



Service Appeal No. 380/2015

24.06.2019

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith M/S Dr. Fakhar Zaman, District Pathologist and Sajjad Qurashi, C.T Pharmacy for the respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Adjourned to 26.08.2019 for arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)
Member
Camp Court D.I.Khan

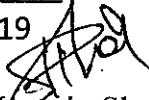

(Muhammad Amin/Khan Kundi)
Member
Camp Court D.I.Khan

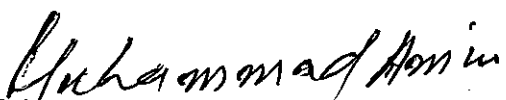
26.08.2019

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney for the respondents present. The case was fixed for arguments but learned counsel for the appellant submitted application for withdrawal of the present service appeal with the permission to file fresh representation/departmental appeal stating therein that the appellant being Naib Qasid had filed present service appeal for release of salary but during the pendency of the appeal, respondent-department has submitted impugned order dated 27.02.2019 whereby the appointment order dated 07.06.2014 of the appellant was withdrawn. It was further stated in the application that the counsel for the appellant came to know today about the impugned withdrawal order of appointment therefore, filed the present application. The application is placed on file. The same is allowed. The instant service appeal is dismissed as withdrawn as per application. The appellant is at liberty to file fresh departmental appeal/service appeal subject to all legal objections. File be consigned to the record room.

ANNOUNCED

26.08.2019


(Hussain Shah)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

22.01.2019

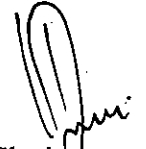
Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney for the respondents present.

Learned District Attorney states that nomenclature of posts of respondents No. 3 & 4 has been changed to the following respectively:-

Respondent No. 3:- District Health Officer, Tank.

Respondent No.4:- Medical Superintendent District Headquarter Hospital Tank.

Office is directed to endorse the change^{of} nomenclature in the memorandum of appeal and thereafter issue notices to the respondents for submission of reply/comments to the appeal. Adjourned to 25.03.2019. In case the respondents failed to submit the requisite reply the matter would be proceeded with on the strength of available record.



Chairman
Camp Court, D.I.Khan

25.03.2019

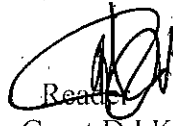
Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Samiullah, Data Entry Operator for respondents present. Written reply/comments submitted which is placed on file. Case to come up for rejoinder and arguments on 26.06.2019 before D.B at camp court D.I.Khan.



Member
Camp Court, D.I.Khan


28.06.2018

Tour is hereby cancelled, Therefore the case is adjourned for the same on ~~30.08~~ 2018 before S.B.


Reader
Camp Court D.I Khan

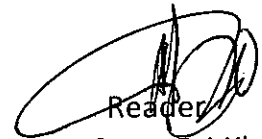
~~09.09~~ 2018

None present on behalf of the appellant. Tour is hereby cancelled. Therefore the Case is adjourned for the same on 12.09.2018 before S.B.


Reader
Camp Court D.I Khan


12.09.2018

12th September has been declared as public holiday on account of 1st Muharram therefore, the case is adjourned for the same on 27.11.2018 before S.B at Camp Court D.I.Khan.


Reader
Camp Court D.I.Khan


27.11.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for respondents present. Written reply on behalf of respondents not submitted. Learned District Attorney of the respondents requested for time. Granted. Notice be issued to the respondents for submission of written reply/comments. To come for written reply/comments on 22.01.2019 before S.B at camp court D.I.Khan.


(M.Amin Khan Kundi)
Member
Camp Court D.I.Khan


30.11.2017

Appellant in person present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Representative of the respondent-department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 25.01.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

25.01.2018

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 15.03.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

15.03.2018

Appellant in person and Mr. Ziaullah, DDA alongwith Dr. Khayal Muhammad, M.S and Mr. Samiullah, KPO for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. Adjourned. To come up for written reply on 28.06.2018 before S.B.


(AHMAD HASSAN)
MEMBER
Camp Court D.I.Khan

15.03.2018

Appellant in person and Mr. Ziaullah, DDA alongwith Dr. Khayal Muhammad, M.S and Mr. Samiullah, KPO for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. Adjourned. To come up for written reply on 28.06.2018 before S.B.

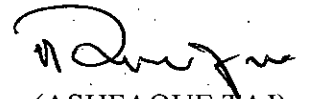
380/2015

22.02.2017

Mr. Shaikh Iftikhar-ul-Haq learned counsel for appellant and Mr. Farhaj Sikandar, Government Pleader for respondents present. Preliminary arguments heard. The learned counsel for appellant contended that appellant was appointed as Naib Qasid vide offer of appointment dated 07.06.2014. Accordingly medical certificate was submitted and appellant assumed his charge on 08.06.2014. No salary was released consequent upon he moved a departmental appeal against non-issuance of salary on 28.01.2015. Within the stipulated period of 90 days no response to departmental appeal was given and hence the instant service appeal.


I have heard arguments and perusal of record transpire that points agitated before this Tribunal needs consideration, so the appeal is admitted for regular hearing. The appellant is directed to deposit the security and process fee within 10 days there-after notices be issued to the respondents for written reply/comments for 26.07.2017 before S.B at Camp Court D.I.Khan.

Appellant Deposited
Security & Process Fee


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

26.07.2017

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Representatives of respondent-department is not in attendance, therefore, fresh notice be issued to respondents No. 1 to 5 with the direction to direct the representative to attend the court on the next date positively. Adjourned. To come up for written reply/comments on 30.11.2017 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

30.08.2016

Counsel for the appellant and Mr. Muhammad Ramzan, Assistant alongwith Mr. Farhaj Sikandar, GP for respondents present. Written reply not submitted. Requested for adjournment. To come up for preliminary hearing on 26.09.2016 at camp court D.I Khan.


Member
Camp court D.I. Khan

26.09.2016

Counsel for the appellant and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Both the parties jointly requested for adjournment. To come up for preliminary hearing on 26.12.2016 before S.B at Camp Court D.I.Khan.


Member
Camp Court D.I.Khan

26.12.2016

Counsel for appellant present. Preliminary arguments heard. Points raised needs more clarification as there is no final order vide which salary has been refused, so pre-admission notice be issued to the respondents for preliminary hearing on 20.02.2017 before S.B at Camp Court D.I.Khan.


ASHFAQUE TA
MEMBER
Camp Court D.I.Khan



380/15

23.2.2016

Clerk of counsel for the appellant and Mr. Farhaj Sikandar, GP present for the respondents present. Request made on behalf of counsel for the appellant for adjournment. To come up for preliminary hearing on 29.3.16 at Camp Court D.I.Khan.



MEMBER

Camp Court, D.I.Khan

29.02.2016

Counsel for the appellant present. Pre-admission notice be issued to the respondents. To come up for preliminary hearing on 30.08.2016 at camp court D.I Khan.



MEMBER

camp court D.I Khan

25.05.2015

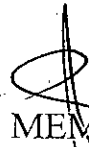
Clerk of counsel for the appellant present. Due to general strike of the legal fraternity, counsel for the appellant is not available. To come up for preliminary hearing on 28.7.2015 at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

28.07.2015

Counsel for the appellant present. During the course of arguments it transpired that the matter pertains to payment of monthly salary, hence, pre-admission notices be issued to the respondents-department & learned GP for record and preliminary hearing on 24-08-2015 at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

26.10.2015

Appellant in person and Mr. Farhaj Sikandar, GP for the respondents present. Counsel for the appellant is not available, therefore, case to come up for preliminary hearing at camp court, D.I.Khan on 29-12-15.





MEMBER
Camp Court, D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No: 380/2015

S.No!	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.05.2015	<p>The appeal of Mr. Irfanullah Khan presented today by Mr. Shaikh Iftikharul Haq 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> <p>This case is entrusted to Tuging Bench D.I.Khan for preliminary hearing to be put up thereon <u>25-05-2015</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>
2		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

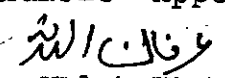
SERVICE APPEAL NO. 380 2015

Irfan Ullah Khan V/S Govt of K.P.K etc

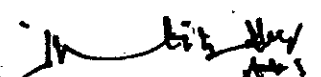
INDEX,

S.No.	Particulars of documents	Annexure	Pages.
1.	Memo and grounds of the Appeal.	-	1-3
2.	Copy of appointment order	A	-4-
3.	Copy of Medical Certificate & Joining Report	B	5-6
4.	Copy of Departmental Appeal	C	-7-
5.	Wakalatnama.	-	-8-

Your Humble Appellant.


Irfan Ullah Khan

through Counsel


(Shaikh Iftikharul Haq)
Advocate High Court.

Dated. 30.4.2015.

BEFORE THE HON'BLE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No. 380 2015

Irfan Ullah Khan S/O Abdul Ghaffar Khan,
Caste Kundi (Presently Naib Qasid ,
D.H.Q Hospital Tank)

Appellant.

A.W.P. Province
Service Tribunal
Diary No. 437
Date 4-5-2015

V/S

vide order sheet
dated 22-1-19
nomenclature of
posts 3 & 4 has
been changed

1. Govt of K.P.K through Secretary Health Peshawar.
2. Director Health Services K.P.K Peshawar.
District Health Officer, Tank.
3. ~~District Executive Officer Health Distt:Tank.~~
4. ~~District Civil Hospital (DHQ) Tank.~~ *Medical Superintendent District Headquarters Hospital Tank.*
5. District Accounts Officer, Distt:Tank.

Respondents

Service Appeal under Section 4 of Khyber Pakhtunkhwa
Service Tribunal Act 1974

Prayer.

On acceptance of the instant Appeal the Respondent
authorities may be directed to release the Salaries
of the Appellant

~~Not to file~~
[Signature]
Registrar
4/5/15

Respectfully Sheweth,

1. That the Appellant was appointed as Naib Qasid in the D.H. Q Hospital Tank on the basis of the disabled Quota vide office order bearing No. 1405-08 dated.7.6.2014 by D.H.O Tank . Copy of the appointment order is enclosed as Annexure A.

[Handwritten signature]

2. That after obtaining Medical Certificate and submitting it with the Joining Report, Appellant resumed his duty in the D.H.Q Hospital Tank and since then the Appellant is working/performing his duty to the entire satisfaction of his Superiors. Copy of Medical Certificate alongwith Joining report is enclosed as Annexure B.

3. That the Appellant requested the Respondent authorities time and again for releasing his Salaries but no heed have given to the request of the Appellant.

4. That the Appellant then submitted a Departmental/ Appeal /Representative to the Respondent No.2 (Director General Health Services) for redressal of his grievance response of which have not been received within the stipulated period. Copy of Departmental appeal is enclosed as Annexure C.

5. That the Appellant having no other adequate/ appropriate remedy except the instant Appeal before this Hon'ble Tribunal inter alia on the following grounds.

GROUNDS.

1. That the act and omission of the Respondent authorities while not releasing his salaries is illegal, unlawfull and without lawful authorities.

2. That there is any Complaint against the Appellant, but despite of the fact that the Appellant is performing his duties he has been deprived from payment of his salaries.

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AOK

3

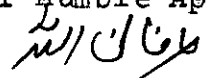
-3-

3. That the Appellant have already fullfiled all the formalaties required for getting his salaries . But the Respondent authorities are reluctant to make payment of his Salaries.

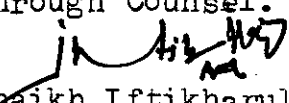
4. That the Counsel of the Appellant may kindly be allowed to raise additional grounds during course of hearing .

In wake of submissions Made above it is humbly prayed that the Respondent authorities may be directed to release the Salariss of the Appellant.

Your Humble Appellant


Irfan Ullah Khan

through Counsel.

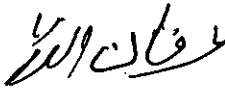

(Shaikh Iftikharul Haq)

Advocate High Court.

Dated. 30.4.2015.

Affidavit.

I, Irfan Ullah Khan S/O Abdul Ghaffar R/O Tank do hereby solemnly affirm and declare on oath that the contents of the Appeal are true and corrett to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.


Deponent.



30/4/15

4

OFFICE OF THE DISTRICT HEALTH OFFICER TANK.

Ann-A



No: 1405-81

Dated: 7/06/2014.

To

Mr. Irfan Ullah S/O Abdul Ghaffar
R/O Muhammad Akbar Tank.

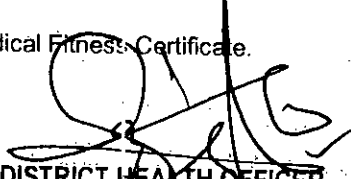
Subject:-

OFFER OF APPOINTMENT.

Memo

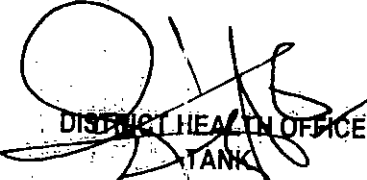
The Govt. hereby offers you a post of Naib Qasid against the vacant post (Disable Quata) in DHQ Hospital Tank in BPS-01 Viz: @ Rs 4800-150-9300/-PM plus usual allowances as admissible under the rules and subject to revision time to time on the following terms and conditions according to the Government Policy.

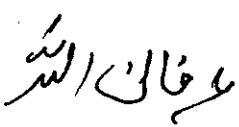
1. Your appointment in the Health Department is purely on temporary Basis and your services are liable to be terminated at any time without giving notice or assigning irrespective of the facts that you may belong to a post other than one to which you are recruited.
2. You have to join duty at your own expenses in case you wish to resign at any time one month notice will be essential or in lieu thereof one month pay shall be forfeited.
3. You will be governed by such rules and orders relating to leave, TA, Medical charges as may be issued by the Govt. from time to time for the category of Government Servant to which you may belong.
4. If you accept the offer on the above conditions you should report to this for further duty within fifteen (15) days of the receipt of this letter, failing which your services will be terminated.
5. The appointment will be subject to the production of Medical Fitness Certificate.


DISTRICT HEALTH OFFICER
TANK.

Cc:-

1. MEDICAL Superintendent Hospital Tank.
2. District Accounts Officer Tank.
3. Account Clerk of this Office.
4. Estab. Clerk of this office.


DISTRICT HEALTH OFFICER
TANK.

Attested to be true copy


5

MEDICAL CERTIFICATE

Ann - B

Name of Official MR. IRFAN ULLAH
 Caste or Race KUNDI
 Father's Name ABDUL GHAFAR.
 Residence MOHD AKBER P. O PAI TEHSIL TANK DISTRICT TANK
 Date of Birth 25 / 12 / 1972 / N.I.C. Number 12201 - 3158793 - 3
 Height 5 - 6
 Personal marks of Identification NIL
 Signature of the Official MR. IRFAN ULLAH
 Signature of _____
 Head of Office _____

Seal of Office _____

I do hereby certify that I have examined Mr. IRFAN ULLAH
 a candidate for employment in the Office of
 the HEALTH DEPT

And cannot discover that he had any disease communicable or other constitutional affection or bodily
 Infertility expect NIL I do not consider this as disqualification for employment
 in the office of the HEALTH DEPT

His age according to his own statement 41 yrs. year and by appearance about
 Years 41 yrs.

Left side body is swollen
PPD

Disabled



LEFT HAND THUMB AND FINGER IMPRESSIONS

Attested to be true copy
 فيفان ايوبي

Medical Superintendent
 MCHQ Hospital Tank
 District Superintendent
 MCHQ Hospital Tank
 Dated Tank

25/6/72

کتابت خانہ - M/S D.H.Q. (6) مستحق کتابت

خانہ عالی

تذکرہ تلامذہ عالیہ - C کوالا D.H.Q. مستحق کتابت

1405-8 تاریخ 7/6/2014 کو اسٹیڈیو

ڈاکٹر صاحبزادہ - صاحبزادہ عارفہ عرفہ صاحبہ

عین نواز صاحبہ

اللہ
تاریخ 8/6/2014

عجل عرفان اللہ ولد عبدالغفار صاحب

D.H.Q. مستحق کتابت

Signature

عرفان اللہ

Attached to the
true copy
کتابت خانہ

(7)

Ann- "C"

To:

The Director General Health Services,
K.P.K. Peshawar.

Subject: Departmental Appeal/Representation
for non implementing the appointment
order of the Applicant & release of Salaries.

Respectfully Sheweth,

That the Applicant was appointed as a Naib Qasid in the BHQ Hospital Tank on the basis of disabled Quatta vide order bearing No.1405-8 dated.7.06.2014 .
Copy of the same is enclosed .

That after obtaining Medical Certificate and submitting Joining report the Applicant resumed his duty in the B.H.Q Hospital Tank and since then the Applicant is working/performing his duty to the entire satisfaction of my superiors.

That Approximate seven months is lapsing which the Applicant is resumed duty and ^{for} performing duty .No salaries are being paid to me .

I tried my best to request the Distt:Accounts Office Tank and B.H.O Tank for releasing my salaries but in vain. Thus the Applicant have no other remedy but to approach your honour to kindly direct the B.H.O. and Accounts Office Distt. Tank to release my salary .

Attached to be true
[Signature]

I shall pray for your long life and prosperity.

Your Humble Applicant.

[Signature]
Irfan Ullah Khan
Naib Qasid BHQ Hospital Tank.

Dated 28.1.2015.

No. 1032

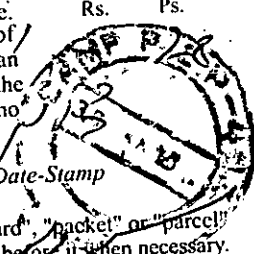
For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgment is due.

Rs. Ps.

Received a registered
addressed to

[Handwritten signature]

Date-Stamp



Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

Initials of Receiving Office

Insured for Rs. (in figures)

(in words)

If insured.

Insurance fee Rs. Ps. (in words) Weight Kilo Grams

Name and
address
of sender

[Handwritten signature and address]

SERVICE APPEAL 370/2015

Infam ULLAH

V/S

GOVT OF K.P.K

REJOINDER TO REPLY/COMMENTS OF RESPONDENTS

Respectfully Sheweth,

REJOINDER TO PRELIMINARY OBJECTION.

- 1) That Para No. 1 is incorrect. The Appellant being a Civil Servant, the Appeal of the Appellant is competent and maintainable (Appointment is already Annexured with the Appeal)
- 2) That the Respondents have not explained that what ground the Appellant is estopped. Thus the para is incorrect, hence denied.
- 3) That the Para/comments of Respondent is vehemently denied. The Appellant has been appointed, but he has not been paid the Salaries. Thus he has genuine grievances rightly filed present Appeal before this Hon'ble Tribunal.
- 4) That Para No. 4 of Respondent is incorrect. He has Come to this Tribunal with clear hands.
- 5) That Para of the Respondent is incorrect. He has not explained that what party have not been impleaded. Thus the Para is denied.
- 6) That Para No. 6 of preliminary objection is incorrect. The Appeal of the Appellant is well within time. Thus the para is denied.
- 7) That the Appellant being a Civil Servant, this Hon'ble Tribunal has got jurisdiction to entertain the instant Appeal.
- 8) The Para is incorrect. The Appeal is much competent in present form and style. The para is denied.

Amir

9. The Para is vehemently denied. The Appellant has genuine grievances. His appointment order as Civil Servant is still stand in field. Thus the Appellant has filed Service Appeal before this Hon'ble Tribunal and the Appeal is well competent.
10. That Para No. 10 of the Respondent is incorrect. And The Appellant is hopeful that his case will be decided in his favour.
11. That Para No. 11 of Respondent is incorrect. The Appellant has genuine grievances having Civil Servant have ~~getting~~ of action. Thus denied.

REJOINDER TO FACTS.

1. That the Respondent ~~has~~ admitted the para of Appellant. Thus needs no further comments.
2. That the Para of Respondent is incorrect. The Appellant have already submitted Joining report alongwith Medical Fitness report and working in the Health Department. Thus the para is denied.
3. That the Para is incorrect. The Appellant has already submitted his Joining report alongwith fitness Certificate. (Copy of which is already enclosed with the instant Appeal and is attending the duty. But the Respondent authorities are not allowing the Appellant to mark attendance. In regard no any charge sheet explanation is existing in the personal record of the Appellant. If there was any dispute, they were required to call explanation and cancelled the appointment order. Thus the para is vehemently denied.

Handwritten signature/initials

- 4. That Para No. 4 of the Respondent is incorrect. The Appellant has filed Appeal and the copy of which was already annexed with the Instant Appeal.
- 5. That the para is incorrect, vehemently denied. The Appointment order is still in field.

REJOINDER TO GROUNDS.

- 1. That Para of grounds is incorrect. The appellant has been appointed after fulfilling formalities of the appointment. No cancellation order of appointment have been issued, neither show cause nor any enquiry have been conducted against any Officer, who allegedly issued incorrect or false appointment of the Appellant. The Appellant may not be punished on the flaws rendered by the Authority. Thus the para is vehemently denied.
- 2. That the Arrival report and Medical fitness certificate has already submitted and Copy of ~~of which~~ ~~is~~ ~~attached~~ ~~to~~ ~~the~~ ~~instant~~ ~~Appeal~~. The Respondent authorities are not allowing the Appellant to mark his attendance in the Attendance register. Thus the para is denied.
- 3. That the Para of the Respondent is denied. If there was no Vacant Post of the Naib Qasid. Then they were required to cancel the Appointment order, ^{of Junior} This appointment order is still in field and the Appellant has due right for his salaries.

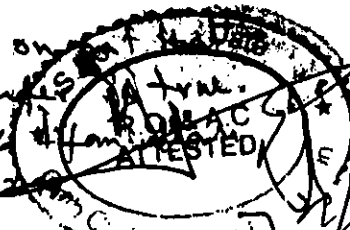
In wake of submissions made above that the Appeal of the Appellant may kindly be accepted and the salaries of the appellant may be released.

Your Humble Appellant.

Iqbal Ullah

through Counsel.

Dated: 20.6.2000



Handwritten notes:
Iqbal Ullah
Amw

Handwritten notes:
It is solemnly affirmed on oath that the contents of the foregoing are true and correct.

24/08
BEFORE HON'BLE SERVICE TRIBUNAL K.P.K.

SERVICE APPEAL 373/2015

Irfan ULLAH

V/S

GOVT OF K.P.K

REJOINDER TO REPLY/COMMENTS OF RESPONDENTS

Respectfully Sheweth,

REJOINDER TO PRELIMINARY OBJECTION.

- 1) That Para No. 1 is incorrect. The Appellant being a Civil Servant, the Appeal of the Appellant is competent and maintainable (Appointment is already Annexured with the Appeal)
- 2) That the Respondents have not explained that what ground the Appellant is estopped. Thus the para is incorrect, hence denied.
- 3) That the Para/comments of Respondent is vehemently denied. The Appellant has been appointed, but he has not been paid the Salaries. Thus he has genuine grievances rightly filed present Appeal before this Hon'ble Tribunal.
- 4) That Para No. 4 of Respondent is incorrect. He has Come to this Tribunal with clean hands.
- 5) That Para of the Respondent is incorrect. He has not explained that what party have not been impleaded. Thus the Para is denied.
- 6) That Para No. 6 of preliminary objection is incorrect. The Appeal of the Appellant is well within time. Thus the para is denied.
- 7) That the Appellant being a Civil Servant, this Hon'ble Tribunal has got jurisdiction to entertain the instant Appeal.
- 8) The Para is incorrect. The Appeal is much competent in present form and style. The para is denied.

Irfan
A.P.M.

9. The Para is vehemently denied. The Appellant has genuine grievances. His appointment order as Civil Servant is still stand in field. Thus the Appellant has filed Service Appeal before this Hon'ble Tribunal and the Appeal is well competent.
10. That Para No. 10 of the Respondent is incorrect. And The Appellant is hopeful that his case will be decided in his favour.
11. That Para No. 11 of Respondent is incorrect. The Appellant has genuine grievances having Civil Servant have ~~copy~~ of action. Thus denied.

REJOINDER TO FACTS.

1. That the Respondent have admitted the para of Appellant. Thus needs no further comments.
2. That the Para of Respondent is incorrect. The Appellant have already submitted Joining report alongwith Medical Fitness report and working in the Health Department. Thus the para is denied.
3. That the Para is incorrect. The Appellant has already submitted his Joining report alongwith fitness Certificate. (Copy of which is already enclosed with the instant Appeal and is attending the duty. But the Respondent authorities are not allowing the Appellant to mark attendance. In regard no any charge sheet explanation is existing on the personal report of the Appellant. If there was any dispute, they were required to call explanation and cancelled the appointment order. Thus the para is vehemently denied.

*in file
AW*

- 4. That Para No. 4 of the Respondent is incorrect. The Appellant has filed Appeal and the copy of which has already annexed with the Instant Appeal.
- 5. That the para is incorrect, vehemently denied. The Appointment order is still in field.

REJOINDER TO GROUNDS.

- 1. That Para of grounds is incorrect. The appellant has been appointed after fulfilling formalities of the appointment. No cancellation order of appointment have been issued, neither show cause nor any enquiry have been conducted against any Officer, who allegedly issued incorrect or false appointment of the Appellant. The Appellant may not be punished on the flaws rendered by the Authority. Thus the para is vehemently denied.
- 2. That the Arrival report and Medical fitness certificate has already submitted and copy of which is also annexed with the instant Appeal. The Respondent authorities are not allowing the Appellant to mark his attendance in the Attendance register. Thus the para is denied.
- 3. That the Para of the Respondent is denied. If there was no Vacant Post of the Naib Qasid. Then they were required to cancel the Appointment order, This appointment order is still in field and the Appellant has due right for his salaries.

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In wake of submissions made above that the Appeal of the Appellant may kindly be accepted and the salaries of the appellant may be released.

Your Humble Appellant.

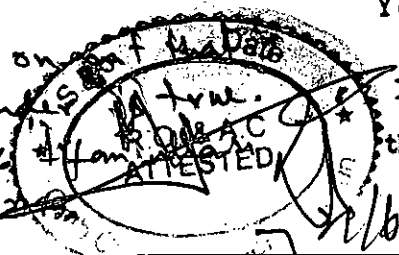
Affidavit:

It is solemnly affirmed on oath that the contents of rejoinder are true.

Irfan Ullah

through Counsel.

Dated. 20.6.2020



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR, CAMP COURT D.I.KHAN

In service Appeal No.380/2015

Irfanullah
(Appellant)

VERSUS

Govt. Of KPK etc
(Respondents)

APPLICATION FOR WITHDRAWAL OF ABOVE TITLED
APPEAL WITH THE PERMISSION TO FILE AFRESH APPEAL
BY IMPUGNING/CHALLENGING THE ORDER BEARING
ENDST#765-69 DATED 27/02/2019 ISSUED BY THE
DISTRICT HEALTH OFFICER TANK FURNISHED DURING
THE PENDENCY OF ABOVE TITLED SERVICE APPEAL WITH
FURTHER PRAYER TO CONDONE THE TIME PERIOD AS THE
IMPUGNED ORDER CAME INTO THE KNOWLEDGE OF THE
APPELLANT'S COUNSEL TODAY DURING HEARING.

Respectfully Sheweth:-

That appellant/petitioner humbly submits as under:-

1. That the above mentioned service appeal is pending adjudication in this Honourable Tribunal which is fixed for today.
2. That the appellant was initially appointed on 07/06/2014 as Naib Qasir on the basis of disable quota in the incumbency of District Health Officer Tank.
3. That the respondent/authority did not pay the salaries for the which the appellant submitted various representations and lastly submitted the above titled appeal.
4. That during the pendency of appeal, the respondent/authority submitted the impugned order bearing Endst#765-69 dated 27/02/2019, wherein the appointment order of the appellant

*Def
Muzammil
26.8.2019*

*in
26/8/19*

bearing Endst#1505-8 dated 07/06/2014 was withdrawn mala-fidely.

5. That the counsel for the appellant came to know from the aforementioned impugned order today during hearing, hence, in the light of attendant circumstances the appellant wants to withdraw the aforementioned appeal to file afresh representation/departmental appeal before the competent forum and in case of aggrieved to file a fresh service appeal before this honourable Tribunal.

It is therefore, humbly requested that the instant service appeal may kindly be withdrawn with the permission to file afresh representation/departmental appeal and in case of refusal/non acceptance to file afresh service appeal by condoning the delay (if any although not admitted).

Dated: 26/08/2019

Your Humbly Appellant


Irfanullah

Through Counsel

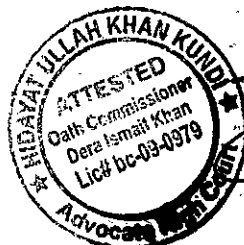

Shekh Iftikhar ul Haq
Advocate high Court

AFFIDAVIT

I, **the appellant**, do hereby solemnly affirm and declare on oath that contents of this application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Dated: 26/08/2019


DEPONENT



26/8/19

SERVICE APPEAL 370/2015

Inf ~~AMM~~ ULLAH

V/S

GOVT OF K.P.K

REJOINDER TO REPLY/COMMENTS OF RESPONDENTS

Respectfully Sheweth,

REJOINDER TO PRELIMINARY OBJECTION.

- 1) That Para No. 1 is incorrect. The Appellant being a Civil Servant, the Appeal of the Appellant is competent and maintainable (Appointment is already Annexured with the Appeal)
- 2) That the Respondents have not explained that what ground the Appellant is estopped. Thus the para is incorrect, hence denied.
- 3) That the Para/comments of Respondent is vehemently denied. The Appellant has been appointed, but he has not been paid the Salaries. Thus he has having genuine grievances rightly filed present Appeal before this Hon'ble Tribunal.
- 4) That Para No. 4 of Respondent is incorrect. He has Come to this Tribunal with clean hands.
- 5) That Para of the Respondent is incorrect. He has not explained that what party have not been impleaded. Thus the Para is denied.
- 6) That Para No. 6 of preliminary objection is incorrect. The Appeal of the Appellant is well within time. Thus the para is denied.
- 7) That the Appellant being a Civil Servant, this Hon'ble Tribunal has got jurisdiction to entertain the instant Appeal.
- 8) The Para is incorrect. The Appeal is much competent in present form and style. The para is denied.

Amw

9. The Para is vehemently denied.. The Appellant has genuine grievances . His appointment order as Civil Servant is still stand in field .Thus the Appellant has filed Service Appeal before this Hon'ble Tribunal and the Appeal is well competent.
10. That Para No.10 of the Respondent is incorrect. And The Appellant is hopeful that his case will be decided in his favour.
11. That Para No.11 of Respondent is incorrect. The Appellant has genuine grievances having Civil Servant have ~~scope~~ of action. Thus denied.

REJOINDER TO FACTS.

1. That the Respondent have admitted the para of Appellant .Thus needs no further comments.
2. That the Para of Respondent is incorrect.The Appellant have already submitted Joining report alongwith Medical Fitness report and working in the Health Department. .Thus the para is denied.
3. That the Para is incorrect.The Appellant has already submitted his Joining report alongwith fitness Certificate.(Copy of which is already enclosed with the instant Appeal and is attending the duty.But the Respondent authorities are not allowing the Appellant to mark attendance. In regard no any charge sheet explanation is existing on the personal record of the Appellant. If there was any dispute , they were required to call explanation and cancelled the appointment order.Thus the para is vehemently denied.

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1/12/24

4. That Para No. 4 of the Respondent is incorrect. The Appellant has filed Appeal and the copy of which was already annexed with the Instant Appeal.
5. That the para is incorrect. vehemently denied. The Appointment order is still in field.

REJOINDER TO GROUNDS.

1. That Para of grounds is incorrect. The appellant has been appointed after fulfilling formalities of the appointment. No cancellation order of appointment have been issued, neither show cause nor any enquiry have been conducted against any Officer, who allegedly issued incorrect or false appointment of the Appellant. The Appellant may not be punished on the flaws rendered by the Authority. Thus the para is vehemently denied.
2. That the Arrival report and Medical fitness certificate has already submitted and copy of which is also annexed with the instant Appeal. The Respondent authorities are not allowing the Appellant to mark his attendance in the Attendance register. Thus the para is denied.
3. That the Para of the Respondent is denied. If there was no Vacant Post of the Naib Qasid. Then they were required to cancel the Appointment order, ^{of Junior} This appointment order is still in field and the Appellant has due right for his salaries.

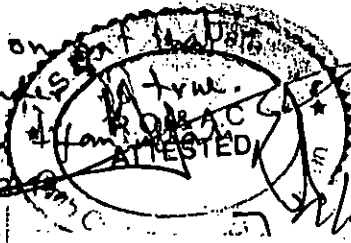
In wake of submissions made above that the Appeal of the Appellant may kindly be accepted and the salaries of the appellant may be released.

Your Humble Appellant.

Iyem Ullah

through Counsel.

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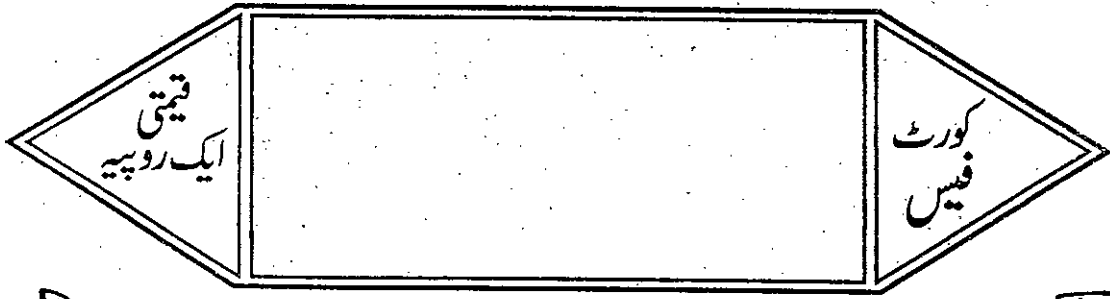
Dated. 20.6.2020

Handwritten note: Affidavit. It is solemnly affv on the contents of rejoinder.

Handwritten initials: J. L. M. / Ann

8

وکالت نامہ



Before the Khyber Pakhtunkhwa Service Tribunal تہ عدالت

Appellant Irfan Ullah Khan مخبر

Irfan Ullah Khan vs Govt of K.P.K etc

Service Appeal up 4 دعوی یا جرم

K. P. Khwa Service Tribunal Act تفصیل دعوی یا جرم

باعث تخریر آنکہ

D. I. Khan کیلئے

Shahin Afshar ul Haq, Advocate, High Court

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ رو برو عدالت حاضر ہوتا ہوں گا اور ہر وقت بیکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پرودی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا عنت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخست صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسلئے ڈگری نظر ثانی اپیل نگرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر پٹائی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مرکوز بیرون از پکھری صدر پرودی مقدمہ مرکوز نظر ثانی اپیل و نگرانی و برآمدگی مقدمہ یا منسوخ ڈگری یک طرفہ یا درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا جنگی علیحدہ مختص پرودی کا اختیار ہو گا اور تمام ساختہ پر داخست صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مرکوزہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل نگرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا بیرٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور دیسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پرودی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

تاریخ 30 اپریل 2015 ماہ

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

Attested

Accepted
(Signature)
Sh. Afshar ul Haq
Adv.

(Signature)

Signature of Appellant

BEFORE THE HONOURABLE SERVICE TRIBUNAL
PESHAWAR, D.I.KHAN BENCH

IRFANULLAH

versus

Govt of KPK

Appeal No 380/2015

PARWISE REPLY ON BEHALF OF REPENDENTS

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS

- 1- That the appeal is not maintainable and incompetent in the eyes of Law in the present form
- 2- The appellant is estopped due to his own conduct to file this appeal.
- 3- That the appellant has got no cause of action and locus standee to file instant appeal.
- 4- That the appellant does not come to the Tribunal with clean hands and has suppressed all relevant facts.
- 5- The appeal is bad for misjoinder /non-joinder of necessary parties.
- 6- That the appeal is badly time bared and the appellant has concealed the material facts from Honorable Tribunal.
- 7- The Honorable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
- 8- That the appeal has been mis-oriented , mis-constructed and mistakenly drawn and is in competent in its present frame and context, and is liable for Rejection.
- 9- That the appeal is weak having no force, fabricated, fictitious, based on ill will, mollified and having no footings in the eyes of law.
- 10- That the proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this Honorable Tribunal.
- 11- That as stated in the objection supra, the appeal is bereft of cause of action and is liable to dismissal .

On Facts.

1. Para No 1 is correct, the offer of appointment in DHQ hospital tank to the appellant was issued by the then District Health Officer Tank
2. Para No 2 is incorrect because the appellant neither performed his duty nor submitted any arrival report to Medical Superintendent DHQ Tank after appointment order.
3. Para No 3 is incorrect not admitted because the appellant did not submitted his arrival report as well as no record found in the office of respondent about attendance and duty performed in DHO/DHQ Tank.

4. Para No 4 is incorrect no appeal was filed by the appellant
5. Incorrect the appellant has no vested rights to knock the doors of this Honorable Tribunal for his so called grievance, Thus Liable to be dismissed. However the same was withdrawn due to no availability of post copy of letter as Annexure (1)

GROUNDS

1. Incorrect denied No vacant post of Naib Qasid is available in DHQ Hospital Tank since 2014
2. Incorrect the appellant not submitted his arrival report to Medical Superintendent Tank and no attendance of appellant has been found on attendance register.
3. Incorrect because the appellant never perform any duty in view of the fact that no post of Naib qasid is vacant.
4. Pertains to record

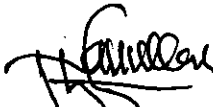
PRAYER

It is therefore humbly prayed that on acceptance of this para wise comments the instant appeal may kindly be dismissed with cost.



14/03/19

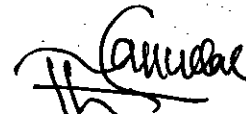
Secretary Health
Government of Khyber Pakhtunkhwa
Health Department Peshawar
(Respondent 1)



Medical Superintendent
DHQ Hospital Tank
(Respondent 4)



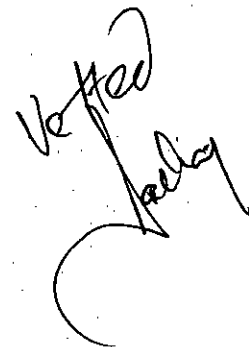
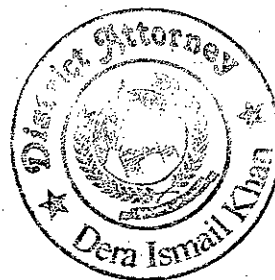
Director General Health Services
Khyber Pakhtunkhwa
(Respondent 2)



DISTRICT HEALTH OFFICER
Tank
(Respondent 3)



District Account Officer
Tank (Respondent 5)






**OFFICE OF THE
DISTRICT HEALTH OFFICER
DISTRICT TANK**

Phone: 0963-510755
Fax: 0963-510755

AUTHORITY LETTER

Mr. Sami Ullah DEO is hereby authorized to attend the honorable Service Tribunal Camp Court
D.I.KHAN bench on my Behalf


**District Health Officer
District Tank**

BEFORE THE HONOURABLE SERVICE TRIBUNAL
PESHAWAR, D.I.KHAN BENCH

Appeal No, 380/2015

IRFAN ULLAH

versus

Govt- KPK

AFFIDAVIT

I, Sami ullah, Data Entry Operator to District Health officer, Tank do hereby solemnly affirm and declare that the contents of Para wise Reply are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

Sami
DEPONENT

12101-1984324-9

Annexure (1)



**OFFICE OF THE DISTRICT
HEALTH OFFICER DISTRICT TANK**

Phone: 0963-510755

Fax: 0963-510755



OFFICE ORDER.

This office appointment order No. 1405-8/- dated 07/06/2014 is hereby with drawn due ^{to} non availability of vacant post in the interest of public.

XXXXXXXXXXXXXXXXXXXX
DISTRICT HEALTH OFFICER
DISTRICT TANK

No. 765-691

Dated 27/02/2019

Copy is forwarded to the:

1. DAO Tank.
2. District T.B Control Office Tank.
3. Mr. Irfanullah S/O Abdul Ghafar Khan R/o Muhammad Akber
District Tank.
4. Office Assistant.

DISTRICT HEALTH OFFICER
DISTRICT TANK