


11.01.2023


Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present.

SCANNED
KFST
Peshawar

Former made a request for adjournment on the ground that learned counsel for the appellant is busy in Hon'ble High Court, Peshawar. Adjourned. To come up for arguments on 24.04.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

24th April, 2023

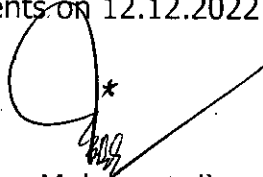
24th April has been declared as public holiday on account of Eid-Ul-Fitr, therefore, the case is adjourned. To come up for the same on 15.05.2023.


Reader

22.09.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 12.12.2022 before the D.B.



(Mian Muhammad)
Member (E)




(Salah-Ud-Din)
Member (J)

12.12.2022


Counsel for the appellant present.

Muhammad Adeel Butt learned Additional Advocate General for the respondents present.

Former made a request for adjournment in order to further prepare the brief. Last chance is given. To come up for arguments on 11.01.2023 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

SCANNED
KPST
Peshawar

17.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 21.03.2022 for the same as before.


Reader.

21.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.05.2022 for the same as before.


Reader.

11-5-22

Proper DB not available the case is adjourned on 26-7-22

*of an
Reader*

26-7-2022

Proper DB not available the case is adjourned to 22-9-2022

*of an
Reader*

04.01.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Reply/comments on behalf of official respondents No. 1 to 4 have already been submitted. Reply/comments on behalf of respondent No. 5 is still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondent to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 26.01.2022.



(Atiq-Ur-Rehman Wazir)
Member (E)

26.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Nasir Jalal Assistant and Mr. Yousaf Jamal Senior Clerk for the respondents present.

Representative of the respondents No. 5 stated at the bar that he rely on the comments submitted by respondent No. 1 to 4. Adjourned. To come up for arguments before the D.B on 17.03.2022.



(Atiq-Ur-Rehman Wazir)
Member (E)



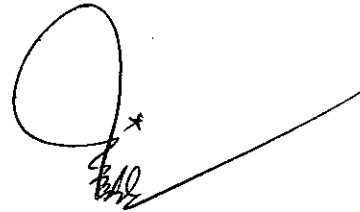
Chairman

S.A No. 7072/2021

09.12.2021

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Yousaf Jamal, Senior Clerk and Mr. Muhammad Usman, Senior Clerk for the respondents present.

Written reply on behalf of respondents No. 1 to 4 submitted, which is placed on file and copy of the same is handed over to junior of learned counsel for the appellant. Neither written reply on behalf of respondent No. 5 submitted nor any representative on his behalf is present, therefore, learned Additional Advocate General is directed to contact the said respondent for submission of written reply/comments on the next. To come up for written reply/comments on behalf of respondent No. 5 on 04.01.2022 before S.B.



(Mian Muhammad)
Member (E)

05.11.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Reply on behalf of respondents was not submitted. Learned A.A.G requested for time to submit reply; granted with direction to furnish the same within 10 days in office. If the reply/comments are not submitted within stipulated time, right of respondents for submission of reply shall be deemed as struck. To come up for arguments on 08.12.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

08.12.2021

Appellant alongwith his counsel. Mr. Muhammad Adeel, Addl: AG alongwith Mr. Yousaf Zaman, Senior Clerk for respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents seeks time to submit the same on the next date. Adjourned. To come up for written reply/comments on 09.12.2021 before S.B.

(MIAN MUHAMMAD)
MEMBER (E)

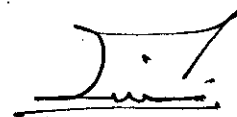
06.09.2021

Appellant alongwith Mr. Said Khan, junior of learned counsel for the appellant present. Mr. Muhammad Yousaf Jamal, Litigation Assistant alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not feeling well today. Adjourned. To come up for arguments before the D.B on 24.09.2021. The operation of the impugned order shall remain suspended till the date fixed, if not already acted upon.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24.09.2021

Appellant present through counsel.

Muhammad Rasheed learned D.D.A alongwith Yousaf Jamal Litigation Assistant for respondents present.

Reply on behalf of respondents is still awaited. Learned D.D.A made a request for time to furnish reply/comments. Request is accorded with direction to submit the same within 10 days in office positively. To come up for arguments on 05.11.2021 before D.B. The operation of impugned order shall remain suspended till the date fixed, if not acted upon earlier.



(Rozina Rehman)
Member (J)



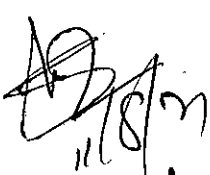
Chairman

06.08.2021

Appellant present in person. Lawyers are on strike today.

I have gone through the memorandum of appeal. The main grievance of the appellant seems to have related with the fact that he once upon a time was proceeded against in a matter of discipline but was exonerated. Thereafter, he was transferred firstly from the office of respondent No. 4 but that order was subsequently cancelled vide order dated 17.02.2020. He was again transferred from office of respondent No. 4 vide order dated 15.06.2021 on administrative ground where-against he preferred departmental appeal and the same was straightaway regretted on 15.07.2021 without any reason. Let the respondents be put on notice for regular hearing of this appeal subject to all just and legal objections to be determined during regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 06.09.2021 before the D.B.

An application has been filed alongwith memorandum of appeal for suspension of impugned office order dated 15.06.2021. The operation of said order shall remain suspended till next date, if not already acted upon.


11/8/21
Appellant Deposited
Security & Process Fee

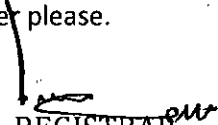


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7072 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/07/2021	<p>The appeal of Mr. Muhammad Ullah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR.</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____ / 2021

MUHAMMAD ULLAH V/S HEALTH DEPARTMENT

I N D E X

S.N O	DOCUMENTS	ANNEXUR E	PAGE
1	Memo of appeal	1 - 3
2	Affidavit	4
3	Stay Application	5
4	Inquiry report	A	6 - 13
5	Show cause notice	B	14 - 15
6	Notification	C	16
7	Orders	D&E	17 - 18
8	Transfer order	F	19
9	Departmental appeal	G	20
10	Transfer/posting	H	21 - 23
11	Wakalat Nama	24

Dated: 19-07-2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ /2021

Mr. Muhammad Ullah , Assistant (BPS-16),
O/O the District Health Officer, Khyber under transfer,
to the O/O District Health Officer, Kohistan,

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Health Officer, District Khyber.
- 5- The District Health Officer, District Kohistan.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 15.6.2021 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE OFFICE OF DISTRICT HEALTH OFFICER, KHYBER TO THE O/O DISTRICT HEALTH OFFICER, KOHISTAN AND AGAINST THE APPELLATE ORDER DATED 15.7.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 15.6.2021 and 15.7.2021 may kindly be set aside and the respondents may kindly be directed not to transfer the appellant from District Health Office, District Khyber. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is serving the respondent Department as Assistant (BPS-16) quite efficiently and up to the entire satisfaction of his superiors.
- 2- That the appellant, while serving against the post of office Assistant (BPS-16) in the office of respondent No.4 an inquiry was initiated by the respondents in the matter of illegal

appointments in the office of District Health Officer, Khyber but in the said inquiry the appellant was not even mentioned. That unfortunately later on a show cause notice was issued to the appellant on the same allegation of illegal appointments but vide notification dated 26.4.2021 the appellant was exonerated from charges. Copies of the inquiry report, show cause notice and Notification are attached as annexure **A, B and C.**

3- That inspite of the fact that the appellant was exonerated from the charges by the respondent No.2, the Director Health services merged area transfer the appellant from the office of respondent No.4 and as such his services were placed at the disposal of respondent No.3 but later on vide office order dated 17.2.2020 the said order was cancelled by the respondent No.3. Copies of the orders are attached as annexure **D and E.**

4- That astonishingly through impugned office order dated 15.6.2021 the appellant was again transferred from the office respondent No.4 to the office of respondent No.5 on administrative grounds. Copy of the transfer order is attached as annexure **F.**

5- That feeling aggrieved the appellant filed departmental appeal against the order dated 15.6.2021 but the same was rejected by the appellate authority on the body of Departmental appeal vide appellate order dated 15.7.2021 on no good grounds. Copy of departmental appeal is attached as annexure **G.**

6- That appellants feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

A- That the impugned orders dated 15.6.2021 and 15.7.2021 issued by the respondents are against the law, facts, norms of natural justice and in utter violation of posting /transfer policy hence liable to be set aside.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

C- That the impugned Notification dated 15.6.2021 is against the clauses I, II and XIV of the transfer/posting policy of the provincial Government of Khyber Pakhtunkhwa. Copy of transfer/posting policy is attached as annexure.....**H.**

- D-** That, the treatment meted out to the appellant is a clear violation of the Fundamental Rights of the appellant.
- E-** That the impugned order dated 15.6.2021 is issued in utter disregard of E&D Rules, 2011 and judgment of the apex Court.
- F-** That the respondents acted in arbitrary and malafide manner by issuing the impugned order dated 15.6.2021 against the appellant.
- G-** That, the appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- H-** That neither the impugned orders dated 15.06.2021 and 15.7.2021 have been issued in the public interest nor the same have been issued in exigencies of public service.
- I-** That the appellant seeks permission to advance other grounds and proofs at the time of hearing..

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 19.7.2021

APPELLANT


MUHAMMAD ULLAH

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE,
HIGH COURT PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

MUHAMMAD ULLAH

VS

HEALTH DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



[Handwritten Signature]
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Handwritten Signature]
CERTIFICATION

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

SERVICE APPEAL No. _____/2021

MUHAMMAD ULLAH

VS

HEALTH DEPTT:

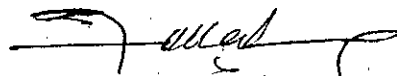
**APPLICATION FOR SUSPENSION OF OPERATION OF
THE IMPUGNED OFFICE ORDER DATED 15-06-2021
TILL THE DISPOSAL OF THE ABOVE MENTIONED
APPEAL**

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned office order dated 15.06.2021 whereby the appellant has been transferred from the office of DHO Khyber and placed at the disposal of DHO Kohistan Upper for further adjustment.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 15.06.2021 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned office order dated 15.06.2021 may very kindly be suspended till the disposal of the above mentioned service appeal.

APPLICANT



MUHAMMAD ULLAH

THROUGH:

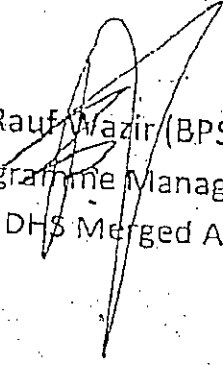


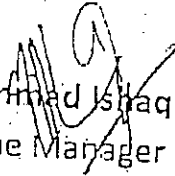
**NOOR MOHAMMAD KHATTAK
ADVOCATE**

CONCLUSION AND RECOMMENDATIONS:

By thoroughly examining the available record provided by the District Health Officer Khyber, information collected from IMU Health Khyber, it is evident that:-

1. The recruitments have been made without fulfilling all codal formalities and did not observed the appropriate procedure for appointments and recruitment of staff which shows the violation of Khyber Pakhtunkhwa rules for recruitment of staff in frame of Civil Servant act 1973 and project policy.
2. All the recruitments have been made during the ban period.


Dr. Rauf Wazir (BPS-19)
Programme Manager
TBC DHS Merged Areas


Dr. Muhammad Ishaq (BPS-19)
Programme Manager
MHP DHS Merged Areas

7

CORE ISSUES OF THE COMPLAINT

1. Illegal Appointments of Health staff (25 Numbers) of various categories by the District Health Officer Merged Area Khyber violating the rules and policy.
2. That the concerned staff could not be physically verified at their duty stations.
3. That illegal staff has been recruited during ban period.
4. That the concerned staff regularly receiving their salary at the DDO of District Health Officer Merged Area, Khyber.



PROCEEDINGS :-

1. The District Health Officer Merged Area Khyber was summoned through a letter vide No.3837-38 dated 16-12-2019 (Copy of letter is attached at Annexure-C) to attend the office of the Programme Manager TB Control Warsak Road Peshawar along with relevant record. District Health Officer submitted reply containing of 05 Pages to the undersigned (Copy of letter is attached at Annexure-D) . We the members of inquiry committee also visited the office of District Health Officer Merged Area Khyber at Jamrud and as well as the office of Monitoring Officer Health IMU at Jamrud to collect the information. The committee members also met with local people to know the factual status of recruitment.
The inquiry committee also asked the following points



~~ATTESTED~~

8

BACKGROUND OF THE ISSUE

The District Monitoring Officer Health IMU Khyber, Mr. Asgher Khan Afridi communicated a letter to Director Health Services Merged Areas vide No.IMU/TD Khyber /IMU-DHS/002/19 dated 04-12-2019, wherein he has charged the District Health Officer , Merged Area Khyber for illegal recruitment of Health staff without fulfilling codal formalities and violating the prevailing rules and policy. He further revealed that he personally visited various Health facilities at District Khyber but the illegal recruited staff could not be physically verified at their duty stations. He further claimed that all the appointments are made during the ban period. (Copy of letter is attached at Annexure-A)

Directorate of Health Services Merged Areas noticed the issue and constituted an inquiry committee comprising of undersigned ie Dr.Rauf Wazir (BPS-19) Programme Manager TB Control Programme and Dr.Muhammad Ishaq (BPS-19) Programme Manager Mobile Hospital Programme Directorate of Health Services Merged Areas Peshawar vide office order No.20727-31/DHS/admn dated 13-12-2019 to probe into the matter and conduct a fact finding inquiry. (Copy of letter is attached at Annexure-B)

ATTESTED

9

- Is Approval from competent authority has been obtained for recruitment
 - Is the advertisement has been made for recruitment
 - Nature of recruitment Regular Contract ADP
 - Total Number of Applicants
 - Is the selections committee notified?
 - Total Number of short listed candidates with positions and names.
 - Is Interview conducted
 - Date of interview.
 - Are Degrees/certificates of the selected candidates are relevant.
 - Minutes of the short listing and selection committee.
 - Are salaries recruited staff released
 - Verification of documents has been made before releasing of salaries.
 - Selected candidates performing duties:
 - Are appointments made in ban period ie (During 10-10-2018 to 24-09-2019).
2. The District Health officer was further cross questioned and various aspects of the complaints were discussed.
3. The District Monitoring officer IMU Merged Area Khyber was also called for further questioning regarding illegal recruitments in the office of District Health Officer Merged Area Khyber.

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~~ATTACHED~~

4. All the 25 Numbers of the recruited staff was also called for personal appearance and physical verification on 23-12-2019 but the following 21 persons attend the office of the undersigned, the members of inquiry committee collected the Appointment orders and CNIC from the concerned staff. (21 Copies of appointment letters and CNICs are attached at Annexure-E)

FACTS AND OBSERVATIONS

The inquiry committee examined the available record provided by the District Health Officer Khyber and the information gathered during the cross questions from District Health Officer Khyber and its staff, the following facts and observations were revealed:

1. The District Health Officer Khyber was asked to provide the approval of the competent authority for recruitment of staff but he failed to provide the relevant record ie office order, notesheet or summery etc.
2. The District Health Officer was asked to provide the advertisement of the recruitment , the officer concerned provided the advertisement but astonishingly some positions were not reflected in the advertisement upon which the staff was recruited ie Junior Clerk, Store Keeper, Sanitary Supervisor etc. (Copy of advertisement is attached at Annexure-D above)
3. Notification of the short listing committee for the candidates was not provided by the District Health Officer

~~ATTESTED~~

11

Merged Area Khyber, only a Letter provided which is addressed to DHS Merged Areas and DC Merged Area Khyber, none of the signature, attendance, minutes of the meeting of shortlisting committee for candidates were provided to the inquiry committee which was not satisfactory.

4. The District Health Officer Khyber failed to provide date of interview, Minutes of the meeting and number of shortlisted candidates.
5. The appointments are made during the ban period ie from 10-10-2018 to 24-09-2019.

The inquiry committee also summoned the following recruited staff for cross questions.

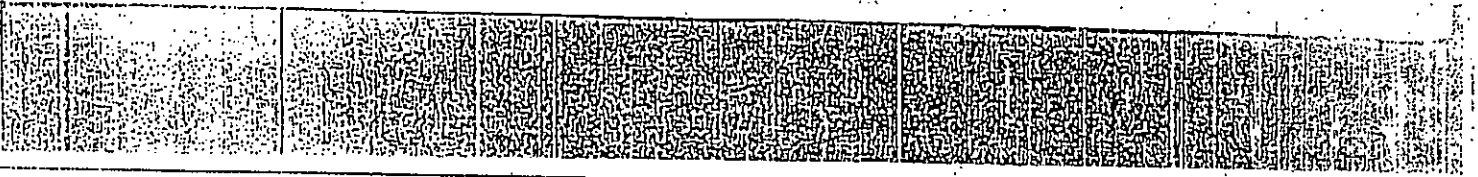
S.No	Name of Employee	Designation
1	Mr. Abdul Qadir	Junior EPI Tech
2	Mr. Muhammd Shazaib Awan	OT Tech:
3	Mr. Abdul Hakeem	Multi purpose Tech:
4	Mr. Muhammad Ashfaq	OT Tech:
5	Mr. Mustafa Muhammad	Anesthesai Tech:
6	Mr. Farhad ali	Lab: Tech
7	Mr. Abdul Hameed	Vaccinator
8	Mr. Khuddar	J/Clerk
9	Mr. Abdul Wajid	Junior EPI Tech
10	Mr. Saddam Hussain	Dispenser
11	Mr. Hassanain	Multi purpose Tech:
12	Mr. Uzair Khan	Junior EPI Tech
13	Mr. Imran Afridi	Store Keeper
14	Mr. Fawad Ahmed	EPI Tech

~~ATTESTED~~

15	Mr.Habibullah	Junior EPI Tech:
16	Mr.Hubab.Ali	Anesthesia Tech:
17	Mr.Numan Khan	Sanitary supervisor
18	Mr.Daud Khan	Sanitary supervisor
19	Ashar boota	Sweeper
20	Mr.Amir	Driver
21	Mst.sadaqat.Begum	dai
22	Mr.Umair Mashi	Sweeper
23	Mira Dost Mohmmad	Dai
24	Mr.Asif Nawaz	Behishthi
25	Mr.Muhammad Fayaz	Behishthi

Wherein 21 numbers of staff in-person appeared before the inquiry committee. They were cross questioned and they verbally stated that no bribe/ money has been taken/ received by the District Health Officer.Khyber or his staff during the recruitment process.

As per statement/record of District Health Officer Khyber (03) number of staff namely Mr.Muhammad Shahzaib Awan OT Tech, Mr.Muhammad Ishfaq OT Tech and Mr.Uzair Khan Junior EPI Tech: have been terminated, however their terminations orders are not provided by the DHO Khyber. One Mr.Farhad Ali Lab Tech has tendered his resignation from service although his resignation and acceptance has not been provided.



~~ATTACHED~~

DIRECTORATE OF HEALTH SERVICES

MERGED AREA SECRETARIAT WARSAK ROAD PESHAWAR
Ph # 091-9210212 Fax # 091-9212110

OFFICE ORDER

The following inquiry committee, is hereby constituted to conduct a fact finding inquiry regarding the "Illegal appointment of Paramedics" under the control of District Health Officer, Khyber. The following inquiry officers are hereby nominated as under:

1. Dr. Rauf Wazir, Program Manager, TBC, DHS, Merged Areas.
2. Dr. Ishaq, Program Manager, Mobile Unit Program, DHS, Merged Areas.

The inquiry committee is directed to submit detailed report in this regard within a week time, positively.

--sd--

Director Health Services,
Merged Areas, Peshawar.

No. 2019-31 /DHS/Admin

Dated 13/12/2019

Copy forwarded to the:-

1. Inquiry Officer-I.
2. Inquiry Officer-II.
3. District Health Officer, Khyber.
4. PA to Deputy Director Admin, DHS Merged Areas Peshawar.
5. District Monitoring Officer, IMU Health, Khyber.

Director Health Services,
Merged Areas, Peshawar.

ATTACHED



ANNEXURE

B

14

SHOW CAUSE NOTICE

I, Mehmood Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Ullah (BS-16) (Ex- Office Assistant District Health Office Tribal District, Khyber) now at Directorate General Health Services, Khyber Pakhtunkhwa, as follows:-

1. (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer/ Inquiry Committee for which you were given opportunity of hearing vide communication No. ZAB PGPI/Admin/303-8, dated 24.08.2020 wherein the charges of conducting recruitment without fulfilling codal formalities, violation of recruitment rules/ project policy and conducting recruitment during ban period were proved; and
(ii) That on going through the findings and recommendations of the Inquiry Officer/ Inquiry Committee, the material on record and other connected papers including your defence before the Inquiry Officer/ Inquiry Committee.

2. I am satisfied that you have committed the acts/ omission of "Misconduct" specified in Rule-3 of the said rules:

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Reduction to lower post/ grade for a period of two (02) years. under Rule-4 of the said rules.

4. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard upon person?

ATTACHED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

15

3. If no reply to this notice is received within seven (07) days or not more than fifteen days of its delivery, 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.

4. A copy of the findings of the Inquiry Officer/ Inquiry Committee is enclosed.

(MEHMOOD KHAN)
CHIEF MINISTER, KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Muhammad Ullah (BS-16),
(Ex-Office Assistant District Health Office Tribal District, Khyber) now at
Directorate General Health Services, Khyber Pakhtunkhwa

ATTACHED



Government of Khyber Pakhtunkhwa,
Health Department

ANNEXURE C

16

Dated Peshawar the 26th April, 2021

NOTIFICATION

NO. SOH(HD)/E-V/4-4/2021

WHEREAS, Mr. Muhammad Ullah (BS-16), Office Assistant at District Health Office, Khyber assisted the DHO concerned in making certain recruitments without fulfilling codal formalities and in violation of relevant rules.

2. AND WHEREAS, a Fact Finding Inquiry was constituted by Directorate of Health Services, Merged Areas vide office order dated 13.12.2019, which observed/ found that the recruitment was made during ban period as well as without observing legal formalities.

3. AND WHEREAS, a Formal Inquiry under Health Department's letter dated 13.07.2020 recommended Mr. Muhammad Ullah (BS-16), Office Assistant at District Health Office, Khyber for imposition of major penalty of misconduct under Khyber Pakhtunkhwa Civil Servants (E&D) Rules, 2011.

4. AND WHEREAS, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) issued him a Show Cause Notice vide letter No. SOH(E-V)/8-6/2020 dated 10.02.2021 for imposing major penalty of "Reduction to lower post/ grade for a period of two years" tentatively.

5. AND WHEREAS, the opportunity of personal hearing was given to the accused on 08.03.2021, and was personally heard.

6. NOW THEREFORE, In exercise of the powers conferred under Rule 14 of the Khyber Pakhtunkhwa Civil Servants (E&D) Rules, 2011 and all such powers in that behalf, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to "Exonerate" Mr. Muhammad Ullah (BS-16), Office Assistant at District Health Office, Khyber from his above mentioned acts of omission & commission, with immediate effect.

Secretary Health
Government of Khyber Pakhtunkhwa

Endst. Of even No. & Date.

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Commissioner, Khyber.
5. District Health Officer, Khyber.

ANNEXURE

① 17

DIRECTORATE OF HEALTH SERVICES

MERGED AREA SECRETARIAT WARSAK ROAD PESHAWAR

Ph # 091-9210212 Fax # 091-9212110

OFFICE ORDER

Mr. Muhammad Ullah, Office Assistant, (BPS-16), attached to District Health Officer, Khyber, is hereby surrendered and placed at the disposal of Director General Health Services, Govt. of Khyber, Pakhtunkhwa Peshawar with immediate effect in the best interest of public services.

Compliance report shall be submitted to this directorate.

Sd/
Director Health Services,
Merged Areas, Peshawar.

No. 3305-27/DHS/Admin

Dated 02/02/2020

Copy forwarded to the:-

- 1. Director, General Health Services, Govt. of Khyber, Pakhtunkhwa, Peshawar.
- 2. District Health Officer, Khyber.
- 3. District Accounts Officer, Khyber.
- 4. Official concerned.

[Handwritten signature/initials]

Deputy Director, Admin
DHS Merged Areas, Peshawar

ATTACHED

Better copy

18

DIRECTOR GENERAL HEALTH
KHYBER PAKHTUNKHWA PESHAWAR

ANNEXURE

E

No. 1023/(sic)

Dated: 17.02.2020

To

The Deputy Director (Admn)
DHS Merged Areas Peshawar.

Subject: **OFFICE ORDER**

Memo:

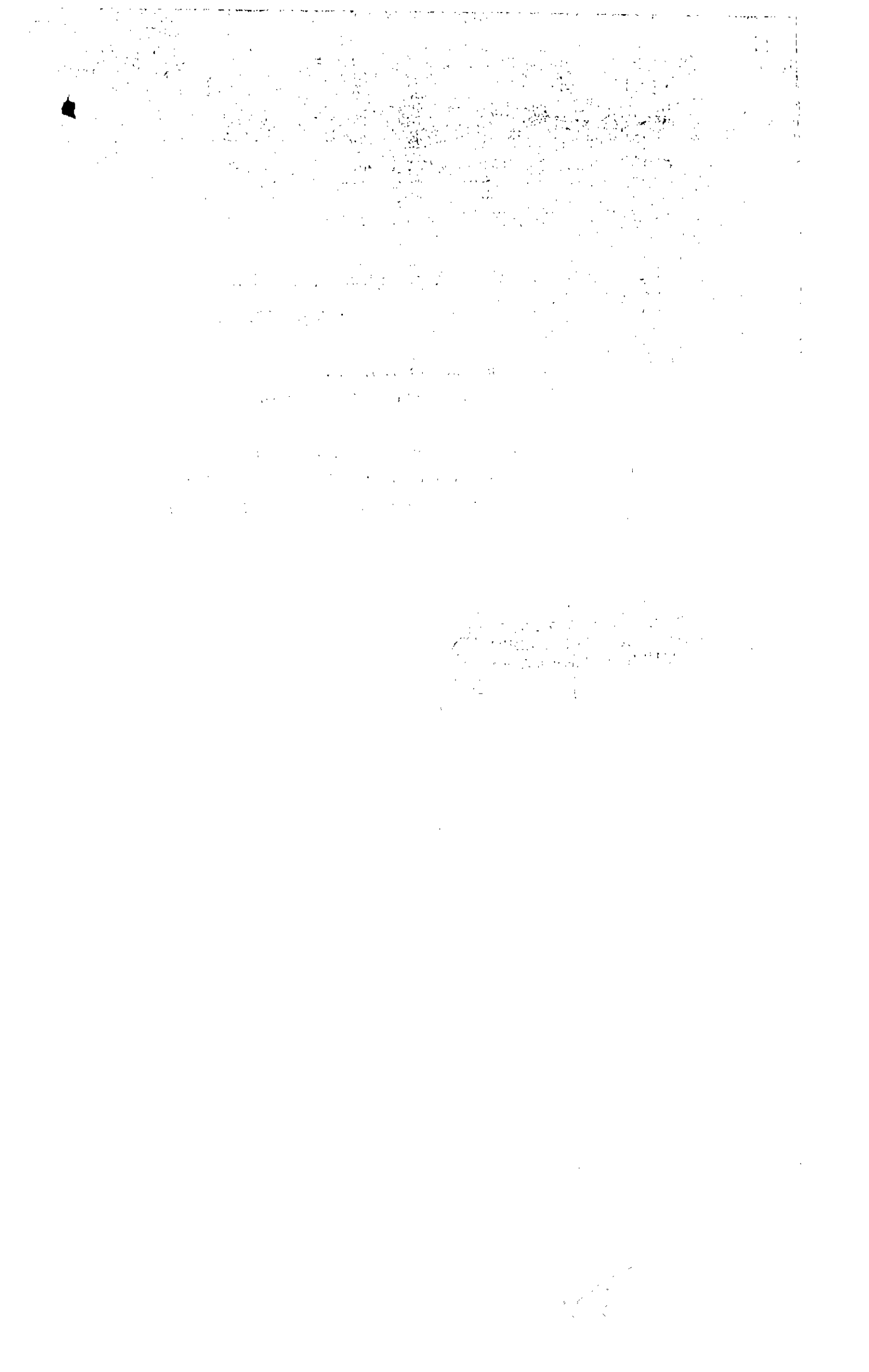
I am directed to refer to your office order bearing Endst: No. 3325-24/DHS/Admn dated: 03.02.2020 on the subject noted above.

You are directed to withdraw the relieving order in respect of – Mr. Muhammad Ullah Office Assistant, and take disciplinary action against him under E&D rules 2011, if he is guilty of misconduct as transfer of unwilling worker is no remedy.

Sd/-

ADDITIONAL DG (ADMN)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR

RECEIVED





DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHW PESHAWAR

19

1-Mill Address: (in Urdu) Office PHO 071-9210163 to 071-9210167, 9210164 to 921-9210170

OFFICE ORDER

ANNEXURE F

As approved by the competent authority, the services of Mr. Muhammad Ullah office Assistant attached to DHO office Khyber, are hereby placed at the disposal of DHO Kohistan Upper for further adjustment under his control against the vacant on Administrative grounds with immediate effect.

Nb: Arrival/ departure reports should be submitted to this Directorate for record.

Sd/xxxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K. PESHAWAR.
Dated 15/06/2021.

No. 5356-62 /Personnel
Copy forwarded to the:-

1. P.S to Minister for Health Khyber Pakhtunkhwa.
2. P.S to Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
3. DHO Khyber.
4. DHO Kohistan Upper.
5. DAO Khyber/Kohistan Upper.
6. Assistant Director (Ministerial) DGHS, KP Peshawar.
7. Official concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH
SERVICES, K.P. PESHAWAR.
15/06/2021

ATTESTED

ANNEXURE G (20)

Per

25790
16/7/24

To

The Director General Health Services
Khyber Pakhtunkhwa

Subject:-

APPEAL FOR CANCELLATION OF TRANSFER ORDER

Reference your good office letter No 5356-62/Personnel dated 15.6.2021 under which I have been transferred from DHO Office Khyber to DHO Kohistan upper on **administrative grounds**.


In this regard it is stated that I belong to the tribe of landikotal and permanent resident of District Khyber. Neither there is departmental and judicial inquiry against me nor any other complaint in this regard.

Keeping in view the above facts it is requested to re-consider my transfer order and allow me to continue my duty in the office of DHO Khyber at Jamrud which will be highly appreciated.

Thanks

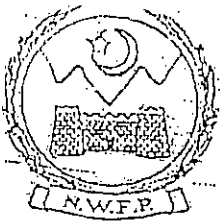
Yours Obediently

Dated 17.6.2021


Muhammad Ullah
Office Assistant BPS-16
Office of the DHO Khyber at Jamrud

Respected

15/8/24



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

21

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posing/transfer of the unmarried female government Servants at the station of the residence of their parents.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business, 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2008, dated 21-09-2004.

ATTACHED

22

- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on past posts, and general reputation with focus on the integrity of the concerned officers/officials be considered.

b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

Added vide Urdu circular letter No. SOR-VI (E&AD)/1-1/2005, dated 7-9-2005.

23

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.

✓ (ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

Reference: Paper No. SOR 20/F&AD/14/2003 (dated 24-6-2003).

It has been decided by the Provincial Government that posting/transfer orders of all officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per guidelines given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

24

VAKALATNAMA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

APPEAL NO. _____ OF 2021

Muhammad ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We Muhammad ullah

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK, Advocate, HIGH COURT, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

[Signature]
CLIENT

ACCEPTED
NOOR MUHAMMAD KHATTAK
[Signature]
SAID KHAN
&
[Signature]
UMAR FAROOQ MOHMAND
ADVOCATES

OFFICE:
Flat No.4, 2ND Floor,
Juma khan plaza near
FATA secretariat, warsak road
Peshawar City.
Mobile No.0345-9383141



**DISTRICT HEALTH OFFICE KHYBER
GOVERNMENT OF KHYBER PAKHTUNKHWA**

EMAIL. askhyber@gmail.com


PHONE/FAX #091-5820301

No. 11504 /DHO/Khy

Dated: 03/09/2021

AUTHORITY LETTER

Mr. Muhammad Yousaf Jamal, Litigation Assistant, of this office is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar in the case / appeal No. 7072/2021 title "Muhammad ullah VERSUS Government of Khyber Pakhtunkhwa" on behalf of respondent No. 4


District Health Officer,
Khyber

03-9-2021

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 7072 OF 2021

Muhammad Ullah.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has filed the instant appeal just to pressurize the respondents.
2. That the instant appeal is against the prevailing Law and Rules.
3. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
4. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appeal is barred by law and limitation.
7. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. Correct, the appellant is serving as Office Assistant BPS-16 in the office of District Health Officer Khyber.
2. Correct. An enquiry was conducted against the appellant regarding appointments in the office of District Health Officer Khyber and Show Cause notice with one step demotion for two years was served against him. The appellant was later on exonerated from the charges of one step demotion.
3. Correct, the appellant was surrendered from office of the District Health Officer Khyber to the office of Director General Health Services Khyber Pakhtunkhwa Peshawar for further posting.
4. Correct. The appellant was transferred from office of the District Health Officer Khyber to

the office of District Health Officer Kohistan Upper on administrative grounds.

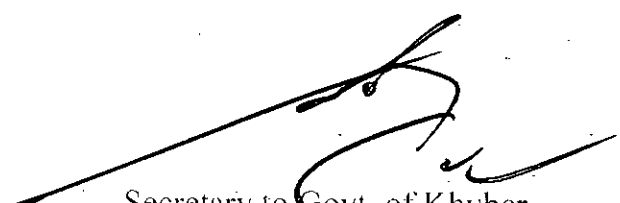
5. Correct. The appellant filed Departmental appeal against the transfer order dated 15/06/2021 which was rejected by the Respondent No. 3 on 15/07/2021.
6. Needs no comments being formal.

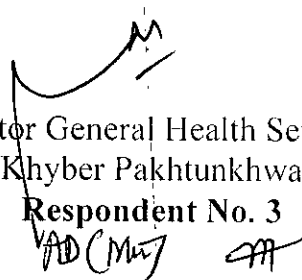
ON GROUNDS:

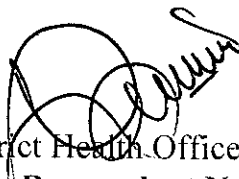
- A. Incorrect, as the orders dated 15/06/2021 & 15/07/2021 were issued in accordance with law, facts, Norms & natural justice and the replying respondents did not violate posting / transfer policy.
- B. Incorrect. The appellant has been treated in accordance with law and rules and no violation has been made in his transfer from District Health Officer Khyber to District Health Officer Upper Kohistan.
- C. Incorrect. The order dated 15/06/2021 is according to the posting / transfer policy of the Provincial Govt.
- D. Incorrect. No violation of Fundamental Rights has been done.
- E. Incorrect. The impugned order has been issued in accordance with section 10 of Khyber Pakhtunkhwa Civil Servant Act, 1973.
- F. Incorrect. The transfer order of the appellant dated 15/06/2021 is according to law and rules.
- G. Incorrect as in Para-A.
- H. Incorrect, as already explained in preceding paras.
- I. The replying respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.


Secretary to Govt. of Khyber
Pakhtunkhwa Health Department
Respondent No. 01 & 02


Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 3


District Health Officer Khyber
Respondent No. 4



OFFICE OF THE DISTRICT HEALTH OFFICER KOHISTAN AT DASSU.

Phone No: 0998-407132 Fax No: 0998-407132

Mail Address: edohkhn@yahoo.com, edohkhn@gmail.com

No: 2636 /DHS /Kohistan, dated the 24/01/2022.

To,

The Chairman Khyber Pakhtunkhwa
Service Tribunal, Peshawar

SUBJECT: APPLICATION REGARDING PARAWISE COMMENTS IN THE SERVICE APPEAL No. 7072/2021 " MUHAMMAD ULLAH VS GOVERNMENT OF KHYBER PAKHTUKHWA".

R/Sir,

I have the honour to state that Honourable Secretary Health and Director General Health Services Khyber Pakhtunkhwa had already submitted the reply of Parawise comments in the Service appeal No. 7072/2021 " Muhammad Ullah Vs Government of Khyber Pakhtunkhwa" and the undersigned own the said comments and also agreed with the submitted reply please.

District Health Officer
Kohistan Upper