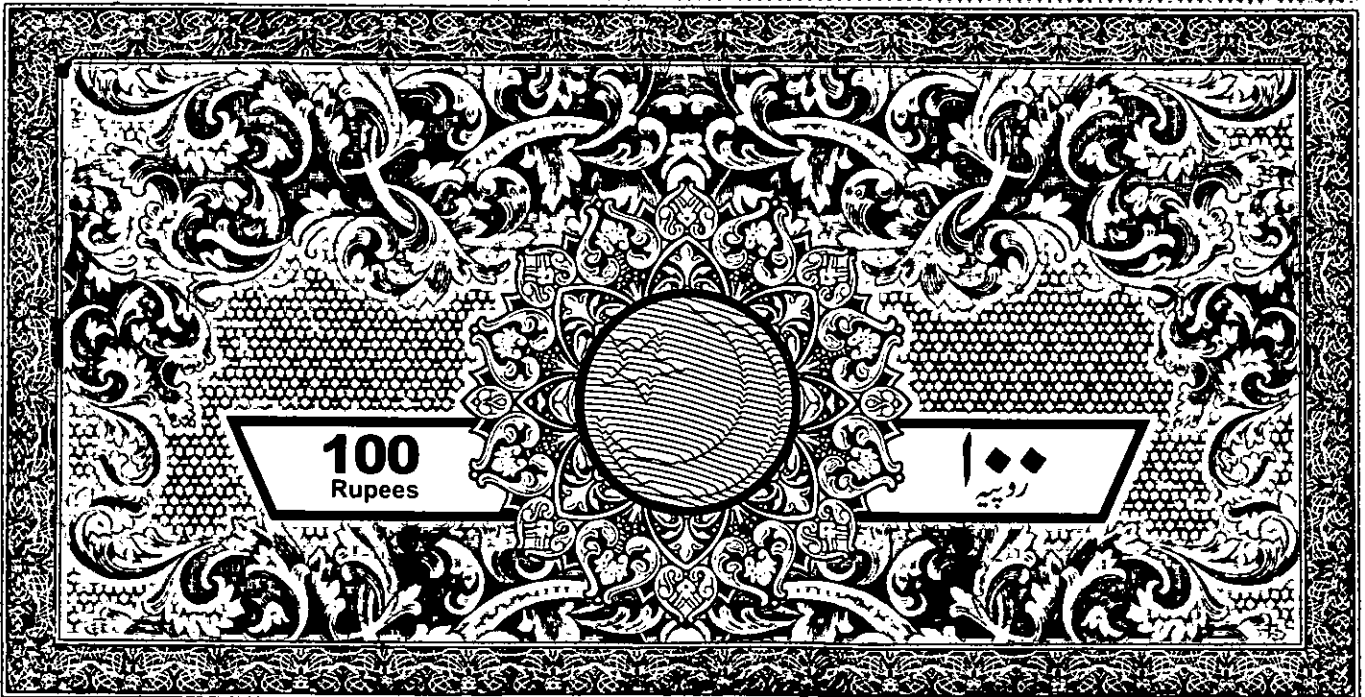
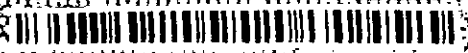
Identified by



Fazal Shah Mohmand

Advocate Peshawar.



100
Rupees۱۰۰
روپیہ

بعدالت جناب خیبر پختونخوا سروس ٹریبونل، پشاور

﴿مختیار نامہ خاص بابت پیروی مقدمہ﴾

بعنوان:- ڈاکٹر جہانزیب بنام گورنمنٹ وغیرہ

مایا نکہ ڈاکٹر جہانزیب ولد ظاہر شاہ سکنہ پہلوان قلعہ، ڈاکخانہ شبقد رفورٹ، تحصیل و ضلع چارسدہ، بذریعہ تحریر ہذا مقرر ہیں کہ مقدمہ بعنوان بالا میں مقرران اختیار دہندگان کی حیثیت اپیلانٹ کی ہے چونکہ ذاتی مسرونیات و دیگر معاملات، زندگی مقرران مقدمہ ہذا کی پیروی اصالتاً کرنے سے قاصر ہیں اسلئے بدیں وقت اپنی طرف سے اپنے حقیقی پسر مسمی امتیاز خان ولد حضرت گل سکنہ پہلوان قلعہ، ڈاکخانہ شبقد رفورٹ، تحصیل و ضلع چارسدہ، کو اپنی جانب سے مختیار خاص مقرر کر کے اختیار دیتے ہیں کہ مختیار موصوف مقرران دہندگان مذکوران کی جانب سے مقرران کی غیر موجودگی میں مقدمہ بعنوان بالا میں جملہ کاروائی بشمول کاروائی درعدالت عالیہ پشاور ہائیکورٹ پشاور بذات خود بہ دستخط خود سرانجام دیوے، درخواست گزارے، نقولات مقدمات حاصل کرے، تائید و تردید و تصدیق کرے، جواب دعویٰ و اقبال دعویٰ وغیرہ پیش کرے، ثالث مقررے کرے، راضی نامہ کرے، راضی نامہ پیش کرے، گواہان پیش کرے، بطور گواہ مقرران پیش ہو کر شہادت دیوے، اپیل کرے، یا اجازت اپیل یا رٹ پیشیں دائر کرے، نگرانی کرے، نظر ثانی کرے، وکیل یا بیرسٹر مقرر کرے غرض یہ کہ جن جگہوں پر مقرران کی ذات و دستخطوں کی ضرورت پڑے مختیار خاص موصوف کو جملہ ساختہ و پرداختہ مثل کردہ کہ ذات و خاص کے مقرران بمثل خود قبول و منظور ہونگے لہذا مختیار نامہ خاص رو بروئے گواہان حاشیہ سنداً تحریر شد۔

المؤدہ:

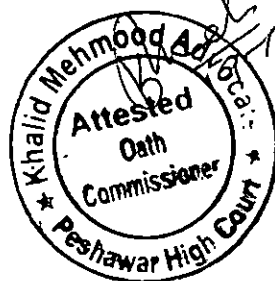
العبد

امتیاز خان

شخصی کارڈ نمبر:- 17101-0406089-9

مختیار موصوف

Handwritten signature of the petitioner.



العبد

ڈاکٹر جہانزیب

شخصی کارڈ نمبر:- 17101-0255729-9

اختیار دہندہ

Handwritten signature of the respondent.

واہ نشد

کریب ولد ظاہر شاہ سکنہ پہلوان قلعہ

شخصی کارڈ نمبر:- 17101-0323094-3

Handwritten signature of the respondent.

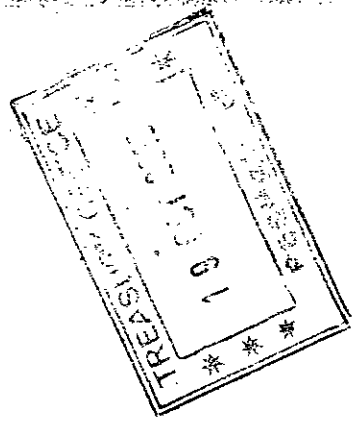
واہ نشد

کریب ولد ظاہر شاہ سکنہ پہلوان قلعہ

شخصی کارڈ نمبر:- 17101-0323111-5

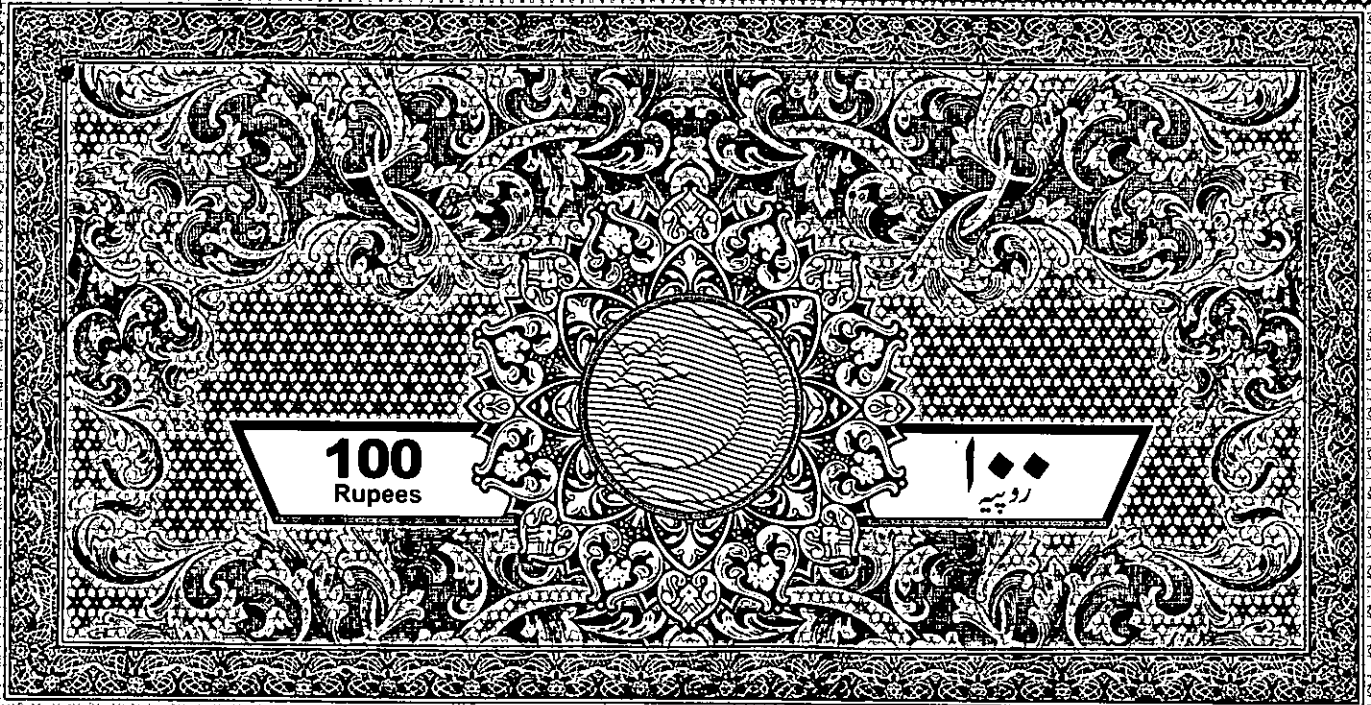
Handwritten signature of the respondent.

10/18/10



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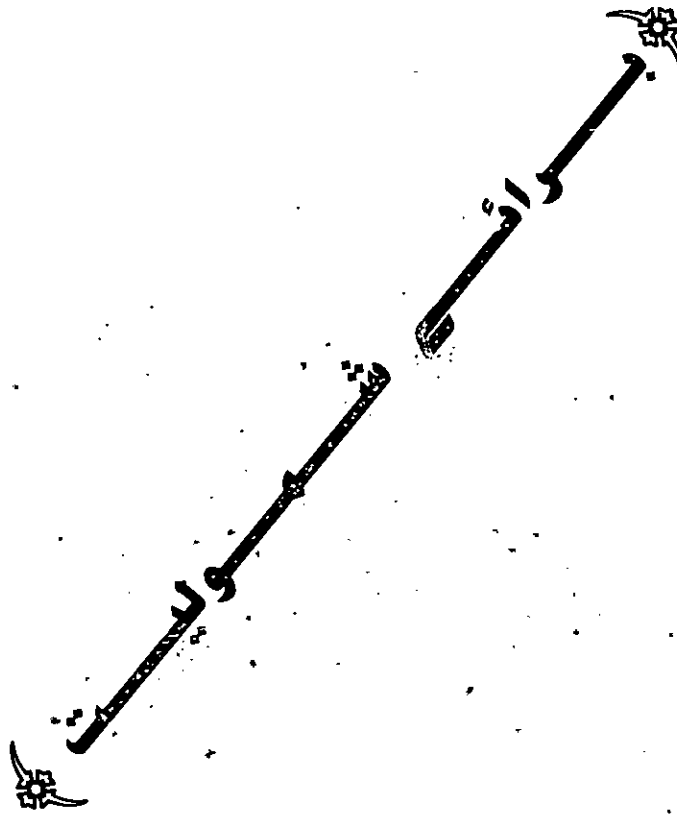
409254



بعدالت جناب خیبر پختونخواہ سروس ٹریبونل، پشاور

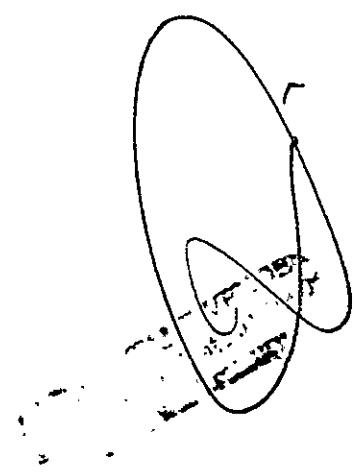
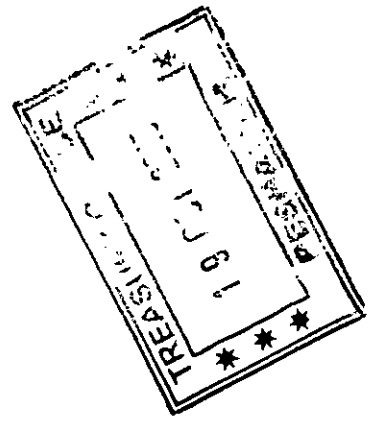
﴿ مختیار نامہ خاص بابت پیروی مقدمہ ﴾

بعنوان:- ڈاکٹر جہانزیب بنام گورنمنٹ وغیرہ



Handwritten text in Arabic script, likely a signature or name, oriented vertically.

18/10



میں نے اس پر دستخط کیا ہے

18 $\frac{10}{15}$

TREASURY OFFICE
14 OCT 2015
PESHAWAR

RECEIVED
14 OCT 2015
PESHAWAR