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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Appeal No. <u>-240</u>/2023

Syed Ulfat Hussian Shah

APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa and others

.....RESPONDENTS

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, 3	Copy of arrival report & medical certificate	B&C	9-10
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Dated:17-04-2023

Humble Appellant

Syed Ulfat Hussain Shah Through Counsel

Malik Haroon Jamil Advocate High Court, District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. <u>290</u> /2023

Syed Ulfat Hussain Shah son of Abdul Sattar Shah resident of Village Ranwal District Tank working as Ward Attendant (BPS-2) Office of the District Health Officer Tank.

.. APPELLANT

VERSUS

- Govt. of Khyber-Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2. Secretary, Health Department Khyber Pakhtunkhwa, Peshawar.
- 3. Director General, Health Services Department Khyber Pakhtunkhwa, Peshawar.
- 4. District Health Officer (DHO) District Tank.
- 5. Medical Superintendent DHQ Hospital, District Tank.
 - 6. District Account Officer, District Tank.

......RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL ACT, 1974

PRAYER; On acceptance of this appeal the respondents may kindly be directed to release/ continue the salaries of the appellant along with back benefits and the appellant may kindly

be allowed to perform his official duties and in case of removal/dismissal/termination from his service the present service appeal may kindly be treated as against that removal / dismissal / termination order (if any) of the appellant and the respondents may also be directed to reinstate the present appellant in service alongwith all back benefits on the grounds appearing hereinafter.

<u>OR</u>

GRANT any other relief considered just and appropriate under the given circumstances of the case.

Respectfully sheweth;

- That the brief facts of the case are that the present appellant was appointed against the vacant post of "Ward Attendant" (BPS-02) in the Office of District Health Officer (DHO) Tank vide appointment order No.324-26/DHO dated 03/02/2014 on regular basis. Copy of appointment order is enclosed as. Mark-A.
- 2. That the appellant submitted his arrival report at his respective place of posting after getting medical certificate from Medical Superintendent Tank and took charge of WARD-ATTEND/#NT on dated 04/02/2014. Copy of arrival report & medical certificate are enclosed as Mark-B & C.
- 3. That the appellant performed his duty with hard work and honestly since his appointment and received his salaries only for few months, later-on the respondent No.4 stopped the salary of

the appellant and that after some time the appellant was restrained from performing his official duty verbally and without Moreover, any written order, if any written order was ever issued the same was never conveyed to appellant nor he received the same. Copy of salary slips are enclosed as **Mark-D**.

- 4. That the appellant submitted applications time and again to the respondent No.4 to release his salaries and also to allow the appellant's attendance and do perform his official duty but in vain. Copies of applications are enclosed as <u>Mark-E, F & G</u> respectively.
- 5. That since 2014 the appellant has been made rolling stone as neither he is being paid his monthly salary nor he has been allowed to perform his duty which is not only against the law but also a clear violation of fundamental rights of the appellant. Being aggrieved, the present appellant filed the departmental appeal before the respondent No.3 on 28-12-2022. But till date the respondent No.3 has not decided the same. Copy of the grounds of departmental appeal dated 28-12-2022 is enclosed as <u>Mark-H.</u>

Thus, being aggrieved, the present appellant is filling the instant appeal, inter alia, on the following grounds;

GROUNDS:

1. That the appellant is bonafide appointee against the vacant subject post and the respondent No.4 has no authority to stop the salary of the appellant. Furthermore he has got no authority to restrain the appellant from performing the duty without any fault of the appellant.

- 2. That the act of the respondent No.4 is totally against the law, without any lawful authority, arbitrary and ultra-varies as the denial of monthly salary to the appellant and refusal to perform his official duties clearly indicates the malafide on the part of respondent No.4 and is totally illegal.
- 3. That the act of the respondent No.4 stoppage of the salary of the appellant without any written order and not allowing him to perform his official duties is totally illegal and against the Civil servants rules and policy and without any jurisdiction and that too, without inquiry and without affording any opportunity of hearing to present appellant. Hence, the respondent No.04 violated the rules and exceeded his authority.
- 4. That as the appellant has never received any removal/ dismissal/ termination order from the competent authority and if any order of removal/ dismissal/ termination from service is issued, in response to this service appeal the same may kindly be declared as illegal null & void, fake, forged, afterthought, without any show cause notice and without affording an opportunity of hearing to the appellant.
- 5. That the appellant is the victim of unlawful and illegal act of the respondents and such a malafide on the part of respondents is against the law and natural justice as it has caused an immense mental torture and agony to the appellant.
- 6. That the appellant is not treated in accordance with law. He is virtually deprived of his rights as guaranteed under the law.

- 7. That the appeal is being filed within the statutory period prescribed in section 4 of The KPK Service Tribunals Act, 1974.
- Any other legal ground that may be raised at the time of hearing of this appeal.

It is therefore, humbly prayed that on acceptance of this appeal this honorable court may pleased to orders as prayed for in the heading of this appeal.

Dated:77-03-2023

Humble Appellant

Sved Ulfat Hussain Shah Through Counse

Malik Haroon Jamil Advocate High Court, District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Appeal No. ____/2023

Syed Ulfat Hussian Shah

<u>VERSUS</u>

Govt. of Khyber Pakhtunkhwa and others

.....RESPONDENTS

.....APPELLANT

AFFIDAVIT

I, the Appellant, do hereby solemnly affirm and declare on Oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Court.

Identified by Counsel

Deconent



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Appeal No. ____/2023

Syed Ulfat Hussian Shah

.....APPELLANT

.. APPELLANT

ADDRESSES OF THE PARTIES

<u>VERSUS</u>

Syed Ulfat Hussain Shah son of Abdul Sattar Shah resident of Village Ranwal District Tank working as Ward Attendant (BPS-2) Office of the District Health Officer Tank.

VERSUS

- Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- Secretary, Health Department Khyber Pakhtunkhwa, Peshawar.
- 3. Director General, Health Services Department Khyber Pakhtunkhwa, Peshawar.
- 4 District Health Officer (DHO) District Tank.
- 5. Medical Superintendent DHQ Hospital, District Tank.
- 6. District Account Officer, District Tank.

Dated:/7-04-2023

Humble Appellant

...RESPONDENTS

Syed Ulfat Hussain Shah Through Counsel

Malik Hatoon Jamil Advocate High Court

Mark-A

<u>OFFICE OF THE</u> <u>DISTRICT HEALTH OFFICER</u> <u>DISTRICT TANK.</u>

No: 324 / To Dated: 3/2 /2014.

Mr. Sayed Ulfat Shah S/o Mr. Abdul Sattar Shah P/o-Village Ranwal_District Tank

Subject:

APPOINTMENT AGAINST THE VACANT POST OF WARD ORDERLY UNDER THE ONTROL OF UNDERSIGNED.

Memo,

Reference your application.

As recommended by Mr. Dawar Khan kundi MNA, Consequent Upon, the competent authority is please to appeint you against the vacant post of WARD ORDERLY. BPS -2. plus usual allowances as per admissible Government Rules under the control of undersigned.

Your appointment will be subject to the following terms & conditions.

- 1. Your appointment will be governed under Government of Khyber Pukhtoonkhwa on Regular basis.
- 2. If you wish to resign at any time, you will resign in written by giving a prior notice of one month and will continue to serve the Government duties till the resignation is accepted by the competent authority and communicated to his written.
- 3. You will be governed by such rules and orders relating to pay. TA / Leave rules and Medical attendance rules etc, as are issued by Government for category of Government servants you belong.
- 4. Your appointment will be subject to Medical Fitness, satisfactory character report and production on domicile certificate of District Tank.
- 5. If the offer on the above mentioned terms and conditions is accepted to you. You should report for duty to the office of the undersigned within one-week period from the date of receipt of this offer, failing which the offer will be considered as cancelled

Health District Tartk.

District Health Officer, District Tank

No

Copy to the: -

- 1. District Accounts Officer, District Tank.
- 2. Accounts Clerk

Mark-B

The District Health Officer District Tank

Subject: <u>ARRIVAL REPORT</u> Sir,

(. . Kindly refer to your office order No. 324/DHO dated 03.02.2014. I submit my arrival report for duty as a ward orderly BPS-2 to day on Medical Certificate, NIC, Matricate Certificate, Character Certificate, Domicity etc attached.

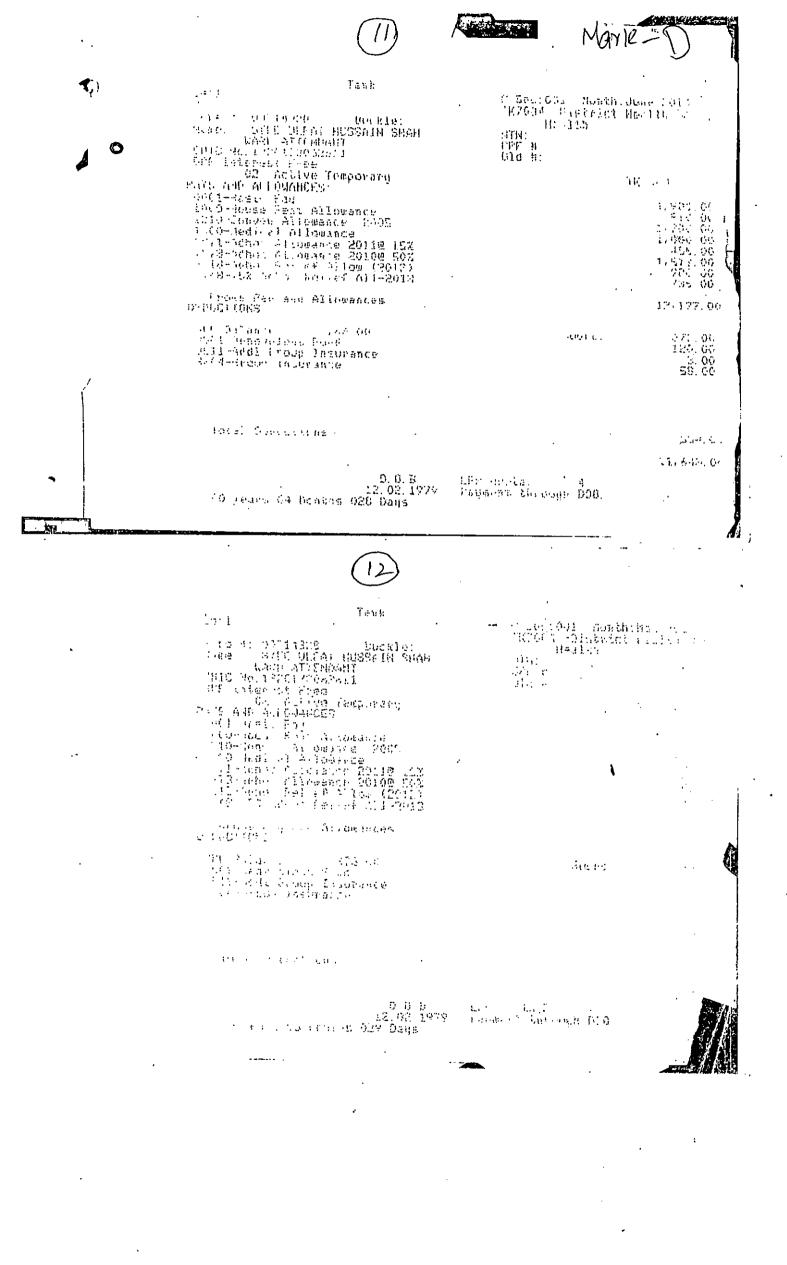
Your's Obediently

Syed Ulforthussain Shah Ward Ordeny District Health Office District Tank Med No. 4

Mark-C

MEDICAL CERTIFICATE

Name of Official Mr. Sycal ULFoul HUBSON Father'sName Abdul Sattas Shah Residence Village Burn and Tastrich Tentr Date of Birth 12 2 1979 (1) 201-7.506261-1 Exact height by measurement..... Personal marks of identification B. M. Le O. R. F.G. C.S. Signature of the Official Signature of..... head of office..... Seal of Office..... I do hereby certify that I have examined Mr. and can not discover that head any disease communicable or other constitutional efficetion or bodily infirinity except.... I do not consider this as disqualification for employment in the office of the LEFT HAND THUMB AND FINGER



e:- The entries in this page should be renewed or re-attested at least every five years, and the Signature in lines 9 and 10 should be dated. Name_ in har Race Residence ather's name and residence Date of birth by Christian era or is nearly as can be ascortained ---Exact height by measurement a Baloell Male on PQ. Personal maks for identification _ effchand thumb and finger impression if (non-gazetted Officer) nder inger umb 00 lignature of Government Servant Signature and Designation of the Head of the Office, or other Attesting Officer. Tabl

14 2 3 5 · 6 7 4 8 5 10 If officiating state Whether Pay in Additional Other Signature **fe** and Name of Date (i) substantive Date of substantive or tion of substantive pay for appointment or emolúments post termin appoint-Governmead of officiating, and (ii) whether service post officiating ce or talling Servanter or apr counts for pension ment weather permanent under the under rule 3.20 of ling me of temporary ir in C.S.R. (Pb.) term "pay" lon of volume li 1 to 8 عارضي يستنقل اگر عارضی ہے تو کیا \mathcal{O} تؤاه لطور زائد تؤله بوائي تخواه ور جہ 行って يلور وہ برول کے مطابق عارضي ملازمت تقرري ا ديگرالا دُنس. ملازم лĥ قائم مقام تائم مقاس او پنش کا<u>مستحق ب</u> ملاز مت Rs. Rs. Ps. ₽s 01 Rei 00 P **_**_^ i : . С. 4 3 . 「「「「「「「「」」」」 , , ' . 1.6

18 8 -10 11 12 13 14 15. Signature dire and Date of Reason of 4 Signature of LEAVE ation of Allocation of periods of leave Signature of the Reference to termination termination the Head of Governmerad of on average pay upto four any recorded head of the the office of Name lice or (such as months (or earned leave not Servant er or appontexceeding 120 days) to which leave salary is debitable to punishment or other attestand promotion office or other censure, or iting " ment ing Officer duration another Government transfer reward or er in Attesting officer of leave praised of the dismissal etc) جارماہ تک کی رخصت کے tion of 2 Government s 1 to 8 taken تاريخ ادسط تخواه كالغين وجوبات servant دستحظ أنقطاع ملازم Govt: to which نھ Period انقطار زكارى ملازم debitable ترقی۔تبادلہٰ نوعبت كورنمنت جسے ملازم يابر طرفى ومعياد م م اداہوگی ZÍ. ð 6 5 27 Health OR Vasb M ł 71 •

él'apole ingrés d'un de listos · (16) Mark-E (Len تر اس ها مرد ای در ای در الماندان objection to control control and the C, 660, 21-10-2014 D' La bas Smell سرالف شناه (),) ; /g

Mark-F د رواس برائے بجالی متخول المنوان ! من سائل، عاليكا0 موديان ترمش مع كرساس بطور والزادي متاب كر وبر ساچه خدمات سرانجام دب ریا بهول من سائل مودنه 2014-2-2 کو کھرتی ہوا اور من سائل کو سرف درماہ کی شخواہ

ملی ہے۔ اور آس کے بغیر ایج تک کولی ہے او نہ کا طی وبالمالى سائل ابك غرب تحداث س تعلق كعنا ه جسکا اور کوئی زرایم طعامش کی بن اسل صربانى ترك مرى تنخواه كو بحال كرا باق

12-06-2017-

otin allo - cell for

والرائدي دفتر دستريك بيلحافي طانب

حنادي SUGULOS In Story of Starter Starter رتبی ذیونی مناب کم حفر می برای محاربا کھ امرین می کرد مار او میں دیا سال و سے ہم تعربی سوا تر سے من نام کر مرد جن ماہ كى تحول منى رور ف را بعى تركى تحول مى نى ا میں میں اور اور اور اور اور اور اور اللہ اور الل حقوب حقوب بحقی الجراری الدر می المراب کا الم بے اور منهای نے دور میں تزارید خو بیل نہ منا 2 hi confresh

The Director General, Heath Department, Khyber Pakhtunkhwa Peshawar.

DEPARTMENTAL **REPRESENTATION/** APPEAL FOR **ISSUINCE THE DIRECTIONS TO DHO TANK THAT THE** MONTHLY PAY/SALARIES ALONG WITH BACK BENEFITS OF THE APPELLANT MAY KINDLY BE RELEASED/ COUNTINUED AND THE APPELLANT MAY KINDLY BE ALLOWD TO PERFORM OF HIS OFFICIAL DUTIES AND IN CASE OF REMOVAL/ DISMISSAL/ TERMINATION OF HIS SERVICE THE PRESENT DEPARTMENTAL REPRESENTATION / APPEAL MAY KINDLY BE TREATED AS AGAINST THAT REMOVAL/ DISMISSEL/ TERMINATION ORDER (IF ANY).

Mark-H

The appellant humbly submits as under;

BRIEF FACTS

То

- 1. That the appellant is bona-fide resident of District Tank and is eligible for the purpose of relief sought herein.
- 2. That the appellant was appointed against the vacant post of "Ward Attendant" (BPS-02) in District Health Officer (DHO) Tank vide appointment order#324-26/DHO dated 03/02/2014 on regular basis. Copy of appointment order is enclosed herewith.
- 3. That the appellant submitted his arrival report at his respective place of posting after getting medical certificate from Medical Superintendent Tank and took charge of WARD-ORDERLY on 04/02/2014. Copy of arrival report & medical certificate are enclosed herewith.

- 4. That the appellant performed his duty with hard work and honestly since his appointment and received his salaries only for few months later-on the DHO Tank stopped the salary of the appellant and that after some time the appellant was restrained from performing his official duty verbally and without any written order, if any written order was ever issued the same was never conveyed to appellant nor he received the same. Copy of salary slips are enclosed herewith.
- 5. That the appellant submitted applications time and again to the DHO Tank to release his salary and also to allow the appellant's attendance and do perform his official duty but in vain. Copies of applications are enclosed herewith.
- 6. That since 2014 the appellant has been made rolling stone as neither he is being paid his monthly salary nor has he been allowed to perform his duty which is not only against the law but also a clear violation of fundamental rights of the appellant.

Being aggrieved, the appellant is filling the instant appeal for redressal of his grievances, inter alia, on the following grounds;

GROUNDS;

- 1. That the appellant is bonafide appointee against the vacant subject post and the DHO Tank has no authority to stop the salary of the appellant. Furthermore, he has got no authority to restrain the appellant from performing the duty without any fault of the appellant.
- 2. That the act of the DHO Tank is totally against the law, without any lawful authority, arbitrary and ultra-varies as

the denial of monthly salary to the appellant and refusal to perform his official duties clearly indicates the malafide on the part of DHO Tank and is totally illegal.

- 3. That the act of the DHO Tank without any written order of stoppage of the salary of the appellant and not allowing the present appellant to perform his official duties is totally illegal and against the Civil servants rules and policy and without any jurisdiction and that too, without inquiry and without affording any opportunity of hearing to present appellant. Hence, the DHO Tank violated the rules and exceeded his authority.
 - 4. That as the appellant has never received any removal/ dismissal/ termination order from the competent authority and if any order of removal/ dismissal/ termination from service is issued, in response to this departmental appeal the same may kindly be declared as illegal null & void, fake, forged, afterthought, without any show cause notice and without affording an opportunity of hearing to the appellant.
 - 5. That the appellant is the victim of unlawful and illegal act of the DHO Tank and such a malafide act on the part of DHO Tank is against the law and natural justice, it has caused an immense mental torture and agony to the appellant.
 - 6. That the appellant is not treated in accordance with law. He is virtually deprived of his rights as guaranteed under the law.

In view of the above given facts, it is humbly prayed that on acceptance/ issuance of this departmental representation/ appeal the DHO Tank may kindly be directed to release/ continue the salaries of the appellant along with all back benefits and the appellant may kindly be allowed to perform of his official duties and in case of removal/dismissal/termination from his service the present departmental appeal may kindly be treated as against that removal / dismissal / termination order of the appellant (if any) and the DHO Tank may also be directed to reinstate the appellant with all back benefits.

Dated: 28/12/2022

Your humble

Syed Ulfat Mussain Shah Son of Abdul Sattar Shah R/O village Ranwal District Tank (WARD-ORDERLY Office of the District Heath Officer Tank.) Cell# 03411193949

• :	
VAKA	LATNAMA

BEFORE THE HONORABLE <u>ICHYBER</u> PAICHTRUNKHWA SERVICE TRIBUNAL PESHAWAR <u>Bredulhat Hussainston ERSUS</u> <u>Court of KPIC de</u> Case No: <u>Service Appeal</u>

I/WE

The Above Named_____ hereby appoint

MALIK HAROON JAMIL ADVOCATE HIGH COURT (BC-16-6283)

in the above Captioned Cases to all or any of the following Acts Deeds & Things.

- ✓ To Appear, Act & Plead for Me/Us in the above mentioned cases in this Court/Tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
- ✓ To Sign, Verify, File OR Withdraw all proceedings, Petitions, Appeals, Affidavits, Applications for Compromise OR Withdrawals OR for the Submission of Arbitration of the said case OR any other Documents may be Deemed Necessary OR Advisable by them by the Conduct, Prosecution OR Defense of the above case at all its stages.
- To Receive Payments, Issue receipts for all moneys that may be OR become Due & Payable to us during the course on Conclusion of the Proceedings.
- ✓ To do all other Acts & Things, Which may be Deemed Necessary OR Advisable during the course of Proceedings.

AND HEREBY AGREE:

To Ratify Whatever Advocates may do the Proceedings.

- Not to Hold the Advantages Responsibilities if the said case be proceed Ex-parte OR Dismissed in Default in Consequence of their Absence from the Court when it is called for Hearing.
- That the Advocates shall be entitled to withdraw from the Prosecution of the said case if the Whole or any part of the Agreed Fee Remain Un-Paid.
- > That Advocates may be Permitted to argue any other point at the time of Arguments.

In Witness Whereof I/We have signed this Vakalatnama here under the Contents of which have been Read/Explained to Me/Us which is fully understood by Me/Us

CNE#12201-7308264-1

Dated: / <u>4/04/</u> Accepted By: & Attested By:

MALIK HAROON JAMIL Advocate High Court

SIGNATURE OF EXECUTANTS (S)

Sted alfat Higsain Shah Sto Abdul-Sather Shah R/o Village Remural Dist Tom U