FORM OF ORDER SHEET

Court of _____

Case No.-___

788/**2023**

Order or other proceedings with signature of judge Date of order S.No. proceedings .1 2 05/04/2023 1appeal of Mr. Asad Ullah presented today by The Mr. Yasir Saleem Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel to date the fixed. By the order of Chairman REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 788 /2023

VS

Asad Khan

HEALTH DEPARTMENT

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THROUGH:

Y Yasir Saleem & Afrasiab Khan Wazir Advocate high Court

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APPELLANT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. <u>788</u>/2023

Mr. Asad Khan , Beshti, in the office of District Health Officer District North Waziristan APPELLANT.

Versus

- 1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 2. District Health Officer, District North Waziristan.
- 3. District Account Officer, District North Waziristan.
- 4. The secretary Health department, Khyber Pakhtunkhwa, Peshawar.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF THE RESPONDENT BY NOT RELEASING SALARIES W.E.F 01.01.2021 OF THE APPELLANT AND AGAINST INACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD.

Prayer: 🗕 👘 🦔

That on acceptance of this instant service appeal of the appellant the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.01.2021 till dated may very kindly be declared illegal and without lawful authority of law, and the respondents may further please be directed to release salaries of the appellant w.e.f 01.01.2021 till dated, with all back benefits. Any other remedy which august tribunal deems fit that may also be decided in favor of the appellant. R/SHEWETH:

ON FACTS:

Brief facts of the appeal are as under;

- 1. That the appellant is working as Beshti in the respondent department. (Appointment order is attached.......A)
- 2. That the appellant has outstanding salaries against the respondent for which he filed an appeal before the high ups wherein through letter dated 17.01.2019 & 30.04.2019 the secretary health order process it. Copy of letter is attached as annexure.

- 4. That on 11.12.2020 the respondent No.3 made an observation over the impugned bills which was removed by the respondent No.2 and resubmitted to respondent No.3 13.12.2020 which is still pending. Copy of letter is attached as annexure **C**.

- 8. That appellant further feeling aggrieved and having no other remedy but to file this appeal on the following grounds inter alia.

ON GROUNDS:

- A. That the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.01.2021 is against law, rules and norms of natural justice.
- B. That the appellant have not be treated in accordance with law and rules and as such respondents violated Article 4 and 24 of the constitution of Islamic republic of Pakistan 1973.
- C. That the action of the respondent No.3 amounts to sheer arbitrary and autocratic in nature hence against the norms of natural justice.
- D. That the conduct of respondent No.3 is not only ignoring the competent authority orders but conduct and attitude of the respondents No.3 from such inaction show something unfair

means hence also violating the mandatory provision of the constitution that all Govt. departments are duty bound to strictly act in accordance with law.

- E. That its apex court decisions that salary is not bounty that can be stopped at the wishes of high ups.
- F. That the inaction of the respondents by not releasing salaries of the appellant is against Article 38(e) of the Constitution of Islamic republic of Pakistan, 1973.
- G.That the respondents are using colorful exercise of power regarding not releasing the salaries outstanding against the respondents hence this action of the respondents is unwarranted under the law.
- H. That the appellant seeking indulgence of this honorable Tribunal for intervening in the matter to release immediately the outstanding salaries and clear the bill pending before the respondent No.3 without any cogent reason and the respondent No.3 has no locus standi to stop the bills being clear cut orders of the high ups and competent authority.
- I. That the remaining points if any arise during the course of hearing may also be allowed.
 - It is therefore humbly prayed that the appeal of the appeal may very kindly be accepted as prayed for.



	APELLANT
	- June
•••	Asad Khan
THROUGH:	4-
Y	asir Saleem
· · ·	&
Afras	iab than Wazir
Advo	iab Khan Wazir cates high Cour

Certificate:

That no earlier appeal is preferred before this august tribunal.

Affidavit:

Asad Khan, resident of district north waziristan, solemnly affirm and declare 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 August TribuanI.

> ا سرر DEPONENT

ر*سرر* . Deponent

OFFICE OF THE AGENCY SURGEON RTH WAZIRISTAN AGENCY AT MIRANSHAH

Appott:/Accounts

Dated Miranshah the

/ 2020

OFFICE ORDER

As recommended by the selection committee Mr: Asad S/o Khalid Rehman

AUR A

resident of North Waziristan Agency Miranshah is hereby appointed as <u>ward</u> <u>obday</u> BPS-09 (2770-165-7720) against the vacant Post at Agency Surgeon Office Miranshah, plus usual allowance as admissible under the rules.

His appointment will be on the following terms and condition.

- 1- He is declared medically fit for his job.
- 2- His appointment will be for a period of 03 years on contract/temporary basis from the date of his
- joining in service and shall be extended on his satisfactory performance & will remain on probation for one year.
- 3- He will be bound to serve or at least 03 years in North Waziristan Agency.
- 4- He will not be indulging in any trade business and any other activity what so ever which has been declared prohibited for the Government Servants in Civil Servant Act 1973.
- 5- If he wished to resign the services a prior notice of 30 days will be submitted, otherwise one month pay shall be deposited in Government treasury through challan.
- 6- He will have to serve anywhere in North Waziristan Agency.

7- Salaries should be released after the verification of all the documents by the concerned

- board/faculty etc:
- 8- He will not be entitled for any TA/DA for joining the service.
- 9- If he accepts the above terms and condition he have to report for duty to the Malaria Center at Agency Surgeon Office Miranshah ,North Waziristan Agency within 19 days of the receipt of this office the order will be considered as cancelled.

Sd/-----AGENCY SURGEON, NORTH WAZIRISTAN MIRANSHAH / / 2020

No.____

- Dated
- Copy to the:-
 - Political Agent North Waziristan Miranshah.
 Agency Accounts Officer North Waziristan Agency Miranshah.

/App

- 3- Head Clerk (Accounts Clerk) of this office.
- 4- Official Concerned.

ATETSTED

AGENCY SURGEON.

NORTH WAZIRISTAN WIRANSHAH

J0 Auns A/1 4/1 The Dwielin Health services PATA WINSail road fost. Appral for Release of Salaries Subpet. We chune the konow to state that over salaries were Stopped with out any cogect reason by the Ex Agenay surger. Varions reports evere sells million & your good office by the lex Ageny Surgin estile is Still awaited from your siste Du Mu Connection Minister Health up also iseiter i class Direction to your good office which is also sill pendicp in In view & the cobour Faces it is hundly required that our pays may remitly be reliensed for the best interiest of public blues Nand' yours obcalutly public plus Latrick aboor Seray udin of others 19. Amivellah 20 Jordenty 1) Zallin ullal word orderly 20 Asad wooduly 2 Sija tullus w Didenly 21 Shohib Archilw Besti / 3." Stalifi ud die wforduly 22° Africa Deni 23° Jawid icha Britti M. Shah Jaisal wfording 5- Sadam.ud- die woordlug · ATETSTED Allestid 6. Noor Janal But wording TI Napi Sullak Worderly A provide the second 8) M. Youna 207 orderly 24 Palino unal Bestiti 3, m. water top orderly 10 Lal Baeler ist ordely. 25. Ruecchullah Choroladas 1) im dadullch istordurly 26. Sadiquela woorderly is Hedayatullal wordenly. 27 Ruccisana Dav. 13. Higher adden it ording 29. Amerettook M. Tufail Besh 19- Hasham Rassol WT orderly 29 Ichamullah Bestiti 15" Harow 17bal LoT ordent 3) Num and Icd. Chowudas Stapezalent wordenly Sell Ray wordenly Sent Orden wordenly 31 M. Ilyns Beshli

MERGED AREAS WARSAK ROAD PESHAMAR. Phone#, 091-9210105 /DHS/FATA/Alting Dateds FAX# Protection 091-9210212 To The Disfrict Surgeon, Tribal District, NW. -Subject: APPEAL FOR RELEASE OF SALARIES MEX It is in reference to a letter of Government of Palostan, National commission for Human Rights vide No.08/18/COMP/FATA/NHCR dated 26-12-2013 pertaining to release of outstanding salaries of the appellant Mr.Zahid Noor and others, , wherein the commission has vividly referred the order of Supreme Court of Pakistan in captioned case No.16986-G OF 2018 IN THE MATTER OF REG, NON PAYMENT OF SALARIES TO THE STATE EMPLOYEDS, the commission further stated that salaries of other 43 persons have already been released by your office vide No.8506-09 dated 10-It is further added that vide your letter No.938 dated 29-04-2016, No.19-10-2016, No.1715/C-2 dated 20-07-2016, 6007/C-2 dated 19-12-2017 and No.6822-23/C-2 vacant position dated 02-01-2018, wherein you have categorically stated that the appellants have not been terminated from services, which has further endorsed by the Agency Accounts officer NW Agency vide his letter No.AAO/MRN/NWA/2018-195085 dated 17-09-2018 and intimated that no record of termination orders of the appellants is available at account office NW Agency. It is pertinent to mention here that the Minister for Hentil Kinyber-Poklaunknya has also been directed the undersigned to release the pay of the appellants i.e Mr.Zahiti Noor and others, and / zaheenullah and others if stopped without assigning any' cogent Consequent upon above you are hereby directed to give them the termination orders if they are terminated from services ; and if not terminated then release their salaries from the date of stoppage without no further delay under intimation to this office in frame of General Financial Rules, as stoppage of pay without assigning cogent reason Diebellor Health Services Raibel Districts, Peshnyn St-No. 7/3 / /DHS/FATA(Admn CC for information and occessary action to the: /DHS/FATA/Admn Dated: - 17 **- 6**5 Maars 1- Registrar Services Tribunal, Peslawar. 2- Coordinator, National Commission for Human Rights w/s to his latter quoted above. PS. to Minister Health, Khyber Pakhtunkhwa, Peshawar w/r orders dated 21-12-2010 on the application of appellants . DCO Tribal District NW Wedical Superintendent DHQ Hospital Miranshah request for some action please. Distetor Mealth Services Tribal Districts, Peshawar C t c ATELCIED ATTESTER Alles and the second

GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT No.SOI-I-III/1-32/2019/Paramedics Dated Pesh: the 30th April, 2019 Тο District Health Officer, North Waziristan District, Khyber Pakhtunkhwa, APPEAL FOR RESTORATION OF SALARY OR Subject:-I am clirected to refer to the subject cited above and to enclose herewith a copy of application submitted by Mr. Zahid Noor & Zaheenullah & others (Paramedic staff of North Waziristan District) with the request for favour of further necessary action as per remaine of the Secretary Health, Khyber Pakhtunkhwa recorded on the application, please. Encis: As abovo Section Officer (E-III) Endst No. & date even Co: Director Health Services (Newly Merged Area) Warsak Road Peshawar with the request for further necessary action as per remarks of Secretary Health. 2. PS to Secretary Health Department Peshawar. Allerlia Section Officer (E-III) 21022 Miran Sitab C d - C S ATETESTED Altestal 1 ·1 ر ج 9 13 1 44 9 13 1 44

1174-52/2019/Paramidics dated 30/04/2019 for favourable action

10. The DHO NWTD made Compliance and released pay vide order No. 1433-37 dated23/04/2019 and submitted bill to this office

Now this office have creation problems and processing of their claim.

 a. Clear out the vacancies are not available to adjust all the Petitioners and they desired to adjust the same for pay purpose against other vacant posts is charge nurse etc by DHS FATA Arrear involves (Anex"I")

b. The DHO NWTD made Advertisement for fresh recruitment in daily Ajj dated 03/10,'2019 (Anex"J")

c. The Petitioners lodge: fresh suit in the court of senior Civil Judge for interim relief and got statuesque against fresh advertisement (Anex"K")

Keeping in view the above facts this office may be guided to weather release the pay and allowances against the above mentioned posts to avoid COC of the Honourable Court and more prosecution/litigious please.

District Accounts?

NW (Tribal District) Miran

E.C.

ATTESTED. Attested siceb

District Health Officer Miraushoh Tribel Distt:

Sasle

Accountant General Khyber Pakhtunkhwa

Dated: 18/11//2019

The District Accounts Officer, North Waziristan (Tribal District) Miranshah.

Ho. H-24 (89)/Miran Shah/Vol-B/Soa

Subject: -

Τŋ

SEEKING OF GUIDANCE REGARDING PAY RELEASE OF PARAMIDICS EMPLOYRES OF VARIOUS CATEMORIES OF DHO NWTD MIRANSHAM.

The undersigned is directed to refer to your office memo-MO.DAO/MRS/NWTD/2019-20/3056 Dated 22.10.2019 on the subject cited above and to state where that the case is examined in detail and the following points need to be addressed before making payment of arrear of pay & allowance.

a. The Provincial Government with the collaboration of this office and Director General (MIS) Islamabad implemented the OM (Organizational Management) Module for Provincial side, where in for each sanctioned post, a Position code is allotted by the Finance Department which is used for all type of HR Payments. It may be checked in the system through t-code YOMA005.

A punpayment certificate from the Department concerned may be obtained and also approach. Finance Department Govt of KP for allocation of funds for payments.

Along with your referred case a letter signed by the Section officer (FATA-II) is received where a cost center PR0049 is mentioned which pertains to AGPR (SO). Peshawar and used for Erstwhile FATA: Against this old cost center PR8129 (Allotted by Finance Department KP), through which 38 employees are drawing their papting 46.33, 10.2019, the same may also be elucidated accordingly please.

Alleslid

District Health Officer Mirenshah Tribal Dist

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Aceounts officer (HAD)

march OFFICE OF THE DISTRICT ACCOUNTS OFFICER NORTH WAZIRISTAN ITRIBAL DISTRICTIMIRANSHAH NO.DAO/MRN/NWTD/2020-211 8011 Dated 12 12020 Тó The District Health Officer District North Waziristan. Subject: Appeal for Release of Pay in r/o Siral ud Din & Others & Punching their Source-it Kindly refer to the subject noted above and to state that 1) Whether they have been regular and bonafide employees of your department. 2) Whether they are performing their duties regularly. Whether they were appointed on regular sites or otherwise. 4) Whether they are involved in any inquiry. 5) Whether their salaries were stopped due to non-opening of their bank accounts on Therefore, it is further requested a clear-cut decision may kindly be intimated to this office for further process the case and also after fulfilling the above observations. Kindly submit all bills/source II forms to process in the matter being low-paid Govt employee. District Account Officer North Waziristan Tribal District 12. Sale and Alter Ster ATTESTED

OFFICE OF THE DISTRICT HEALTH OFFICER NORTH WAZIRISTAN TRIBL DISTRICT

20/DHO/NWD/MRN/ No.

. [

The District Account Officer

North Waziristan District

forms

APPEAL For RELEASE OF PAY IN R/o Sirajud din and others and Punching their source II Subject

Kindly refer to your letter dated 11-3-2021 on the subject noted above and to state that

1- They are regular and bonafide employees of this department

2- They are performing their duties regularly to the entire satisfaction of their superiors.

3- They have appointed on regular sides.

4- They are not involved in any type of inquiry i.e Anti Corruption and NAB etc

5- Their salaries have been stopped due to non opening of bank accounts as intimated by your good office vide letter dated 22-1-2021 and 18-2-2021 (Copy attached)

It is therefore requested the observations has been removed by the under sign and verified the source forms and re submitted to your good office for further necessary actions being low paid Government servants and to perform their duty with zeal more than this.

District Health-Officer Tribal District Miranshah

ATTESTED Well -e

Dated 13 /12/2020

长滑 OFFICE OF THE $\mathbf{n}_{\mathcal{U}_{\mathcal{D}}}$ L AZIRIS DHO/Court Case Miranshah the To The District Accounts Officer District North Waziristan, Subject: <u>Appeal for Release of Pay in r/o Siraj ud Din & Others & Punching their Source-II</u> Reference your letter No. 864 Dated 18/11/021 on the subject noted above and to state that the salaries of Health employees of various cadres are performing their duties regularly under the control of the undersigned. They are the bonafide employees of this Office and there is no complaint/inquiry against them. Their salaries have been stopped due to non-opening of bank accounts as intimated by your good office vide, letter dated 18/02/2021. The then DHO has already intimated the same through various letters from time to time (copies attached) but the issue still persists . Further to resolve the subject case once for all, various letters by the DHS erstwhile FATA Secretary Health and AG KPK are attached for ready references. In continuation to the above this office has also intimated the same vide letter No. 1433-37 Dated 24/04/2018 and letter No: 4283 Dated 17/09/2020 (copies attached) to resolve the issue of pay In addition to the above all correspondence, the subject case had already been inquired and scrutinized for further authentication through an Inquiry committee by the then DHO DNW, the rep which had already been communicated with your good office (copy attached). In view of the above facts, it is requested that the out standing salaries of the employees thay kindly be released against the newly created position codes so that the employees may feel at ease and perform their duties regularly with zeal more than this. Contra 1 District Health Office North Waziristan at Miranshal District Health Officier Miransliah Tribal Dist ATTESTE

Ance E (12 BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR Khyher Palahtukhwa hereke Tribonal Petitienvoile82 Execution No. ______2022 Diary No. 1087 Dated 23/872022 HajiAkbar Service Appeal No. 1244/2028Applicant VERSUS 1. Director Health Services Tribal Peshawar 2. District Health Officer North Waziristan 3. Secretary Finance Peshawar. 4. District Account Officer Tribal District North WaziristanRespondents ATETSTED THESTER APPESTEL

APPLICATION FOR THE IMPLEMENTATION OF ORDER AND JUDGMENT DATED 19.07.2022 IN ALL ABOVE CONNECTED SERVICE APPEALS.

17 Mar E. (12

Respectfully Sheweth:

1. That above titled service appeals were pending adjudication before this Hon'ble Tribunal and was fixed for hearing on <u>19.07.2022</u>.

That on the date fixed representative of the respondentsappeared and produce copy of office order date 01.02.2020 vide which directions were issued with regard to the payment of outstanding salaries of the applicants. (Copy of office order dated 01.02.2020 is attached as annexure A).

3. 'That in the light of new development all the appeals were disposed of accordingly vide order dated 19.07.2022. (Copies of order dated 19.07.2022 of all the applicants is attached as annexure B).

That thereafter the applicants approached the respondents and requested for release of their outstanding salaries. In response to the request the department released only the salaries of Zahid Noor Service Appeal No. 1240 & Zabi Ullah Service Appeal No. 1255 and their outstanding salaries have not yet been issued. However the rest of

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ATTESTE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Execution No. 15/2020

• 1. Farhatullah Service Appeal No. 1257.

2. Hashim Faraz Service Appeal No. 1264

3. Shahid Ullah Service Appeal No. 1252

4. Kalcemullah Service Appeal No. 1246

5. Zabi Ullah Service Appeal No. 1255

6. Zahid Noor Service Appeal No. 1240

VERSUS

1. Director Health Services Tribal Peshawar

2. District Health Officer North Waziristan

3. Secretary Finance Peshawar.

4. District Account Officer Tribal District North Waziristan

.....Respondents

...Applicants

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APPLICATION FOR THE IMPLEMENTATION OF ORDER AND JUDGMENT DATED 26.11.2020 IN ALL ABOVE CONNECTED SERVICE APPEALS.

ATETSTED fight to be TTESTED Attest cell siats

1: Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Umer Hayat Khattak, District Accounts Officer, North Waziristan Miran-Shah for respondents present.

2. Representative of the respondents submits that although by administrative order, the salaries of the petitioners were shown to have been released and on the basis of such an order, the appeals were disposed of yet the department has not filed source form of some of the petitioners. Therefore, respondent No.2 shall submit the source form of the petitioners according to their entitiement to respondent No.4- for preparation and release of the outstanding salaries and arrears if any within thirty days of this order.

3. Disposed of in the above terms. Consign.

4. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 30^{th} day of May. 2022.

16,

(Kalim Arshad Khan) Chairman

Certified to be fore copy

ice Tribusal

extension of Appendix in- Joy-Si with in the

30th May, 2022

16(22)01,1 Copy - 01

ATETESTED ATETSTED Alled Alles

ATTESTE

1 oliv GZ ele G-sten - is men"F منول : - در در در سب برائ رمایز اف سیلر بر ترور فی کاج فی نی مسرا ترزه ای کی وج 2 ملی Se i vi تى المرض المرض على عن توريس ما مريل مرد المريك تى DGH غراب ما تكريم عمل مريل المريكي مرد المريكي المريس مال مى رى ارد نى دى دى بى مەر يى - تو ژى لىي كى می میں مسلم جیا۔ کر سی نے تو اور ا دیلے مول شور ورمل کرن کے میں میں الکوری انس میں جو کی تو کا وُلیس ice in the alw Linke first ice العراصات دور الجون ميل دربادن وكالوت انس س عي ب مر المور ، الم اللي من لولى مر الى لي من من رو Accounts on DAG a wind and a division منى نارىغ روراغې مىردىم، ئېرى خردى . مىتى بو بى تولى ماين DAD : 10 DHO & die in a for ing ت المرجم وس 3/10/2022/ pic with Uip, with ATETSTED AFTESTER Attested 47 Svab

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

OF 2023

(APPELLANT) _(PLAINTIFF) (PETITIONER)

VERSUS

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Asad

Junt of 10 & other

(RESPONDENT) ____(DEFENDANT)

I/We

Do hereby appoint and constitute, Yasir Saleem & Afrasiab Khan, Advocates High Court, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 1 / 4 /2023

A Transmither

CLIENT(S) ACCEPTED YASIR SALEEM & AFRASIAB KHAN ADVOCATES HIGH COURT PESHAWAR