

Before KP Service Tribunal, Peshawar

Dr. Ali Raza Vs Health Dept.

Application for adjournment due
to filing some documents on record.

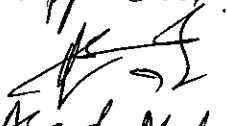
Hon'ble Tribunal,

Appellant wants to place submit as under:

- 1- The instant appeal is pending for arguments before the Hon'ble Tribunal and date was fixed for today.
2. On perusal of record while arguing the case, it was necessary to file documents on record:
 - a). Acquittal order of appellant.
 - b). 2nd & 3rd inquiry
 - c). Withdrawal of termination order & service restoration of appellant. vide order dt. 26th 2015.
3. The above mentioned documents are necessary to be placed on file to come to fair conclusion & to decide the appeal in favour of appellant.

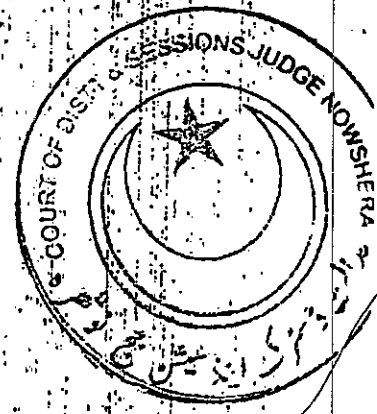
It is requested to grant an adjournment for today to bring the documents on file & to get a fair and just decision from the Hon'ble Tribunal.

Through

Appellant

Asad Mahmood
Advocate

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IN THE COURT OF MRS. RASHIDA BANO,
ADDITIONAL SESSIONS JUDGE-II, NOWSHERA.



Case No...SC-140 of 2013.

Date of original institution12.09.2012.
Date of institution in this court.....29.11.2013.
Date of Decision.....20.05.2014.

State

Iqbal Hussain s/o Lateef Ullah r/o Ashoor Abad; District Nowshera.
..... (Complainants)

Versus

1. Dr. Ali s/o Akhtar Ali r/o Eid Gah Road Peshawar.
 2. Sajjad s/o Alam Gul r/o Afrido Kalay.
 3. Khalid s/o Khan Sahab r/o Umer Zai, District Charsadda
 4. Noor Dil s/o Niamat Khan r/o village Kheshgi Payan, District Nowshera.
 5. Miss Shah Rukh LHV d/o Abdul Hameed r/o village Hoti District Mardan.
 6. Miss Kousar Naz LHV d/o Fazal Amin r/o Akora District Nowshera.
-(Accused facing trial).

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CASE FIR NO.391 DATED 04.05.2012 REGISTERED
UNDER SECTION 322/148/149 PPC POLICE STATION
NOWSHERA KALAN, DISTRICT NOWSHERA.

JUDGMENT.
20.05.2014

Handwritten signature and date: 20/5/14

1. My this judgment is aimed at disposal of the instant case registered against above named accused vide FIR No.391 dated 04.05.2012 under section 322/148/149 PPC Police Station Nowshera Kalan.

2. Succinctly stated facts of the case are that on 27.04.2012, complainant namely Iqbal Hussain submitted an application to the SHO PS Nowshera Kala, stating therein that his brother namely Gul Hussain constable No. 1364, at 1245 hours became ill at his house, who was brought to the DHQ hospital, Nowshera Kalan for treatment, however there was no doctor available in the Emergency ward. That his brother namely Gul Jameel went to the mosque of hospital and made an announcement in its loud speaker that his younger brother is sick and if there is any doctor available in the hospital, provide him

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treatment, so he may be saved. That after 45 minutes, Dr. Ali Raza came there and became frustrated and straight forwardly refused treatment of his brother by throwing away the telescope and BP checker on ground, that in the meantime his ailed brother passed away; however, for the sake of satisfaction, they brought him to the CMH hospital, Nowshera, wherein the doctor confirmed his death and issued them death certificate. The complainant charged Dr. Ali Raza for the commission of offence. The report of complainant was reduced into Mad No. 20 dated 27.04.2012 and after doing legal opinion the learned DPP, Nowshera, the instant FIR was registered against the accused facing trial.

3. After completion of investigation the complete challan was submitted against accused facing trial. Accused made their attendance on 28.09.2012 and provisions u/s 265-Cr.PC was complied with and accused facing trial were charge sheeted on 10.10.2012 to which they pleaded not guilty and claimed trial. Therefore, prosecution witnesses were summoned. Prosecution produced the following witnesses the resume of their statements is given as follows.

4. PW-01 Iqbal Hussain s/o Latif ur Rehman r/o Khattak Colony Ashorabad, District Nowshera. He supported the contents of his report.

5. PW-02 Gul Jameel s/o Latifullah r/o Khattak Colony. He is brother of complainant and supported the report of complainant.

6. PW-03 Said Ahmad Khan SI/SWC District Courts Nowshera. He stated that after registration of the case, investigation was entrusted to him. He approached through a special letter addressed to Health Department for the arrest of the accused facing trial vide his application Ex.PW3/1. Similarly, he prepared list of legal heirs of deceased Gul Hussain which is Ex.PW3/2. After submitting BBA petition he formally ^{Arrested} accused Sajjad Khan the card of arrest is Ex.PW3/3. Similarly, he has also prepared and issued card of arrest of accused i.e Dr. Ali Raza and others which is Ex.PW3/4. He recorded statements of PWs u/s 161 Cr.PC. He recorded the statement of those accused whose BBA was confirmed by the Court and arrested accused Dr. Ali Raza in the instant case whose BBA

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was recalled. He produced the accused Ali Raza for obtaining his custody and one day custody was granted by the Court vide his application Ex.PW3/5. He again applied to the Court of Judicial Magistrate for sending the accused to judicial lockup vide his application Ex.PW3/6. After completion of entire investigation he submitted the entire file to the SHO for further proceedings.

7. PW-04 Ismail Shah, SI Traffic District Nowshera. He stated that on completion of investigation in the instant case, he has submitted complete challan against the accused on 23.05.2012.

8. PW-5 Faqir Muhammad SI, PS Pabbi. He stated that after registration of the report of the complainant in the shape of Naqal Mad NO. 20 dated 27.04.2012, investigation in the shape of proceeding u/s 156(3) Cr.PC was handed over to him. He visited to the spot of occurrence, prepared site plan Ex.PB at the instant of complainant in presence of marginal witnesses. He took into possession the death certificate and taking over certificate, death certificate Ex.PW5/1 and taking over certificate Ex.PW5/2 vide recovery memo Ex.PW5/3. He got proper permission for proper inquiry u/s 156(3) Cr.PC vide application Ex.PW5/4. In the inquiry proceedings he obtained duty slips consisting upon 3 sheets from the concerned register dated 27.04.2012 which is Ex.PW5/5. He placed on file copy of reply of explanation dated 30.04.2012 by accused Dr. Ali Raza. He took into possession Ex.PW5/5 vide recovery memo is Ex.PW5/6. After completion of inquiry he applied to DPP Nowshera for his opinion vide his application Ex.PW5/7 and upon the opinion of DPP Nowshera, instant FIR was lodged against accused facing trial. He recorded statement of PWs u/s 161 Cr.PC.

9. PW-06 Sana Ullah FC No. 116 PS Risalpur. He stated that in his presence the IO took into his possession, the death certificate Ex.PW5/2 and handing taking over certificate Ex.PW5/1 into his possession from CMH Hospital Nowshera vide recovery memo Ex.PW5/3. He is also marginal witness to the recovery memo Ex.PW5/6 vide which the IO took into his possession in his presence as well as in the presence of other marginal

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witness Rovaid duty slip and central registration point register of DHQ hospital Nowshera Ex.PW5/5 consisting upon 3 sheet.

10. On 24.04.2014 learned APP for the state and counsel for the complainant abandoned the remaining PWs and closed the prosecution evidence. Statements of the accused facing trial recorded u/s 342 Cr.PC wherein they professed their innocence, however, did not opt to be examined on oath nor to produce evidence in their defense.

11. Arguments advanced by the learned APP for the state assisted by learned counsel for complainant and learned counsel for accused facing trial heard and record perused.

12. Learned counsel for complainant argued that prosecution has established the guilt of accused facing trial by producing the direct eye witnesses i.e PW-1 and PW-2. He further argued that accused facing trial were suspended from the services in their departmental inquiry which is also proved their guilt. Learned counsel for the complainant requested for maximum punishment to the accused facing trial due to whose negligence a person has lost his precious life despite the fact that duty of accused facing trial to save the human life.

13. Learned defense counsel argued that prosecution has miserably failed to establish the guilt of accused facing trial as alleged by them because emergency treatment was provided to the brother of complainant and due to non availability of desired and required facilities for emergency treatment of cardiac problems that's why brother of complainant after emergency first aid referred to LRH for further treatment. He further argued that accused facing trial are charged by the complainant with malafide and with ulterior motive because complainant is dealing is un-authorized business of medicine upon which the accused facing trial Dr. Ali Raza was objected. Otherwise no negligence has been committed by accused facing trial and they had performance their duties with the best of their ability. He further argued that prosecution evidence is full of doubts, contradictions, ambiguities and improvements, therefore same cannot be relied upon. He requested for acquittal of accused facing trial.

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14. Perusal of record reveals that complainant PW-1 reported the matter in shape of application to the DPO Nowshera Ex.PW1/1 by mentioning therein that on 27.04.2012 at 1245 hours his brother namely Gul Hussain developed some chest pain in the house at Amangarh, upon which he alongwith his other brother Gul Jameel took his ailing brother Gul Hussain immediately to DHQ hospital Nowshera for emergency treatment. When they reached to the hospital at emergency they found that no doctor was available in the emergency for looking after as well as given him first aid treatment to the patient brought by them in the emergency. They searched for doctors and other staff in the hospital. His brother Gul Jameel went to the mosque in the hospital and loudly calls the doctors to come and attend their patient. After 45 minutes Dr. Ali Raza accused facing trial came and became angry threw his setisscope and BP operator and bluntly refused to examine and give first aid treatment to their brother, due to which is brother Gul Hussain died. After that they for their own satisfaction transfer the patient to CMH Nowshera where at 2.00 pm doctor on duty confirmed the factum of death of their brother Gul Hussain. The occurrence was witnessed by besides complainant, Gul Jameel, Shahjee Gul, Muhammad Iqbal, Fayaz Khan, Zar Muhammad and Taufeeq etc. Complainant was handed over the dead body of Gul Hussain by CMH's doctors. After registration of FIR, site plan was also prepared by the IO upon pointation of complainant. Pw-2 also supports the version of complainant in respect of entire episode mentioned by him during his examination in chief.

15. Initially, matter was reported in shape of Naqaf Mad No. 20 dated 27.4.2014 at 18.10 hours by complainant vide his written application Ex.PW1/1. Main contention of the complainant is that accused facing trial intentionally did not provide first aid emergency treatment to their ailing brother on 27.04.2012 due to which their brother expired but contention of the defense on the other hand is that they had provided proper first aid emergency treatment to the brother of complainant within the available resources and facilities. In this respect IO PW-5 statement who investigated the case before registration of FIR is most relevant and important who had investigated the case in hand who during

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cross examination stated that "According to duty slip register and my investigation, there was duty of Dr. Ali Raza, Dr. Phag Chand and Dr. Shamsher Ali in the hospital there. At the relevant time of occurrence, according to Ex.PW5/5 at page NO. 2 the deceased has been properly treated buy DMS Dr. Riwayat Shah and doctor present on duty and ECG was conducted, the report of ECG has also been placed on file by me which is Ex.PW5/D-1. I have recorded the statement of Nisar Ahmad OT Technicians, DHQ hospital Nowshera regarding the occurrence. According to my investigation, the said OT technician was present in the hospital at the time of occurrence. According to the statement of Nisar Ahmad the deceased was provided proper medical facilities at the relevant time of occurrence by doctors present on duty". PW-3 is IO who investigated the case after registration of FIR who too during the cross examination stated that "I have recorded the statement of Dr. Riwayat Shah u/s 161 Cr.PC according to the statement of Dr. Riwayat Shah, DMS DHQ hospital Nowshera Dr. Riwayat Shah was present at casualty of DHQ hospital Nowshera at the day of occurrence. According to the said statement of Dr. Riwayat Shah the deceased was properly provided medical treatment in DHQ hospital Nowshera and then for further management the deceased was referred to LRH Peshawar because CCU and Cardiac care unit are not available at DHQ hospital Nowshera. According to the said statement of Dr. Riwayat Shah all possible medical facilities /treatment was provided to the deceased in DHQ hospital Nowshera by Dr. Riwayat Shah and accused facing trial Dr. Ali Raza". From this statement of both the IOs, it is crystal clear that besides accused facing trial Dr. Ali Raza i.e Dr. Phag Chand, Dr. Riwayat Shah and Dr. Shamsher Ali were also present on duty on the relevant day and time and proper medical treatment within the parameters of available facilities at DHQ hospital Nowshera was provided to the ailing brother of complainant and his proper ECG has been conducted by Dr. Riwayat Shah DMS and doctors on duty. Availability of Ex.PW5/D-1 is the proof of the fact that in fact proper first aid treatment was provided to the brother of complainant which negates his version that Dr. Ali Raza when came from the mosque became angry and altercationd with

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him and bluntly refused to give treatment to his brother. If Dr. Ali Raza refused to check and give first aid treatment bluntly and no one is available to treat the brother of complainant then there arises no question of availability and existence of Ex.PW5/D-1. Moreover perusal of Central Registration Point Register which is part and parcel of Ex.PW5/5 reveals that brother of complainant was treated by Dr. Riwayat Shah and his CMO in whose opinion patient has chest pain whose ECG conducted and patient was referred to LRH Peshawar at 1.45 pm after giving emergency treatment. Entry was mentioned at S.NO. 18651. Ex.PW5/5 and Ex.PW5/D-1 was got exhibited without any objection even by the complainant even Ex.PW5/5 was got exhibited by the prosecution himself, therefore, now prosecution cannot deny from genuiness of their own exhibited document. So production of Ex.PW5/5 and Ex.PW5/D-1 reveals that patient was properly treated by the doctors available on duty. Otherwise too no doctor in the world can even think of to refuse to give medical emergency treatment to his patient because at the time of his appointment and granting degree he had taken oath that he will serve the humanity with the best of his ability and each eventuality because his profession is a secret trust which saves the human lives.

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16. In the instant case, no plausible reason is given for refusing medical emergency treatment to the brother of complainant by accused facing trial. If a person is going to commit a sin and crime which result into the lost of human life then there must be some motive and reason behind it but entire case file is silent in respect of any motive or reason of commission of offence which fact is also stated by PW-5 during his cross examination in these words "No reason has been mentioned by the complainant nor the same has been found out by me during investigation that why the accused facing trial became angry at the time of occurrence". When no reason or plausible explanation is given for becoming of accused facing trial angry then it is acceptable to a prudent mind that educated and civilized person like doctor whose job is to save the humanities without any reason became angry and refused to performs his duty, if he is not out of his senses. So story

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to the hospital/place

Complainant

narrated by the complainant that accused facing trial became angry with him without any reason and refused to give first aid treatment to his brother is not appealable to a prudent mind which creates doubts into the genuineness and truthfulness of story narrated by complainant.

17. Pw-2 brother of complainant and deceased stated during his cross examination that "My brother Iqbal Hussain deals in medicines nowadays and his medical rep too". But complainant PW-1 during his cross examination concealed the same fact of dealing with medicines business nowadays during his cross examination when he stated that "I am social worker and I owned landed property at my village. I had business of medicines however I have abandoned the same profession". If complainant is truthful and reliable then he must did not the conceal the factum of dealing of business of medicines and medical rep. keeping in view this statement of complainant in juxta position with the contention of defense that due to un authorized dealing with the medicines of the complainant, Dr. Ali Raza accused facing trial objected upon him and complainant just to take revenge from him malafidely charged him, charging of accused facing trial by complainant with malafidely cannot be ruled out.

18. So far as statement of PW-1 and PW-2 eye witness is concerned, same is full of improvements while taking injuxta position of Ex.PW1/1. Otherwise too, in the application only Dr. Ali Raza was charged for refusing from giving first aid treatment but later on complainant charged all the paramedic staff of the hospital including nurses, male and female and dispenser.

19. The other most important factor in the instant case is that cause of death of the deceased along with its time is not available on record because on record no postmortem report of the deceased is available from which cause of death and time of death can be established which either supports the contention of the complainant or otherwise. So in absence of cause of death and time of death whether same caused before reaching to the hospital or there in the hospital, contention of the complainant cannot be proved

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Complainant himself had done away with the postmortem that's why same is not available on record, which creates doubts in the mode and manner of the death of brother of complainant.

20. As sequel to my above discussion, I hereby acquit the accused facing trial by giving the benefit of doubts from the charges leveled against them. They are on bail. Their sureties are discharged from the liabilities of bail bonds.

21. File be consigned to record room after necessary completion and compilation.

Announced.

Dated. 20.05.2014.

Rashida Bano
Addl. Sessions Judge-II,
Nowshera.

Rashida Bano
20/5/14

Certificate.

Certified that my this judgment is consisted of 09 pages, each page is read over, corrected where necessary and signed by me.

Dated. 20.05.2014.

Rashida Bano
Addl. Sessions Judge-II,
Nowshera.

Rashida Bano
20/5/14

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Branch, D.S.J. Nowshera

[Signature] 02/06/14





GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 26th January, 2015

NOTIFICATION

No.SO(H)E-II/3-18/2011: The Competent Authority is pleased to withdraw this Department's Notification of even number dated 11.12.2012 and restore Notification No. SO(E)H-II/3-18/2013 to the extent of Dr. Ali Raza, MO (BS-17), DHQ: Hospital Nowshera (working on adhoc basis) appearing at Serial No. 06 and grant one year fresh contract w.ef. 25.10.2012 to 31.10.2013.

**SECRETARY HEALTH
KHYBER PAKHTUNKHWA**

Endst. No. & date even.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. MS, DHQ: Hospital Nowshera.
4. District Accounts Officer Nowshera.
5. Deputy Director (IT), Health Department.
6. PS to Secretary Health.
7. PA to Special Secretary Health.
8. Officer concerned.


(Kashif Iqbal Jilani)
Section Officer (E-II)

Ibn-e-Amin (Account Officer DHA Hospital Nowshera)

0300-5730678

No 1260 /DHQ,Hosp:NSR

Dated 25 / 05 /2015.

From:-

The Medical Superintendent,
D.H.Q,Hospital Nowshera.

To,

The Director General Health,
Services Khyber Pakhtunkhwa,
Peshawar.

Subject:- PAYMENT OF ARREAR OF PAY AND ALLOWANCE,
IN R/O DR.ALI RAZA MEDICAL OFFICER.

R/Sir,

I have the honour to forward herewith an application in R/O Dr.Ali Raza Adhoc Medical Officer which is self explanatory for favour of further necessary action please.

It is stated that Doctor concerned was terminated vide Notification No.SO(E) H-II/3-18/2011 dated:11-12-2012 and re-instated vide No.SO(H) E-II/3-18/2011 dated:26-01-2015 for a period of one year with effect from 25-10-2012 to 31-10-2013.

The concerned Doctor was not on duty during the said period, now the applicant requested for pay and allowance for the said period.

Therefore it is requested that necessary guide line may kindly be issue wether the Doctor concerned is entitled for pay and allowance or otherwise.

MEDICAL SUPERINTENDENT,
D.H.Q,HOSPITAL NOWSHERA.

Dated _____ / _____ /2015.

No _____ /DHQ,Hosp:NSR

Copy forwarded to:-

- 1.P.S to Secretary Health Khyber Pakhtunkhwa,
- 2.SO II Section of Health Department Khyber Pakhtunkhwa,for information and necessary action please.

MEDICAL SUPERINTENDENT,
D.H.Q,HOSPITAL NOWSHERA.

OFFICE
MEDICAL SUPERINTENDENT
D.H.Q HOSPITAL NOWSHERA
NO. 562 /D.H.Q. Ho.
DATE: 27 /02/2015

To:
The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

Subject: **NOTIFICATION.**

R/Sir,

Kindly refer to the Govt: of Health Department Notification No; SO H)E-II/3-18/2011, Dated: 26/01/2015.

I have the honour to say that Dr. Ali Raza Medical Officer (Adhoc) basis terminated vide Notification even No dated 11.12.2012, now the concerned doctor restored vide health department notification mentioned above and granted one year extension upto 31-10-2013.

The doctor concerned submitted charge report for duty. His contract was not renewed till now and the gap period w.e.f 01-11-2013 till now, still exists.

Therefore, it is requested that necessary guideline may kindly be given to this office to proceed further in the matter. However it is stated that the doctor concerned ^{did} not performed duty at DHQ Hospital Nowshera during the said period.


MEDICAL SUPERINTENDENT,
D.H.Q HOSPITAL NOWSHERA.

No. _____ /D.H.Q, Hosp.

Dated: _____ /02/2015.

Copy forward to Section Officer-II of Health department Khyber Pakhtunkhwa Peshawar for information please.


MEDICAL SUPERINTENDENT,
D.H.Q HOSPITAL NOWSHERA

OFFICE OF THE MEDICAL SUPERINTENDENT
DHO HOSPITAL NOWSHERA.

No. 343

Dated. 03/12/15

To,

The Director General,
Health Services, Khyber Pakhtun Khwa Peshawar

Subject:- CHARGE REPORT.
Sir,

Kindly refer to the govt. of Health Department Notification No. SO(H)E-
H/3-18/2011 dated. 26.12.2015:

I have the honour to submit herewith charge report in respect of Dr. Ali
Raza Medical Officer BPS-17(Adhoc) for favour of further necessary action please.

Medical Superintendent,
DHO Hospital Nowshera.

No. 344-461

Copy to the:

1. PS To Secretary Health Govt. of Khyber Pakhtun Khwa Peshawar.
 2. District Health Officer, Nowshera
 3. District Account Officer, Nowshera
- For information and necessary action.

Medical Superintendent,
DHO Hospital Nowshera.

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ENQUIRY REPORT.

Subject: DISCIPLINARY PROCEEDINGS AGAINST DR. AKBAR KHAKSAR, MS & OTHER STAFF MEMBERS OF DHQ HOSPITAL, NOWSHERA.

INTRODUCTION:

The Govt. of Khyber Pakhtunkhwa Health Department, Peshawar constituted an Enquiry Committee comprising of the following officers to conduct a facts finding enquiry to investigate into the criminal negligence and incompetence of the doctors and staff of DHQ Hospital, Nowshera, which resulted into the death of a patient, Mr. Gul Hussain S/O Latifullah of District Nowshera (Annex-I).

- | | | |
|------|-----------------------|----------|
| i). | Muhammad Younis Javed | Chairman |
| ii). | Dr. Roohullah Jan | Member. |

BACKGROUND:

One Mr. Iqbal Hussain r/o Khattak Colony Ashoorabad, Nowshera submitted an application to the Chief Justice of Pakistan with a copy endorsed to Health Secretary Government of Khyber Pakhtunkhwa (Annex-II) alleging that:

- i) On 27.4.12 at 12.45 p.m he took his brother suffering from severe chest pain for emergency treatment to Emergency Unit of DHQ Hospital, Nowshera.
- ii) No staff member was there and the Emergency Unit was locked. No health worker was available in the Hospital. His brother went to the local masjid inside the Hospital and cried for staff member of the Hospital requesting for attending his patient in the Casualty. MS was also contacted who informed that he was in Juma prayers outside the hospital.
- iii) Dr. Ali Raza, CMO came at 1.35 p.m and asked his elder brother not to speak loudly. The doctor then refused to

came out of
masjid →

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check up his brother & throw away the stethoscope. His brother died there. Subsequently, Dr. Riwayat Shah DMS was seen in the car park, who was requested for examination of his brother. Though, Dr. Riwayat Shah came and checked his brother but went out and his brother died. (Contradiction - died in ambulance)

iv) Dr. Riwayat Shah carried out ECG for his own satisfaction and they took their brother to CMH Nowshera who declared him as dead.

2. On the direction of Health Secretary, Director General, Health constituted an enquiry committee comprising of the following senior Doctors of the Department for investigating the matter, making a detailed probe and submission of report::

- i). Dr. Muhammad Zaman Afridi, CMO(B-20), KTH Peshawar.
- ii). Dr. Tahir Shah, PMO (B-19) CBD No.2, Peshawar.

3. The enquiry committee conducted the subject enquiry and submitted report to Director General Health Services, Khyber Pakhtunkhwa (Annex-III).

PROCEEDINGS:

Based on the recommendations of the Inquiry Committee the Health Department initiated formal departmental proceedings against the following medical staff of the Hospital and Emergency Unit DHQ Hospital, Nowshera besides terminating the services of Dr. Ali Ra2a CMO (contract employee):-

1.	Dr. Muhammad Akbar	M.S DHQ Hospital, Nowshera
2.	Dr. Riwayat Shah	D.M.S DHQ Hospital Nowshera
3.	Mr. Sajjad Ahmad	Pharmacy Technician Casualty Ward DHQ Hospital, Nowshera
4.	Mr. Noor Dil Khan	Ward Orderly Casualty Ward DHQ Hospital, Nowshera

All the above mentioned staff has now been served with the following charge by the Competent Authority as per charge sheet/statement of allegations (Annex-IV):-

"A patient Mr. Gul Hussain S/o Latifullah of District Nowshera was brought to the DHQ Hospital, Nowshera at 12:45 pm on 27/04/2012 with chest pain. You failed to arrange in time essential treatment which resulted into death of the above mentioned patient".

None of the doctors at DHQ were cardiologists.

3. All the accused were asked to submit replied to the charge contained in the charge sheet/statement of allegations (Annex-V), as reproduced in Para-2 above on 11.03.2013. The Director General Health Services was also asked to depute an officer conversant with the case to assist the enquiry committee on the same date. However, no officer from Health Directorate assisted the Committee despite written and verbal request(s). All the accused staff appeared before the committee and submitted written replies as under: -

DR. Muhammad Akbar Khaksar, MS DHQH, Nowshera (Annex-VI)

He was not available in the Hospital because he had to perform Juma prayer outside the Hospital premises and Dr. Riwayat Shah, DMS and Casualty staff was available as per routine. However, Casualty staff too had gone to the near Mosque for performing only "Farz" Two Rakaat of juma prayers except the Charge Nurses. According to him some hard words were exchanged between attendants of the patient and the CMO/emergency staffs on duty as the attendants were insisting that their patient shall be examined by some senior doctor. However, the DMS attended the patient and after having ECG, referred him to Peshawar, as no case with Cardiac patient can be managed at DHQ level. He was

In 1st enquiry, MS in favour of relative.

provided Ambulance facility and the available medication. It was known that the patient died on the way. *v. imp*

Dr. Riwayat Shah DMS, DHO, Hospital, Nowshera

(Annex-VII)

He left the Office at 1.10 PM to go to the Hospital Masjid for Jumma Prayers. No patient was noticed while passing through Emergency. After prayers at 1.20 PM, some people were shouting and complaining against the casualty staff that they had gone for prayers and no one was present to examine their patient having abdominal pain. The attendants have exchanged hard words with the casualty staff for leaving the Casualty and going to masjid for Juma prayers. He personally examined the patient and observed that he was complaining of pain in epigastrium and chest, for which ECG was advised. The ECG was abnormal and it was felt that the patient had myocardial infarction (MI) and as such was advisable to be referred to Peshawar because the cardiologist too could not be located by the ward boy and no facilities for managing such patients were/are available. Mr. Sajjad Ahmad (Pharmacy Technician) and Mr. Noordil Khan (Ward Orderly) were directed to arrange ambulance for provision of medical care at LRH, Peshawar. Proper medical care was extended to the patient as per available stock and facilities but since the Hospital did not have CCU and ICU facilities, they had to refer the patient.

v. imp

Rel

Mr. Sajjad Ahmad (Pharmacy Technician) (Annex-VIII):

On 27-04-2012, they were present in the casualty and some people went for attending Juma prayer in the nearest Masjid of the hospital at 1.15 PM. Mr. Khalid Jan, technician, two Nurses, Miss Shahrukh and Miss Kauser remained available in the casualty. A female patient was lying on the bed in the

Female nurses does not pray in masjid.

Statement of complainant is false.

casualty but was properly examined by Dr. Ali Raza, CMO. No other patient was present there in the casualty. Since the mosque is located near the casualty and takes a minute to reach there, they went to masjid at 1:13 PM and only offered two Rakat Faraz. The prayers finished at 1:18 PM. Dr. Ali Raza, CMO and I immediately rushed to the casualty, when someone said that a patient had been brought to the casualty department in serious condition. Dr. Ali Raza examined the patient and prescribed some medicines which were accordingly provided, though most of the Medical Stores were closed being Friday (Juma). However, condition of the patient did not improve. During this time, Dr. Riwayat Shah DMS, entered the Emergency unit and examined the patient properly. He advised ECG and other required medicine. After examining ECG, Dr. Riwayat Shah DMS asked for immediate arrangement of ambulance and observed that it seems to be myocardial infarction (MI). The attendants were advised for taking the patient to LRH, Peshawar. The patient was shifted to the ambulance on the advice of Dr. Riwayat Shah, DMS. However, the attendants reportedly took the patient to CMH, Nowshera, where he could not survive.

Mr. Noordil Khan, Ward Orderly (Annex-IX):-

He was performing his normal duty on 27.04.2012 in casualty department. This was Friday and he went to the mosque situated inside the Hospital, as no patient was there in the casualty department. He left the casualty at 1:13 PM and remained in the masjid till completion of his faraz salat at 1:18 PM. When returned to the emergency, a patient was brought during the prayers time, who was provided medical care by Mr. Sajjad Ahmad, Technician and on the advice of Dr. Riwayat Shah, ECG was carried out. Subsequently, the doctor asked him to inform the Cardiologist and arrange ambulance

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for shifting the patient. The ambulance was immediately arranged and the patient shifted there, drip facilities were also provided to the patient within the ambulance.

4. As regards health department representative for assisting the enquiry committee, it is regretted that no one represented the Health Directorate. In order to investigate the matter, the committee commenced another meeting wherein DG, Health was requested to depute Dr. Zaman Afridi, Director (Admin), who is dealing the case and had previously conducted the preliminary enquiry also (Annexure-III). The DG, Health was requested on phone, as well. Even Dr. Zaman Afridi was also informed through a formal letter and on telephone. On 18-03-2013, Dr. Abdur-Rehman AD, who did not know facts of the case/record, stated that he, has been asked by Dr. Zaman to represent the department. When contacted on phone, Dr. Zaman turned a deaf ear and stated that being a highly pre-occupied officer; he cannot come on such short notice. He stated that the enquiry committee may send another request which will be considered according to his schedule.

5. In order to further ascertain the facts, the enquiry committee visited DHQ Hospital, Nowshera on 19th March, 2013 at 3.0 pm. The emergency of the hospital was inspected and people present on the date of incident were interviewed and their statement recorded as under:-

i. Mr. Nisar, OT Technician, Surgical Ward (Annex-X)

He states on oath that on 27.4.2012 (Friday) at 1.15 p.m; he left his official residence located closed to the emergency inside the hospital for offering Juma prayer. During this, he listened hue & cry from the Emergency and went there on humanitarian grounds. He shifted the patient (Mr. Gul Hussain) to the wheel chair for taking him inside the ward. He asked for calling of the CMO on emergent basis, however, the relatives of the patient pushed back the CMO on arrival and asked him not to check their patient but even then the

CMO checked the patient and owing to high blood pressure immediately called the senior doctor. The senior doctor checked the patient, carried out his ECG and due to changes in the ECG asked for referring the patient. The ambulance was arranged and all of them collectively shifted the patient to the ambulance. However, while leaving the hospital relatives of the patient kept on abusing and threatening entire staff of the Emergency. The patient was taken out of the hospital in the presence of doctors and the staff. He maintained that he is recording the statement only for the sake of pleasure of Almighty Allah.

ii. Mr. Gohar Ali, Owner of the Canteen (Annex-XI).

He also stated on oath that he is running a canteen in DHQ Hospital Nowshera. While leaving for Juma prayer on 27.4.2012, he observed hue & cry in the Emergency & went there. He saw that a patient has been brought in the Emergency and was shifted inside on the wheel chair. The patient was accompanied by Mr. Sajjad Ahmed Dispenser, Mr. Noor Dil Ward Orderly and attendance of the patient. An OT Technician reached to the site. Dr. Ali Raza CMO was examining the patient. Attendance of the patient were crying and abusing the entire staff. They were asking for bringing a senior doctor. The junior doctor should not check their patient & kept on pushing the CMO out of the ward. But the CMO examined the patient, checked his BP etc. He was provided with all available medical care. A senior doctor was also called to see the patient. ECG was carried out. The DMS stated that the patient was having a heart attack and asked to immediately shift him to Peshawar. Necessary medical care was provided & the patient was jointly shifted to the ambulance. The attendants were continuously abusing the staff and the Govt. for non provision of facilities for a cardiac

patient. They took out even arms and threatened the staff and the nurses.

iii. Mr. Nawab Ali, President of Class-IV, Union (Annex-XII)

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On 27.4.2012, he had gone for Juma prayers and when he reached to the site, noted that attendants of the patient were misbehaving with Dr. Ali Raza CMO but the CMO kept on examining the patient and advised medicines. Dr. Riwayat Shah, also came during this period and advised ECG. After the ECG, he stated that it is a heart attack and directed the staff to immediately arrange ambulance. He alongwith the paramedical staff shifted the patient to the ambulance and patient was referred to LRH, Peshawar. He gave the statement on oath.

iv. Mr. Rasheed, X-Ray Technician (Annex-XIII)

He stated that he is an X-Ray technician and conducts ECGs in the 2nd shift. On 27.4.2012, ECG of patient (Gul Hussain) was carried out. It is fact that Dr. Riwayat Shah referred the patient on the basis of ECG stating that it was heart attack. The entire emergency staff was present.

v. Mr. Muhammad Israr, Driver of the Ambulance (Annex-XIV)

On 27.4.12 (Friday), he was on duty. After offering Juma prayer he came at 1.40 p.m to Casualty & observed that Dr. Riwayat Shah, DMS and Dr. Ali Raza CMO alongwith casualty staff were busy in providing medical care to a patient, Mr. Gul Hussain. The patient was referred to LRH Peshawar at 1.45 p.m. Dr Ali Raza asked to arrange ambulance at once. He alongwith other staff members shifted the patient to the ambulance jointly and they left for Peshawar. The patient was alive till that time. However, Mr. Iqbal Khan told him that since the patient was having severe pain, they want to take him to CMH. When they reached the CMH Nowshera, the relatives of the patient took the patient inside the Emergency

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Ward of CMH. After a short time, the patient was taken out as dead and the dead body shifted to the same ambulance. The body was taken in his ambulance to their village.

Findings:

In light of the previous enquiry, statements of the staff recorded by the previous committee, replies of the officials to the Charge Sheet, site inspection and statements of eye witnesses by the 2nd Committee, it has been observed that the Health Department has not properly examined the preliminary report of Committee headed by Dr. Muhammad Zaman Afridi. The Department has straightaway initiated action on recommendations of the previous report, which is in contravention of Khyber Pakhtunkhwa, Govt. Services (Efficiency & Disciplinary) Rules, 2011. Besides, the Enquiry Committee has based its recommendations on the statements of relatives of deceased (Gul Hussain). The services of Dr. Ali Raza, CMO have been terminated without giving him an opportunity of explaining his position. The Enquiry Committee has not discussed in-depth lack of facilities in DHQ level Emergency Units. The responsibility for taking necessary steps in improving the emergency facilities in particular has not been attributed to the dealing hands. The Medical Superintendent, a blue eyed of an MPA and Ex-Minister, never bothered to undertake initiative for improving the health care facilities in the hospital. The casualty staff though, made all efforts in resuscitation of a patient having MI without availability of requisite life saving drugs was unable to manage him locally. They had no option except to refer the patient to a tertiary care facility where such arrangements are available.

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2 The charge of in-efficiency leveled against the Medical Superintendent as per charge sheet can be established to the above extent, however, in the instant case, charges leveled against him do not seem to be based on facts.

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As regards, the in-efficiency of the casualty staff, nothing to that effect could be established against the following as the required facilities for managing a patient with heart failure were not available in the casualty:-

- (i) Dr. Rewayat Shah DMS
- (ii) Mr. Sajjad Ahmed Dispenser
- (iii) Mr. Noor Ali ward orderly.

4. Though, the casualty staff remained out of the casualty for very short time i.e. 1.13 to 1.18 p.m. the same may not be taken as such a serious offence to dispense with their services.

5. Since the CMO has been awarded major penalty without affording him the chance of calling for his explanation even, the health department may review the re-hiring of Dr. Ali Raza, if otherwise, permissible.

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Recommendations: -

- 1. The Health Department may prepare a consolidated PC-1 for improvement of emergency services in all DHQ Hospitals.
- ✓ 2. Only senior doctors from Management Cadre should be appointed against the post of Medical Superintendent and District Health Officer with good integrity and no political affiliations.
- ✓ 3. The Health Department shall properly examine preliminary/facts finding inquiries instead of jumping to the recommendations as a short cut.
- ✓ 4. Proper training should be provided to the Emergency staff across the board.
- ✓ 5. TOT should also be arranged at all levels including RHC facilities for handling emergency cases.

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6. Rule-12 of Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011 vests the Inquiry Committee with the powers of a Civil Court and can summon any person in disposal of an Inquiry assigned to an Inquiry Committee or an Officer while Rule-13 provides duties of departmental representatives to the effect that the departmental representative shall render full assistance to the Inquiry Committee during the proceedings and shall be personally present and fully prepared with all the relevant record relating to the case on each date of hearing. Dr. Muhammad Zaman Afridi Director (Admn), DG Health Office, failed to observe the above mentioned Rules despite repeated written and verbal requests (Annex-XV). The officer may be proceeded against in light of the above mentioned rules and non-assistance to the Inquiry Committee.

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(Muhammad Younis Javed)
Chairman, Inquiry Committee

(Dr. Roohullah Jan)
Member, Inquiry Committee



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NO. SOH(E-V)1-29/2007/Dr Riwayat Shah
Dated Peshawar the 11th April, 2014

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The Director General
Health Services Khyber Pakhtunkhwa
Peshawar.

M. N. 3880
18/4/14

Subject: DR. RIWAYAT SHAH PMO (BS-19) DHQ HOSPITAL NOWSHERA

I am directed to refer to your letter No.6628/E-I dated 20/3/2014 on the subject noted above and to enclose herewith the requisite inquiry report for further necessary action.

[Signature]
(HINA HAFEEZ)
SECTION OFFICER-V

Encl No & Date Even.

Copy to the PS to Secretary Health Department.

[Signature]
SECTION OFFICER-V

OFFICE OF THE DG HEALTH SERVICES, KHYBER PAKHTUNKHWA PESHAWAR.
E.I, Dated Pesh: the 28/4/2014.

8971-79
Copy of the above alongwith enquiry report is forwarded to MS DHQ Hospital Nowshera for information with the request to hand over the same to Dr. Riwayat Shah PMO (BS-19) Hospital Nowshera for his information as desired please.

[Signature]
ASSISTANT DIRECTOR (P-I)
DHS KPK, PESHAWAR. *24/4/14*

Secretary Health Khyber Pakhtunkhwa Peshawar for information.

[Handwritten notes]

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4-11-13

GOVERNMENT LADY READING HOSPITAL PESHAWAR

No. 38047 /LRH

Dated Peshawar the 31/10/2013

To,

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

Subject:-

**DISCIPLINARY PROCEEDINGS AGAINST DR. AKBAR
KHAKSAR MS AND OTHERS OF DHQ HOSPITAL
NOWSHERA.**

Dear Sir,

With reference to your letter No.SOH(E-V)1-14/2012/Dr Akbar Khaksar dated 29th August, 2013 on the subject noted above, we the following Enquiry Committee have the honour to submit the requisite inquiry report alongwith relevant documents, for favour of further necessary action at your end.

Enquiry Committee

Muhammad Iqbal Afridi
Dr. Muhammad Iqbal Afridi
Medical Superintendent,
Govt. Lady Reading Hospital,
Peshawar

Tariq Khan
Dr. Tariq Khan
Medical Superintendent,
Govt. Naseerullah Khan Babar
Memorial Hospital Kohat Road
Peshawar

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- 2. Dr. Riwayat Shah DMS DHQ Hospital Nowshera
- 3. Mr. Sajjad Ahmad Junior Clinical Technician Pharmacy DHQ Hospital Nowshera
- 4. Mr. Noor Dil Khan Ward Orderly DHQ Hospital Nowshera

ENQUIRY REPORT.

3rd Inquiry

Background:

Govt. of Khyber Pakhtunkhwa Health Department vide its letter NO.SOH(E-V)1-14/2012/ Dr Akbar Khaksar dated 29th August, 2013 (Flag-A) has appointed the following Inquiry Committee to probe into the alleged medical negligence and in competence of the doctors of DHQ Hospital Nowshera resulting in the death of a patient Mr. Gul Hussain s/o Latfiullah of District Nowshera:

1. Dr. Muhammad Iqbal Afridi, Medical Superintendent Lady Reading Hospital Peshawar
2. Dr. Tariq Khan, Medical Superintendent Govt. Naseerullah Khan Babar Hospital Kohat Road Peshawar

Proceedings:

The Enquiry Committee vide letter No. 33248/LRH dated 30th September, 2013 (Flag-B) requested the Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar to nominate a departmental representative to assist the Inquiry Committee during the proceedings. Health Department vide its letter No.SOH(E-V)1-14/2013/Nowshera dated 2nd October, 2013 (Flag-C) asked the Director General Health Services Khyber Pakhtunkhwa Peshawar to nominate a departmental representative to attend the meeting of the Enquiry Committee scheduled on 4th September, 2013 at 10. 00 AM in the office of the Medical Superintendent LRH Peshawar. But the representative of Directorate General Health Services Khyber Pakhtunkhwa Peshawar could not attend the inquiry proceedings on the above date, thus putting the Enquiry Committee in embarrassing position.

Not appeared even in 3rd enquiry.
No regular enquiry.

The Enquiry Committee, however recorded statements of the following officers/officials of DHQ Hospital Nowshera on 4th September, 2013 at 10.00 AM in the office of the Medical Superintendent Lady Reading Hospital Peshawar:

1. Dr. Muhammad Akbar Khaksar SMO(BPS-18) the then Medical Superintendent DHQ Hospital Nowshera
2. Dr. Riwayat Shah DMS DHQ Hospital Nowshera
3. Mr. Sajjad Ahmad Junior Clinical Technician Pharmacy DHQ Hospital Nowshera
4. Mr. Noor Dil Khan Ward Orderly DHQ Hospital Nowshera
5. Mr. Khalid Jan JCT Pharmacy DHQH: Nowshera
6. Mst. Kaisar Naz Charge Nurse DHQH: Nowshera

7. Mst. Shah Rukh Charge Nurse DHQH: Nowshera

Statements of the individuals are briefly discussed as under:

1. Statement of Dr. Muhammad Akbar Khaksar SMO(BPS-18) the then Medical Superintendent DHQ Hospital Nowshera (Annexure-II)

12:45 PM (in FIR)

On Friday the 27th April 2013 after 01.10 PM, a patient namely Mr. Gul Hussain s/o Latifuallah was brought to the Casualty of the hospital, but due to Friday (Juma), the staff was busy in Juma Prayers in the nearby mosque. After a few minutes the CMO along with other staff came out of mosque, but due to some misunderstanding between the CMO and attendants of the patient, the CMO allegedly refused to attend the patient. However Dr. Riwayat Shah DMS present in the hospital attended, examined and advised the patient ECG etc. and gave emergency treatment. The patient was referred to Peshawar in hospital ambulance as the DHQ Hospital Nowshera has no CCU or ICU facilities.

After sometime it was known that the patient expired on the way and he as MS of the hospital took serious action and conducted inquiry through senior doctors and sent the report to the competent authorities.

Death occurred
not in hospital

To certain cross questions (Annexure-II) by the Enquiry Committee, he replied as under:

- He was not present at the time of the occurrence in the hospital but after being informed by the DMS Dr. Riwayat Shah and complainant, he reached the hospital at about 02.00 PM, but at that time the patient was referred to LRH Peshawar in hospital ambulance.
- He used to prepare duty rota for all the units including Casualty Department on monthly basis.
- He stated that he immediately conducted an inquiry through senior doctors and submitted its report to the EDO(H) Nowshera.

2. Statement of Dr. Riwayat Shah DMS DHQ Hospital Nowshera (Annexure-III)

On the day of the occurrence i.e. 27th April, 2013, he left the office at 1.10 PM and went to the hospital mosque for offering Jumma Prayers. At that time there was no un-attended patient in the Casualty. After prayers at about 01.20 PM when he came out of the mosque, he saw some people complaining about non-availability of the casualty staff to examine their patient having

abdominal pain. When he realized that they have quarreled with CMO who allegedly refused to examine their patient, he as a senior doctor advised first aid and asked ward orderly to call ambulance driver to come to casualty and also inform the cardiologist. Then he referred the patient to LRH through hospital ambulance.

To cross questions by the Enquiry Committee (Annexure-IV), he replied as under:

- He was present in the MS office and no body came to complain about the non-availability of casualty staff and he left the office at 1.10 PM for offering Jumma Prayers.
- After reading ECG, it was found that the patient had M.I. after which he was given relevant essential treatment in time.
- The Cardiologist could not come to the casualty as he was not available at his residence situated in the hospital premises, at that time.
- Mr. Sajjad Ahmad JCT Pharmacy and Mr. Noor Dil Khan Ward Orderly were present in the casualty.

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3. **Statement Mr. Sajjad Ahmad Junior Clinical Technician Pharmacy DHQ Hospital Nowshera (Annexure-V):**

The day of occurrence was Friday and as no patient was admitted in Casualty before they left for Jumma prayers. Mr. Khalid Jan JCT Pharmacy and two nurses were available in the Casualty. He alongwith other staff went for Jumma prayers at 01.13PM and only prayed 02 rakat Farz at 01.18 PM and left for hospital. When he reached Casualty, a patient was lying there. He and the doctor on duty examined him and advised first aid treatment. The patient was complaining initially of abdominal pain and subsequently chest pain. He administered i.v. solution on the advise of the doctor on duty. Meanwhile Dr. Riwayat Shah DMS also came and saw the ECG and diagnosed the patient as having M.I. Dr. Riwayat Shah directed Mr. Noor Dil Khan Ward Orderly to shift the patient to hospital ambulance which he did and remaining drip was administered to the patient in the ambulance. As there were no CCU or ICU facilities in DHQH: Nowshera. The patient was referred to LRH Peshawar. The patient was alive till shifting to the ambulance.

To cross questions (Annexure-VI), by the Enquiry Committee, he replied as under:



- Mr. Khalid Jan JCT Pharmacy and two Nurses namely Miss Shah Rukh and Kausar were present in Casualty at the time of occurrence, who informed the complainant that Dr. Ali Raza was offering Jumma prayers in the hospital mosque.
- Dr. Ali Raza CMO advised certain medicine to the patient viz Inf: Pladex+ Inj: Nalben etc. which were arranged by the attendants of the patient from local market situated outside the hospital. The same medicines were administered to the patient in presence of Dr. Ali Raza the then CMO by him.

4. Statement of Mr. Noor Dil Khan Ward Orderly DHO Hospital Nowshera (Annexure-VII).

On 27th April 2012, he was on duty and it was Friday, He has prayed sunnah in Casualty and when the Khutba started, he alongwith Mr. Sajjad Ahmad JCT Pharmacy and doctor on duty left Casualty and went to the nearby mosque. At the time no patient was there in Casualty. Two Nurses and Mr. Khalid Jan JCT Pharmacy were on duty. After Jumma prayers when he reached Casualty, a patient was lying there and the doctor on duty examined the patient and asked him to call the ECG Technician. Mr. Rashid ECG Technician done the ECG. He and Mr. Sajjad Ahmad JCT Pharmacy shown the ECG to Dr. Riwayat Shah who diagnosed the patient to have heart attack and after giving first aid treatment, the patient was referred to Peshawar in the hospital ambulance. The patient was alive during shifting to the ambulance.

To cross question (Annexure-VIII) by the Enquiry Committee, he replied as under:

- He was present in the hospital which can be confirmed from the attendance register.
- The patient was examined by Dr. Ali Raza in his presence.
- He went to the residence of Cardiologist; but according to his servant, the Cardiologist had gone for Jumma prayers and was not available at home.

5. Statement of Mr. Khalid Jan JCT Pharmacy DHO: Nowshera (Annexure-IX).

On 27th April, 2012, he was present on in Casualty. Dr. Ali Raza CMO, Mr. Sajjad Ahmad JCT Pharmacy and Mr. Noor Dil Ward Boy went to the hospital mosque for Jumma prayers. He alongwith two nurses namely Mst. Kausar Naz and Mst. Shah Rukh Charge Nurses were on duty. After some time a patient was brought to the Casualty. Emergency chit was prepared and detailed a person to the mosque to call the doctor. The patient had abdominal pain. Dr. Ali Raza CMO came, examined the patient and advised emergency treatment. After some time Dr. Riwayat Shah also came and Dr. Ali Raza requested him to examine the patient. Dr. Riwayat Shah examined the patient and advised ECG. After ECG, Dr. Riwayat Shah said the patient had Myocardial Infarction (M.I) and advised emergency treatment. Dr. Riwayat Shah asked the Ward Boy to call Dr. Ali Akbar Cardiologist and also show him the ECG. He further asked the ward boy to call the ambulance driver to come to Casualty. The patient was referred to LRH Peshawar for proper management.

To cross question (Annexure-X) by the Enquiry Committee, he replied as under:

- The Casualty was opened and he alongwith Mst. Shah Rukh and Mst. Kausar Charge Nurses were present in the Casualty.
- He stated that the patient was brought to the Casualty at 1.15PM exact by the time fixed for Jumma prayers in the mosque situated inside the hospital.
- Dr. Ali Raza CMO had properly treated the patient. ECG was done and at the time of referral, the patient was alive.

6. Statement of Mst. Kausar Naz Charge Nurse DHQH: Nowshera (Annexure-XI):

On the day of occurrence, Dr. Ali Raza CMO, Mr. Sajjad Ahmad JCT Pharmacy, Mr. Khalid Jan JCT Pharmacy, they two staff nurses and one Ward Boy were present in the Casualty. When Dr. Ali Raza CMO and Mr. Sajjad Ahmad JCT Pharmacy and Mr. Noor Dil Ward Boy left the Casualty at 01.13 PM for Jumma prayers and they two nurses and one JCT Pharmacy Mr. Khalid Jan were present and no patient was available in the Casualty till 1:13 PM. At 01.15PM the patient was brought to the Casualty. Attendants of the patient were told that the doctor had gone for Jumma prayers

to the hospital mosque. Meanwhile Dr. Ali Raza CMO came and examined the patient. The doctor advised drip to the patient and Mr. Sajjad Ahmad JCT Pharmacy administered it. During this time Dr. Riwayat Shah DMS also came and advised ECG to the patient. Mr. Rasheed done the ECG and Dr. Riwayat Shah after reading it, declared the patient to have M.I. and asked Mr. Noor Dil Ward Orderly to call the Cardiologist Dr. Ali and also inform the ambulance driver. After some time the patient was referred to LRH Peshawar.

To cross questions (Annexure-XII), by the Enquiry Committee, she replied as under:

- On the day of occurrence, she alongwith Mst. Shah Rukh Charge Nurse and Mr. Khalid Jan JCT Pharmacy were present in the Casualty.
- Jumma prayers are held at 1.15 PM.
- The doctor on duty left Casualty at 01.13PM for Jumma prayers and there was no patient left un-attended, till that time.
- The patient was advised ECG which was seen by Dr. Riwayat Shah.

7. Statement of Mst. Shah Rukh Charge Nurse DHQH: Nowshera (Annexure-XIII)

On 27th April, 2012 Friday, she alongwith Dr. Ali Raza, Mst. Kausar Naz Charge Nurse, two technicians namely Mr. Sajjad Ahmad and Mr. Khalid Jan JCT Pharmacy and one ward boy Mr. Noor Dil were present in the Casualty. When Dr. Ali Raza, Mr. Sajjad and Noor Dil went for Jumma prayers, they three i.e. she, Mst. Kausar Naz Charge Nurse and Mr. Khalid Jan JCT Pharmacy were present in the Casualty.

In the meanwhile the patient was brought and they asked about the doctor and they told them that the doctor was performing Jumma prayers in the hospital mosque. An attendant of the patient went to the mosque to call the doctor and they shifted the patient to male casualty ward. Dr. Ali Raza, Mr. Sajjad Ahmad JCT Pharmacy and Mr. Noor Dil Ward Orderly came. The doctor examined the patient and Mr. Sajjad and Khalid Jan administered the drip to the patient. The doctor also advised the patient for ECG.

Dr. Riwayat Shah also came to the Casualty and examined the patient. When he saw the ECG, he said the patient had M.I. He asked the ward boy to inform the ambulance driver and referred the patient to LRH Peshawar.

To cross questions (Annexure-XIV), by the Enquiry Committee, she replied as under:

- The Casualty was opened and she alongwith Mst. Kausar Naz Charge Nurse and Mr. Khalid Jan Dispenser were present.
- She herself prepared the casualty registration chit for the patient which can be confirmed from the register.
- After registration of the patient, they told the attendants of the patient that the doctor was praying Jumma in the hospital mosque.

8. **Statement of Mr. Iqbal Hussain Khattak complainant (Annexure-XV):**

No body was present on duty on 27/04/2012. Mr. Khalid Jan Dispenser had left the duty between 11.00 am to 11.30 am as when he was going out, he met with him as he stated that he had some urgent work at home while Mst. Kausar Naz Charge Nurse was absent since morning. Only one nurse Mst. Shah Rukh was present, but also left her duty on 12.45PM. When they brought their brother at late time Mst. Shah Rukh Charge Nurse also came to Casualty and he asked her where she was, she replied that she had also gone for Jumma prayers at hostel. Mr. Iqbal Hussain Khattak stated that they reached to Casualty at 12.45 PM and the staff on duty were absent from their duty and the Casualty Department was closed at that time. They asked from canteen staff namely Mr. Gohar who told them that the staff had gone for Jumma prayers. After that they visited the office of the Medical Superintendent which was also closed.

He and his elder brother Gul Jameel reached the hospital mosque and waited there and when people came out from the Jumma prayers, they spoke loudly that if there was any staff member in the mosque, please come and attend the emergency in the casualty. Then he called the Medical Superintendent Dr. Akbar Khaksar and told him about the closure of the casualty. He also replied that he was busy in Jumma prayers out of the hospital. In the meanwhile Dr. Ali Raza Ex-MO came and quarreled with his brother Gul Jameel and said do not speak loudly. His brother requested him to examine his brother whose

condition was very serious. But the doctor on duty refused to examine his brother and thrown the stethoscope on the ground and during this time their brother died.

During his whole situation Dr. Riwayat Shah DMS was sitting in his car in car parking was requested to please examine his brother and he told the DMS that the doctor on duty Dr. Ali Raza had clear cut refused treatment of his brother; but he remained silent for some time and could not come to attend the patient. In the meanwhile when Dr. Akbar Khaksar called him then he examined his brother at 01.45PM when he was dead. After the death of his brother Dr. Riwayat Shah DMS, Dr. Ali Raza CMO, Mr.Sajjad Ahmad Dispenser and Mst. Shah Rukh Charge Nurse ran away from the Casualty, Mr. Noor Dil Ward Orderly put the dead body of his brother in the ambulance. During this whole time they had not called the Cardiologist. Neither the casualty staff advised any ECG, nor any Angised were given to his brother. No senior doctor was called and no referral to any teaching hospital was made. Dr. Riwayat Shah DMS was responsible for death of his brother and due to the negligence of the above staff his brother died.

To certain cross questions (Annexure-XVI), by the Enquiry Committee, he replied as under:

- When he reached home. His brother was alright. He went for Fatiha to a nearby home. In the meanwhile he received a message from his home that his brother (Late) Gul Hussain had some problem and he without offering Fatiha, came back to home. Late Gul Hussain came himself and sat in the car.
- They reached the hospital at 12.45PM and the Casualty was closed at that time.
- No chit was given to him as the Casualty was closed and no staff member was available there. They put the patient on the charpai at the Casualty.
- They reached Casualty at 12.45PM and till 1.45PM no one was present; hence no treatment was given to his deceased brother.

- The dead body of his brother was put in the ambulance by Mr. Noor Dil Ward Orderly and they took the dead body to CMH Nowshera for death certificate.

To verify the above statements, the Enquiry Committee visited the hospital and checked the following record:

1. Attendance Register:

The Attendance Register was checked. From perusal of the attendance register, it revealed that the following staff working in Casualty morning shift was present on the day of occurrence i.e 27th April, 2013 (Annexure-XVII):

1. Mst. Shah Rukh Charge Nurse DHQH: Nowshera
2. Mst. Kausar Naz Charge Nurse DHQH: Nowshera
3. Mr. Khalid Jan JCT Pharmacy DHQH: Nowshera
4. Mr. Sajjad Ahmad JCT Pharmacy DHQH: Nowshera
5. Mr. Noor Dil Ward Orderly DHQH: Nowshera

2. Patients Entry Register of the Casualty Department:

The patient entry register was checked which revealed that patient namely Late Gul Hussain was properly entered in the register (Annexure-XVIII).

3. Medicines:

A perusal of the list of medicine available in the hospital (Annexure XIX) revealed that no medicines are/were available for catering M.I. patients in the emergency department.

4. Death Certificate:

The Death Certificate issued from Combined Military Hospital (CMH) Nowshera shows that the dead body was received there at 02.00 PM (Annexure-XX).

Findings:

From the written statements of the individuals discussed above and perusal of the relevant record, the Enquiry Committee has come to the conclusion as under:

- The Casualty of the hospital was opened and staff available. The patient was attended to, ECG advised and emergency treatment started. On ECG the patient was diagnosed having his Myocardial Infarction (M.I) or Heart Attack as called in common language.

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- There was no other alternative/option for such kind of serious patient, but to refer him for specialized treatment in a tertiary care hospital. Therefore, the patient was referred and shifted to LRH Peshawar in hospital's ambulance.
- In this DHQ: Hospital as in all other hospitals, drugs available for such like patients. The list is attached at Annexure-XIX ibid
- The patient was attended in the Casualty of DHQ: Hospital Nowshera, albeit a bit late owing to offering Jumma prayers by the doctor on duty.
- A perusal of the statements of the complainant reveals that he is well acquainted with all the staff members of the hospital.
- The timing of bringing the patient to the Casualty according to the complainant is 12.45 PM while according to the statements on oath of the above staff, the patient was brought to the Casualty after 1.13PM and all of the Casualty staff was present in the Casualty unit till 1.13PM on the day of occurrence.
- The complainant himself admitted to have gone to the hospital mosque at the time of Jumma prayers which was 1.15PM and therefore, his claim to have brought the patient in the Casualty at 12.45PM seems to be unjustified.
- The patient was duly registered at S.No. 18651 of the Casualty register at Annexure-XVIII ibid.
- According to the statement of the complainant, Dr. Ali Raza had exchanged harsh words and quarreled with him and therefore he did not attend the patient, but on the contrary, all other staff of the Casualty including DMS Dr. Riwayat Shah have confirmed that the patient was provided all the possible treatment available in the Casualty at that time and after diagnosis of the patient to have M.I.; was referred to the tertiary care hospital at Peshawar in the hospital ambulance.
- As per statement of the complainant, they took the patient to the CMH Nowshera at his own, just for obtaining death certificate over there, which might also have been issued by the DHQ: Hospital Nowshera or Lady Reading Hospital Peshawar where he might have died.
- The complainant could not explain the reasons of exchanging harsh words and quarrel with Dr. Ali Raza the then CMO DHQ: Hospital Nowshera.

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As regards arranging for in time essential treatment, the same was provided to the patient in the Casualty; albeit certain medicines were arranged from the local market by the attendants of the patient. In actual fact, such essential life saving drugs might have been available in the Casualty which the Medical Superintendent failed to do so.

A perusal of the attendance register at Annexure-XVII ibid, reveals that Mr. Sajjad Ahmad JCT Pharmacy and Mr. Noor Dil Ward Orderly of DHQ: Hospital Nowshera were marked present on 27/04/2012 the day of occurrence. Moreover, none of their supervisors have reported their absence.

Recommendations:

1. There is a dire need of strengthening Casualty/Emergency services in all aspects of the DHQ: Hospitals in the province
2. Since both Mr. Sajjad Ahmad JCT Pharmacy and Mr. Noor Dil Ward Orderly were present alongwith other Casualty staff on 27/04/2102, both of them may please be exonerated from the charge leveled against them.
3. A minor penalty of Censure may be imposed upon Dr. Akbar Khaksar the then Medical Superintendent of DHQ: Hospital Nowshera for inability to proactively giving due attention to the Casualty to perform its role effectively.
4. Dr. Riwayat Shah DMS tried his level best for giving emergency treatment to the patient and subsequent referral to the tertiary care hospital; although it was off time; which reveals that he was present even at odd hours. In view of the fore-going, he may also be exonerated.

ENQUIRY COMMITTEE

Political Influence

[Signature]
Dr. Muhammad Iqbal Afridi
Medical Superintendent,
Lady Reading Hospital,
Peshawar

[Signature]
Dr. Tariq Khan
Medical Superintendent
Govt. Naseerullah Khan Babar
Memorial Hospital Kohat Road
Peshawar

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SHOW CAUSE NOTICE

I, Pervez Khattak Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011, do hereby serve you, Dr. Akbar Khaksar, (BS-19), MS DHQ Hospital Nowshera as follows:-

- i) Consequent upon completion of the enquiry conducted against you by the enquiry committee for which you were given opportunity of hearing.
- ii) On going through the findings and recommendations of the enquiry committee, material on record and other connected papers including your defence before the committee.

2. I am satisfied that you have committed the act of "inefficient or has ceased to be efficient for any reasons" as specified in terms of Section-3 of the said rules.

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under Rule 4 (1)(a) (i) of the Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011:-

"Censure"

4. You are, therefore, required to show cause as to why the aforesaid penalty/penalties should not be imposed upon you.

5. If no reply to this notice is received within seven (07) days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. Copy of the findings of the enquiry committee is enclosed.

(Pervez Khattak)
Chief Minister, Khyber Pakhtunkhwa
20.02.2014,

Dr. Akbar Khaksar,
(BS-19),
MS DHQ Hospital, Nowshera



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 26th January, 2015

NOTIFICATION

No.SO(H)E-II/3-18/2011: The Competent Authority is pleased to withdraw this Department's Notification of even number dated 11.12.2012 and restore Notification No. SO(E)H-II/3-18/2013 to the extent of Dr. Ali Raza, MO (BS-17), DHQ: Hospital Nowshera (working on adhoc basis) appearing at Serial No. 06 and grant one year fresh contract w.e.f. 25.10.2012 to 31.10.2013.

SECRETARY HEALTH
KHYBER PAKHTUNKHWA

Endst. No. & date even.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. MS, DHQ: Hospital Nowshera.
4. District Accounts Officer Nowshera.
5. Deputy Director (IT), Health Department.
6. PS to Secretary Health.
7. PA to Special Secretary Health.
8. Officer concerned.

*Reinstated without salary
Due to service gap, I was
added not to come until
issue of arrears is dealt*

(Kashif Iqbal Jilani)
Section Officer (E-II)

Ibn e Amin (Account Officer DHO Hospital Nowshera)

0300-5730678