# FORM OF ORDER SHEET

Court or		 · · · · · · · · · · · · · · · · · · ·		
Case No	-	Ţ.	791/ <b>202</b>	3

<b>j</b>	Case	e No
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	2	3
1-	06/04/2023	
-	00/04/2023	The appeal of Mr. Muhammad Rehman presented
;		today by Mr. Muhammad Kamran Advocate. It is fixed for
	,	preliminary hearing before Single Bench at Poshawar
		on Parcha Peshi is given to appellant/counsel to date
		the fixed.
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		By the order of Chairman
		(m)
		REGISTRAR
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# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

APPEAL NO. 79/ /2023

**MUHAMMAD REHMAN** 

VS

**HEALTH DEPTT:** 

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**APPELLANT** 

THROUGH:

KAMRAN KHAN

&

MUZZAMMIL KHAN ADVOCATES HIGH COURT

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO.\_\_\_\_\_\_/2023

Mr. Muhammad Rehman, Clinical Technician Pathology (BPS-12 Cat. D Hospital Akora Khattak, District Nowshera.	),
APPELL	.ANT

#### **VERSUS**

- 1- The Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 2- The District Health Officer, District Nowshera.
- 3- The District Accounts Officer, Nowshera.

.....RESPONDENTS

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT W-E-F DECEMBER 2022 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.

#### PRAYER:

That on acceptance of this appeal the impugned inaction of the respondents may please be set aside and the respondents may please be directed to release the monthly salaries of the appellant w-e-f December, 2022 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

### R/SHEWETH: ON FACTS:

# Brief facts giving rise to the present appeal are as under:

- 1- That the Petitioner was initially appointed as Clinical Technician (Pathology) BPS-12 through Departmental Selection Committee at D.H.O office Nowshera vide ORDER dated: 04-03-2022 vide Office Order No.1573-77/NSR. Copy of appointment order is attached as annexure
- 2- That the appellant was examined by the concerned medical officer and was found fit and awarded fitness certificate. That the Petitioner submitted his arrival report as Clinical Technician (M.P) in D.H.O office Nowshera on 06.03.2022. That the service nook of the appellant was also prepared accordingly. Copies of the medical certificate and arrival report are attached as annexure

- **6-** That till date the appellant is performing his duties regularly and with devotion. Copy of the attendance register is attached as annexure .....
- 8- That feeling aggrieved from the inaction and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

### **GROUNDS:**

- A- That the inaction of respondents by not releasing the monthly salaries of the appellant w-e-f December, 2022 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not releasing the monthly salaries of the appellant w-e-f December, 2022 and as such the inaction of the respondents is violative of law and rules.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.

- E- That as per the numerous judgments of the apex court of Pakistan work done must be paid. Keeping in view this principle the respondents are bound to release the monthly salaries of the appellant.
- F- That under Article 11 of the Constitution of Pakistan, 1973 the respondents are bound to release the pay of the appellant.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 05-04-2023

APPELLANT MUHAMMAD REHMAN

THORUGH:

KAMRAN KHAN

MUZZAMMIL KHAN.

MÜHAMMAD AIZAZ

QARI HAMID ALI ADVOCATES HIGH COURT

**AFFIDAVIT** 

I, Muhammad Rehman, Clinical Technician Pathology (BPS-12), Cat. D Hospital Akora Khattak, District Nowshera, do hereby solemnly affirm that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

DEPONENT

Phone & Fax (0923) 580750

E-Mail: nowshera edolj@gunail.com

consequent upon approved percommendation accorded by the Departmental Consequent upon approvat consumited for the purpose, MR, MILIAMMAD REHMAN S/O ROZ MIJHAMMAD is hereby appointed as Clinical Technician Pathology REHMAN S/O ROZ 807/17/0000000 the vacant post of Clinical Technician (Pathology) BPS= 17 phic usual allowances against the vacant post of Clinical Technician (Pathology) BPS= 1. BPS-12 plus usual anomalists of an interesting effect, with the following term-& conditions, 12 at DHO Office Nowship a with immediate effect, with the following term-& conditions,

the appointment shall be subject to the Medical Fitness and initially on probation for

The service can be dispensed with during the probation period on un-satisfactory

You will not entitle to any TA/DA for Medical Examination and joining the first

In case of any of the documents submitted by you, with your application is fund In case of any of the total and the liable to terminate without any notice and will also longed (lake, your service shall be liable to terminate without any notice and will also be liable to further legal proceeding.

The appointment will be governed by such rules and order issued by the Govt. from

If you wish to resign from service, you will have to submit resignation in writing one month in advance OR deposit one month pay in the Govt. treasury.

If the above terms & conditions are acceptable to you then you should report to DHO Office Nowshera within 07 days after the receipt of this appointment order.

> District Health Officer Nowshera

Date: 04/07/2022

29/DHO NSR No. / 127

Gopy forwarded to the:

- Director General Health Services Khyber Pakhtunkhwa Peshawar.
- District Accounts Officer Nowshera. 2.
- Accounts Section DHO Office Nowshera. 3.
- Mr. Muhammad Rehman S/O Roz Muhammad Resident of Mohallah Pass Muhlat, Aza Khel Payan, Tehsil & District Nowshera.

Office Record.

District Health Officer Nowshera

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## BETTER COPY OF THE PAGE NO. 04

## OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax No. 0923-580759 Email: Nowshera.edob@gmailc.com

#### OFFICE ORDER

Consequent upon approval/recommendation accorded by the Departmental Selection/Appointment Committee constituted for the purpose, Mr. Muhammad Rehman S/o Roz Muhammad is hereby appointed as Clinical Technician Pathology BPS 12 plus usual allowances against the vacant post of Clinical Technician (Pathology) BPS-12 at DHO Office Nowshera with immediate effect, with the following terms and conditions.

- 1. The appointment shall be subject to the Medical Fitness and initially on probation for a period of 02 years.
- 2. The service can be dispensed with during the probation period on un-satisfactory performance.
- 3 You will not entitle to any TA/DA for Medical Examination and joining the first appointment.
- 4. In case of any of the documents submitted to you with your application is fund forged/fake, your service shall be liable to terminate without any notice and will also be liable to further legal proceedings.
- The appointment will be government by such rules and order 5.
- issued by the Govt. from time to time.

  If you wish to resign from service, you will have to submit resignation in writing one month in advance OR deposit one month pay in the Govt. Treasury.
- 7. If the above terms & conditions are acceptable to you then you should report to DHO Office Nowshera within 07 days after the receipt of this appointment order.

Sd-----District Health Officer. Nowshera

Date: 04/03/2022

No. 1573-77/DHO NSR

Copy forwarded to the

- Director General Health Services Khyber Pakhtunkhwa Peshawar. 1.
- 2. District Accounts Officer Nowshera.
- 3. Accounts Section DHO Office Nowshera.
- Muhammad Rehman S/o Roz Muhammad Resident of 4. Mohallah Pass Muhlat Aza Khel Payan Tehsil & District Nowshera.

5. Office Record.

> District Health Officer Nowshera

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#### OBETTER COPY OF THE PAGE NO. 05

To

District Health Officer Nowshera

Subject:

ARRIVAL REPORT.

Sir,

With due respect, I am is appointment as CT(M.P) vide DHO Office Order No. 1573-77/DHO NSR dated 04/03/2022.

Please accept my arrival report for duty on 06/03/2022.

Your Obediently -

Muhammad Rehman S/o Roz Muhammad C.T(MP) 06/03/2022

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IMP HEESTONS

## OBETTER COPY OF THE PAGE NO. 06

D.H.Q Hospital, Nowshera Medical Certificate NIC No. 17201-0517441-1

Name of Official: MUHAMMAD REHMAN
Casto of race MUSLIM
Father's Name ROZ MUHAMMAD
Resident MOHALLAH PAS MALUT AZA KHEL, PAYAN, TEHSIL &
DISTRICT NOWSHERA
Date of Birth 01/01/2004
Exact height by measurement 5'. 5"
Personal mark of identification NIL
Signature of official
Signature of head of Officer

Head of Office

I do hereby certify that I have examined Mr. Muhammad Rehman a candidate for employment in the office of the District Health Officer, Nowshera and cannot discover that he had any disease communicable or other constitutional affection or bodlly infirmity except ...... fit.

I.E Hand Thumb and Finger Impressions

Medical Superintendent DHQ Hospital Nowshera

Anne C'DE



# OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

### OFFICE ORDER

On arrival of Mr. Muhammad Rehman S/O Roz Muhammad, BPS-12 Clinical Technician (Multi-Purpose) vide letter no. 1573-77 Dated: 04-03-2022 to this office is hereby posted at Cat D Hospital Manki Sharif, in large public interest.

District Health Officer
Nowshera

Date. 77-1 03 /2022

No. 1550-52/DHO NSR

Copy Forwarded to:

- 1. Incharge Cat-D Hospital Manki Sharif, Nowshera.
- 2. Mr. Muhammad Rehman.
- 3. Office Record.

District Health Officer Nowshera

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Annie DINO: 42/22 the Medical Superintendent CAT. D Haspo tonki Slavel Subject: Arrival Report K/811. Reff: DHO Letter No# 1550-52 dated 07/03/22 I have the Louisse to Entirel my Arvivel Regart to day on 18/10/22 in your crossed office Kindly Accepted my Arrival Rypart for furtzi N/Achon. IL ansh you Obseliant Mahim d Rehmann 1 date: 16/03/22

Annx- IIIF"



# OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

9

#### OFFICE ORDER

Mr. Muhammad Rehman (C.T Pathology) BPS-12 working under the control of undersigned at Cat-D Hospital Manki Sharif Nowshera is hereby directed to report to Medical Superintendent Cat-D Hospital Akora Khattak for official duty in the public interest with immediate effect.

(P) (

Sd\_\_\_\_\_\_ District Health Officer Nowshera

Date: <u>02 | //</u> /2022

No. 3481-83 / DHO NSR

Copy forwarded to the:

- 1. Medical Superintendent Cat-D Hospital Akora Khattak Nowshera.
- 2. Medical Superintendent Cat-D Hospital Manki Sharif Nowshera.
- 3. Official concerned. ---

District Health Officer Nowshera

M shout

#### Nowshera

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Pers #:	J059: 3/ <b>1</b>	Buckle:
Name:	edHAN## -	∵ tjuAN

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S#:

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1210-Convey All . .... 2005 1300-Medicul .... ......

. 1985-Hearth From a Lional Allow

2347-Adl. oc Reliant 22 (PS17)

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D.O.B 01.01.2004

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P Sec: 001 Month: November 2022 NR4638 -District Health OFFICER No DISTRICT HEALTH OFFICER N

NTN: GPF #: Old #:

NR4638

19,770.00 2,940.00 2,856.00

1,500.00 15,000.00 1,998.00

44,064.00

2,220.00 Subrc: 1,200.00 600.00

4,020.00

(40,044.00)

LFP Quota:

Payment through DDO.

# OBETTER COPY OF THE PAGE NO. 10

Nowshera

S#: 1

P Sec: 001 Month: November 2022 NR 4638 District Health Officer No.

Pers# 00995621 Buckle:	District Health Officer N
Name: Muhammad Rehman	NTN:
Primary Health Care Techn	GPF#
CNIC No.1720150174411	Old#:
GPF Interest applied	
12 Active Temporary	NR4638 -
Pays and Allowances	
0001-Basic Pay	7 19,770.00
1001-House Rent Allowance 45%	2,940.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1985-Health Professional Allow	15,000.00
2347-Adhoc Relief 15% 22 (PS17)	1,998.00
•	
Cross Pay and Allowances	44,064.00
Deduction:	

GPF Balance 19,980.00	Subrc: 2,220.00
3501-Benevolvment Fund	1,200.00
3534-R Ben & Death Comp Fresh	600.00

Total Deductions 4,020.00 40,044.00

D.O.B LFP Quota 01.01.2004 Payment through DDO

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The Worthy D.H.O, District Noshehra.

#### Appeal against release of monthly salaries since December, 2022.

#### Respectfully Sheweth;

That the undersigned/Appellant was appointed as Clinical Technician (Pathology) BPS-12, through Departmental Selection Committee, at D.H.O Office Noshehra, dated 04/03/2022 vide Office Order No.1573-77/NSR.

That the undersigned reported his arrival as Clinical Technician (Multi-Purpose) in D.H.O office Noshehra on 06/03/2022.

That after joining, the undersigned posted asC.T (M.P) in Cat.D Hospital Manki Sharif on 07/03/2022, letter No.1550-52/DHONSR.

That the undersigned reported his arrival in Cat.D Hospital Manki Sharif on 16/03/2022.

That the undersigned then transferred from Cat.D Hospital Manki Sharif to Cat.D Hospital Akora Khattak on 02/11/2022 vide letter No.3481-83/DHONSR.

On 08/11/2022, the undersigned/appellant reported his arrival at Cat.D Hospital Akora Khattak and since then performing his duties with full devotion.

It is pertinent to mention here that the undersigned was taking his monthly salary on regular basis upto Nov.2022, but all of a sudden his salary stopped without any cogent and lawfulreason.

That the undersigned/appellant is performing his duties since his appointment without any break, but has not been paid any salary since December,2022 and thus the services of the Appellant have been turned to forced labour, which under no law is allowed or warranted and is utter violation of Art.38(e) of the Constitution of Islamic Republic of Pakistan 1973 and also violation of the basic human rights of the Appellant.

It is therefore, very humbly requested to kindly release the salaries of the undersigned which are pending since Dec.2022. Shall be highly grateful.

Yours obediently,

Muhammad Rehman S/O Roz Muhammad C.T (M.P) BPS-12 Cat D Hospital Akora k

Cat.D Hospital Akora Khattak.

03-1-2023

باعث تحريرا نكه مقدمة مندرجيع وان بالامين اين طرف سے واسطے بيروي دجواب واي وكل كارواكى متعلقه مقر برکے اقرار کیا جاتا ہے۔ کہصاحب مصوف کومقد سنگ کل گاروائی کا کال اختیار ہوگا۔ نیز ارم**رف ک** ه وکیل اساحب کوراضی ناسهٔ نر ..نه و تقرر رثالت ه فیصله برحلف د سیاح و اب د هی اورا تبال دعوی اور م المعروب و الرام الرام اورصولي چيك درويسارع مني دروي المرامي والماست برسم كي تقيدين تراین بردسخط کرانے کا اختیار ہوگا۔ نیزصورت عدم پیردی یا ڈگرای بیطرف یا بیل کی برایدگی اورمنسوخی نیز دائر کرنے اپیل تنرانی ونظر ثانی و بیروی کرنے کا اختیار ہوگا۔ الم بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کا روائی کے واسطے اور دکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار موكا اورمها حب مقررشده كوجهي واي جمله ندكوره باا ختيارات حاطل مون مح اوراس كاساخت مرداخت مظور تبول موكا .. دوران مقدمه س جوخر جدد مرجان التوالي مقدم يسبب ي دركا . کوئی تاریخ بیشی مقام دورہ پر ہویا حدے باہر ہوتو دکی صاحب پاپیند ہوں مے کہ پیروی فد کورکریں ۔لبداوکالت نا میکھدیا کے سندر ہے۔ Alesteel EACCOPED