

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD

Service Appeal No. 1043/2015

Date of Institution... 22.09.2015

Date of decision... 19.09.2017

Asadullah son of Azmatullah resident of village Baffa Khurad Post Office Buffa District, Mansehra. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Health Peshawar and 4 others. (Respondents)

MR. MUHAMMAD SHOAIB KHAN,
Advocate

... For appellant.

MR. MUHAMMAD BILAL
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD AMIN KHAN KUNDI,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall dispose of the instant service appeal as well as connected service appeal No. 1044/2015 Siraj-ud-Din as in both the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. Both the appellants were served with show cause notice on 13.03.2015 under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rule, 2011. Both the appellants submitted replies to the show cause notice and thereafter the

impugned order dated 14.05.2015 was passed by the competent authority, imposing major penalty of removal from service. Against this impugned order, the appellants filed departmental appeals on 29.05.2015 which were not responded to and thereafter the present appeals on 22.09.2015.

ARGUMENTS

4. The learned counsel for the appellant argued that no specific charge has been leveled in the show cause notice. That the charge is only in general terms regarding violation of the rules/slandered criteria of the Government in the appointment. That in the show cause notice the regular enquiry has not been dispensed with nor any enquiry was conducted. That no charge sheet and statement of allegations were served on the appellants as there was no enquiry at all. That it is not made known to the appellants that under which specific charge show cause notice has been served upon them. That only in the reply of the respondents in present appeals in ground-C, it has been mentioned that the appellants were terminated on the ground of fake diploma. That even in the impugned order no specific detail of proof of any charge has been mentioned. That in the light of such casual approach of the authority, the penalties imposed on the appellants, cannot be sustained.

5. On the other hand, the learned Deputy District Attorney, argued that the then DHO Batagram (Dr. Aqeel Bangash) had made certain appointments in violation of law and rules. That an enquiry was conducted against that DHO and in that enquiry certain irregularities were pin pointed by the enquiry committee. That those illegalities/irregularities were made the basis of the show cause notices against the appellants. He further argued that there is no illegality in the disciplinary proceedings.

CONCLUSION.

6. The very show cause notice is in general term giving no specific detail of the charge/charges against the appellants. In absence of any specific charge/charges no proceedings could be initiated against the appellants. The authority has also not

mentioned that why a regular enquiry was not being conducted. So much so that no order of dispensing with the regular enquiry was made by the authority much less the reasons for dispensing with the enquiry. The appellants have approached the departmental authority against the impugned order and have approached this Tribunal well within time. It is clear from the above facts and circumstances' that the whole proceedings are illegal and cannot be sustained in the eyes of law. If any specific charge like fake diploma was leveled against the appellants, then that should have been mentioned in the show cause notice, at least. Non mentioning of this charge or any other charge, has deprived the appellants from defending themselves in proper way,

7. In view of the above, the appeals are accepted and the appellants are reinstated in service. However, the department is at liberty to conduct fresh enquiry by following the concerned law and rules and if the department decides that fresh proceedings should be initiated then those should be completed within a period of 3 months from the date of receipt of this judgment. The issue of back benefits of the appellants shall be subject to the final outcome of denovo proceedings, if any. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin Khan

(Muhammad Amin Khan Kundi)
Member

Niaz Muhammad Khan
(Niaz Muhammad Khan)

Chairman
Camp Court, A/Abad

ANNOUNCED

19.09.2017

15.03.2017


Counsel for the appellant, M/Addl. A.G for respondents present, Abdur Rahim, Nursing Officer, Amjad Ali, Asstt. Dr. Muhammad Daud, M.S DHO Hospital, Batagram and Dr, Ashfaq Fazal, SMO alongwith Mr, Muhammad Siddique Sr.GP for the respondents present, Rejoinder submitted. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before the D.B on 19.07.2017 at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

19.07.2017

Clerk of counsel for the appellant and Mr. Muhammad Bilal, DDA for the respondents present. Due to general strike of the Bar, counsel for the appellant is not in attendance. Adjourned. To come up for final hearing on 19.09.2017 before the D.B.

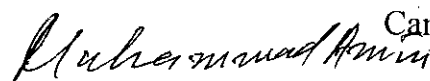

Member

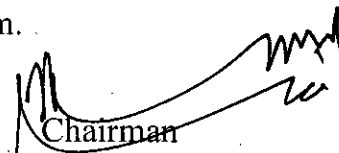

Chairman
Camp court, A/Abad

19.09.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Dr. Muhammad Irshad, Dr. Ashfaq, Amjad Ali, Assistant and Yar Gul, Senior Clerk for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.



Member


Chairman
Camp Court, A/Abad.

ANNOUNCED
19.09.2017


21.04.2016

Agent of counsel for the appellant and M/S Muhammad Arshad, SO and Shah Rahman, Asstt. for respondents No. 1, 2, 4, and 5 present. None present for respondent No. 3 despite issuance of proper notice, hence proceeded ex-parte. To come up for written reply/comments on 20.7.2016 before S.B. at Camp court, Abbottabad.


Chairman
Camp court, A/Abad

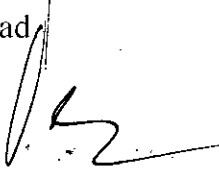
20.07.2016


Appellant in person and Mr. Amjad Ali, Assistant alongwith Mr. Muhammad Siddique. Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 19.10.2016 at came court, Abbottabad. The restraint order shall continue.


Chairman
Camp court, A/Abad,

19.10.2017

Counsel for the appellant and Mr. Muhammad Siddique, Sr.GP alongwith Amjad Ali, Assistant Shah Rahman, Asstt. Feroz Khan, Senior and Mst. Sobia Bibi, LHV for the respondents present. Rejoinder not submitted. Learned counsel for the appellant requested for adjournment. To come up for rejoinder and final hearing on 15.3.2017 at camp court, Abbottabad.


Member


Chairman
Camp Court, A/Abad

16.11.2015

Mr. Imran Ahmad, Advocate on behalf of counsel for the appellant present. Requested for adjournment. To come up for preliminary hearing on 14.12.2015 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad.

14/12.2015

Mr. Imran Ahmad, Advocate on behalf of the appellant present. Seeks adjournment. Last opportunity granted. To come up for preliminary hearing on 20.01.2016 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad

20.1.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is a retired employee from Pak Army and in response to advertisement appointed as Technician where-after he assumed the charge and while performing his duties removed from service vide impugned order dated 14.5.2015 where-against he preferred appeal on 29.5.2015 which was not responded and hence the instant service appeal on 22.9.2015.

That the appointment of the appellant was made in accordance with the prescribed criteria and rules and, therefore, the impugned order is violative of law and, furthermore, no opportunity of hearing was afforded to the appellant in the prescribed manners.

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 21.4.2016 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad

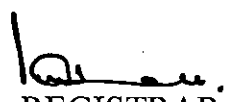

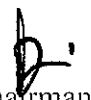
Appellant Deposited
Security & Process Fee

FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1043/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	22.09.2015	<p>The appeal of Mr. Asadullah presented to-day by Mr. Muhammad Shoaib Khan, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case be put up before the S.B at camp court, Abbottabad for preliminary hearing on <u>20-10-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
20.10.2015		<p>Counsel for the appellant present. Seeks adjournment. To come up for preliminary hearing on 16.11.2015 before S.B at Camp Court A/Abad.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad.</p>

BEFORE SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1043/2015

Asadullah son of Azmatullah resident of village Baffa Khurad Post
Office Baffa Tehsil and District Mansehra

..... APPELLANT

VERSUS

1. Govt of KPK through Secretary Health Peshawar.
2. Director General Health Service Peshawar.
3. Deputy Commissioner Mansehra.
4. Medical Superintendent District Head Quarter Hospital Battagram.
5. District Health Officer Battagram.

..... RESPONDENTS

APPEAL/PETITION

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6.	Copy of appeal	"E"	27 to 29
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8.	Wakalatnama		

Asadullah
... APPELLANT

Through

Dated: _____ / 2015

Muhammad Shoaib Khan
(MUHAMMAD SHOAIB KHAN)
Advocate High Court, Abbottabad

BEFORE SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1043/2015

N.W.F. Province
Service Tribunal
Dary No. 105
Dated 22-5-15

Asadullah son of Azmatullah resident of village Baffa Khurad Post
Office Baffa Tehsil and District Mansehra

..... APPELLANT

VERSUS

1. Govt of KPK through Secretary Health Peshawar.
2. Director General Health Service Peshawar.
3. Deputy Commissioner Mansehra.
4. Medical Superintendent District Head Quarter Hospital Battagram.
5. District Health Officer Battagram.

..... RESPONDENTS

Filed today
22/9/15

APPEAL AGAINST THE IMPUGNED ORDER NO.
1654-58 DATED 14/05/15 OF THE RESPONDENT
NO. 05 VIDE WHICH THE APPELLANT ORDER
OF DISMISSAL FROM SERVICE WAS RETAINED
BY RESPONDENT NO. 03 BY NOT ANSWERING
THE DEPARTMENTAL APPEAL.

=====

PRAYER: ON ACCEPTANCE OF INSTANT
APPEAL BOTH THE ABOVE ORDERS OF THE
RESPONDENTS NO. 03 AND 05 BE SET-ASIDE
AND MAY DECLARED BOTH THE ORDERS NULL

AND VOID AND APPELLANT MAY KINDLY BE ORDERED TO BE RE-INSTATED FROM THE VARY DATED OF DISMISSAL WITH ALL BACK BENEFITS AND ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER MAY ALSO BE GIVEN TO THE APPELLANT.

Respectfully Sheweth:-

Brief facts of the case are as under:-

1. That, Appellant being citizen of Pakistan joined Service in Army Medical Core after passing his Secondary School Certificate Examination.
2. That, Appellant served in Army Medical Core for about 19 years and appellant had been issued requisite Diploma/Certificate by the AMC with respect to experience.
Copy of Diploma/Certificate issued by AMC is attached as Annexure "A".
3. That, Respondent No. 05 had advertised diverse post and appellant submitted an application for appointment of operation Theatre Assistant on Serial No. 06 in Advertisement.
Copy of advertisement is attached as Annexure "B".
4. That, after secreting and verification meaning thereby by adopting all legal requirements the appellant was found eligible and qualified for the said post and after all legal requirements and by the approval by the board consisting following members and Chairman,

- i. DCO.
- ii. Representative of DGHS.
- iii. Medical Superintendent.

Copy of appointment letter is attached as Annexure "C".

5. That, appellant after appointment served for last 3 years from very inception to the complete satisfaction of his high ups.

6. That, on 13/03/2015 appellant was issued Show Cause notice followed by an order of removal from service, which order on the face of record is probably wrong, illegal, without jurisdiction, against Natural Justice and without any legal bashing.

Copy of show cause notice dated 13/03/15 is attached as Annexure "D".

7. That, appellant preferred the departmental appeal to the Respondent No. 04 which was still awaited for decision but the period given by the Honourable Supreme Court. i.e 90 days has been past away, therefore the appellant has legal right to file petition before Service Tribunal.

Departmental appeal: Annexure E.

8. That, feeling aggrieved from both the orders of Respondents No. 03 and 05, the Appellant has come to this Honourable Court in appeal interalia amongst many others.

GROUNDS:-

a) That, both the impugned orders passed by the Respondent are illegal, perverse, unilateral, sketchy, unlawful, which smacks partiality and

are thus against the attending circumstances of case hence are not tenable at law.

- b) That, by no stretch of imagination the inquiry conducted can be made genesis for awarding the major punishment on Appellant.
- c) That, the appellant had produced the requisite documents at the time of interview, the appellant was found capable and eligible and all those documents were thoroughly scanned and verified by Respondent No. 05, thereafter order of appointment was made by the concerned quarter.
- d) That, Diploma/Certificate produced by the appellant before the Respondent No. 05 was verified and found at par with the diploma/certificate issued by the Medical faculty, and thereafter the impugned order was passed by Respondent No. 05.
- e) That, the order of appointment of appellant has been issued by respondent No. 05 finding his eligible and also the documents produced by him were found at par with required documents, if any illegality or irregularity had been made, the appellant can not be taken to task because he was never debarred qua his eligibility or his capability with reference to his qualification which was more then required one.
- f) That, both the impugned orders passed by Respondents are illegal, perverse, unilateral, sketchy, unlawful with malafide intention and

are thus against the attending circumstances of case hence are not maintainable.

- g) That, no proper opportunity was given to the appellant for redressal his grievances before the Inquiry Board all the proceedings were initiated in the absence of appellant which is against natural justice.
- h) That, the Authority which had power to make an order had taken effect and certain rights had been created in favour of an individual such is not an fettered power to be used at any stage in any manner for undoing an order which having already taken effect, has created vested rights-spirit of rule of locus poenitentiae is that once an order is given effect to and in consequence thereof certain rights are created in favour of person, such rights can not be subsequently taken away.
- i) That, the Authority competent to grant a concession or to confer a benefit on a party or an individual, could not rescind or retrace by withdrawing it at a stage when it had reached to a logical conclusion and the order had been acted upon where by it reversible vested right had accrued to the beneficiary of the order-what was important to be determined was the legal sanction of law investing the Authority with powers to grant concession or confer benefit/benefits on a party or an individual.
- j) That, rest of the legal points would be raised at the time of arguments.

It is therefore, humbly prayed that an acceptance of this appeal/petition the impugned orders may kindly be declare null and void and appellant may graciously be reinstated in service with all back benefits.

Asadullah
... APPELLANT

Through

Dated: _____ / 2015

M. Shoaib Khan
(MUHAMMAD SHOAIB KHAN)
Advocate High Court, Abbottabād

AFFIDAVIT

I, Asadullah S/o Azmatullah resident of village Baffa Khurad P.O Baffa Tehsil and District Mansehra, do hereby solemnly affirm and declare that the contents of foregoing appeal/petition are true and correct to the best of my knowledge and information and nothing has been concealed therein from this Honourable Court.

Asadullah
DEPONENT

BEFORE SERVICE TRIBUNAL
PESHAWAR

Asadullah son of Azmatullah resident of village Baffa Khurad Post
Office Baffa Tehsil and District Mansehra

..... APPELLANT

VERSUS

1. Govt of KPK through Secretary Health Peshawar.
2. Director General Health Service Peshawar.
3. Deputy Commissioner Mansehra.
4. Medical Superintendent District Head Quarter Hospital
Battagram.
5. District Health Officer Battagram.

..... RESPONDENTS

**APPLICATION FOR SUSPENSION OF
OPERATION OF IMPUGNED ORDERED DATED
14/05/15 AND PETITIONER MAY KINDLY BE
REINSTATE ON HIS OWN POST.**

=====

Respectfully Sheweth:-

1. That, the above mentioned appeal is being filed before Honourable Tribunal. The application may be considered as a part and parcel of the instant appeal.
2. That, the appeal of the Appellant is Prima facie.

3. That, balance of convenience lies in favour of Appellant.

It is, therefore, humbly prayed that the order dated 14/05/15 may kindly be suspended and petitioner may kindly be reinstate on his own post and scale.

... APPELLANT

Through

Dated: _____ / 2015

(MUHAMMAD SHOAIB KHAN)
Advocate High Court, Abbottabad

AFFIDAVIT

I, Asadullah son of Azmatullah, do hereby affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and information and nothing material has been suppressed from this Honourable Court.

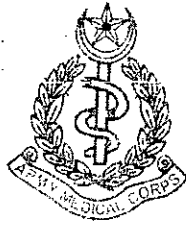
DEPONENT

Identified by;

(MUHAMMAD SHOAIB KHAN)
Advocate High Court, Abbottabad

No. 13140

Army Medical Corps



CERTIFICATE OF TECHNICAL TRAINING

This is to Certify that

EX-7351106 NAIK OPERATION ROOM ASSISTANT ASAD ULLAH

has successfully Completed

TECHNICAL TRADE TEST OPERATION ROOM ASSISTANT CLASS - II (TWO)

at CMH ABBOTTABAD

on 01,2 JUN 2005

vide RECORD OFFICE PART II ORDER NO. 18/GEN/32/2005

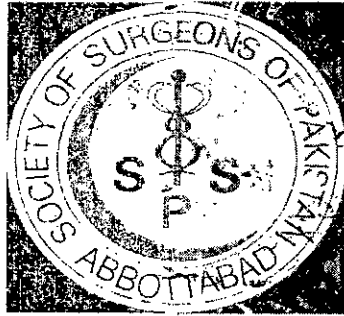
Station Abbottabad
 Date 06 JANUARY 2009

Centre (Recd. of ...)
 ...
 ...

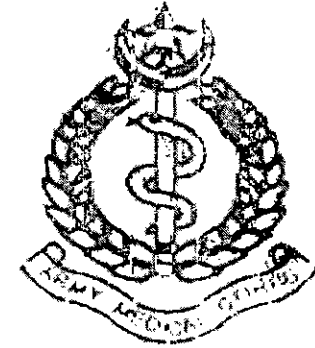
MAJ
Officer-in-charge
 A.M.C. Records

INSTRUCTIONS: This Certificate will be issued to an individual at the time of his leaving service and for the highest course only in which he may have qualified.

Allen
A.O.K.
21-9-15



**Society of Surgeons of Pakistan,
(Abbottabad Chapter)**



This Certificate is awarded to

LNK/OT Tech ASAD ULLAH
for facilitating in

Workshop on Laparoscopic Surgery for Abdominal Surgeons & Gynaecologists

held at

Combined Military Hospital Abbottabad

13-14 September, 2006.

Rizwan Azami

Dr. Rizwan Azami
Consultant Gen. Surgeon
The Aga Khan University,
Karachi, Pakistan
(Facilitator)

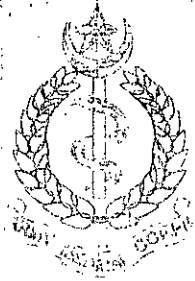
Zeenat Eva Khan

Dr. Zeenat Eva Khan
Consultant Gynecologist
The Aga Khan University,
Karachi, Pakistan
(Facilitator)

Tariq Mufti

Professor Tariq Mufti
President,
Society of Surgeons of Pakistan,
(Abbottabad Chapter)

LNK/OT
21.9.10



COMBINED MILITARY HOSPITAL ABBOTTABAD

CERTIFICATE OF TRIBUTE

This certificate is conferred upon LINKORA ASAD ULLAH

in recognition of the selfless and devoted services he/she provided at CMH Abbottabad, to the injured and bereaved people of Upper Hazara/AK, after the devastating earthquake of 8th October 2005. His/Her invaluable services in alleviating the sufferings of the earthquake stricken people, will always remain in their hearts as well as the ranks and files of this hospital.

[Signature]
Colonel
Deputy Commandant
(Iqbal Hanif)



*Amjad
27.9.13*

[Signature]
Brigadier
Commandant
(Amjad Fahim)

17

GOVT. HIGHER SECONDARY SCHOOL



BAFFA - MANSEHRA

PROVISIONAL CERTIFICATE

S.S.C./~~Intermediate~~ ANNUAL/SUPPLEMENTARY Examination
SESSION...1986-87...

Roll No 24347 Admission No 5894

CERTIFIED THAT ASADULLAH

Son of AZMATULLAH has passed the Examination from the Board of Intermediate and Secondary Education, Peshawar held in March 19 87 Annual ~~Supplementary~~ as a regular Student of this School

Date of Birth 1-6-1972 (First June)

One Thousand Nine Hundred and Seventy two

SUBJECT PASSED

- 1 English 2 Urdu 3 Islamiat 4 Pak. Studies
- 5 Physics 6 Chemistry 7 Mathematics 8 Biology

Marks Obtained 485 Grade/Division "C"

Conduct "Good" Games -

Enrolment No 24-B/BEM - 85 Dated 11-8-1987

Prepared by [Signature]

Checked by [Signature]

[Signature]

Principal

Govt. Higher Secondary School
Princ BAFFA (Mansehra)

Allied
NO 12

s.No 563331

Roll No. 24347



BOARD OF INTERMEDIATE AND SECONDARY EDUCATION

Peshawar N.W.F.P. Pakistan

Secondary School Certificate Examination

SESSION 1987 (ANNUAL)



THIS IS TO CERTIFY THAT Asadullah
Son/Daughter of Azmatullah
and a student of Govt: Higher Secondary School, Baffa, Mansehra.

has passed the *Secondary School Certificate Examination*
of the Board of Intermediate and Secondary Education, Peshawar held in April 1987
as a *Regular candidate*. He/She obtained 485 Marks out of 850
and has been placed in Grade Representing Good

The Candidate passed in the following subjects:

- | | | | |
|------------|---------------------|---------------|-----------------|
| 1. English | 3. Islamiyat | 5. Physics. | 7. Mathematics. |
| 2. Urdu | 4. Pakistan Studies | 6. Chemistry. | 8. Biology. |

He/She has been awarded Grade on the basis of internal assessment by the Institution concerned.

Date of birth according to admission form is First June
one thousand nine hundred and Seventy Two (1-6-1972)

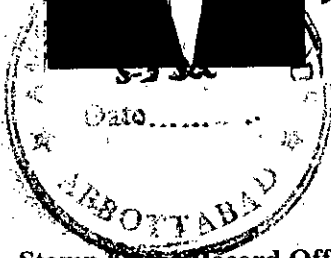
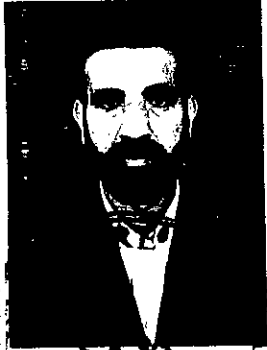

Asstt. Secretary
31st August 1987

This certificate is issued without alteration or erasure.


Secretary



555897



Stamp by the Record Office

CAP-GHQ-F-38/2005-20,000 Book

76

**TERMINATION OF SERVICE
CERTIFICATE**

(To be filled in by Record Office/unit in both language)

Combatants & non-combatants (enrolled).



This certificate must be preserved with due care. If it is lost, Officer Incharge of Regiment/ Corps concerned be informed immediately stating cause of loss who will then issue PAFY-1964 A in lieu thereof at his discretion.



اس سرٹیفکیٹ کو احتیاط سے سنبھال کر رکھیں۔
گم ہونے کی صورت میں متعلقہ آفیسر انچارج ریگیمینٹ کو فوری
طور پر بعد وجوہات گمشدگی مطلع کریں جو اپنی صوابدید کے
مطابق متبادل پی ایف وائی ۱۹۶۴ اے جاری
کریں گے۔

AM-2
21/9/12

1
Certificate of Service

1. No. 7351106
2. Rank NK/DRA
3. Name Asad Ullah
4. NIC No. 13503-4765789-5
5. Unit/Corps AMC (RW) And
6. Father's Name Azmal Ullah
7. Address
 - a. House/Street No. -
 - b. Ward/Sector/Area -
 - c. Village/Town/Mohallahi Baja
 - d. Post Office & Post Code -Do-
 - e. Nearest Railway Station with distance Manshera
 - f. Police Station -Do-
 - g. Tehsil & District -Do-
 - h. Telephone No with Code/Mobile No
 - J. E-Mail Address

1
نوٹری کی سند

- ۱۔ نمبر
- ۲۔ عہدہ
- ۳۔ نام
- ۴۔ قومی شناختی کارڈ نمبر
- ۵۔ یونٹ اور
- ۶۔ والد کا نام
- ۷۔ پتہ
- ۱۔ مکان اور گلی نمبر
- ۲۔ وارڈ سیکٹر ایریا
- ۳۔ گاؤں۔ ٹاؤن۔ محلہ
- ۴۔ پوسٹ آفس اور پوسٹ کوڈ
- ۵۔ نزدیکی ریلوے اسٹیشن اور فاصلہ
- ۶۔ تھانہ
- ۷۔ تحصیل اور ضلع
- ۸۔ ٹیلیفون نمبر مع ایریا کوڈ۔ موبائل نمبر
- ۹۔ ای۔ میل ایڈریس

8. Description at the time of completion of this form:-

a. Date of birth 01-6-72

b. Age at the time of enrolment

17 yrs

c. Distinctive marks Mole on

lt side of neck.

9. Date of enrolment 27-5-90

10. Transferred to reserve on 28-10-08

11. Discharged/Dismissed on 28-10-08

12. In consequence of *PAA Rule 122

its maximum on completion

after serving 18 years 05 months

* Insert the condition from which a person discharged on medical grounds is suffering as entered in the proceedings of Medical Board in PAFY-1948.

۸- اس دستاویز کو پُر کرتے وقت سیکڈوش کے خود خیال

الف - تاریخ پیدائش

ب - بھرتی ہونے کے وقت عمر

ج - نمایاں نشانات

۹- بھرتی ہونے کی تاریخ

۱۰- ریزرو میں منتقل ہونے کی تاریخ

۱۱- سیکڈوش / معزول ہونے کی تاریخ

۱۲- سیکڈوش / معزولی کی وجوہات *

حاضر نوکری سال مہینے

* جسمانی نااہلی کی بنا پر سیکڈوش ہونے کی صورت میں یہاں مینڈیکل بورڈ کی تشخیص کردہ بیماری درج کریں۔

..... 01 days with colours and years..... months..... days, in the reserve.

13. Total non-qualifying service.....

14. Character as assessed vide AR (I) 72

Exemplary

15. Fit/Not fit for civ employment ** Major

Fit

AMC Records

16. Date of completion of reserve liability

26-5-2018

17. Medals, decorations or Imtiaz Sanad

a. *Golden Jubilee medal*

b. *10th Anniversary medal*

** Soldiers awarded unsatisfactory gradings of character will not be recommended for civil employment.

a- suc medal 10 yrs.

دن اور ریزرو میں رہنے کی

مہینے سال

دن

13- ملازمت میں شمار نہ ہونے والی مدت

14- چال چلن بر مطابق اسے آر (آئی) نمبر 12

15- سول ملازمت کے لئے موزوں / غیر موزوں ہے **

16- ریزرو میں رہنے کی مدت کب ختم ہوگی

17- تمغہ جات، اعزازات، اسناد تسمین یا امتیازی سند

d. *Tangha i istaqbal*

e. *Tangha i Baqi*

** غیر تسلی بخش چال چلن کے حامل افراد کو سول ملازمت کے لئے نامہ قابل تصور کیا جائے گا۔

Annexure (C)

(19)



OFFICE OF THE EXECUTIVE DISTRICT
OFFICER (HEALTH) BATTAGRAM

No. 846/PF Dated: 14/04/2012

To:

Mr. Asadullah S/o Azimatullah

R/o Village Baffa Khurd P.O Baffa Tehsil & District Mansehra

Subject:

APPOINTMENT ORDER

Memo:


On the recommendation of Departmental Selection Committee (DSB). You are hereby appointed as JPHCT (Surgical) in BPS-09 (Rs. 5200-380-17600) plus usual allowances as admissible under the rule on regular basis against the vacant post of JPHCT (Surgical) in BPS-09 (Rs. 6200-380-17600 at DHQ Hospital Battagram with immediate effect:- the following terms and conditions:-

TERMS & CONDITION.

1. Initially you will be on probation for a period of one year extendable for a further period of not exceeding 6 months.
2. Your services can be dispensed with during the probation period if your work and conduct is found unsatisfactory.
3. The appointment will be subject to provide a Medical Fitness Certificate (Health & Age) From Medical Superintendent DHQ Hospital Battagram and verification of character and Antecedents/Educational Qualification etc.
4. No TA/DA will be allowed for joining the duty or obtaining the Medical fitness certificate
5. You will be governed by such rule and orders as may be issued by the Govt: from time to time for the category of Govt: Servant to which they belong.
6. You shall for all intents and purposes be Civil Servants except for the purpose of pension and gratuity. In lieu of the same you will be entitle contributory provident fund as per Govt: rules/instructions.
7. You will submit undertaking on judicial stamp paper stating that the documents submitted with application form are genuine and not fake, moreover they have not been dismissed from service by any Govt: or semi Govt: organization.
8. Where you remains absent with out leave for a period of Seven (07) days you shall be deemed to have Violated the relevant rules provisions and shall be terminated from service.


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- 9. If you wish to resign from service, two month advance notice or to deposit two month salary in lieu thereof. However you will continue to serve to the Govt. till the resignation is accepted by the competent authority.
- 10. The appointee shall be responsible for all utility bills and other charges of the residential Accommodation as is applicable to the category of staff.
- 11. The appointees shall subject to all rules of Govt; pertaining to a civil servant in respect to Efficiency and Discipline, conduct, Liability to criminal proceeding etc, and any special rules, Instruction issued by the Health Department specified to employee for breach of discipline or unsatisfactory service, The Health Department shall be competent to terminate the services of culprit without notice or compensation.
- 12. No employee shall indulge in any trades, business or occupation or any activity, which is Prohibited for a regular Govt; servants
- 13. Spouse policy shall not be applicable to the appointee.
- 14. Your pay will be release after verification of your documents.
- 15. If you accept the offer of appointment on above terms and conditions, you should report to Medical Superintendent DHQ Hospital Battagram with in 15 days of the issuance of this order. The offer will be cancelled, if you fail to report for duty with in the above mentioned period.


 Executive District Officer (Health)
 Health Battagram.

No. 847-51 / PF. Dated Battagram the: 11 / 2012

- 1. Director General Health Services KPK Peshawar for information please.
- 2. District Coordination Officer Battagram for information please.
- 3. Medical Superintendent DHQ Hospital Battagram for information and necessary action..
- 4. District Accounts Officer Battagram for information and necessary action
- 5. District Accounts Section office of the undersigned


 Executive District Officer (Health)
 Health Battagram.

MOIL
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OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH BATTAGRAM

OFFICE ORDER.



Age relaxation of upper age limit is hereby accorded to Mr. Asadullah S/o Azmatullah appointed as JCT(surgery) for 15 years vide Notification issued by Government of Pakistan Cabinet Secretariat Establishment Division Islamabad No. 9/2/91-R-5 dated 24.06.2010 (Copy attached)

Executive District Officer Health,
Battagram.

No 852 / Dated Battagram the,

14/4 /2012.

Copy forwarded to Medical Superintendent DHQ Hospital Battagram for information and necessary action please.


Executive District Officer Health,
Battagram.


Albani
AOH
21-8-15

بند ۱۰۰۰ جناب سید اختر علی صاحب مددگار، ایف بی ایف سی، ایف بی ایف سی، ایف بی ایف سی

مضمون: ایرانول رپورٹ از جوئیز کلینکل ٹیکنیشن (آپریشن ٹیمیز) پوسٹ ڈسٹرکٹ ہیڈ کوارٹرز، سیٹال، گلگرام

بند ۱۰۰۰
گزارش ہیکہ سائل بحوالہ جناب ایف بی ایف سی ڈسٹرکٹ آفیسر صاحب محلہ سمیت ضلع گلگرام آرڈر نمبر 846
موری 14.04.2012 اینڈ یز ٹیکنیو ڈسٹرکٹ آفیسر صاحب ڈیپٹی ایف بی ایف سی آرڈر نمبر 852 موری 14.04.2012 تحت
کلینکل ٹیکنیشن (آپریشن ٹیمیز) ایف بی ایف سی ایف بی ایف سی ایف بی ایف سی ایف بی ایف سی ایف بی ایف سی
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ہیکہ منظور فرمایا جائے۔ میں نوازش ہوگی۔

موری 16.04.2012

نام - آسداد اللہ
کلینکل ٹیکنیشن (آپریشن ٹیمیز)
ایف بی ایف سی ایف بی ایف سی ایف بی ایف سی ایف بی ایف سی ایف بی ایف سی

Noted & Commensurate
to authority
16/4/2012

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MEDICAL CERTIFICATE.

Name of Official... Assadullah.....
 Caste or race Suwati.....
 Father's name... Azamatalloh.....
 Residence... Village Baffa Khurad Po Baffa Tehsil
District Manshara.....
 Date of birth..... 01-06-1972.....
 Exact height by measurement..... 5-7".....
 Personal mark of identification..... Nil.....
 Signature of the Official Assad.....
 Signature of head of office.....

Seal of Office.....

I do hereby certify that I have examined Assadullah.....a candidate for
 Employment in the Office of the... Health Dept. / DHO Hospital Baffa.....
 And can not discover that he had any disease communicable or other constitutional affection
 or bodily infirmity except Nil.....

I do not consider this as disqualification for employment in the office of the...above...

His age according to his own statement... 40..... Year and by appearance
 about... 40 years..... year.
(forty years)



LEFT HAND THUMB AND FINGER IMPRESSIONS.....

Assad
NOIC

Assad
 Medical Superintendent
 DHO Hospital Baffa
 Manshara District
 Medical Superintendent
 Baffa



(29) Annexure (D)

OFFICE OF THE DISTRICT HEALTH OFFICER
Battagram (Khyber Pakhtunkhwa)
Phone & Fax No. 0997310507

No. 1005-8 / Dated 18/3 / 2015.

SHOW CAUSE NOTICE

I, Dr. Saifullah Khalid, District Health Officer, Battagram, as Competent authority under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you Mr. Asadullah S/O Azmatullah JCT (Surgical) DHQ Hospital Battagram as follows:-

"You have been appointed in violation of the rules/standard criteria of the Government and therefore is guilty of misconduct as provided under Rules-2 Sub: para K (vi) of the E&D Rules 2011"

I am satisfied that your recruitment is violation of the APT rules and punishable under the E&D Rules as specified in Rule-3 of the said rules.

1. In terms of Rules-5 of Khyber Pakhtunkhwa Govt: servant (Efficiency and Discipline) Rules-2011, I, as Competent Authority dispense with the enquiry as the charge is proved against you beyond any doubt and serve you with a show cause notice under Rule-7 of the ibid Rules.
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:-
 - a. Removal from Service.
3. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within three days or not more than of seven days of its delivery, it shall be presumed that you have no defense to put in, and in that case an ex-parte action shall be taken against you.

(Dr. Saifullah Khalid)
District Health Officer,
Battagram.

Copy forwarded to the:-

1. Director General Health Services KPK Peshawar with reference to his letter No. 3247/CC/2514/2014 dated 14.11.2014 for information please.
2. Medical Superintendent DHQ Hospital Battagram for information and necessary action.
3. ✓ Mr. Asadullah S/O Azmatullah JCT (Surgical) DHQ Hospital Battagram for compliance.

District Health Officer,
Battagram

NOTE

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OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax No. 0997310507

No. 1005-8 / Dated 13/3/2015.

SHOW CAUSE NOTICE

I, Dr. Saifullah Khalid, District Health Officer, Battagram, as Competent authority under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you Mr. Asadullah S/O Azmatullah JCT (Surgical) DHQ Hospital Battagram as follows:-

"You have been appointed in violation of the rules/standard criteria of the Government and therefore is guilty of misconduct as provided under Rules-2 Sub: para K (vi) of the E&D Rules 2011"

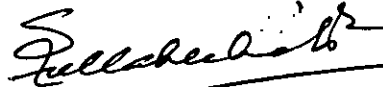
I am satisfied that your recruitment is violation of the APT rules and punishable under the E&D Rules as specified in Rule-3 of the said rules.

1. In terms of Rules-5 of Khyber Pakhtunkhwa Govt: servant (Efficiency and Discipline) Rules-2011, I, as Competent Authority dispense with the enquiry as the charge is proved against you beyond any doubt and serve you with a show cause notice under Rule-7 of the ibid Rules.
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:-
 - a. Removal from Service:
3. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within three days or not more than of seven days of its delivery, it shall be presumed that you have no defense to put in, and in that case an ex-parte action shall be taken against you.

(Dr. Saifullah Khalid)
District Health Officer,
Battagram.

Copy forwarded to the:-

1. Director General Health Services KPK Peshawar with reference to his letter No. 3247/CC/2514/2014 dated 14.11.2014 for information please.
2. Medical Superintendent DHQ Hospital Battagram for information and necessary action.
3. ✓ Mr. Asadullah S/O Azmatullah JCT (Surgical) DHQ Hospital Battagram for compliance.


District Health Officer,
Battagram

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OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH BATTAGRAM:

MERIT LIST OF CONDDITATES FOR THE POST OF JCT SURGERY:

No	Name	Father Name	Domicile	A. Qualificatin	P. Qualificatin	D.O. Birth	Matric			F.A	B.F.	M.A	Experie nce	Interview	Total	Remarks
							1st Div:	2nd Div:	3rd Div							
1	Asad Ullah	Azmat Ullah	Mansehra	F.A	O.T Assistant from Army Medical Corps	01.08.1972	0	38	0	6	0	0	10	0	54	Approved Retired from Army Medical Corp
2	Ihsan Ullah ✓	Fazal Raheem ✓	Battagram ✓	Matric ✓	O.T Technician from Govt P.M.S. Nowshera Medical Faculty Peshawar	15.03.1974	0	38	0	0	0	0	4.5	42.5	(Overage) Age Relaxation case may be proceed ✓	
3	Shahid Mehmood	Syed Yaqoob Shahi	Battagram	F.A	14 Months from PVCT	20.06.1987	0	38	0	6	0	0	4	48	Not Registered with Medical Faculty Peshawar	
4	Irshad Hussain Khan	Shah Zaman Khan	Timergra	F.A	O.T Tech from MF Sind		0	38	0	6	0	0	2	46	Not Registered with Medical Faculty Peshawar	
5	Sulerman	Rasool Khan	Battagram	Matric	Clinical Technician MPC, Nowshera SDC	05.04.1992	0	38	0	0	0	0	3.0	41.2	Diploma from Skill Development Council	
6	Adeei Ahmad	Muhammad Rafique	Abbotabad	Matric	O.T Technician from FIMS, Abbotabad SDC Islamabad	21.06.1992	0	38	0	0	0	0	2.4	40.4	Diploma from Skill Development Council	
7	Rashid Khan	Ghuiaam Akber Khan	Battagram	M.A	1 Year Diploma (EMA) from CMT PIMS Islamabad	02.02.1987	0	38	0	0	0	12	3	53	Having No related diploma in Surgeory	

Member

Representative of DCO

Member

Representative of DGHS

Member

Medical Superintendent

Chairman

Executive District Officer, Health

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**OFFICE OF THE DISTRICT HEALTH OFFICER
Battagram (Khyber Pakhtunkhwa)**

Phone & Fax: # (0997) 310507

No. 1654-58 / Dated 14/05/2015.

OFFICE ORDER

WHEREAS, Mr. Asad Ullah JCT Surgical attached to DHQ Hospital Battagram, was proceeded against under the E&D Rules 2011 for the charges mentioned below:-

1. you have been appointed in violation of the rules/standard criteria of the Govt: and therefore guilty of misconduct as provided under rule-2 sub Para K (vi) of the E&D rule 2011

AND WHEREAS, a show cause notice was served upon him vide this office latter No. 1005-8/enq dated 13-3-2015 wherein major penalty of Removal from service was proposed to be imposed upon him.

AND WHEREAS he fail to prove him innocent. His reply to the show cause was not found satisfactory.

NOW WHEREAS, the undersigned being the competent authority in exercise of powers conferred under the Khyber Pakhtunkhwa Peshawar E&D Rules 2011 am pleased to impose major penalty of removal from service upon Mr. Asad Ullah JCT Surgical attached to DHQ Hospital Battagram.

(Dr. Saifullah Khalid)
District Health Officer
Battagram.

No. 1654-58 / Dated Battagram the,
Copy forwarded to the:-

14/05/2015.

1. Director General Health Services KPK Peshawar with reference to his No.3247/CC/2514/2014 Dated 14/01/2014 for information.
2. Medical Superintendent District Head Quarter Hospital Battagram for information
3. Mr. Asad Ullah JCT Surgical attached to DHQ Hospital Battagram
4. DAO Battagram.
5. Office copy

(Dr. Saifullah Khalid)
District Health Officer
Battagram.

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Handwritten signature and checkmark

Handwritten signature and initials

BEFORE THE DIRECTOR GENERAL
K.P.K PESHAWAR.

Appeal against the order of District Health Officer Batagram bearing No. 1654-58. Dated: 14.05.2015 vide which the appellant has been awarded major penalty by way of removal from service.

Prayer!

On acceptance of appeal the impugned order of removal from service may kindly be set-aside and the appellant may kindly be reinstated in service.

Respected Sir,

The brief facts leading to the instant appeal are arrayed as follows.

1. That, the appellant joined service in AMC after passing his SSC examination. The appellant served in AMC ~~for~~ about 19 years. The appellant had been issued / conferred the requisite diploma / certificate by the AMC with respect to his experience.
2. That, DHO Battagram had advertised diverse post and the appellant submitted an application for appointment as OTA. The appellant was found eligible and qualified ~~to~~ to the said post of OTA and

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accordingly he was appointed by DHO Battagaram.

- 3. That, the appellant was issued a show cause notice followed by an order of removal from service, which order on the face of record is palpably wrong and without any legal backing.
- 4. That, the appellant had produced the requisite documents at the time of interview, the appellant was found capable and eligible and all those documents were thoroughly scanned and verified by the DHO Battagaram and thereafter the order of appointment was made by the concerned quarter.
- 5. That, the diploma / certificate produced by the appellant before the DHO Battagaram was verified and found at par with the certificates / diploma / issued by the medical faculty, and thereafter the impugned order was passed by the DHO Battagaram.
- 6. That, the order of appointment of the appellant has been issued by DHO finding him eligible and also the documents produced by him were found at par with the required documents. If any illegality or irregularity has been made, the appellant cannot be taken to task because he was never debarred qua his eligibility or his capability

with reference to his qualification which was more than the required one.

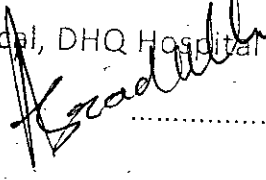
7. That, the impugned show cause notice and the order passed by DHO Battagaram are void abinito and illegal and deserved the indulgence of your goodself.

It is therefore, most humbly prayed and requested that, on acceptance of appeal, the impugned order of removal from service may kindly be set-aside and the appellant may kindly be reinstated in service.

Dated: 29.05.2015

ASADULLAH S/O AZMATULLAH

JCT Surgidal, DHQ Hospital Battagaram:



.....Appellant

ENQUIRY REPORT INTO THE ALLEGED IRREGULARITIES IN THE RECRUITMENT
PROCESS OF PARAMEDICS/OTHER CLASS-III STAFF AND CLASS-IV EMPLOYEES IN
THE OFFICE OF THE DISTRICT HEALTH OFFICER BATTAGARAM.

BACK GROUND.

Vide Director General Health Services Khyber Pakhtunkhwa office order bearing endorsement No.647-53/complaint cell-2514 dated 14/4/2014 an inquiry committee comprising Dr.Niaz Muhammad SMO CH Battal and Mr. Muhammad Jamil Assistant Director (Personnel-II) Directorate General Health Services Khyber Pakhtunkhwa Peshawar has been constituted to probe the alleged irregularities in the recruitment process of the employees in Department of Health District Battagram (F/A)

PROCEEDINGS

The Committee proceeded to Battagram on 23/04/2014 and remained there upto 26/4/2014. The Committee scrutinized the relevant record pertaining to recruitments made by Dr. Aqeel Bangash and Dr. Shehzad Ali Khan Ex-DHOs Battagram for the periods with effect from 1/7/2013 till their tenures.

This is worthwhile to mention that merit lists and documents pertaining to the recruitment issued by Dr.Aqeel Bangash Ex-DHO Battagram prior to 1-7-2013 were not produced by the DHO Office Battagram; saying that the same were taken away by the Ex-DHO Dr.Aqeel Bangash as per their written statements mentioned below. On enquiry from Dr.Aqeel Bangash, although he produced photo copies of the merit lists at F/B but showed ignorance about the documents.

While forwarding the previous Enquiry Report, the District Health Officer Battagram was asked vide DGHS letter No.1206-09/Complaint Cell/2511/2014 dated 29th May 2014 for producing the remaining documents pertaining to recruitments of Class-III and Class-IV employees made by Dr.Aqeel Bangash the then DHO for the period prior to 1-7-2013 within fifteen days. But after protracted correspondence with the District Health Officer Battagram, he

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has been able to produce the documents ibid that is too in piecemeal upto 10th October 2014.

FINDINGS.

The Committee after scrutiny found various irregularities in the recruitment process which are mentioned below:-

unfair merit list

→

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- Format of the merit list is not according to the standard criteria of the Government.
- As required under the relevant criteria of the Government at Flag-C, Diploma marks not included in the merit list after the marks of prescribed qualification i.e. matric. More so the marks allotted for the prescribed qualification were not according to standard criteria, e.g. certain candidates with 2nd division were allotted the marks of first division and vice versa. In certain cases marks for higher qualification have been given to the candidates although no documentary proof was produced in this regard to the Enquiry Committee which makes selection/recruitment of some of the candidates doubtful.
- Written test marks included in the merit list in violation of the approved Service Rules.
- In some cases more than 8 marks allotted to the candidates in the column of interview marks, in violation of the criteria fixed by the Government.
- Experience marks are not given as per Government criteria and in some cases experience marks are given on the basis of experience certificates of unregistered private institutions; even in some cases marks given without experience certificate.
- Minutes of the Departmental Selection Committees duly signed by chairman and members of the DSC, are not recorded.
- Candidates in various categories have been recruited by Dr.Aqeel Bangash without valid certificates/diplomas.
- Class-IV employees have been appointed by the Ex-DHO viz: Dr.Aqeel Bangash without inviting applications through employment exchange (not available in District Battagram) or press advertisement.
- Ward Ayas (nomenclature thereof not available in the sanctioned strength of District Battagram) have been appointed by Dr.Aqeel Bangash against the posts of Dais without observance of codal

	Merit list at Annexure-VII	(Battagram)	Certificates seem to be doubtful. b)) Advertisement for the post not produced.	subject to producing of advertisement notice by the DHO Battagram and verification of both the certificates and if found bogus, may be served upon show cause notice for removal from service. Till then his salary must be stopped.
8	JCT Dental Merit list at Annexure-VIII	Ihsanullah s/o Hashim Khan (Battagram)	a) Matric with science with diploma from Medical Faculty Peshawar and BA qualification but not verified b)) Advertisement for the post not produced.	May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram and verification of certificate, diploma and degree and if found bogus, must be served upon with show cause notice for removal from - service. Till then his salary must be stopped.
9	JCT Surgical Merit list at Annexure-IX	i. Asadullah s/o Azmatullah (Mansehra)	a) Matric with science having <u>no valid diploma</u> b)) Advertisement for the post not produced.	May be served upon with show cause notice for removal from service and salary stopped.

admission O.T.A. July 7

DPA No. _____

165

EC No. _____

10-1193

S.No. 13335



وکالت نامہ

Name of Advocate _____

بعدالت Service Tribunal KPK Camp Abbottabad

عنوان: آسٹریٹجی بنام گورنمنٹ آف ویزہ

مخانب: اسپلٹ نوعیت مقدمہ اسپلٹ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیرونی وجوہات برائے پیشی یا تصفیہ مقدمہ بمقام اسپلٹ آف ویزہ کے لیے
 محمد شہد رضا ابراہیم وکیل - فورٹیس ابراہیم وکیل
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے
 جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ
 سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے
 علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا روز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ کچہری کے علاوہ کسی اور جگہ
 ساعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے
 کسی معاوضہ کے ادا کرنے یا جمانہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف
 مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم
 درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کار و پیہ وصول کرنے اور رسید دینے اور داخل کرنے
 اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیر و نجات
 از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
 موصوف کو بشرط ادا ہوگی علیحدہ محتانہ بیرونی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے
 کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں
 وہی اور ایسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف
 کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ
 کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 2015 / 10 / 20
 دن 20 / ماہ 10 / سال 2015

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted
 Haidar

اسپلٹ آف ویزہ

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR CAMP COURT ABBOTTABAD.

Appeal NO. 1043/ 2015

Assadullah -----

Appellant

VERSUS

1. Govt; of Khyber Pakhtunkhwa and others Respondents

COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:-

Preliminary Objections:-

1. That the appellant did not come to this Service Tribunal with clean hands.
2. That the appellant has no cause of action/ locus standi to file the instant appeal.
3. That the instant appeal is hit by laches and barred by law of limitation.
4. That the appeal has been filed to pressurize the respondents.
5. That the appellant was proceeded against as per rules and show cause notice was issued to appellant which was not replied where after the final order was issued. Hence the instant appeal is liable to be dismissed.
6. That any other ground and case law will be presented at the time of humble submissions at the bar.
7. That the appellant has suppressed the material facts from this honourable tribunal hence not entitled for any relief and appeal is liable to be dismissed.
8. That both the orders passed by the authority as per law and rules after fulfillment all the codal formalities hence appeal is liable to be dismissed.

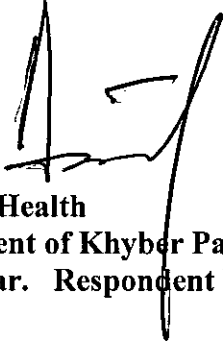
FACTUAL OBJECTIONS:-

1. No comments as the criteria of Army services does not match that of civil services.
2. The Diploma of Army Medical Core is not required for selection/ appointment of JCT (Radiology). The requirement was Diploma issued by or registered by the Medical Faculty Peshawar.
3. Correct. That the respondent No.4 has advertised post for appointments. Where in it was mentioned that certificate/ Diploma must be registered with and recognized by the Khyber Pakhtunkhwa Medical Faculty Peshawar.
4. Incorrect and denied. The appellant did not produce genuine diploma for appointment.
5. Para No.5 is pertained to record in fact enquiry committee recommended that the services of the appellant may be removed due to having non registered and non recognized diploma from Khyber Pakhtunkhwa Medical Faculty Peshawar.
6. Para No.6 is pertained to record in fact. The services of appellant were removed on the recommendation of enquiry committee vide its letter No.3247/CC/2514/2014 Dated 14/11/2014.
7. Para No.7 pertained to record in fact the appellant has removed from services after the recommendation of enquiry committee.
8. In replay of Para No.8 it is humbly submitted that both the orders of the responded according to law and rules, hence the appellant has no right to file present appeal, and appeal is liable to be dismissed.

GROUND.

- (a) Incorrect. The orders passed by the respondents are in accordance with law and on the recommendation of enquiry committee.
- (b) Incorrect. The major penalty of removal from services was imposed in accordance with rules service.
- (c) Incorrect. After enquiry the committee found that the documents/ diplomas of appellant are not registered with Khyber Pakhtunkhwa Medical faculty Peshawar which was required for appointment.
- (d) Incorrect. After enquiry the committee found that the documents/ diplomas of appellant are not registered with Khyber Pakhtunkhwa Medical faculty Peshawar which was required for appointment.
- (e) Incorrect. The appellant produced Diploma from Army Medical Core which was not registered with Khyber Pakhtunkhwa Medical Faculty Peshawar.
- (f) Incorrect. The orders passed by the respondents are in accordance with law and on the recommendation of enquiry committee.
- (g) Incorrect. The appellant was given full opportunity to be heard vide this office letter No. 1005-08 Dated 13/03/2015.
- (h) Incorrect. That appellant had no right for his appeal because he did not fulfill the requirements for appointment.
- (i) Incorrect. That appellant has no right for his appeal because he did not fulfill the requirements for appointment. In fact dismissal of appellant from services is result of non protection of required diploma, hence appeal is liable to be dismissed.
- (j) That other points would be raised at the time of argument.

In the light of above stated fact it is very humbly prayed that the appeal in hand being against the law/Rules and policy f the Government of KHYBER PAKHTUNKHWA be dismissed with cost throughout.



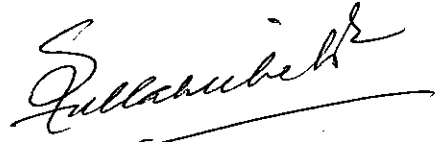
**Secretary Health
Government of Khyber Pakhtunkhwa
Peshawar. Respondent No. 1**



**Director General Health Services
Khyber Pakhtunkhwa Peshawar
Respondent No. 2**



**Medical Superintendant
DHQ Hospital Battagram
Respondent No. 4**



**District Health Officer
Battagram Respondent No. 5**

BEFORE THE HONORABLE COURT KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR AT CAMP COURT ABBOTTABAD

SUBJECT: - WRIT PETITION NO.1043/2015

Assadullah

Appellant

VERSUS.

Government of Khyber Pakhtunkhwa

Respondent.

AFFIDAVIT.

I Dr. Muhammad Daud Medical Superintendent DHQ Hospital Battagram do hereby affirm and declare that the comments of para wise writ petition are true and correct as per my knowledge and available record that nothing material has been suppressed this honorable court.



RESPONDANT NO. 4



DIRECTORATE GENERAL HEALTH SERVICES,
KHYBERR PAKHTUNKHWA, PESHAWAR

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.
Exchange # 091-9210187, Tele # 9210196 Fax # 091-9210230

No. 3247 /CC/2514/2014

Dated 14 /11/2014

To,

The District Health Officer,
Battagram.

Subject: ENQUIRY OF IRREGULAR APPOINTMENTS.

In continuation, of this Directorate letter No.2717-20/cc/2511/2014 dated 08/09/2014, I am directed to forward an enquiry report conducted by Dr.Niaz Muhammad SMO Civil Hospital Battal Mansehra and Mr. Muhammad Jamil Assistant Director(P-II) DGHS Office KPK Peshawar for implementation and necessary action with the following remarks.

- I. After going through the enquiry report it is observed that the said recruitment has been made against the Esta Code of the Govt, almost against the merit and rules regulation of the Govt have been violated.
- II. All those recruited against the merit may be terminated w.e.f the date of recruitment, salaries made so far be recovered from the wrong selectees/ those officers/ officials who are responsible for this illegal appointments immediately.
- III. Disciplinary action may be initiated against the culprits (Responsible for this illegal appointment).
- IV. Fresh procedure as per Esta Code recruitment policy may be initiated for new recruitments.

Mr. Mohammad Haseeb &
Shah Faizal for Inhi document
Class III employees only.

DIRECTOR GENERAL HEALTH
SERVICES, KHYBER PAKHTUNKHWA,
PESHAWAR.

Stop the pay
of Class III
MK Andri
DHO
14/11/15

13/11/14



**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 2717-20/CC/2511/2014

Dated 8/09/2014

MOST IMMEDIATE

To,

1. Dr. Niaz Muhammad SMO,
Civil Hospital Battal District Manshera.
2. Mr. Muhammad Jamil
Assistant Director(P-II), DGHS Office Peshawar.

SUBJECT: OFFICE ORDER.

I am directed to refer of this DGHS office Order bearing endorsement No.647-53/CC/2511/2014 dated 14-04-2014 on the subject noted above with the remarks to proceed to Battagram for examination /Scrutiny of the remaining documents of the candidates appointed by DHO Battagram prior to 01/07/2013.

Director (Admn)
DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Cc:

Copy forwarded to the:

1. District Health Officer Battagram for information and to make available all the relevant record to the enquiry committee.
2. Medical Superintendent DHQ Hospital Battagram for information and necessary action w/r to DHO Battagram letter No.8756-58 dated 01/09/2014, he is directed to provide the relevant record to DHO Battagram within 03 days without fail.

5/9/14

**ENQUIRY REPORT INTO THE ALLEGED IRREGULARITIES IN THE RECRUITMENT
PROCESS OF PARAMEDICS/OTHER CLASS-III STAFF AND CLASS-IV EMPLOYEES IN
THE OFFICE OF THE DISTRICT HEALTH OFFICER BATTAGARAM.**

BACK GROUND.

Vide Director General Health Services Khyber Pakhtunkhwa office order bearing endorsement No.647-53/complaint cell-2514 dated 14/4/2014 an inquiry committee comprising Dr.Niaz Muhammad SMO CH Battal and Mr. Muhammad Jamil Assistant Director (Personnel-II) Directorate General Health Services Khyber Pakhtunkhwa Peshawar has been constituted to probe the alleged irregularities in the recruitment process of the employees in Department of Health District Battagram (F/A)

PROCEEDINGS

The Committee proceeded to Battagram on 23/04/2014 and remained there upto 26/4/2014. The Committee scrutinized the relevant record pertaining to recruitments made by Dr. Aqeel Bangash and Dr. Shehzad Ali Khan Ex-DHOs Battagram for the periods with effect from 1/7/2013 till their tenures.

This is worthwhile to mention that merit lists and documents pertaining to the recruitment issued by Dr.Aqeel Bangash Ex-DHO Battagram prior to 1-7-2013 were not produced by the DHO Office Battagram; saying that the same were taken away by the Ex-DHO Dr.Aqeel Bangash as per their written statements mentioned below. On enquiry from Dr.Aqeel Bangash, although he produced photo copies of the merit lists at F/B but showed ignorance about the documents.

While forwarding the previous Enquiry Report, the District Health Officer Battagram was asked vide DGHS letter No.1206-09/Complaint Cell/2511/2014 dated 29th May 2014 for producing the remaining documents pertaining to recruitments of Class-III and Class-IV employees made by Dr.Aqeel Bangash the then DHO for the period prior to 1-7-2013 within fifteen days. But after protracted correspondence with the District Health Officer Battagram, he

has been able to produce the documents ibid that is too in piecemeal upto 10th October 2014.

FINDINGS.

The Committee after scrutiny found various irregularities in the recruitment process which are mentioned below:-

- Format of the merit list is not according to the standard criteria of the Government.
- As required under the relevant criteria of the Government at Flag-C, Diploma marks not included in the merit list after the marks of prescribed qualification i.e. matric. More so the marks allotted for the prescribed qualification were not according to standard criteria, e.g. certain candidates with 2nd division were allotted the marks of first division and vice versa. In certain cases marks for higher qualification have been given to the candidates although no documentary proof was produced in this regard to the Enquiry Committee which makes selection/recruitment of some of the candidates doubtful.
- Written test marks included in the merit list in violation of the approved Service Rules.
- In some cases more than 8 marks allotted to the candidates in the column of interview marks, in violation of the criteria fixed by the Government.
- Experience marks are not given as per Government criteria and in some cases experience marks are given on the basis of experience certificates of unregistered private institutions; even in some cases marks given without experience certificate.
- Minutes of the Departmental Selection Committees duly signed by chairman and members of the DSC, are not recorded.
- Candidates in various categories have been recruited by Dr. Aqeel Bangash without valid certificates/diplomas.
- Class-IV employees have been appointed by the Ex-DHO viz: Dr. Aqeel Bangash without inviting applications through employment exchange (not available in District Battagram) or press advertisement.
- Ward Ayas (nomenclature thereof not available in the sanctioned strength of District Battagram) have been appointed by Dr. Aqeel Bangash against the posts of Dais without observance of codal

unfair merit list

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Exp

formalities which is again violation of the rules/regulations and policy of the Government. The Committee noted with concern as to how their salaries have been allowed by the DAO Battagram.

- As a matter of fact the educational qualification/technical diplomas etc of paramedics are required to be verified by the concerned Board of Intermediate and Secondary Education and Khyber Pakhtunkhwa Medical Faculty Peshawar. To the utter surprise of the committee salaries of all paramedics/other employees have been activated without verification from the above institutions.
- In spite of the fact, meeting of the DSC was attended and merit list signed by the Representative of DCO Battagram and representative of the DG Health Services, but none of them were able to pin point the irregularities mentioned above.

who was this fellow

CONCLUSION

Dr. Aqeel Bangash ex-District Health Officer District Battagram is responsible for the irregular recruitments and a warning in this regard has already been issued to him.

only warning - what about the wrong selectees?

RECOMMENDATIONS

In view of the foregoing the Enquiry Committee recommends action against various categories of employees as mentioned against each below:-

S.No	Nomenclature of the post	Names of employees appointed.	Observation of the Committee	Recommendation
1	Receptionist (merit list at Annex: I)	Ijaz Ali s/o Muhammad Khateeb (Battagram) Merit list at Annexure-I	<p>a) BA marks added in the column of higher qualification but <u>BA degree not produced.</u></p> <p>b) As per matric certificate, the Official has got <u>2nd divn:</u> but <u>marks given of 1st divn:</u></p> <p>c) Matric certificate not verified from the concerned</p>	<p>If the marks of prescribed/higher qualification irregularly added in the merit list are deleted, another candidate in the merit list would have been eligible for selection.</p>

			Board of Intermediate and Secondary Education but salary started.	Therefore, show cause notice may be served upon Mr.Ijaz for removal from service and his salary stopped.
2	JCT Cardiology (Merit list at Annex:II)	Muhammad Wasim s/o Muhammad Bashir (Battagram) Merit list at Annexure-II	a)Marks for higher qualification allotted two step above while the employee has qualified FA(one step above) b)No certificate/diploma in Cardiology produced from Medical Faculty KPK Pesh:	Beside irregularity at Sl:No.a of the observations, Muhammad Wasim has been appointed without having been qualified from the Medical Faculty; he may be served upon with show cause notice for removal from service and his salary stopped.
3	Malaria Supervisors (Merit list at Annex:III)	i.Sher Ali Khan s/o Ghulam Muhammad (Battagram)	He is matric with science and possess diploma from the Medical Faculty Peshawar.	May be allowed to continue service as Jr.PHC Tech (MP) being qualified but after verification of his matric certificates etc.and diploma from the Medical Faculty Peshawar. Till then his salary must be stopped and if found fake, show cause notice may be served upon him for removal from

clear documents verified

⊕

			service.
Malaria Supervisors (Merit list at Annex:III)	ii. Abdul Manan Shah s/o Syed Amir Nawab Shah (Battagram)	a) No documents produced to the Enquiry Committee. b) He was already serving as Insect Collector but again applied for Malaria Supervisor and subsequently appointed in contravention of the approved S/Rules.	As per revised service structure of Paramedics notified in 2006, the post of insect collector has since been re-nomenclatured as Jr.PHC Tech:(MP), therefore, he may be allowed to continue as Jr.PHC Tech:(MP) and his irregular recruitment order as Malaria Supervisor withdrawn
Malaria Supervisors (Merit list at Annex:III)	iii. Amjed Khan s/o Babu Khan (Battagram)	Recruited in violation of the Approved S/Rules & without valid diploma from Medical Faculty Peshawar.	May be served upon show cause notice for removal from service and salary stopped.
Malaria Supervisors (Merit list at Annex:III)	iv. Muhammad Amjed s/o Muhammad Afzal (Battagram)	Recruited in violation of the Approved S/Rules & without valid diploma from Medical Faculty Peshawar.	May be served upon show cause notice for removal from service and salary stopped.
4	JCT(Physiotherapy) Merit list at Annex:IV Sajid Ali s/o Bashir Khan (Battagram)	a) Matric with arts (science required) b) No valid diploma from Medical Faculty Peshawar.	May be served upon show cause notice for removal from service and salary stopped.
5	JCT Anaesthesia Muhammad Rafiqullah Khan	Matric with science with valid diploma from Medical	May be allowed to continue service

	Merit list at Annexure-V	s/o Muhammad Aslam Khan(Bannu)	Faculty Peshawar, albeit not verified.	but after verification of the matric certificate and diploma from the concerned Board and Medical Faculty Peshawar. If found fake, should be served upon with Show Cause notice for removal from service.
6	Junior Clerks Merit list at Annexure-VI	i.Fahim Khan s/o Muhammad Bashir (Battagram) ii.Shahid Ali s/o Adam Khan(Battagram) → iii.S.Maqbool Shah s/o S.Muhammad Zahir Shah(Battagram) iv.Niaz Muhammad s/o Muhammad Faroosh(Battagram) v.Shah Faisal s/o Muhammad Afzal (Battagram)	a) Matric certificates of all the employees perused but not verified from the concerned Boards. b) Advertisement for the post not produced.	May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram and verification of the Matric Certificates, till then their salaries must be stopped.
7	Store Keeper	Dilshad s/o Said Hazrat	a) He was in-service Sweeper but his matric and dispenser	May be allowed to continue service

	Merit list at Annexure-VII	(Battagram)	Certificates seem to be doubtful. b)) Advertisement for the post not produced.	subject to producing of advertisement notice by the DHO Battagram and verification of both the certificates and if found bogus, may be served upon show cause notice for removal from service. Till then his salary must be stopped.
→ 8	JCT Dental Merit list at Annexure-VIII	Ihsanullah s/o Hashim Khan (Battagram)	a) Matric with science with diploma from Medical Faculty Peshawar and <u>BA</u> qualification but not verified b)) Advertisement for the post not produced.	May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram and verification of <u>certificate, diploma</u> and <u>degree</u> and if found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.
9	JCT Surgical Merit list at Annexure-IX	i.Asadullah s/o Azmatullah (Mansehra)	a) Matric with science having no valid diploma b)) Advertisement for the post not produced.	May be served upon with show cause notice for removal from service and salary stopped.

		ii.Ehsanullah s/o Fazal Rahim (Battagram)	<p>a)Matric with science 2nd divn: marks allotted of first divn:</p> <p>b)Zero marks given in the interview, even then selected.</p> <p>c)Although qualified OTA from Medical Faculty Peshawar, yet the certificate seems to be fake.</p> <p>d)8 marks for higher qualification allotted but no BA degree produced.</p> <p>e)) Advertisement for the post not produced.</p>	<p>May be allowed to continue service subject to producing BA degree/advertisement notice by the DHO Battagram & verification of certificate/diploma and if failed to produce BA degree/advertisement notice or the documents found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.</p>
		iii.Rashid Khan s/o Ghulam Akber Khan (Battagram)	<p>a)No valid certificate/diploma from Medical Faculty Pesh: Even not selected by the DSC but favoured with recruitment order by Dr.Aqeel Bangash.</p> <p>b)) Advertisement for the post not produced.</p>	<p>May be served upon show cause notice for removal from service and salary stopped.</p>
10	JCT Ophthalmology Merit list at Annex:X	i.Asif Afridi s/o Abdur Rahim (Battagram)	<p>a)He has been selected on the basis of having <u>degree</u> in vision science from <u>KMU</u> Peshawar but the same has not been verified.</p> <p>b)) Advertisement for the post not produced.</p>	<p>May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram and verification of</p>

			Matric certificate/ degree and if found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.
JCT Ophthalmology Merit list at Annex:X	ii.Tanzeelur Rahman s/o Himayatullah (Battagram)	a)No diploma from Medical Faculty Peshawar. b) BA degree not produced but marks for higher qualification allotted. c) Advertisement for the post not produced.	May be served upon with show cause notice for removal from service and salary stopped.
JCT Cardiology Merit list at Annexure-XI	ii.Rafique Ahmad s/o Sherenzada (Swat)	a)No recruitment order produced. b)Matric with science having diploma from Medical Faculty Peshawar. c)According to Feroz Sr.Clerk of DHO Office Battagram the Tech: has been transferred to Swat. d)) Advertisement for the post not produced.	May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram & verification of matric certificate, diploma and degree and if found bogus, must be served upon show cause notice for removal from service. Till then his salary must be stopped. DHO Battagram to inform the DHO/MS Swat where he has been transferred.

JCT Physiotherapy Merit list at Annex:XII	i. Mufti Salahuddin s/o Noorul Wahab (Battagram)	<p>a) Matric with science having diploma from Medical Faculty Peshawar but the same seems suspicious.</p> <p>b) 6 marks for higher qualification allotted but FA certificate not produced.</p> <p>c) Advertisement for the post not produced.</p>	<p>May be allowed to continue service subject to producing of FA certificate/Advertisement notice by the DHO Battagram and verification of certificate/diploma and if failed to produce FA certificate or the documents found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.</p>
	ii. Mehboobullah s/o Rai Khan (Karak)	<p>a) Matric with science .</p> <p>b) Diploma of Med: Faculty produced, seems fairly bogus</p> <p>c) Advertisement for the post not produced.</p>	<p>May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram and verification of certificate/diploma. If found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.</p>

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Electrician Merit list at Annexure- XIII	i.Adil s/o Muhammad Niqab (Battagram)	a)advertisement for the post not produced. b)8 marks for higher qualification allotted but BA degree not produced.	May be allowed to continue service subject to producing of advertisement notice by DHO Battagram and verification of matric certificate etc. If failed to produce the advertisement notice, must be served upon show cause notice for removal from service. Till then his salary must be stopped.
	ii.Fasiullah s/o Syed Sakhi Shah (Battagram)	a)Matric certificate and BA degree produced but not verified as yet. b)Advertisement for the post not produced.	May be allowed to continue service subject to producing of Advertisement notice and verification of certificate/diploma. If failed to produce the advertisement notice by DHO Battagram and the documents found bogus, must be served upon with show cause notice for removal from service. Till then his

				salary must be stopped.
14	JCT Radiology Merit list at Annexure-XIV	i.Yar Muhammad s/o Muhammad Javed (Battagram)	a) Matric with science with no valid diploma. b) Advertisement for the post not produced.	May be served upon show cause notice for removal from service and salary stopped.
		ii.Sirajuddin s/o Firdus Khan (Mansehra)	a) Matric with science with no valid diploma. b) Advertisement for the post not produced.	May be served upon show cause notice for removal from service and salary stopped.
15	JCT Anaesthesia Merit list at Annexure- XV	i.Mujeebur Rahman s/o Shahroom Khan (Battagram)	a) Matric with science with diploma from Med: Faculty Peshawar but not verified as yet. b) 12 marks for higher qualification allotted but MA degress not produced. c) Advertisement for the post not produced.	May be allowed to continue service subject to producing of Advertisement notice by DHO Battagram and verification of certificate/diploma. If failed to produce the advertisement notice and the documents found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.

		ii. Yousaf Ali Khan s/o Fateh Khan (Battagram)	<p>a) Matric with science with certificate from Med: Faculty Peshawar but not yet verified.</p> <p>b) Advertisement for the post not produced.</p>	<p>May be allowed to continue service subject to producing of Advertisement notice by DHO Battagram and verification of certificate/diploma. If failed to produce the advertisement notice and the documents found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.</p>
16	Plumber Merit list at Annex: XVI	Zahir Shah s/o Abdul Khaliq (Battagram)	<p>a) Matric with arts.</p> <p>b) No advertisement for the post produced.</p>	<p>May be allowed to continue service subject to producing of Advertisement notice by DHO Battagram and verification of certificate/diploma. If failed to produce the advertisement notice and the documents found bogus, must be served upon with show cause notice for removal from</p>

				service. Till then his salary must be stopped.
17	Generator Operator Merit list not produced.	Sher Bahadur s/o Jan Muhammad (Battagram)	a) No advertisement notice, no merit list and no documents produced.	May be served upon with show cause notice for removal from service and salary stopped.
18	Tube Well Operator Merit list not produced	Tufail Muhammad s/o Nazir Muhammad (Battagram)	a) No advertisement notice, no merit list and no documents produced.	May be served upon with show cause notice for removal from service and salary stopped.
19	Class-IV employees Merit list not produced	As per list at Annexure XVII	a) No advertisement notice, no merit list and no documents produced.	May be served upon with show cause notice for removal from service and salary stopped.

Interestingly salaries of the above employees are being disbursed from the date of their recruitment but surprisingly the offices of the present DHQ Battagram and MS DHQ Hospital Battagram badly failed to produce the relevant documents to the Enquiry Committee, resulting in late submission of the enquiry report.

The above recommendations are submitted for perusal and approval or as the competent authority deems fit.

(Muhammad Jamil)
Assistant Director (P-II)
Directorate General Health
Services, Khyber Pakhtunkhwa
Peshawar.

(Dr. Niaz Muhammad)
SMO, Civil Hospital Battal District Manshera.

BEFORE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR

Asadullah.....APPELLANT

VERSUS

Govt of KPK & others.....RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT ARE AS UNDER

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:

1. That, Para No. 01 of the comments is incorrect. Appellant came for redressal of his grievances in good faith.
2. That, Para No. 02 of the comments is incorrect. Appellant got every cause of action against the illegal, unlawful termination order.
3. That, Para No. 03 of the comments is incorrect. Appellant filed appeal with in time.
4. That, Para No. 04 is incorrect.

5. That, Para No. 05 is incorrect, record is crystal clear which negates the Para No. 04 of Respondents.
6. That, in reply of Para No. 06, no law of the land protects Respondents for their illegal Act, hence Para No. 06 is incorrect.
7. That, Para No. 07 is incorrect.
8. That, Para No. 08 is incorrect, whole super structure is based on illegal orders which are not maintainable in the eye of law.

REPLY OF FACTUAL OBJECTIONS:

1. That, Para No. 01 of the comments is incorrect. However Appellant applied with due course of law after full filling all requirements and Respondents also appointed Appellant in accordance with law. Hence Para No. 01 of comments is denied.
2. That, Para No. 02 of the comments is incorrect, detail answer has been submitted in Supra.
3. That, Para No. 03 of the comments is incorrect and the Para of the appeal is correct. Respondents did not mentioned in their advertisement that Diploma of Army Medical Core is not required for selection and neither Respondents has rejected the documents at the

time of submission his application against advertisement and neither the original documents were suppressed at the time of interview and after scruting all the documents Appellant was duly appointed.

4. That, Para No. 04 of the comments is incorrect, on the strength of genuine documents the Appellant was appointed and it is pertinent to mentioned here that during interview documents checked by Respondent was remarked as "approved" which is available on record.
5. That, Para No. 05 of the comments is incorrect and Para No. 05 of the appeal is correct.
6. That, Para No. 06 of the comments is incorrect, no inquiry was inducted against the Appellant nor any chance of defence was given to the Appellant and Appellant was appointed by competent authority, therefore punishment can not be awarded by that authority and they are self deserve for punishment under the law.
7. That, Para No. 07 of the comments is incorrect, self explanatory inquiry which was conducted is totally against law, because the Appellant has not given any chance of defence in said inquiry. So the Para of appeal is correct.
8. That, Para No. 08 of the comments is incorrect and Para of appeal is correct.

GROUNDS:-

- a) That, Para (a) is incorrect, the impugned order and its contents are wrong, illegal and against the Service law and rules.
- b) That, Para (b) is incorrect and Para (b) of the appeal is correct.
- c) That, Para (c) is incorrect and Para (c) of the appeal is correct.
- d) That, Para (d) is incorrect, because the documents were presented before Selection Committee, which were approved.
- e) That, Para (e) is incorrect and Para (e) of the Appeal is correct.
- f) That, Para (f) is incorrect, so called inquiry is wrong, illegal, unlawful and said inquiry is ineffective upon the right of Appellant.
- g) That, Para (g) is incorrect and Para (g) of the appeal is correct.
- h) That, Para (h) is incorrect and Para (h) of the appeal is correct, because Appellant was appointed in accordance with law, rules and on the recommendation of the Departmental Selection Committee and

thereafter took over the charge hence valuable rights were accrued in favour of Appellant and principle of LOCUS POENITENTIAE would apply to the Appellant case and authorities could not be allowed to retrace their steps after long time.

- i) That, Para (i) is incorrect and Para (i) of the appeal is correct and detail answer has been given in Supra.
- j) That, Para (j) is incorrect, authorities has not Locus Standie to take any legal protection against their illegal order and also against Appellant.

It is therefore, humbly requested that appeal of the Appellant may kindly be accepted and Appellant service be restored with all back benefits.

Asadullah
..... APPELLANT

Through

Dated: 15/03/2018


(MUHAMMAD SHOAIB KHAN)
Advocate High Court, Abbottabad

**BEFORE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR**

Asadullah.....APPELLANT

VERSUS

Govt of KPK & others.....RESPONDENTS

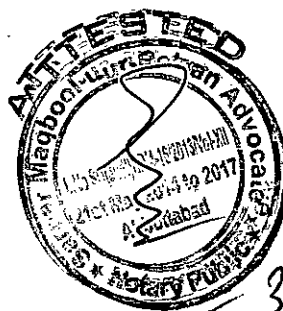
SERVICE APPEAL

AFFIDAVIT

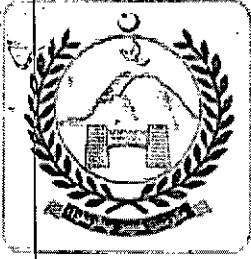
Contents of appeal and rejoinder are correct and reply of the Respondents are wrong, I Asadullah son of Azmatullah resident of village Baffa Khurad P.O Baffa, Tehsil and District Mansehra, do hereby solemnly affirm and declare that the contents of rejoinder are true and correct to the best of my knowledge and information and nothing has been concealed therein from this Honourable Court.

Asad

DEPONENT



15/3/2017



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 12126 /ST Dated: 27/09/2017

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To,

The District Health Officer,
Government of Khyber Paktunkhwa,
Battagram.

Subject: - **JUDGMENT IN APPEAL NO. 1043/2015, ASADULLAH & OTHERS.**

I am directed to forward herewith a certified copy of judgment dated 19/09/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2294 /ST

Dated 25 / 10 / 2017

To


The Medical Superintendent^{nt} Headquarters Hospital,
Government of Khyber Pakhtunkhwa,
Battagram.

Subject: -

JUDGMENT IN APPEAL NO.1043/2015, MR. ASAD ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 19.09.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.