



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 937 /2022

Saeed Ullah, Head Clerk / Account Clerk (BPS-14), office of DHO, North Waziristan, Tribal District.....(Appellant)

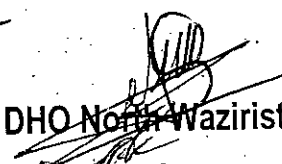
Versus

Government of Khyber Pakhtunkhwa through Secretary to Govt. of KP Health Department Peshawar and Others.....(Respondents)

INDEX

S.#	Particulars	Annexure	Page
1	Para-wise Comments.		1-4
2	Order dated 06.11.2015.	A	5
3	Order dated 19.08.2020.	B	6
4	Order dated 10.09.2020.	C	7
5	Letter No. SOH (E-V) 4-4/2021/Inquiry Report dated 22.04.2021.	D	8
6	Affidavit		9
7	Authority letter.		10

Respondent No. 4.


DHO North Waziristan
District Health Officer,
Tribal District North Waziristan,
Miranshah

①

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Versus


Government of Khyber Pakhtunkhwa through Secretary to Govt: of KP Health Department Peshawar and Others.....(Respondents)

Joint Para-wise comments on behalf of respondents No. 1, 2 & 4.

Respectfully Sheweth:

Preliminary objections:-

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention, hence liable to be dismissed.
6. That the appellant has not come to the Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
10. That it is further clarified that the then DHO time and again give responsibility to the appellant, but only charge of Head Clerk / Account was taken back from the appellant in light of ban imposed upon him by the competent authority i.e, DHO vide Order dated 06.11.2015 and Order date 19.08.2020 and restrained him from any such like responsibility (Annexure- and B).


District Tribunal
North Waziristan
Miranshah

ON FACTS:

1. Incorrect, hence denied. The appellant is performing his duty as Senior Clerk and no such certificate has been issued by the competent authority i.e. DHO.
2. The appellant was posted as Senior Clerk and there is no post of Head Clerk in Health Department.
3. Incorrect. Infact the appellant misguided the predecessor of the office of respondent No. 4, and obtained the order. Later on the order was withdrawn and the charge was given to another clerk by the competent authority.
4. Pertains to record. As already explained in preceding para.
5. Pertains to record. In fact in the earlier Service Appeal, the appellant concealed the material facts, therefore, the interim relief was granted with specific directions that if the earlier order has not acted upon, but in fact the same was acted upon and the duty of the subject position was given to another clerk.
6. Incorrect, hence denied. Infact the interim relief was granted on the observation that if the order dated 10/09/2020 whereby the duty was assigned to the other Junior Clerk has not been acted upon, however, the appellant pressurized the predecessor of the office of respondent No. 4 by concealing of facts and the order dated 16/04/2021 was obtained with malafide intention.
7. Correct. The appellant was rightly transferred in the light of inquiry conducted by the respondents. Furthermore, the appellant was lastly transferred in 2015 and since then he is serving on the post of Senior Clerk under the disposal of respondent No. 4 and now after almost six years he has been transferred under the recommendation of inquiry, but he misguided this Honorable Tribunal (Inquiry Report attached as Annex-C).
8. Incorrect. The appellant once again concealed material facts from this Honorable Tribunal and shown the above mentioned transfer order as premature and resultantly this Honorable Tribunal suspended the transfer order dated 15/06/2021.
9. Incorrect, hence denied. The appellant right from the beginning developed misconception and created confusion before this Honorable Tribunal while obtained the orders and when he has been realized after the

Appeal No.3423/2021, the appellant withdrew the said Appeal unconditionally and even the same facts has not been mentioned in the present Appeal and he tried once again to obtain the order of this Honorable Tribunal on the basis of malafide manner.

- 10. Incorrect, hence denied. The respondent No.5 was given charge by the Competent Authorities i.e. DHO.
- 11. Incorrect and misleading, the Appellant has not filed Departmental appeal, which is prerequisite for Service Appeal.
- 12. Needs no reply being formal.

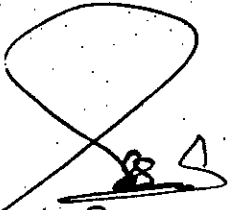
GROUND:-

- A) Incorrect, hence denied. The appellant creating confusion and even the assigning of duty of post is the discretion of respondent No.4 as already explained in Para-2 of the facts.
- B) Incorrect, hence denied. The appellant trying to mix-up the facts the Appeal No.7085/2021 is not relevant with the nomination of Clerk / Accountant.
- C) Incorrect. Posting to a certain post is not the right of the Appellant, rather it is discretion of the Competent Authority i.e. DHO for the smooth running of official business.
- D) Incorrect, hence denied. It is clear from the above mentioned facts that the appellant obtained the interim relief from this Honorable Tribunal by providing false information and concealed the facts.
- E) Incorrect, hence denied. The appellant has no right to file the instant appeal as it is the discretionary power of the respondent No.4 to distribute the official work amongst the clerks according to their ability.
- F) Answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

Tribunal
AC

PRA YER:

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 Government
of Khyber Pakhtunkhwa
Health Deptt. Peshawar.
Respondent No. 01



Director General Health Services
Khyber Pakhtunkhwa Peshawar.
Respondent No. 02



District Health Officer
North Waziristan Miranshah.
Respondent No. 04



District Health Officer,
Tribal District North Waziristan
Miranshah

15

Annexure - A

DIRECTORATE OF HEALTH SERVICES, FATA
DISTRIBUTION LIST

OFFICE ORDER

For the purpose of the recruitment of the vacant posts of the following posts in the Directorate of Health Services, FATA, the following list of candidates is being published for the information of the public. The candidates are invited to apply for the posts on or before the date mentioned below. The details of the posts and the candidates are as follows:

Sd/-
Director Health Services
FATA, Peshawar
Date: 21/11/2015

24041-45 /DHS/FATA/Adm

forwarded to the:

- 1- Deputy Director (Admin) DHS FATA
- 2- Agency Surgeon (North Waziristan Agency)
- 3- Agency Accounts Officer, NW Agency
- 4- Additional Agency Surgeon (Kurram Agency)
- 5- Agency Accounts Officer, Kurram Agency
- 6- Official Concerned.

Sd/-
Director Health Services
FATA, Peshawar

Atkes

District Health Officer,
Tribal District North Waziristan
Miranshah

Annexure-A

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of Page no. 15

DIRECTORATE OF HEALTH SERVICES, FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR.

Phone # 091-9210212

Fax # 091-9212110 .

OFFICE ORDER.

In the light of decision of Service Tribunal Khyber Pakhtunkhwa on 22.10.2015, Mr. Saeedullah, Senior Clerk attached to Additional Agency Surgeon Kurram is hereby transferred to Agency Surgeon North Waziristan Agency against the vacant post of Senior Clerk subject to the condition that he will not work as Head Clerk

Sd/xxxxxxx

Director Health Services
FATA, Peshawar.

No. 24041- 45 /DHS/FATA/Admn

Dated 06 /11/2015

Copy forwarded to the:

1. Deputy Director (Admn) DHS FATA.
2. Agency Surgeon North Waziristan Agency.
3. Agency Accounts Officer, NW Agency.
4. Additional Agency Surgeon Kurram Agency.
5. Agency Accounts Officer, Kurram Agency.
6. Official Concerned.

Sd/xxxxxxx

Director Health Services
FATA, Peshawar.

Attested



District Health Officer,
Tribal District North Waziristan
Miranshah

Ammeuze - B

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DIRECTORATE OF HEALTH SERVICES MERGED AREAS
MERGED AREAS SECRETARIAT, WARSAK ROAD, PESHAWAR
091-92 102 12 Tel 091-9217 110 Fax

OFFICE ORDER:-

The office order in respect of Mr. Saeed Ullah, Senior Clerk and Mr. Amjad Saleem, Junior Clerk issued by District Health Officer North Waziristan bearing No. 3599-3/PF-1/Miranshah dated 11-08-2020, is hereby withdrawn with immediate effect in the best interest of public.

District Health Officer North Waziristan is further directed to implement Office order of this Directorate bearing No. 24041-45/DHS/FATA/Admn dated 06-11-2015 in respect of Mr. Saeed Ullah, Senior Clerk in letter and spirit.

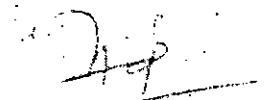
Sd/-----
Director Health Services
Merged Areas, Peshawar

No. 18646-51 /DHS/MA/Admn


Dated: 19/08/2020

Copy to the:-

1. Deputy Director (Admn), DHS Merged Areas.
2. District Health Officer North Waziristan.
3. Registrar Peshawar High Court Bannu Bench.
4. District Account Officer North Waziristan.
5. PA to Director Health Services Merged Areas.
6. Officials Concerned.


Director Health Services
Merged Areas, Peshawar

Attested


District Health Officer,
Tribal District North Waziristan
Miranshah

(Amneuse-C)

[Handwritten signatures and scribbles]

OFFICE OF THE DISTRICT HEALTH OFFICER TRIBAL DISTRICT NORTH
WAZIRISTAN

Phone & Fax: 0928300788-311662 email:agencyurgeonhwa@gmail.com

No. 4236-40 /PF-1-A

Miranshah Dated 10 /09/2020.

OFFICE ORDER

Mr Amjad Saleem Junior Clerk BPS-11 is hereby given the charge of Head/Account Clerk of the office of District Health Officer North Waziristan Tribal District in best public interest keeping in view of his good track record and performance.

This office order bearing No.3834-38/PE-I dated 24/08/2020 is hereby superseded with this office order by relieving Mr. Saeddullah Senior Clerk of the charge/duty.

(Dr. Muhammad Israr Ul Haq)
District Health Officer
North Waziristan Tribal District

Copy forwarded to:-

1. Director Health, Service, Merged Area Peshawar.
2. Director HR, DG Health Govt of KPK Peshawar.
3. District Account Officer North Waziristan at Miranshah.
4. PS to DG Health Govt of KPK Peshawar.
5. Official concerned/office file.

[Handwritten signature]
District Health Officer
North Waziristan Tribal District

Attested

[Handwritten signature]
District Health Officer,
Tribal District North Waziristan
Miranshah

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Annexure-D



MINISTRY OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NO. SOH/E-VI-4/2021 Inquiry Report
Dated Peshawar the April 27, 2021

The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar

4136
27/4/21

Subject: REQUEST FOR INQUIRY AGAINST DHO NORTH WAZIRISTAN

Dear Sir, I am directed to refer to the subject noted above and state that the Establishment & Admin Department (Regulation Wing) has submitted Inquiry Report of Khyber Pakhtunkhwa Provincial Inspection Team regarding illegal appointment/regularization made by Dr. Hameedullah, Ex-DHO North Waziristan. The following recommendations may be implemented:-

1. Cancel/ withdraw all the irregular adjustments/ regularizations, and appointment of the employees during the tenure of Dr. Hameedullah and Dr. Israr ul Haq, Ex-DHO, North Waziristan as indicated in the inquiry report.
2. The credentials/ antecedents of all the employees working under the administrative control of DHO, North Waziristan may be verified from the concerned Boards/ Universities/ Faculties under the prevailing rules.
3. The clerical staff working in the office of DHO, North Waziristan were found involved in concealment of the office record for their vested interest, therefore, they may be transferred out of District of North Waziristan and must never be posted in North Waziristan in future.

I am further directed to state that the above mentioned recommendations may be implemented under intimation to this Department, please.

Yours faithfully,
(Signature)
(Latif Ur Rehman)
SECTION OFFICER (E-V)

IMPORTANT/URGENT
OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

Dated: 26/05/2021

Copy of the above is forwarded to the:-

1. Deputy Director Paramedics DGHS Office Khyber Pakhtunkhwa, Peshawar.
2. AD/In-charge (Personnel Section) DGHS KP, Office.
3. The District Health officer North Waziristan Merged District at Miranshah.

For information and immediate necessary action.

(Signature)
ADDL. DIRECTOR GENERAL (HRM) HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Secretary to Govt. of Khyber Pakhtunkhwa Health Department for inform

(Signature)
District Health Officer,
Tribal District North Waziristan
Miranshah

Attest: *(Signature)*

(Signature)

(9)

**BEFORE THE KHYBER PAKHTUNKHWA
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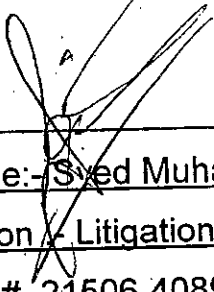
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AFFIDAVIT.

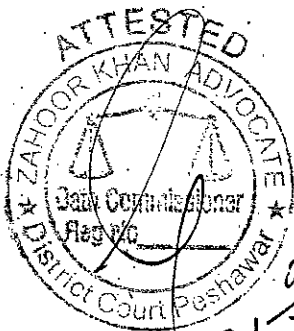
I Mr.Syed Muhammad Litigation Assistant do affirm & declare on oath on behalf of the respondents that the contents of the Para wise comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this honourable Court.

Deponent


Name:- Syed Muhammad.
Designation:- Litigation Assistant.
CNIC #. 21506-4089120-5
Mob:0333-1901113

Attested

Oath Commissioner
Advocate High Court



21/02/23


(10)

OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH.

Tel: (0928) 300788 FAX: (0928) 311662 Email: agency Surgeon nwt2019@gmail.com

No. _____ /Litigation/Court Case, Dated Miranshah the 26/10/2022.

AUTHORITY LETTER.

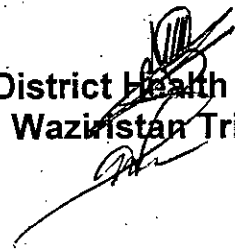
Mr. Syed Muhammad Litigation Assistant attached to this office is hereby fully authorized to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned as representative of Health Department North Waziristan Tribal District in Service Appeal No. 937/2022.

N.B:- TADA will be paid by this office as per Government rules.

SD/x x x
District Health Officer,
North Waziristan Tribal District.

No. 8514-15 /Litigation/Court Case,
Copy forwarded to:-

1. The Additional Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Mr. Syed Muhammad Litigation Assistant of this office.


District Health Officer,
North Waziristan Tribal District.