

21.12.2015

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 and dismissed from service vide impugned order dated 18.4.2009 which was not communicated at all to the appellant and appellant was performing his duty and drawing salary till the month of June 2105. That on gaining knowledge, appellant preferred departmental appeal on 29.6.2015 which was not responded and hence the instant service appeal on 6.11.2015.

That the procedure adopted in the inquiry is violative of the provisions of law as the inquiry was neither conducted in the prescribed manners nor procedure prescribed for the same followed.

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 25.2.2016.


Appellant Deposited
Security & Process Fee

20/1-2016


Chairman

25.02.2016

Counsel for the appellant present. Learned counsel submitted application for withdrawal of the instant appeal on the ground that grievances of the appellant have been redressed.

Dismissed as withdrawn. File be consigned to the record room.





Member

ANNOUNCED
25.02.2016

Form- A
FORM OF ORDER SHEET

Court of _____

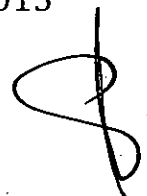
Case No. 1245/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.11.2015	<p>The appeal of Dr. Aimal Zaman resubmitted today by Mr. Sadiq Ali Momand 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		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>23-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	23.11.2015	<p>Application for adjournment submitted. Adjourned for preliminary hearing to 21.12.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Service Appeal No. _____/2015

(Dr. Aimal Zaman) Medical Officer
AHQ Hospital Ghallani, Mohmand Agency

 25/2

(Appellant)

VERSUS

- 1) Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat
Peshawar
- 2) Secretary to Govt. of Khyber Pakhtunkhwa, Health Department,
Peshawar
- 3) Director General Health, Directorate Health Services, KP
Peshawar
- 4) Secretary Social Sector Development Department, FATA
Secretariat, Peshawar
- 5) Agency Surgeon, Mohmand Agency

(Respondents)

**Application for withdrawal of the above titled
appeal.**

Respectfully Sheweth,


- 1) That the above title appeal is pending before this
honourable court in which the next date of hearing is fixed
for _____.

- 2) That the grievances of the appellant has been redressed vide Notification No. SOEH-I/10-25/2000 (BPS-17) dated 25.01.2016 issued by the Secretary Health, Health Department, Khyber Pakhtunkhwa, Peshawar. (Copy of notification is attached herewith)
- 3) That in the light of above notification the appellant wants to withdraw the above titled appeal.
- 4) That there is no bar for withdraw of the appeal.

It is, therefore, humbly prayed that above noted appeal may kindly be order for withdrawal.


Appellant / Petitioner

Through


Sadiq Ali Momand
Advocate, High Court,
Peshawar

Dated: 01.02.2016



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 25th January 2016

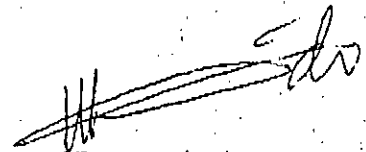
NOTIFICATION

No.SQ(E)H-II/10-25/2000 (BPS-17) The Competent Authority is pleased to withdraw this Department's Notification of even Number dated 13th April 2009 to the extent of Dr. Aimal Zaman Medical Officer (BPS-17) appearing at serial No.10.

**SECRETARY HEALTH
HEALTH DEPARTMENT**

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Services FATA Peshawar with the request to process his case complete in all respect for retirement on completion of 25-years qualifying service.
4. Deputy Director (IT) Health Department.
5. PSO to Chief Secretary Khyber Pakhtunkhwa.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. PS to Special Secretary Health.
8. Doctor concerned.



(Daulat Khan)
Section Officer (E-II)

The appeal of Dr. Aimal Zaman Medical Officer AHQ Hospital Ghallani Mohmand Agency received to-day i.e. on 02.11.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of appointment and transfer orders mentioned in para 1&2 of the memo of appeal (Annexure A&B) are not attached with the appeal which may be placed on it.
- 2- Copy of letter dated 16.5.2014 mentioned in para 4 of the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Copy of termination order mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.

No. 1206 /S.T,

Dt. 02/11 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Sadig Ali Momand Adv. Pesh.

Sir Re submitted after removing the objections


Advocate

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

Service Appeal No. 1245 /2015

Dr. Aimal Zaman

(Appellant)

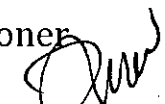
VERSUS

Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat
Peshawar and others

(Respondents)

INDEX

S. No.	Documents	Annexure	Page No.
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4	Copy of posting order dated 22.04.1989	B	14-15
5	Copy of Notification	C	16-19
6	Copy of application for retirement and letter dated 16.05.2014	D-E	20-21
7	Copy of the salary slip	F	22-23
8	Copies of the departmental appeal representation	G-H	24-27 28-31
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Petitioner
through 
Sadiq Ali Momand
Advocate,
High court, Peshawar

Dated: 31.10.2015

①

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

Service Appeal No. 1945 /2015

**A.W.F. Province
Service Tribunal
Diary No. 1301
Dated 02-11-2015**

(Dr. Aimal Zaman) Medical Officer
AHQ Hospital Ghallani, Mohmand Agency

(Appellant)

VERSUS

- 1) Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat Peshawar
- 2) Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar
- 3) Director General Health, Directorate Health Services, KP Peshawar
- 4) Secretary Social Sector Development Department, FATA Secretariat, Peshawar
- 5) Agency Surgeon, Mohmand Agency

(Respondents)

Appeal Under Section 4 of Khyber Pakhtunkhwa Service Tribunal, 1974 against the illegal impugned order has been passed on 18.04.2009 vide notification No. SO(E) H-II/10-25/200 (BS-17) in the year 2009, which has not yet been communicated to the appellant neither has been conveyed to the FATA Secretariat nor Agency Surgeon. Being, violative of the principle of

**Filed to-
Registrar
2/11/15**

**As submitted to-
and filed;**

**Registrar
6/11/15**

natural justice and Government Servants (Efficiency & Discipline Rules) 1973 may kindly be set aside and struck down and the appellant be reinstated with all back benefits.

Respectfully Sheweth,

Facts:

- 1) That the appellant was appointed as medical officer in provincial health services (I) Junior men/women branch on regular basis on the recommendation of Public Service Commission and with the approval of (Secretary Health) Government of Khyber Puhtunkhwa Vide Office Order No.6419/E.L,GS & PD NWFP.-2200 DHS:5000 F-27789(89) Dated 22-04-1989 issued by Director Health Services Khyber Pukhtunkhwa. (Copy of appointment order is attached as Annexure A)
- 2) That thereafter vide office order Number 602-49/E.I Dated 22.04.1989, the appellant was posted as M.O BHU Maryam Zai. (Copy of posting order dated 22.04.1989 is attached as Annexure B),
- 3) That the appellant served with dedication, appellant throughout performed up-to the mark and acted honestly, fairly and provided services to the people of the locality, then the appellant was posted to LRH Peshawar for where he served for two years and on 07/09/2004 Vide Notification No. SO(E)H-IV/4-1/2004. (Copy of Notification is attached as Annexure C).

- 4) That the services of the appellant were placed at the disposal of the Agency Surgeon Mohmand Agency; where the appellant rendered his services till May 2015 and received the salary up-to April 2015, beside this on 16.05.2014 the appellant applied for retirement through proper channel the same was forwarded to Secretary Health vide Letter No. FS/E/100-93/4022-75(s) dated 16.05.2014, (Copy of application for retirement and letter dated 16.05.2014 is attached as Annexure D & E respectively).
- 5) That while processing the case of the appellant for retirement, the illegal negligent act in shape of the termination order floated out and the Director General Health Khyber Pakhtunkhwa stopped the salary of the appellant and the appellant got the knowledge of the impugned order through account office Mohmand Agency in the first week of the June 2015, when the appellant did not received the salary of the May 2015. (Copy of the salary slip is attached as Annexure F) It is pertinent to mention here that the Accountant General Office, Peshawar has issued the salary of the appellant upto September 2015 and is still lying with the department of the appellant where he served.
- 6) That being aggrieved of the impugned order of termination which was not in the knowledge of the appellant neither was communicated to respondent No. 4 & 5, the appellant filed a departmental appeal to respondent No. 1 vide Diary No. 6862 dated 29.06.2015 and to respondent No. 2 vide Diary No. 7016 dated 29.06.2015. (Copies of the departmental appeal representation are attached as Annexure G & H respectively)
- 7) That in pursuance to departmental presentation dated 29.06.2015 the respondent No. 1 issued letter No.

PSO/CS/KPK/1-5/2015 dated 12.10.2015 and put queries regarding the illegal void impugned termination of the appellant. (Copy of letter dated 12.10.2015 is attached as Annexure I)

- 8) That while replying to letter dated 12.10.2015 the respondent No. 2 filed reply to respondent No. 1 vide letter No. 19120/E.I dated 20.10.2015 which is totally based on the misstatement and does not supported by any documentary evidence which could justify the impugned order of the termination. (Copy of the letter dated 20.10.2015 is attached as Annexure J)
- 9) That Para No. 2 of the annexure J mentioned that on the transfer of Dr. Aimal Zaman **"On his transfer Dr. Aimal Zaman relinquished his charge from LRH Peshawar neither submitted the charge report to Agency Surgeon Mohmand nor the A/S Mohmand or DHS FATA endorsed his assumption of charge report to School Health Services Mohmand. It is pertinent to note that in present Departmental Appeal he did not enclose the assumption of charge report for the SHS A/S Mohmand."** The preceding paragraph is totally based on the misstatement as the documents regarding the assumption of charge and subsequent posting of the appellant vide letter No. 5771-73/PF, ASM dated 11.09.2004 are available in regard of respondent No. 4 & 5 and the copy of the same has been communicated to the respondent No.3. (Copy of assumption of charge and letter dated 11.09.2004 is attached as Annexure K & L respectively)
- 10) That in response to the letter dated 20.10.2015 issued by respondent No. 2 to respondent No. 1 once again on 23.10.2015 the respondent No. 1 put many queries to

respondent No. 2 about the illegal termination of the appellant and has suggested the reinstatement of the appellant and the case was further sent to the establishment and law department upon which the establishment and law department endorsed their view, but no order of reinstatement has yet been passed by the competent authority. (Copy of the correspondence between various departments and its views are attached as annexure M, N & O respectively)

- 11) That no order has been passed by the respondents on the departmental representation filed by the appellant on 29.06.2015, hence the present appeal on the following grounds amongst the others.

GROUND:

- A. That, impugned order of the termination dated 18.04.2009 is totally illegal void ab-initio and has been passed in the absentia.
- B. That, the impugned termination order "not communicated yet" is violative of the principle of natural justice, as no opportunity of hearing has been given to the appellant and the principle of "audi altram partam" has been grossly violated by the respondents, even the impugned order of termination was float into the service during the communication between the respondent No. 1 and respondent No. 2 in pursuance of the departmental representation filed by the appellant.
- C. That no show-cause/intimation has been given to the appellant neither the grounds of the penalty has been conveyed to the appellant, mandatory provisions of inquiry procedure have not been complied with.
- D. That the appellant has not been associated in an inquiry nor the requisite formalities has been complied with and the appellant has not been served in accordance with the

Section 27 of the General Clauses Act, Rule 5, 6 & 7 of the Efficiency and Discipline Rules 1973 gives a detail procedure regarding the conduct of inquiry and inquiry procedure but the relevant authority has acted in an ignorance of the above mentioned Rules and has frustrated the objectives of the above said Rules.

- E. *Without prejudice to the above* in addition thereto, it appears that the impugned termination order has been passed violative of the government instruction, given on O.M/No.6/8/79-D1 Dated 10-07-1979, which are reproduced here as under;

"Further, serving of show-cause Notice & mere reply thereto in denial of allegations or mere questions and answers do not amount to affording the accused reasonable opportunity of showing cause as required by Clause (b) of Rule 5 (iii) of the Government Servant (E&D) Rules 1973, the requirement of reasonable opportunity of showing cause against proposed action will only be satisfied if particulars of the charge or charges, substance of evidence in support of the charge and specific punishment, which would be called for, after the charge or the charges are established & communicated to the Civil Servant, who is given reasonable time and opportunity to show Cause". But in the present case no observance of the Government instructions has been made.

- F. Please note that the permanent address of the appellant was available with the relevant authorities but they did not bother to communicate with the appellant through address which was submitted by appellant on various occasion for the purpose of correspondence, most ironically the impugned termination order was not communicated to the respondent No. 5, who was the concerned officer for the

above said purpose. Similarly, the respondent No. 4 was also not in knowledge of the impugned termination order of the appellant specially respondent No. 3 who is the administrative head of the tribal agencies in health services.

G. Once, the services of the appellant were placed at the disposal of the respondent No. 5, then the relevant authority was bound to communicate and correspond regarding the appellant with the respondent No. 5 but in the present case they have miserably failed to do so.

H. Even if it presumed that the impugned termination has been passed in accordance with law (which is not) then why Accountant General Office, respondent No. 3 & 5 were not aware of impugned termination order, on this score alone the impugned order of termination is illegal, void, ab-initio, further when the services of the appellant were handed over to the agency surgeon then how the termination order can be passed in absence of consultation with respondent No. 5 & 4, so the impugned termination of the appellant is without lawful authority and against the law.

I. That valuable right of the appellant have been fallen away through a void, illegal order thus limitation does not run against void order and could not affect the right of the appellant. Furthermore, since removal from the Service Ordinance 2000 has been abolished, therefore the departmental representation could not be filed under the repealed ordinance and the option of the departmental representation was exercised by the appellant under the prevailing law after getting the knowledge of the impugned termination order passed in absentia, even the appellant was not in the knowledge that under what law and under what circumstances the impugned order of termination has


8

been passed which float on surface during the correspondence between the respondent No. 1 & 2.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned order of the termination passed on 18.04.2009 vide notification No. SO(E) H-II/10-25/200 (BS-17) in the year 2009 may kindly be set aside and the appellant may kindly be reinstated with all back benefits in accordance with law and the ends of justice.


Petitioner

through


Sadiq Ali Momand
Advocate,
High court, Peshawar

Dated: 31.10.2015

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

Service Appeal No. _____/2015

Dr. Aimal Zaman

_____ (Appellant)

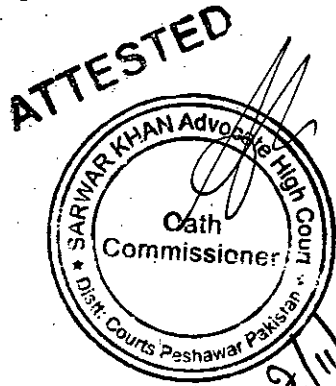
VERSUS

Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat
Peshawar and others

_____ (Respondents)

AFFIDAVIT

I, **Dr. Aimal Zaman**, Medical Officer, AHQ Hospital Ghallani, Mohmand Agency, 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 honourable tribunal.




DEPONENT

10

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

Service Appeal No. _____/2015

Dr. Aimal Zaman

_____ (Appellant)

V E R S U S

Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat
Peshawar and others

_____ (Respondents)

**APPLICATION FOR CONDONATION OF DELAY IN
FILING OF APPEAL BEFORE THIS HONOURABLE
TIRBUNAL.**

Respectfully Sheweth,

- 1) That the above noted appeal is being filed today before this honourable tribunal in which no date of hearing has yet been fixed so far.
- 2) That the appellant went to Naran in connection to look after the property of his wife known as "Grey Wall Hotel" on 22.10.2015 and got stuck in Naran due to severe / heavy snow fall and blockade of roads, and on 26.10.2015 due to the high intensity earth quake the situation became worst.
- 3) That the appellant was evacuated and reach Peshawar on 30.10.2015, and directly approached the respondent No. 1 and inquired about progress in his departmental representation, but came into knowledge that no order has


been passed upon his departmental representation, the Assistant Commissioner Balakot remained closely associated with the appellant / petitioner during the days when the appellant remained stuck in Naran due to the snow and road blockade.

- 4) That due to public holiday on 31.10.2015 and 01.11.2015 this honourable tribunal remained closed therefore the instant appeal has been filed today.
- 5) That the delay occurred in filing of the appeal was not to wilful but due to the above mentioned reasons.
- 6) That law leans the adjudication on merits rather than on technicalities and the valuable rights of the appellant / petitioner are involved in the instant appeal. Furthermore the impugned order of termination is totally illegal, void ab-initio and violative of the natural justice, therefore no limitation runs against the said order, moreover the correspondence regarding the decision on departmental representation is still in progress between respondent No. 1 and 2.

It is, therefore, most humbly prayed that in the light of above reasons, the delay in filing of appeal may kindly be condoned.


Petitioner

through


Sadiq Ali Momand
Advocate,
High court, Peshawar

Dated: 31.10.2015

12

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

Service Appeal No. _____/2015

Dr. Aimal Zaman

_____ (Appellant)

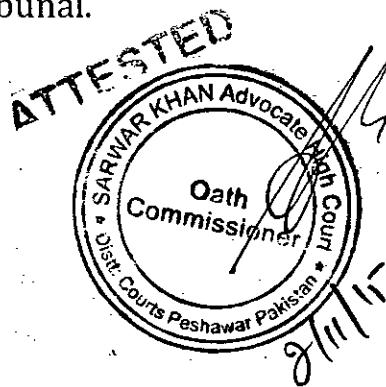
VERSUS

Chief Secretary to Govt. of Khyber Pakhtunkhwa, Civil Secretariat
Peshawar and others

_____ (Respondents)

AFFIDAVIT

I, **Dr. Aimal Zaman**, Medical Officer, AHQ Hospital Ghallani, Mohmand Agency, do hereby solemnly affirm and declare on Oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.




DEPONENT

Dated Peshawar, the 22-4-1989

6419 /E. I.

From

The Director Health Services,
North-West Frontier Province, Peshawar.

To

M. Lal Zaman Mohmand S/O Haider Zaman Mohmand
xxxx 22-E School Road, University Town, Peshawar.

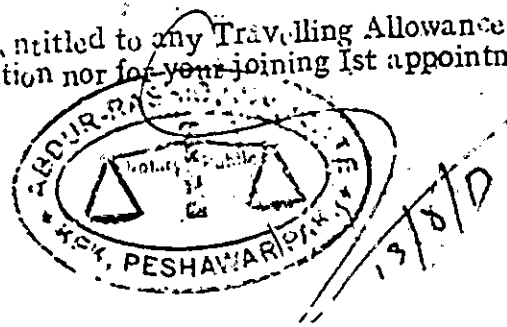
M. Lal Zaman Mohmand

Subject: RECRUITMENT OF MEDICAL OFFICER IN THE PROVINCIAL HEALTH SERVICES-I, GRADE-17 ON REGULAR BASIS.

Memo: Reference your application on the subject noted above.

2. On the recommendation of Public Service Commission and with the approval of the (Secretary Health) North-West Frontier Province, you are hereby appointed as Medical Officer in Provincial Health Service (I) (Junior Men's/Women's Branch on Regular basis at Rs. 2,005 P. M. in the time scale of Rs. 2065-155-3925 (Basic Pay Scale No. 17) plus usual allowances as sanctioned by the Government from time to time.
3. You will be entitled to rent free un-furnished quarters or a house rent allowance as may be fixed, from time to time of holding a resident appointment in a Hospital, Dispensary, Jail or Mental Hospital.
4. You will also be allowed private practice unless especially debarred, while attached to a particular post. This permission will be subject to the provisions that it does not interfere with the performance of your duties and that no private practice will be permitted during your duty hours.
5. You shall not be permitted to open any Clinic, Private Dispensary or Nursing Home, nor shall you be permitted to have any interest in such a Clinic, Nursing Home, Private Dispensary, Hospital or a Druggist Shop, you shall confine your private practice to seeing (private patients) at your own residence or in the patients house or in the private wards of the Hospital to which you are attached. You will not be permitted the sale of Medicines to patients at their residence. You shall further abide by any special instruction regarding private practice issued from time to time while attached to particular posts.
6. You shall be liable to serve anywhere in the North-West Frontier Province, including Agencies.
7. You can resign your post and can leave service, with the proper sanction of Government, however, your resignation is not accepted and you absent, you will be proceeded against under the West Pakistan Essential Services Act, 1953 and the Passport Authorities will be informed to suspend your passport so that you cannot leave the country. Even if you go abroad you will be made to come back to Pakistan through the Agencies if the Embassy of the accredited representative of Government of Pakistan.
8. Your services are liable to be terminated at any time without notice and any cause assigned and when your service are so terminated you shall not be paid any compensation whatsoever for the un-expired period as in Para 2 above.
9. You shall report in person to the Medical Superintendent, Civil Hospital Peshawar, along with X-Ray of your Chest on xxx.
10. This appointment is subject to your Physical fitness your posting order will be issued if you are declared medically fit by the Medical Board.
11. You will not be entitled to any Travelling Allowance for presenting yourself to the Medical Board for examination nor for your joining 1st appointment.

ATTESTED TO BE
TRUE COPY OF
THE ORIGINAL



P.T.O

12. If you fail to appear before the Medical Board on the prescribed date without good and sufficient reasons reported in writing in advance and in case you will not report for duty within Fourteen Days of your being declared fit by the Medical Board, the officer made will be deemed to have been withdrawn automatically and no further correspondence shall be entertained.

13. If you fail to report for duty at the Station to be assigned by this Directorate you will be liable to be debarred from further Government Service.

14. You will be governed by such a service rules may be framed by Government in this respect.

Director Health Services,
North-West Frontier Province, Peshawar.

No. /E. I.,

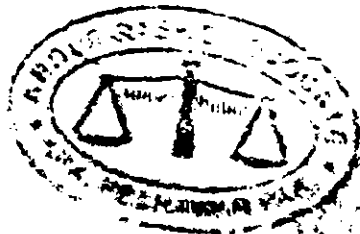
dated Peshawar, the 198'

Copy forwarded to the: -

1. Medical Superintendent, Civil Hospital, Peshawar, for information and necessary action. The result of the Medical Board may be disclosed to the Doctor concerned, and his Health Certificate forwarded to this Directorate (in Triplicate).
2. Secretary to Government of North-West Frontier Province, Health and Social Welfare Department, Peshawar for information with reference to his letter.
No.
3. Secretary, North-West Frontier Province, Public Service Commission, Peshawar for information.
4. Accountant-General, North-West Frontier Province, Peshawar for information.

Director Health Services,
North-West Frontier Province, Peshawar.

ATTESTED TO S



HEALTH DIRECTORATE, NWFP, PESHAWAR.

OFFICE ORDER

Consequent upon to the recommendations of the NWFP Public Service Commission, Peshawar and approval accorded by the Government in the Health Department vide their Notification No. SO(H)IV/89/70, dated 12th April, 1989, the following postings and transfers of Medical Officers (BPS-17) are hereby ordered in the interest of Public service with immediate effect subject to their Medical Fitness and verification of antecedence:-

S.No.	Name	From	To	Remarks
1.	Dr. Mohammad Ismail Afridi S/o Ghulam Haider Afridi.	Est:Apptt:	MO, Hayat Shaheed Teaching Hospital, Peshawar.	Against the job at post.
2.	Dr. Ali Mohammad Khan S/o M. Ghulam.	-do-	MO, BHU, Saidgai (M. Naz Agency).	-do-
3.	Dr. Shad Mohammad S/o Sultan Mohammad.	-do-	MO, BHU, Chankani (Distt: Peshawar).	-do-
4.	Dr. Zamir Shah S/o Haji Zaman Shah.	-do-	MO, BHU, Mishti Mulla (Ork: Agency).	-do-
5.	Dr. Liaqat Hussain Bangash S/o Badshah Hussain.	-do-	MO, BHU, Dogar Kurram Agency.	-do-
6.	Dr. Ibrar Hussain S/o Mohammad Ayub.	-do-	MO, BHU, Trapi Mansehra.	-do-
7.	Dr. Aimal Zaman Mohammad S/o Haider Zaman Mohammad.	-do-	MO, BHU, Maryamzai District Peshawar.	-do-
8.	Dr. Gulab Karim S/o Haji Sher Zaman Loke.	-do-	MO, BHU, Raska Ork: Agency.	-do-
9.	Dr. Niamat Ullah S/o Mohammadullah.	-do-	MO, BHU, Pech, District: Peshawar.	-do-
10.	Dr. Dr. Salman Sabir S/o Manzoor Sabir Loke.	-do-	MO, BHU, Wander (Distt: Mansehra).	-do-

Attended
Ow

(Dr. Sardar Ali)
Director Health Services,
N.W.F. Province, Peshawar.

AIMAL ZAMAN.....2.

(15)

6020-49/W.I. (2) Dated Peshawar the 22/4/1989.

Copy forwarded to the:-

1. Secretary to Govt: of NWFP, Health Department, Peshwar for information.
2. Administrator, Hayat Shaheed Teaching Hospital, Peshawar.
3. All Divisional Deputy Director Health Services in NWFP.
4. Agency Surgeon, North Waz: Miranshah.
5. District Health Officer, Peshawar.
6. Agency Surgeon, Orakzai at Hango.
7. Agency Surgeon, Kurram Parachinar.
8. District Health Officer Mansehra.
9. District Health Officer, Chitral.
10. Risk Accountant General, NWFP, Peshawar.
11. Agency Accounts Officer, Miranshah.
12. Agency Accounts Officer, Orakzai at Hango.
13. Agency Accounts Officer, Parachinar.
14. District Accounts Officer, Mansehra.
15. District Accounts Officer, Chitral.
16. Dr. Mohammad Ismail Afridi S/o Ghulam Haider Afridi Village & PO Dagg, Govt High School, Dagg Tehsil and District Peshawar.
17. Dr. Ali Mohammad Khan S/o Sultan Mohammad, Village Naguman, PO Nahaqi, District Peshawar.
18. Dr. Zamir Shah C/o Haji Zaman Sher C/o Haji Zaman Shak, Shopkeeper PO Taurad Khyber Agency.
19. Dr. Liaqat Hussain Bangash S/o Badshah Hussain C/o Munir Hussain Bangash, Mobile Credit Officer, Agriculture Dev: Bank Parachinar.
20. Dr. Ibrar Hussain S/o Muhammad Ayub, Moh: Nazir Abad, Near Chairman Office, Shaheen Muslim Town, Peshawar.
21. Dr. Asmat Zaman Mohammad S/o Haider Zaman Mohammad, 22-E, School Road, U/Town, Peshawar.
22. Dr. Gulab Zarin S/o Haji Sher Zaman (late) C/o Haji Amin Gen: Store, near Madresa Hissam-udin Therah Bazar, Kohat City.
23. Dr. Niomatullah S/o Haji Muhammadullah, Haji Mohammadullah and Brothers, Chowk Yadgar, Peshawar City.
24. Dr. Salman Sabir S/o Manzoor Sabir (late) C-118, PETCO, SIE, Kohat Road, Peshawar.
25. Dr. Shad Mohammad S/o Sultan Mohad: Vill: Naguman PO Nahaqi, Pesh: For information and necessary action.

DIRECTOR HEALTH SERVICES,
N.W.F. PROVINCE, PESHAWAR.
(DR. SARDAR ALI)

o.o.o.o.

375

GOVERNMENT OF N.W.F.P.
HEALTH DEPARTMENT
Dated Peshawar, the 3rd August, 04.

NOTIFICATION

NO. SO(E)H-IV/431/04:- The competent authority is please to order the following posting/transfer of doctors with immediate effect in the public interest.

Sr. Name of doctor	From	To
1. Dr. Muhammad Afif (B-17)	MO THQH Samarbagh Dir.	MO AHQH: Bajour Agency.
2. Dr. Abdul Haq (B-17)	MO AHQH: Bajour Agency.	MO THQH: Samarbagh Dir.
3. Dr. Ashiq Hussain (B-18)	SMC KTH Pesh:	SMO DHQH: Lakk Marwat.
4. Dr. Amal Zaman (B-12)	MO Govt. LRH Pesh:	Servides placed at the disposal of Agency Surgeon Mohmand.
5. Dr. Akbar Khan (B-17)	MO CH Alizai Kurram Agency.	MO DHQH: Kohat.
6. Dr. Bawar Khan (B-17)	MO DHQH, Samarbagh Dir. Lower.	MO AHQH: Bajour Agency.
7. Dr. Irshad Khan (B-18)	SMO DHQH: Battagram.	SMO CH Loi Shalman Khyber Agency.
8. Dr. Sultan Akbar (B-17)	MO BHU Sakhi Jan, Jani Khel FR Bannu	MO LRH Peshawar.
9. Dr. S. Riaz Ali Shan (B-17)	MO BHU Zairh Orakzai Agency.	MO DHQH: KDA Kohat.
10. Dr. Arshad Sohail (B-17)	MO DHQH: KDA Kohat.	MO BHU Zairha Orakzai Agency.
11. Dr. Khairul Asad (B-17)	MO CH Ghaljo, Orakzai Agency.	MO DHQH: Hangu
12. Dr. Musarrat Jehan (B-17)	MO CH Ghaljo, Orakzai Agency.	MO DHQH: Hangu.
3. Dr. Mazhar Hayat (B-17)	MO SHS Miranshah NW Agency.	FSMO Miranshah NW Agency.

SD/--
Secretary Health NWFP.

TESTED
Di
TESTED

(17)

DR: MUHAMMAD ISMAIL KHAN, M.P., PESHAWAR.

DATE: 09/09/2004.

Copy to the:-

- 1. W/S MTR Peshawar.
- 2. W/S Govt; LRA Peshawar.
- 3. W/S P.A. Peshawar.
- 4. W/S (H) L.Dir.
- 5. W/S (C) Bannu.
- 6. W/S (U) Bannu.
- 7. W/S DHQH: Battagram.
- 8. W/S DHQH: Kohat.
- 9. W/S DHQH: L. Dir. Marwat.
- 10. W/S DHQH: Sangar.
- 11. W/S DHQH: Surgeon Bajour.
- 12. W/S DHQH: Surgeon Kurram.
- 13. W/S DHQH: Surgeon Orakzai.
- 14. W/S DHQH: Surgeon P. Agency.
- 15. W/S DHQH: Surgeon Mohmand.
- 16. W/S DHQH: Surgeon Khyber.
- 17. W/S DHQH: Accountant General Peshawar.
- 18. W/S DHQH: Accounts Office, L. Dir, Bannu, Battagram, Marwat, Kohat, Sangar and Kurram.
- 19. W/S DHQH: Accounts Officer, Bajour, Kurram, Orakzai, P. Agency and Sangar.
- 20. Doctors concerned.
- 21. W/S GHS, L. Dir. Peshawar.
- 22. W/S GHS, L. Dir. Marwat.

DR: MUHAMMAD ISMAIL KHAN
DIRECTOR GENERAL HEALTH SERVICES, M.P., PESHAWAR.

12/9

18

~~Amir Zaman~~ / 337
27
23

OFFICE OF THE MEDICAL SUPERINTENDENT
GOVERNMENT LADY READING HOSPITAL PESHAWAR

OFFICE ORDER

23942
16/9/04

On his transfer from this hospital vide Govt: of NWFP. Health Department Notification No. SO(HE)H-IV/4-1/04 dated 3.8.2004. Dr. Aimal Zaman Medical Officer is hereby relieved from his duty on 31.8.2004.

Humayun Zafar
Dr. Humayun Zafar
Medical Superintendent
Govt. Lady Reading Hospital
Peshawar
Dated 15 / 09 / 2004

thi
no Dr
plea

No. 24626-31 / E-1.

Copy to the:-

- 1. Secretary Health Govt: of NWFP, Peshawar.
 - 2. Director General Health Services NWFP Peshawar
 - 3. DMS (Admin)
 - 4. Director Finance.
 - 5. P.A. to Chief Executive
 - 6. Doctor concerned
- For information and n. action

Lady Reading Hospital Peshawar
Lady Reading Hospital Peshawar
Lady Reading Hospital Peshawar
Lady Reading Hospital Peshawar

Humayun Zafar
Dr. Humayun Zafar
Medical Superintendent
Govt. Lady Reading Hospital
Peshawar

den
lane

Dr
ATTESTED

M. S.
Approved - *[Signature]*

19

CERTIFICATE OF TRANSFER OF CHARGE

Certified that we have on the fore/afternoon of this day respectively made over and receive charge of this office of the No. SO(E) H-IV/A-1/04
alt. 3/8/2004

2. Particulars of cash and important secret and confidential documents handed over as noted on the reverse:—

Signature of relieved Government servant..... *[Signature]*

Station... L.R.H.

Designation.....

Signature of relieving Government servant..... *[Signature]*

Date... 31/8/04

Designation..... *[Signature]*

Reference your Office Letter No. 1306/AE-1 Dated 18/01/2007 on the subject cited above.

I have the honour to inform your good self that this hospital has been functionalized from 01-07-2004 and there is no Dr. Aimal Zaman Medical Officer under the control of undersigned, please.

Report Submitted for information please

*Attache
Dw*

[Signature]
Medical Superintendent
AHQ Hospital Ghallanai.

(20)

~~Annex~~

Annex D

To

The Secretary
Social Sector Development Department
FATA Secretariat, Peshawar

Subject: APPLICATION FOR RETIREMENT FROM THE SERVICES

It is submitted that the undersigned was appointed as Medical Officer in January 1989 in the Health Department Khyber Pakhtunkhwa. During my service I have not availed any extra ordinary leave.

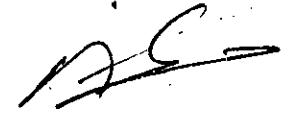
Upon the completion of 25 years qualifying service, it is requested that my application for retirement from service as Medical Officer may be forwarded to the Director General Health, Khyber Pakhtunkhwa being the parent department for further necessary action at their end please.

Dated:16.05.2014

Be forward to parent govt

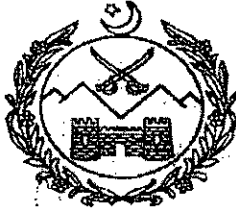
16 May 14

See



Dr. Aimal Zaman
Medical Officer
AHQ Hospital, Ghallanay
Mohmand Agency


ATTESTED



Establishment Section

21

FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

No.FS/E/100-93/ 4072-73(s)
Dated 16/5/2014

Anx (E)

Secretary,
Health Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:- APPLICATION FOR RETIREMENT FROM SERVICE

Dear Sir,

I am directed to enclose herewith a copy of an application in respect of Dr.Aimal Zaman, Medical Officer AHQ Hospital Ghallanai Mohmand Agency requesting for retirement upon the completion of 25 years qualifying service for further necessary action, please.

Yours faithfully,

(JIBREEL RAZA)
Section Officer (Estab)

Encl: (As above)

Copy to:-

- Director Health Services (FATA) for information.

sd/-

Section Officer (Estab)

Advised
One

ATTN:- ZAHIR SHAH KHAN.
PA to Minister Health.

81

Handwritten signature/initials

25 Years or Months
 29 Days
 14.10.1981
 C.O.N
 EFP Quota: BRANCH HAYTOWER BRANCH HAYTOWER
 0010000703200032

NET AMOUNT PAYABLE
 11,605.00
 189,743.00

Subtotal: 201,349.00

8,000.00
 4,000.00
 60,674.00
 40,000.00

DEBIT CODE
 160008
 000000000000000000
 DFD #:
 GPF #:
 NIN:
 MIN:
 MIN: Min. Of Health
 160008 - Agency Surgeon Nommand
 P Sec: 001 Month: June 2014

Perms #: 0014252
 Name: AIMAL ZAMAN
 Medical Officer
 CMC No: 130124720299
 GPF Interest Applied
 17.000000000000000000
 PAYS AND ALLOWANCES:
 218-Agenc Relief Allow (2012)
 2151-Adhoc Allowance 2013 (10X)
 5002-Ad Postment House Rent
 5201-Adf House Rent
 Gross Pay and Allowances
 57,251.48 Deducted
 250,383.00
 EFP Balance
 11 Paidable

Booklet: GRAMMALI

Sheet no 1
 June 2

22,363.00

3,311.00

100,674.00

8,000.00
 4,000.00

DEBIT CODE
 160008
 000000000000000000
 DFD #:
 GPF #:
 NIN:
 MIN:
 MIN: Min. Of Health
 160008 - Agency Surgeon Nommand
 P Sec: 001 Month: April 2014

Perms #: 0014252
 Name: AIMAL ZAMAN
 Medical Officer
 CMC No: 130124720299
 GPF Interest Applied
 17.000000000000000000
 PAYS AND ALLOWANCES:
 218-Agenc Relief Allow (2012)
 2151-Adhoc Allowance 2013 (10X)
 5002-Ad Postment House Rent
 5201-Adf House Rent
 Gross Pay and Allowances
 57,251.48 Deducted
 250,383.00
 EFP Balance
 11 Paidable

Booklet: GRAMMALI

Attested

Amx F

22

April 12

Handwritten notes on the left margin

231

Accounts Office GHALANAI
 RUAL STATEMENT FOR EMPLOYEES EARNING AND
 FOR FISCAL YEAR 2014 - 2015

Per. No. : 00114926
 Name of Employee : AIMAL ZAMAN
 Designation : MEDICAL OFFICER
 CNIC Number : 1730124720699
 Address : GHALANAI
 Appointment or nature of Appointment : Active Permanent
 National Tax Number :

Type of Entity
 Ministry / Department
 Payroll Section
 DDD
 Currency
 Employee Pay Scale

	Jul	Aug	Sep	Oct	
Basic Pay	40,000	100	40,000	40,000	40
House Rent Allowance	2,955	155	2,955	2,955	2
Convey Allowance 2005	5,000	100	5,000	5,000	5
Unattractive Area Allow	2,000	100	2,000	2,000	2
Rural Compensatory Allowa	4,000	100	4,000	4,000	4
Medical Allow 15% (16-22)	3,697	197	3,697	3,697	3
Adhoc Allowance 2010@ 50%	12,325	125	12,325	12,325	12
Adhoc Relief Allow 2011	3,697	197	3,697	3,697	3
Health Professional Allow	15,000	100	15,000	15,000	15
Adhoc Relief Allow (2012)	8,000	100	8,000	8,000	8
15% Adhoc Relief All-2013					
Adhoc Allowance 2013 @10%	4,000	100	4,000	4,000	4
Adhoc Relief Allow-2014		100	4,000	4,000	4
Adjustment House Rent	60,674				
Adj Conveyance Allowance					
Adjustment Medical All					
Adj Rural Comp: All					
Adj Unattractive Area All					
Adj Adhoc Relief Allowance					
Adj Basic Pay	40,000				
Adj Special Allowance 20%					
Adj Adhoc Allowance 50%					
Adj Adhoc Relief 2011					
Adj Health Allowance					
Adj Adhoc Relief All-2014					
Annual Taxable Income					
Gross Pay	201,348	174	104,674	104,674	104
Income Tax Deducted	6,115	115	6,515	6,515	6
Income Tax Adjustment					
House Rent Added 30%					
House Rent Added 45%					
Net House Rent Added					
Rebate due to Designation					
Exemption due to Tax Free Zone					
Marginal Relief Earned					
Gross Tax	73,376	76	77,776	77,776	
Slab Rate	10.00				
Marginal Relief Slab Rate	10.00				
Employee is liable to Pay /		Tax		0 for fiscal	
Summary	Total Annual Income	12.00	Total Tax		
	Total Taxable Income	15.00	Total Tax		

Abbas Khan

(24)

AM (G)

To

PS/O.S Khyber Pakhtunkhwa
Diary No. 6862
Date. 29-6-15

The Honourable Chief Secretary,
to Govt. of Khyber Pakhtunkhwa,
Peshawar.

Subject: **DEPARTMENTAL REPRESENTATION AGAINST THE ILLEGAL
TERMINATION OF THE PETITIONER IN THE YEAR 2009.**

Respected Sir,

CONCISE STATEMENT:

That, the petitioner was appointed as medical officer in provincial health services (I) Junior men/women branch on regular basis on the recommendation of public service commission and with the approval of (Secretary Health) Government of Khyber Puhtunkhwa Vide Office Order No.6419/E.L,GS & PD NWFP.-2200 DHS.5000 F-27789(89) Dated 22-04-1989 issued by Director Health Services Khyber Pukhtunkhwa. (Copy of appointment order is attached as Annexure A), and thereafter Vide office order Number 602-49/E.I Dated 22.04.1989, the Petitioner was posted as M.O BHU Maryam Zai, (Copy of posting order dated 22.04.1989 is attached as Annexure B), where the petitioner served with dedication, petitioner throughout performed up-to the mark and acted honestly, fairly and provided services to the people of the locality, then the petitioner was posted to LRH Peshawar for where he served for two years and on 07/09/2004 Vide Notification No. SO(E)H-IV/4-1/2004. (Copy of Notification is attached as Annexure C). The services of the petitioner were placed at the disposal of the Agency Surgeon Mohmand Agency; where the petitioner rendered his services till May 2015 and received the salary up-to April 2015, beside this on 16.05.2014 the petitioner applied for retirement through proper channel the same was forwarded to Secretary Health vide Letter No. FS/E/100-93/4022-75(s) dated 16.05.2014, (Copy of application for retirement and letter dated 16.05.2014 is attached as Annexure D & E respectively), while processing the case of the petitioner for retirement, the illegal negligent act in shape of the termination order floated out and the Director General Health Khyber

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ATTESTED

Pakhtunkhwa stopped the salary of the petitioner and the petitioner got the knowledge of the impugned order through account office Mohmand Agency in the first week of the June 2015, when the petitioner did not received the salary of the May 2015. (Copy of the salary slip is attached as Annexure D)

IMPUGNED ORDER:

That, illegal impugned order has been passed in the year 2009, the same has not yet been communicated to the petitioner neither has been conveyed to the FATA Secretariat nor Agency Surgeon. Being, violative of the principle of natural justice and Government Servants (efficiency & discipline Rules) 1973 may kindly be set aside and struck down.

GROUNDS:

- A. That, impugned order of the termination is totally illegal void ab-initio and has been passed in the absentia.
- B. That, the impugned termination order not (communicated yet) is violative of the principle of natural justice, as no opportunity of hearing has been given to the petitioner and the principle of audi altram partam has been grossly violated by the authority.
- C. That, no show-cause/intimation has been given to the petitioner neither the grounds of the penalty has been conveyed to the petitioner, mandatory provisions of inquiry procedure has not been complied with.
- D. That, the petitioner has not been associated in an inquiry nor the requisite formalities has been complied with and the petitioner has not been served in accordance with the Section 27 of the General Clauses Act, Rule 5, 6 & 7 of the Efficiency and Discipline Rules 1973 gives a detail procedure regarding the conduct of inquiry and inquiry procedure but the relevant authority has

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ATTESTED

acted in an ignorance of the above mentioned Rules and has frustrated the objectives of the above said Rules.

- E. *Without prejudice to the above* in addition thereto, it appears that the impugned termination order has been passed violative of the government instruction, given on O.M/No.6/8/79-D1 Dated 10-07-1979; which are reproduced here as under;

"Further, serving of show-cause Notice & mere reply thereto in denial of allegations or mere questions and answers do not amount to affording the accused reasonable opportunity of showing cause as required by Clause (b) of Rule 5 (iii) of the Government Servant (E&D) Rules 1973, the requirement of reasonable opportunity of showing cause against proposed action will only be satisfied if particulars of the charge or charges, substance of evidence in support of the charge and specific punishment, which would be called for, after the charge or the charges are established & communicated to the Civil Servant, who is given reasonable time and opportunity to show Cause". But in the present case no observance of the Government instructions has been made.

- F. Please note that the permanent address of the petitioner was available with the relevant authorities but they did not bothered to communicate with the petitioner through address which was submitted by petitioner on various occasion for the purpose of correspondence, most ironically the impugned termination order was not communicated to the Agency Surgeon, who was the concerned officer for the above said purpose. Similarly, the FATA Secretariat was also not in knowledge of the impugned termination order of the petitioner specially Director FATA Health Services who is the administrative head of the agencies in health services.

- G. Once, the services of the petitioner were placed at the disposal of the Agency Surgeon, then the relevant authority was bound to communicate and correspond regarding the petitioner with the


ATTESTED

Agency Surgeon but in the present case they have miserably failed to do so.

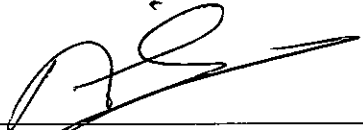
- H. Even if it presume that the impugned termination has been passed in accordance with law (which is not) then why Accountant General Office, Director FATA Health Service, Agency Surgeon were not aware of impugned termination order, on this score alone the impugned order of termination is illegal, void, ab-initio, further when the services of the petitioner were handed over to the agency surgeon then how the termination order can be passed in absence of consultation with Agency Surgeon, Director Health Services FATA, so the impugned termination of the petitioner is without lawful authority and against the law.
- I. That valuable rights of the petitioner have been fallen away through a void, illegal order thus limitation does not run against void order and could not affect the right of the petitioner.

PRAYER:

It is therefore most humbly prayed that the impugned order of the termination passed in the year 2009 (which has not yet been communicated) may kindly be set aside.

Dr
ATTESTED

Petitioner



(Dr. Aimal Zaman)

Medical Officer

AHQ Hospital Ghallani

Mohmand Agency

29/6/15

28

MSH

D. No. 7016
29.6.15

To

SA
29/6/15

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

Subject: DEPARTMENTAL REPRESENTATION AGAINST THE ILLEGAL
TERMINATION OF THE PETITIONER IN THE YEAR 2009.

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- C. That, no show-cause/intimation has been given to the petitioner neither the grounds of the penalty has been conveyed to the petitioner, mandatory provisions of inquiry procedure has not been complied with.
- D. That, the petitioner has not been associated in an inquiry nor the requisite formalities has been complied with and the petitioner has not been served in accordance with the Section 27 of the General Clauses Act, Rule 5, 6 & 7 of the Efficiency and Discipline Rules 1973 gives a detail procedure regarding the conduct of inquiry and inquiry procedure but the relevant authority has

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acted in an ignorance of the above mentioned Rules and has frustrated the objectives of the above said Rules.

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- F. Please note that the permanent address of the petitioner was available with the relevant authorities but they did not bothered to communicate with the petitioner through address which was submitted by petitioner on various occasion for the purpose of correspondence, most ironically the impugned termination order was not communicated to the Agency Surgeon, who was the concerned officer for the above said purpose. Similarly, the FATA Secretariat was also not in knowledge of the impugned termination order of the petitioner specially Director FATA Health Services who is the administrative head of the agencies in health services.

- G. Once, the services of the petitioner were placed at the disposal of the Agency Surgeon, then the relevant authority was bound to communicate and correspond regarding the petitioner with the

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Agency Surgeon but in the present case they have miserably failed to do so.

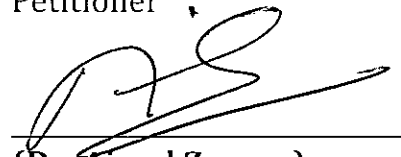
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- I. That valuable rights of the petitioner have been fallen away through a void, illegal order thus limitation does not run against void order and could not affect the right of the petitioner.

PRAYER:

It is therefore most humbly prayed that the impugned order of the termination passed in the year 2009 (which has not yet been communicated) may kindly be set aside.

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Petitioner



(Dr. Aimal Zaman)
Medical Officer
AHQ Hospital Ghallani
Mohmand Agency

29/6/15

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Most immediate

Adg' I

**PSO TO CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

No. PSO/CS/KPK/I-5/2015

Dated Peshawar, 12th Oct, 2015

To

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

**Subject:- DEPARTMENTAL REPRESENTATION AGAINST THE ILLEGAL
TERMINATION OF DR. AIMAL ZAMAN, MO, AHQ GHALLANAI,
MOHMAND AGENCY**

Dear Sir,

I am directed to refer to application of Dr. Aimal Zaman and Health Department letter No. SO(E)H-II/10-25/2015/Dr. Aimal Zaman (Ex-MO) dated 09-09-2015 on the subject cited above.

2. Brief history as per record obtained from your good office is as under:-
"Dr. Aimal Zaman, Medical Officer (BPS-17) who joined Provincial Health Department in 1989 was transferred from LRH Peshawar and his services were placed at the disposal of Agency Surgeon, Mohmand Agency on 3-8-2004 (F/A). Major penalty of Removal from Service was imposed on the doctor concerned on 18th April, 2009 on absence from duty (F/B)". Dr. Aimal Zaman, Medical Officer kept serving till May, 2015 because neither he nor all other relevant quarters were informed of his removal. Recently on an application of early retirement, the department realized about their omission.
3. Health Department is requested to please clarify the following:-
 - i. The DG Health Services in January 2007 asked for ACRs of Dr. Aimal Zaman, MO in a promotion case of Medical Officers from MS AHQ Hospital Ghallanai instead of Agency Surgeon Ghallani or Director Health Services FATA as doctor concerned was performing duties in SHS under the control of Agency Surgeon Mohmand.
 - ii. The MS AHQ Hospital Ghallani vide letter at FIC replied to DG Health Services that "there is no Dr. Aimal Zaman Medical Officer under the control of undersigned". Was any absenteeism of doctor concerned reported by MS AHQ Hospital Ghallanai to FATA Secretariat, DHS FATA or DG Health Services and was he supposed to do so while services of doctor concerned were placed at the disposal of Agency Surgeon Ghallanai? Were any


ATTESTED

Agency Surgeon Mohmand, DHS FATA or FATA Secretariat to DG Health Services or Provincial Health Department against the doctor concerned?

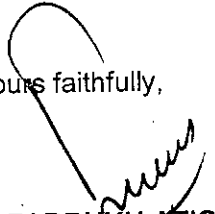
- iii. Did the DG Health Services on his own (F/D) recommended disciplinary proceedings against Dr. Aimal Zaman, MO merely on wording of MS AHQ Hospital Ghallanai that **"there is no Dr. Aimal Zaman Medical Officer under the control of undersigned"**.
- iv. Did DG Health Services consulted FATA Secretariat or Director Health Services FATA or Agency Surgeon Ghallanai regarding absenteeism of doctor concerned and were there any notices of absence given to said doctor?
- v. The DG Health Services vide his letter at F/D had also mentioned that the doctor concerned has not reported arrival to Agency Surgeon Mohmand. Had the doctor concerned not reported arrival to Agency Surgeon Mohmand then how the doctor concerned was getting his salary (F/E).
- vi. On 6.1.2009 the doctor concerned requested (F/F) Agency Surgeon Mohmand Agency Ghallanai for retirement on Medical Grounds. The Agency Surgeon Mohmand Agency Ghallanai forwarded the request of the doctor concerned to DHS FATA vide F/G also stating that " Dr. Aimal Zaman Medical Officer SHS (School Health Services) Mohmand Agency is working under the control of the undersigned". Did this not *clarify/confirm that the doctor was performing duties in School Health Services under the control of Agency Surgeon Mohmand Ghallanai and not under the control of MS AHQ Hospital Ghallanai and it was for Agency Surgeon Mohmand Ghallanai to report his absence, if any, and not for MS AHQ Ghallanai Mohmand Agency.*
- vii. The Director Health Services FATA vide F/H & F/I forwarded the request of doctor concerned for retirement on medical grounds to DG Health Services and Secretary Health, Government of NWFP. Did this not mean that the doctor was performing his duties?
- viii. The Directorate of Health Services vide F/J requested the MS Police & Services Hospital Peshawar for arranging Standing Medical Board for the doctor concerned which also confirms that the doctor concerned was still performing his duties.
- ix. In 2014, on completion of 25 years services, the doctors concerned applied for premature retirement which was forwarded to Secretary Health by FATA Secretariat vide F/K. Did this not mean **that the doctor concerned was still performing his duties?**


ATTESTED

- x. Since February 2015, DHS FATA and Agency Surgeon Mohmand Ghallanai suddenly started writing different letters (9 different letters vide F/L) to show that the doctor concerned was absent since long which was never reported earlier either by Agency Surgeon Ghallanai DHS FATA or FATA Secretariat to Provincial Health Department.
- 4. It is, therefore, requested that a detailed report supported by relevant documents may be submitted for orders of the Chief Secretary, Government of Khyber Pakhtunkhwa within three days positively.

Encl. As above.

Yours faithfully,


(CAPT(R) FARRUKH ATIQUE)
PSO to Chief Secretary
Tel: 091-9210355
Fax: 091-9210447


ATTESTED

AKJ

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 Ph (091 - 9210187, 091 - 9210196) Fax (091 - 9210230)

No 19120 /E.I

Date: 20/10/2015

To

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

Subject: - DEPARTMENTAL REPRESENTATION AGAINST THE ILLEGAL
TERMINATION OF THE PETITIONER IN THE YEAR 2009.

Dear Sir,

With reference to your letter No. SO (E) H-II/10-25/2015/Dr. Aimal Zaman dated 13.10.2015 on the above cited subject it is stated that Dr. Aimal Zaman was terminated vide Notification SO (E) H-II/10-25/200 (BS-17) dated 18.04.2009 under removal from service Ordinance 2000 and he did not file Departmental appeal under section-09 of said Ordinance within 15-days. So his present appeal dated 29.06.2015 is badly time barred and attract relevant Acts of Limitations and lashes and cannot be entertained under Establishment Department Khyber Pakhtunkhwa Notification SORII(S&GAD)3(4)/78-Vol-II dated Peshawar the 29 February, 1988 (Annex-I).

However I have the honour to submit para wise reply of above quoted letter of PSO to Chief Secretary Khyber Pakhtunkhwa as under:-

2. On his transfer Dr. Aimal Zaman relinquished his charge from ERH Peshawar neither submitted the charge report to Agency Surgeon Mohmand nor the A/S Mohmand or DHS FATA endorsed his assumption of charge report to School Health Services Mohmand. It is pertinent to note that in present Departmental Appeal he did not enclose the assumption of charge report for the SHS A/S Mohmand.

- i. During January, 2007 this Directorate General Health asked the M.S AHQ Hospital Ghalanai vide letter No. 1396/AE-I dated 18.01.2007 for submission of ACRs in respect of Dr. Aimal Zaman. It was the responsibility of Dr. Aimal Zaman to submit his ACRs punctually if he claims that he is performing regular duty. But neither he took interest nor any response received from either offices of A/S Mohmand or MS AHQH Ghalanai Mohmand Agency except the M.S AHQH Ghalanai letter No. 216/MS dated 03.02.2007 (Annex---II) in which he denied of Dr. Aimal Zaman on his strength. Both offices are situated in same premises and Dr. Aimal Zaman is well known person being a golf player.

SO-II

ATTESTED 

It is worth mentioning Govt: itself has shown his attachment with AHQ Hospital Ghalanai in the above letter and also in his appeal dated 29.06.2015 the doctor concerned himself has shown his attachment with AHQ Hospital Ghalanai.



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**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 _____/E.I

Date: ___/___/2015

ii. As mentioned in above para that neither the doctor concerned after his transfer from LRH Peshawar submitted arrival report to A/S Mohmand nor A/S surgeon or MS AHQH Ghalanai Mohmand alongwith DHS FATA endorsed his charge report after he relinquished his charge from LRH Peshawar but Dr. Aimal Zaman himself considered attached to AHQH Ghalanai as per his present departmental appeal. That is why MS AHQH report vide his letter 216/MS dated 03.02.2007 regarding no one in the name of Dr. Aimal Zaman on his strength. Therefore, disciplinary action was recommended: against him to Govt: vide letter No. 7459/E.I dated 19.03.2007 **(Annex—III)**.

iii. The information received from AHQ Hospital Ghalanai was just cause of start of disciplinary action against him otherwise his service record was not praiseworthy from duty point of view. Photocopies of some reports of his controlling officer regarding his absence in the past is enclosed for perusal please.

1. Report of DHO Peshawar dated 23.07.1996.
2. Report of DGHS office dated 23.10.1996.
3. Report of P.S to Secretary Health dated 19.09.1997.
4. Report of DHO Peshawar dated 10.07.2000.
5. Draft charge sheet against him sent to Govt: dated 26.09.2000.
6. Tour note of DHO Peshawar dated 13.12.2000.
7. Report of Summary Breg: Habib-ur-Rehman DGHS dated 09.07.2001.
8. Letter of MS LRH Peshawar dated 21.01.2004.

(Annexure-IV to XI respectively)

Also the ACRs of the officer concerned are not received in this Directorate which also speaks about his absenteeism.

iv. No, after his transfer from LRH Peshawar his charge relinquishing report was received **(Annex—XII)** but there is no charge assumption report received from A/S Mohmand or MS AHQH Mohmand at Ghalanai and there was no response of this Directorate Registered absence notice dated 19.03.2007 sent at his home address. Therefore disciplinary action was initiated against him.

- v. Conduction of enquiry is requested regarding his arrival report and drawl of salary even after removal from service.
- vi. Query has already been responded vide Para-i above and required a detail inquiry as mentioned in Para-v above.
- vii. His presence can only be confirmed from his place of duty through a high level inquiry as mentioned in Paras v & vi.
- viii. The letter dated 30.01.2009 which has been referred as F-J was written by the Medical Section DGHS KPK Peshawar by passing the Establishment section of DGHS KPK Peshawar because they were not aware of removal of doctor concerned from service.

Dw
ATTESTED



37

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 _____/E.I _____ Date: ____/____/2015

However this Directorate General Health services has already clarified about the fact of removal of doctor concerned from service to Govt: in Para-ii of this Directorate General Letter No. 19578/E.I dated 06.06.2009 (**Annex—XIII**).

- ix. His presence can only be confirmed from his place of duty through a high level inquiry as mentioned in Paras v,vi,vii & viii.
- x. Para-10 itself is an ample proof that doctor concerned was absent from duty but due to un-known reasons no one dare to report his absence.

It is stated that doctor concerned was absent from duty that is why neither he responded to absence notice served upon him at his home address nor to the notice published in the press.

Furthermore his removal notification was endorsed to DHS FATA/Agency Surgeon Mohmand/MS AHQH Ghalanai/AAO Mohmand/ to doctor concerned at his home address but not a single quarter intimated about the presence of the doctor concerned. The removal notification dated 18.04.2009 was not about one doctor it was about removal of 71-doctors under the removal of service Ordinance 2000. It was conveyed to each respective office. His representation after 5-years is badly time barred under the relevant Laws of RSO 2000, limitation and lashes and cannot be entertained under Establishment Department Khyber Pakhtunkhwa Notification, SORII(S&GAD)3(4)/78-Vol-II dated Peshawar the 29 February, 1988.

On
ATTESTED

[Signature]
19/10
DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Case No.

B

(38)

Anex J/2

GOVERNMENT OF NWFP
HEALTH DEPARTMENT.

Dated Peshawar 13th April 2009.

NOTIFICATION.

NO. SO(E)F-II/10-25/200 (BS-17). WHEREAS, disciplinary proceedings were initiated against the following doctors (BS-17) for their wilful absence from duty.

S.No.	Name of Doctors	Place of posting	Date of absence
01.	Dr. Syed Muhammad Abid Shah (BS-17) S/O Syed Muhammad Zahid Shah	MO BPU Bagreecha Dheri Mardan.	00.03.2005
02.	Dr. Muhammad Shakeel (BS-17) S/O Muhammad Bashir.	Dental Surgeon DQCH, Batagram	03.10.2005
03.	Dr. Abdus Salam (BS-17) S/O Muhammad Islam.	MO R/C Yaka Ghund Mohmand Agency.	01.09.2006.
04.	Dr. Naveeds Idrees (BS-17) D/O Muhammad Idrees.	Dental Surgeon R/C Munda Dir(L).	02.01.2007
05.	Dr. Waqar Saeed (BS-17) S/O Zulfiqar Ahmad.	MO BPU Dheenda Paripur.	13.03.2006.
06.	Dr. Saeedur Rehman (BS-17) S/O Shamsur Rehman	MO CP Battal, Mansehra.	01.12.2006.
07.	Dr. Muhammad Younas (BS-17) S/O Ghulam Rasool.	Dental Surgeon Sara Rogra SW, Agency.	29.10.2006.
08.	Dr. Arshad Kaleem (BS-17) S/O Naik Naeem.	Dental Surgeon AFQH, Landi Kotal Khyber Agency.	00.03.2005.
09.	Dr. Sharifullah Jan (BS-17) S/O Wasiullah Jan.	MO IRP, Peshawar.	00.04.2006.
10.	Dr. Amir Zaman (BS-17) S/O Wazir Zaman	MO R/C Chattr Plain Mohmand Agency.	01.09.2007
11.	Dr. Aiman Yasmin (BS-17) D/O Muntaz Ali Shah.	WMO S/O EDO(H) Dir Lower.	30.06.2007
12.	Dr. Azfar Iqbal (BS-17) S/O Muhammad Iqbal.	Dental Surgeon R/C Chattr Plain Mansehra.	16.12.2004.
13.	Dr. Sheer Yar (BS-17) S/O Saifur Rehman.	MO BPU Punjab Chassadda.	16.11.2005.

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LD

... 05 ...

AND WHEREAS, absence notices were served upon them through their home address as well as through newspapers published in Daily "Express" and Daily "Dawn" on 26.3.2008 and 28.3.2008 respectively with the direction to resume their duty within fourteen days.

AND WHEREAS, they failed to resume their duties in the stipulated period.

NOW THEREFORE, the competent authority after having considered the charges and evidence on record, in exercise of powers conferred under Section-3 of the NWFP Removal from Service (Special Powers) Ordinance, 2000 is pleased to impose the major penalty of Removal from Service upon the above mentioned doctors with immediate effect.

Sd/xxxxxxx
SECRETARY HEALTH.

OFFICE OF THE DG HEALTH SERVICES NWFP, PESHAWAR.

NO. 18313-954 /E-I, dated Peshawar the, 23 .05.2009.
Copy of the above is forwarded to the:-

Handwritten signature/initials

1. Principals KCD, Peshawar/GMC, D.I.Khan.
2. MS Govt: IRH/KTH, Peshawar.
3. MS ATP, Abbottabad.
4. MS SGTH, Swat.
5. ~~DAS, NWFP, Peshawar.~~
6. EDO(Health), Peshawar, Charsadda, Nowshera, Mardan, Swabi, Dir Lower, Dir Upper, Chitral, Tangla, Malakand, Paripur, Abbottabad, Manserra, Kohistan, Pangu, Kohat, Lakki Marwat.
7. MS DPHS, Mardan, Daggar, Buner, Chitral, Battagram, Dir, Upper Pangu, Manserra and D.I.Khan.
8. Agency surgeons, Khyber, Mohmand, FR Kohat, Orakzai, SW Waba.
9. MS APQHS, Landikotal, Ghallanai, Miranshah.

40

Am (K)

GOVERNMENT OF INDIA - P. S. - 100, P. S. of 1001 - 7 9 907, H.D. M. S. D. J. W.

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the fore/afternoon of this day respectively made over and receive charge of this office of the M.O. SWS M. AGENCY
(61) Dr. AIMAL ZAMAN
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:—

Station Ghettari

Signature of relieved Government servant _____

Designation _____

Dated 1-9-04.

Signature of relieving Government servant [Signature]

Designation Medical officer

Forwarded to the _____

NWEP Acct: Try. No. 42

[Signature]
ATTESTED

(47)

2

OFFICE OF THE AGENCY SURGEON, OHMAND AT GHALLANAI.

NO. 5753-36/FF, ASM, Dated Ghallanai the 10 /10/2004.
Forwarded to the:-

- 1- Director ~~Health~~ General Health Services NWFP, Peshawar.
 - 2- Director Health services FATA NWFP, Peshawar .
 - 3- Agency Accounts Officer Mohmand at Ghallanai
 - 4- Officer Concerned
- (For information and necessary action PL)

AGENCY SURGEON
MOHMAND AGENCY.

On
ATTESTED

42

AA L

OFFICE OF THE AGENCY SURGEON MOHMEND AGENCY AT GHALLANI

OFFICE ORDER:

~~Dr. Aimal Zaman Medical Officer recently transferred to this Agency vide notification NO:SO(E)H-IV/4-1/04 Dated 03/08/2004 is hereby adjusted/Posted against the vacant post of Medical Officer in SHS Mohmend Agency with immediate effect.~~

Agency Surgeon
Mohmend Agency.

NO S77-73 /PF,ASM Dated Ghallani The 11/09/2004

Copy to:-

- 1. Director General Health Services NWFP Peshawar.
- 2. Director Health Services FATA NWFP Peshawar.
- 3. Agency Accounts Officer Mohmend at Ghallani.
- 4. Officer Concerned.

for information and n/action please.

Agency Surgeon
Mohmend Agency.

[Signature]
ATTESTED


43

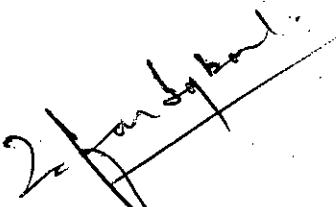
OFFICE OF THE CHAIRMAN STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT POLICE / SERVICES, HOSPITAL, PESHAWAR.


The Standing Medical Board comprising the following members assembled in the office of the Medical Superintendent Police and Services, Hospital, Peshawar to examine Dr.Aimal Zaman Medical Officer (SHS) Mohmand Agency Health Department.

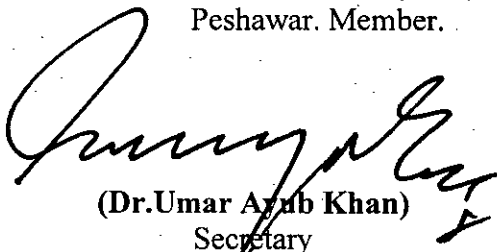
The Standing Medical Board is of the opinion that considering his long history of Back problems, persistently deranged Liver function tests including laboratory evidence of obstructive jaundice and repeated attacks of Cholecystitis for which he has had Laparoscopic Cholecystectomy on 20/01/09 and depressive illness he is incapacitated for his job. He may be boarded out on medical grounds and he is permanently incapacitated for any government job in future.

STATION PESHAWAR:
DATED: 04/02/2009.


(Dr. Javid Pervez)
Chairman
Standing Medical Board
Medical Superintendent
Police/Services, Hospital
Peshawar.


Ophthalmologist
Govt:Lady Reading
Government Lady Reading Hospital
Peshawar. Member


(Dr.Amjad Taqveem)
Associate Prof:of Medicine
Government Lady Reading Hospital
Peshawar. Member.


(Dr.Umar Azub Khan)
Secretary
Standing Medical Board
Police/Services, Hospital,
Peshawar.

Attended
Ow

44

- 7. Vide PUC, the A.S. Mohmand has stated that some doctors mentioned therein are still absent from their official duties without any information since long and their pay have already been stopped. He has requested to take up the case with higher authorities for initiating strict disciplinary action against them.
- 8. May send the case to Provincial Health Department, Khyber Pakhtunkhwa through Secretary Social Sectors FATA or otherwise, please.

[Signature]
8-8-15

Superintendent (Estab. Section)
DHS FATA

DD (Admn)

Revised # 18

~~10/9/15~~ 11/9/15

Attested
[Signature]

45

13. In response to this Directorate letter at P-37, the A.S Mohmand, vide PUC, has stated that after serving final notice at home address of Dr. Aimal Zaman, Medical Officer, he attended the office of Agency Surgeon within stipulated period of one week, therefore his pay could not stopped. Later on, he absented himself from official duty and his pay was stopped. He further stated that his office is unaware about his termination order because no letter has been communicated to his office in this regard.

14. Submitted for orders, please.

Qubair
7-28-6-15
Superintendent (Estab. Section)
DHS FATA

IS ADA DHS FATA

*Attended
Omi*

- 6. In response to this Directorate letters at P-23 & 27, the Agency Surgeon Mohmand, vides PUC, has stated that no correspondence or evidence regarding the termination of Dr. Aimal Zaman is available on record, however, he was recommended for retirement on medical grounds on 04.02.2009 by the standing medical board vide chairman standing medical board plice services hospital Peshawar letter No. 265/MS/SMB dated 09.02.2009 but the letter is lying in his personal file without any process and no action has been initiated by the then setup.
He has been called explanation and recently a final notice was served on him on his home address. He came to the office of A.S. and told that he is going to submit an application in Health Directorate FATA for retirement. The A.S. has requested for disciplinary action against him.
- 7. It is submitted that the above named officer was transferred from Govt: LRH Peshawar to Mohmand Agency vide Health Department Notification No. SO(E)H-IV/4-1/04 dated 08.03.2004 but not reported in Mohmand Agency upto 19.08.2007 vide DGHS letter at P-3 addressed to Secretary Health.
- 8. The Agency Surgeon Mohmand had forwarded his application for retirement on medical grounds in 2009 vide his letter at P-5 which was forwarded to DGHS vide this Directorate in 2009 vide letter at P-9 and the DGHS forwarded his application to MS Police Services Hospital Peshawar for arranging medical board for the purpose vide letter at P-11.
- 9. Submitted for perusal, please.

Jaloz
18-5-15
Superintendent (Estab. Section)
DHS FATA

Ahmed
On

10 ADA DHS FATA

May send a detail to Sec S.S.D for onward submission to Sec Health for taking proper action in the matter why was in the matter when a long time elapsed. Retirement on medical grounds. Order (87) (M) dated 25/5/15 by S.S.D

25/5/15
by S.S.D

(97)

PUC Attached.

1. Vide PUC, the Agency Surgeon Mohmand at Ghallanai has forwarded an application in respect of Dr. Aimal Zaman MO(SHS) Mohmand Agency requesting for retirement on Medical grounds.

2. In this connection it is stated that the Agency Surgeon Mohmand has forwarded only the application of the doctor concerned and not attached treatment documents with application in the absence of which the case can not be forwarded to the DGHS, NWFP.

3. May ask the Agency Surgeon Mohmand at Ghallanai to submit complete case to this Directorate for onward submission to the DGHS, NWFP for further necessary action.

Supdt(AE)FATA

2 AD(Admn)FATA.

May return to A/S Mohmand to attach the required enclosures for further processing of the case.

21/1/09

Attached
Ok

3 D/S

Sent to DGHS.

4

P.A.

27/1

48

Annex (M)

Subject: DEPARTMENTAL REPRESENTATION AGAINST THE ILLEGAL TERMINATION OF DR. AIMAL ZAMAN, MO, AHQ GHALLANAI, MOHMAND AGENCY

Health Department vide PUC has responded to this office letter at Flag-X.

2. This is very complicated case which requires a thorough scrutiny before its final disposal. In this connection, the following questions raised and beg answers for their satisfactory resolution by the Health Department.

- (i) Is not the assumption that Dr. Aimal Zaman (appellant) did not report his arrival to the Agency Surgeon, Mohmand, consequent upon his transfer from LRH, Peshawar, on 31.08.2004, vitiated by the order dated 01.09.2004, of the Agency Surgeon posting him as MO, SHS, Mohmand, and subsequent assumption of charge by the appellant, the same day? (Both the documents available on record of Agency Surgeon Mohmand have been obtained and are placed at Flag-Y & Z?)
- (ii) What led the Directorate General, Health, ask the MS, AHQ, Hospital, Gallanai, for the ACRs of the doctor concerned when his services were placed at the disposal of Agency Surgeon, as such a demand was likely to evoke a negative answer? Besides, non-availability of ACRs in respect of an officer is not necessarily suggestive of his absence from duty and stands in need of solid evidence through physical checking.
- (iii) Conceding, for the time being, the assumption of his absence form duty after his transfer in 2004, how did the appellant receive his salary regularly upto September, 2015-particularly after his removal from service in April, 2009, under RSO?

Answer
One

- (iv) Doesn't this also confirm the ignorance of the appellant and other relevant quarters of this latter event (proceedings under RSO and the penalty imposed)?
- (v) Is this fact of ignorance not further reinforced by the action of the Directorate Health Services in processing the requests of the accused for retirement on medical grounds and arranging Medical Board for the purpose?
- (vi) How did the allegedly long absence of the appellant from duty, if it were really so, from 31.08.2004 till 2015, now reported by the Agency Surgeon, /Director Health Service, remain unnoticed by them throughout?
- (vii) In the given backdrop what justified the proceedings under RSO, and above all what legal validity did these carry when no opportunity of defence, written or oral, was available to the appellant?
- (viii) What course of action the answers to the above queries finally suggest?

3- Health Department in their response vide PUC could not answer the above queries at all and instead concealing the facts to the extent of documents at Flag-Y and Flag-Z. Thus, justice demands, that exparte removal from service notification to the extent of Dr. Aimal Zaman, Medical Officer may be reviewed by the competent authority.

4- Law and Establishment Departments are requested to please offer their comments in the matter.

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SECRETARY ESTABLISHMENT
SECRETARY LAW

Handwritten signature
PSO TO CHIEF SECRETARY
23/1/15

5. The case regarding departmental representation against the illegal termination of Dr. Aimal Zaman, Medical Officer Ghallanai Mohmand Agency has been examined. The following points are worth consideration: -

- i. Record of communication for Removal from service of the appellant is not available.
- ii. Documentary proofs regarding publication of absentee notices in two leading newspapers and letter addressed to the accused at his home addresses is not available, which are basic requirement of disciplinary case for willful absence under erstwhile RSO 2000 with supplementary policy instructions vide letter No SO RII (E&AD) 2-4/2000, Dated 1-08-2001 and Rule 9 of E&D Rules 2011.
- iii. Surprisingly, contradictory evidences of the department in the form of salary slip for year 2015 at flag "A" shows denial of its own action of removal from service. Similarly, intradepartmental records also clash with each other for example posting orders, charge assumption, place of posting, reporting officer, communicating officer and basis of the disciplinary actions adopted by the department etc. Department's processing of the case for premature retirement followed by the letter of DG Health regarding inquiry also entails to deviating conclusion, which does not fulfill requirement of E&D Rules 2011 sought for Major Penalty i.e. removal from service.
- iv. Presently available records lead to the conclusion that the department could not prove their original stance as required under the regulations.

6. In view of above read with examination of the case by PSO to CS covering most of points need to be considered by the competent authority for review of the decision.

*Attended
On*

PSO to Chief Secretary,
Khyber Pakhtunkhwa

[Signature]
Special Secretary Regulation
October, 30, 2015

7. Sir, Kindly refer for comments p1

~~Singh Law:~~

[Signature]
30/10/15

51

Annex "O"




8. In addition to examination of the case by PSO to Chief Secretary and Special Secretary Establishment Department following salient points need consideration in order to probe the matter in its true perspective that :-

- a) There is no supporting document i.e. Note/Brief for Chief Secretary in the file (Being competent authority under RSO, 2000) leading to imposing Major Penalty of "Removal from Service" on 71 doctors including Dr. Aimal Zaman at Serial No. 10 at F/A. Health Department may add copy of the Brief/Note in order to know factual position of removal from service.
- b) Likewise a copy of report of Chairman Standing Medical Board, Police Services Hospital Peshawar letter No. 265/MS/SMB dated 9-2-2009 alongwith proceedings of the Board in respect of Dr. Aimal Zaman vide F/B is not available which would determine the factual position of the doctor concerned.
- c) Thirdly the doctor concerned has submitted application dated 13.1.2009 (F/C) for retirement from service on medical grounds, its onward processing vis-à-vis points "a" and "b" above are utmost important in order to reach a logical conclusion.

9. Since the case has become complicated/complex, therefore two options are proposed as under :-

- i. May convene a meeting under the chairmanship of Secretary Health to be attended by Secretary Establishment and Secretary Law to give a viable solution of the case; or
- ii. A self-contained case based on para 1 to para-8 may be prepared by Health Department and submitted for perusal of Chief Secretary for a final decision.


*Alleged,
One*


SECRETARY LAW 31/10/2015

CHIEF SECRETARY

 <p>ایڈووکیٹ/محکمہ بار کونسل اباد ایسوسی ایشن نمبر: RBC-10-7722 رابطہ نمبر: 0301-8858701</p>	 <p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>	<p>11569</p>
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بعدالت جناب: سرسری اسٹیشن چیمبر جنٹلمن اور لیسٹوار

<p>منجانب:</p>  <p>جناب: Service Appeal</p>	<p>دعویٰ:</p> <p>علت نمبر:</p> <p>مورفہ:</p> <p>جرم:</p> <p>تھانہ:</p>
--------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 ان مقام کسٹورر کیلئے صاحب علی سومند زورومت کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر حالت و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زورس پد دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاؤ گری، یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پداختہ منظور و قبول ہوگا اور ان مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف و قبول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 30-11-2015

Accepted
 بتیس

کے لئے منظور ہے۔


Before The Service Tribunal KPK Peshawar
Dr Aimal Zaman v/s Chief Secretary et.c

Application for adjournment

Respectfully Sheweth!

- 1- That the above mentioned appeal is pending before this honorable Court and is fixed for today i.e 23-11-15.
- 2- That the Counsel for the appellant is busy before honorable Peshawar high court Larger bench constituted for Ehtisab Commission, Khyber Pukhtoon khwa.
3. It is therefore most humbly prayed that on acceptance of this application the case may kindly be adjourned till next appropriate available date.

Date:- 23 $\frac{11}{15}$

Appellant
Through 
Sadiq Ali Momand

Before the Service Tribunal 11/11/12
Dr. James Watson 1/2 Chief Secretary etc.

Application for appointment

Respectfully
I request!

1- That the above mentioned applicant is
pending paper this honorable Court and is
fired for today is 20-11-12.

2- That the Council for the applicant is
pending paper honorable Tribunal high court
larger part continued for Ethical Commission
higher Tribunal.

3- It is therefore most humbly
prayed that an acceptance
of this application the
case may kindly be referred
to most appropriate available
date.

Applicant
James Watson

Date: 23-11-12

James Watson

کوالک ٹیبلٹس کے لئے

ڈاکٹر ایمن زمان نیچم سیکرٹری و غیرہ

درخواست برائے توسیع کرنے کے لئے درخواست
فریڈ سمنٹ و غیرہ

فہرست ۱۰ ذیل گزرا رہی ہے۔

21.12.15

(۱) یہ کہ مقدمہ ایسٹینٹ مال افسران جٹ کے لئے لگاؤ کے لئے
اور آئندہ قمار خانیوں کے لئے 25 قمار خانے۔

(۲) یہ کہ پورے سرحدی خطرات فریڈ سیکورٹی Portal charges
رہتی ہیں نہ ہو سکتے۔ اور ان ایجنٹوں کے لئے
تعمیرات کا ~~تعمیرات~~ خواہاں ہے۔

(۳) یہ کہ توسیع معیار کے لئے آؤٹ پاس سیکورٹی فریڈ Portal charges
کے لئے امرتسر میں قانون نہ ہے۔

(۴) یہ کہ ایجنٹوں اور ایجنٹوں کے لئے سیکورٹی فریڈ کے لئے
بیکہ پورے مالا تھا۔

لکڑیاں، سٹیل کے لئے
آؤٹ پاس کے لئے سیکورٹی میں توسیع
کے لئے مالا مالا

Accepted
Date
07.01.16

دستخط

ایجنٹ نذیر احمد
سیکرٹری (علیٰ) سیکرٹری
ایجنٹ

07/1/2016