

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1164/2022

Dr. Shahzad Ali Khan.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa & Others.....Respondent

INDEX.

S.No.	Description of documents	Annexure	Page
01	Parawise Comments		01 to 02
02	Annexure		03 to 09
03	Affidavit		10

Amir 3/5/23
Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department (Lit-II)
Health Department
Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO.1164 OF 2022

Dr. Shahzad Ali Khan.....Appellant

Versus

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01, 02, 05 AND 06

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got no cause of action or 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.
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 this Honorable Tribunal with clean hands.
7. That the jurisdiction of the Honorable Tribunal has been barred by section 4(b)(i) of the Khyber Pakhtunkhwa Service Tribunal Act 1974.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

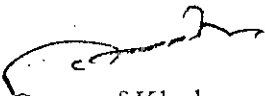
ON FACTS:

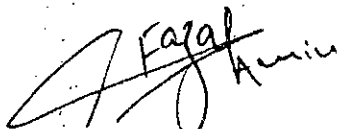
1. Subject to proof.
2. Subject to proof.
3. Subject to proof.
4. Subject to proof.
5. Subject to proof.
6. Subject to proof.
7. Incorrect. The appellant has already been considered by the PSB, but was deferred for the reason that an inquiry was pending against the appellant. It is worth to mention that as per para 5 (a) (ii) of the Khyber Pakhtunkhwa Promotion Policy 2009, "promotion of a civil servant will be deferred if disciplinary or departmental proceeding are pending against him". In view of the above referred para of the Policy the PSB deferred the promotion of the appellant.
8. Pertains to record.
9. Incorrect. Already explained in para 7 above. However, reply on the grounds are as under:

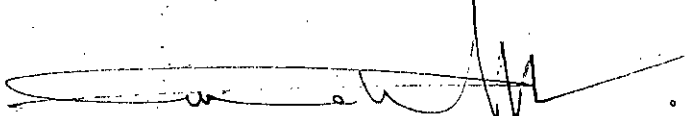
- b. Incorrect. Hence denied. Already replied in para-A above.
- c. Incorrect. The appellant has not been deprived from legal and legitimate right by the replying respondents; detail reply has been given in para-7 of the facts.
- d. Incorrect. The replying respondents have not violated seniority list rather the impugned Notification dated: 19-04-2022 has been issued in accordance with the seniority list. It is further to clarify that the appellant has been considered by the PSB on the basis of Seniority list however, due to pending disciplinary proceedings against the appellant, he was deferred in accordance with the Promotion Policy 2009.
- e. Incorrect. Already explained in para-D above.
- f. Incorrect. Detailed reply has already been given in Para No. 7 of the Facts.
- g. Incorrect. Detailed reply has already been given in Para No. 7 of the Facts.
- h. As per Para-d.
- i. Incorrect. Already replied in para 7 of the facts.
- j. Incorrect. As per para "d".
- k. Incorrect. Already replied in para 7 of the facts.
- l. Incorrect. As per para "a" above.
- m. Pertains to record.
- n. Incorrect, as already explained in preceding paras.
- o. Incorrect, as already explained in preceding paras.

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


Section Officer (E-V), Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 05


Director General Health Services Khyber
Pakhtunkhwa Peshawar
Respondent No. 06

DD(HR)

AA

**IMMEDIATE
CONFIDENTIAL**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

NO. SO(PSB)ED/1-8/2022/P-842
Dated Peshawar the 09.12.2022

To

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

9915
12/12/22

**SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION
BOARD HELD ON 18.11.2022.**

**PROMOTION OF MEMBER OF SERVICE BS-19 TO THE POST
OF MEMBER OF SERVICE BS-20 IN HEALTH DEPARTMENT.**

Dear Sir,

I am directed to refer to Health letter No. SOH(E-V)/4-4/2022/Promotion/MC/(BS-19) dated 16.11.2022 on the subject and to forward herewith an extract of **Additional Agenda Item No (10)** of the minutes/recommendations of the meeting of Provincial Selection Board held on **18.11.2022** as well as copy of approved summary wherein the Chief Minister, Khyber Pakhtunkhwa being competent authority in terms of Rule 4 (1) (a) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989 has approved the recommendations of the PSB, for further necessary action.

Yours faithfully,

PSH(E&A) 13/12/22

AS - ESTT

AS - MTI

DS - Admin

DS - Legal

DS - ESTT ✓

SECTION OFFICER (PSB) 9/12/22

Encl: As Above.

SO ✓
Pw immediate
14/12

ADDITIONAL ITEM NO. (10)

PSB meeting 18.11.2022

HEALTH DEPARTMENT

(Meeting of PSB held on 18.11.2022)

**SUBJECT: - PROMOTION OF MEMBER OF SERVICE BS-19 TO BS-20
MANAGEMENT CADRE HEALTH DEPARTMENT**

Special Secretary Health apprised the Board that due to retirement & creation, seven (07) posts of Member of Service BS-20 Health Management Cadre are lying vacant.

2. According to service rules, the post is required to be filled in as under:-
 - (a) "80% by promotion on the basis of selection on merit, from amongst the Members of Services in BS-19 with 5 years' service as such or 17 years' service in BS-17 and above, with four months advance in-service training in management from a recognized institute or Provincial Health Services Academy; and.
 - (b) Twenty percent (20%) by initial recruitment."
3. The service record of the officer included in the panel was discussed as follows:

S.#	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1.	Dr. Shahzad Ali Khan	His date of birth is 10.02.1966. He joined government service on 09.12.1991 in BS-17. He was promoted to BS-19 on 21.10.2013. He has completed prescribed length of service for promotion. He has undergone mandatory training for promotion. The Board was informed that an enquiry under E&D Rules, 2011 is pending against him. According to the Para V (a) (i) of Promotion Policy 2009, the officer against whom inquiry is pending will be deferred.
2.	Dr. Mushtaq Ahmad	The Board recommended to defer his promotion. His date of birth is 28.11.1964 He joined government service on 15.09.1997 in BS-17. He was promoted to BS-19 on 31.08.2016. He has completed prescribed length of service for promotion. He has undergone mandatory training for promotion. No enquiry is pending against him. His PERs dossier is complete. His service record upto 2021 is generally good. His quantified score is 57 and the Board awarded him 13 out of 30 marks. The Board recommended the officer for promotion to the post of Member of Service BS-20 on regular basis. He will be on probation for a period of one year.
3.	Dr. Shakirullah	His date of birth is 01.01.1964 He joined government service on 27.11.1998 in BS-17. He was promoted to BS-19 on 22.02.2017. He has completed prescribed length of service for promotion. He has not undergone mandatory training for promotion. His PERs dossier is incomplete as his PERs for the

Attested
Secretary (PSB)
Govt. of Punjab
Establishment Department

PSB meeting 18.11.2022

		<p>year 2016 to 2021 are not available. According to Para V (a) (ii) of Promotion Policy 2009, the officer whose PERs dossier is incomplete will be deferred. The Board directed to initiate disciplinary proceedings against him for non-submission of PERs under Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011.</p>
4.	Dr. Muhammad Ehsan Waheed	<p>The Board did not consider his promotion.</p> <p>His date of birth is 15.11.1965. He joined government service on 27.11.1998 in BS-17. He was promoted to BS-19 on 09.11.2016. He has completed prescribed length of service for promotion. He has undergone mandatory training for promotion. No enquiry is pending against him. His PERs dossier is complete. His service record upto 2021 is generally good. His quantified score is 56 and the Board awarded him 14 out of 30 marks.</p> <p>The Board recommended the officer for promotion to the post of Member of Service BS-20 on regular basis. He will be on probation for a period of one year.</p>
5.	Dr. Shahzad Faisal	<p>His date of birth is 16.03.1969. He joined government service on 27.11.1998 in BS-17. He was promoted to BS-19 on 01.10.2018. He has not completed prescribed length of service for promotion. He has undergone mandatory training for promotion. No enquiry is pending against him. His PERs dossier is complete. His service record upto 2021 is generally good. His quantified score is 57 and the Board awarded him 13 out of 30 marks.</p> <p>The Board recommended the officer for appointment to the post of Member of Service BS-20 on acting charge basis.</p>
6.	Dr. Syed Nasir Shah	<p>His date of birth is 01.10.1964. He joined government service on 27.11.1998 in BS-17. He was promoted to BS-19 on 04.01.2019. He has not completed prescribed length of service for promotion. He has undergone mandatory training for promotion. No enquiry is pending against him. His PERs dossier is complete. His service record upto 2021 is generally good. His quantified score is 55 and the Board awarded him 15 out of 30 marks.</p> <p>The Board recommended the officer for appointment to the post of Member of Service BS-20 on acting charge basis.</p>
7.	Dr. Safia	<p>Her date of birth is 09.07.1972. She joined government service on 16.08.1999 in BS-17. She was promoted to BS-19 on 26.09.2017. She has completed prescribed length of service for promotion. She has undergone mandatory training for</p>

Attested
[Signature]
Section Officer (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

PSB meeting 18.11.2022

dossier is complete. Her service record upto 2021 is generally good. Her quantified score is 57 and the Board awarded her 13 out of 30 marks.

The Board recommended the officer for promotion to the post of Member of Service BS-20 on regular basis. She will be on probation for a period of one year.

8. Dr. Muhammad Rehman Afridi

His date of birth is 23.03.1969. He joined government service on 16.09.2000 in BS-17. He was promoted to BS-19 on 26.09.2017. He has completed prescribed length of service for promotion. He has undergone mandatory training for promotion. No enquiry is pending against him. His PERs dossier is complete. His service record upto 2021 is generally good. His quantified score is 56 and the Board awarded him 14 out of 30 marks.

The Board recommended the officer for promotion to the post of Member of Service BS-20 on regular basis. He will be on probation for a period of one year.

Attested
[Signature]
Section Officer (PSB)
Govt. of Punjab
Establishment Department
Punjab



3
DEPARTMENT

Dated: Peshawar the 21st December, 2022

NOTIFICATION

NO. SOH(E-V)/4-4/2022

On the recommendations of Provincial Selection Board, in its meeting held on 18.11.2022, the following Member of Service (BS-19) are hereby promoted/ appointed to the post of Member of Service (BS-20), on regular/ acting charge basis, with immediate effect:-

S.No.	NAME OF DOCTOR	S.No.	NAME OF DOCTOR
1.	Dr. Mushtaq Ahmad (On regular basis)	4.	Dr. Syed Nasir Shah (On acting charge basis)
2.	Dr. Muhammad Ehsan Waheed (On regular basis)	5.	Dr. Safia (On regular basis)
3.	Dr. Shahzad Faisal (On acting charge basis)	6.	Dr. Muhammad Rehman Afridi (On regular basis)

2. The doctors on promotion will remain on probation for a period of one year in terms of Section-6(2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and extendable for another year with the specific orders of appointing authority within two months of the expiry of first year of probation period as provided in rule-15(2) of rules ibid.

3. Posting/ transfer order in respect of the above name doctors will be issued later on.

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. 5721-92 / Notification of even No. & dated:

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services. Khyber Pakhtunkhwa.
3. Director General, Provincial Health Services Academy Peshawar.
4. All District Health Officers in Khyber Pakhtunkhwa.
5. All Medical Superintendents in Khyber Pakhtunkhwa.
6. All District Accounts Officers in Khyber Pakhtunkhwa.
7. PS to Secretary Health Department Khyber Pakhtunkhwa
8. Deputy Director (IT), Health Department, Peshawar.
9. PS to Minister for Health, Khyber Pakhtunkhwa.
10. All concerned doctors.

[Handwritten signature and date 21-12-2022]

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department Health
 7. Nomenclature of the post / Basic scale Member of Services in Management Cadre (BS-20)
 Service/Group/Cadre Health Management Cadre
 8. Sanctioned strength of the cadre 47

	Direct	Promotion	Transfer
i. Percentage of share	20%	80%	-
ii. No. of posts allocated to each category	09	38	-
iii. Present occupancy position	01	31	-
iv. No. of vacancies in each category	08	07	-

v. How did the vacancies under promotion quota occurred and since when?

- a. Due to new creation =05 posts. (Annex-A).
 - b. Due to retirement of Dr.Saifullah Khalid= 01 post (Annex-B).
 - c. Due to retirement of Dr. Shoukat Sohail= 01 post. (Annex-C).
- Thus Seven (07) vacancies are lying vacant for promotion quota.

vi. Recruitment rules

- i) 80%By promotion on the basis of selection on merit, from amongst the Members of Service in (BS-19) with 5years service as such or 17 years service in BS-17 and above.
- ii) Four months advance in-service training in management from a recognized institution Or Provincial Health Services Academy Khyber Pakhtunkhwa Peshawar.
- iii) Twenty percent (20%) by initial recruitment.

vii. Required length of service

Five years service in BS-19 or seventeen years service in BS-17 and above.

viii. Whether to be promoted on regular basis or appointed on acting charge basis?

Regular basis

ix. Mandatory training, if any

Four months advance in service training in management from a recognized institution Or PHSA Khyber Pakhtunkhwa.

x. Minimum required score on EI

Seventy (70)

Deputy Director (HR)
 Directorate General Health Services
 K.P. Peshawar

Signature:
 Designation: Secretary Health, Khyber Pakhtunkhwa.
 Dated: _____ Health Department

S #	Seniority No.	Name of officer with qualification	Date of Birth	Date of 1st Entry into Govt Service	Date of Appointment / Promotion to BS-18	Date of regular appointment / promotion to the present scale	Date of Induction in Health Management Cadre	Whether fulfilled the prescribed length of service	Quantified score	Missing PERs if any	Disciplinary proceedings (if any)	Case (if any) in any court of law including NAB/Plea bargaining with NAB	Mandatory training for promotion	Research Paper	Remarks
1	10	Dr. Shahzad Ali Khan S/O Muhammad Farid Swati	10.02.1966	09.12.1991	10.09.2009	21.10.2013	14.07.2009	yes	54.96	2021	Yes	No	Yes	NA	Not Eligible
2	31	Dr. Mushtaq Ahmad	28.11.1964	15.09.1997	29.10.2013	31.08.2016	14.07.2009	yes	57.4		No	No	Yes	NA	Eligible
3	32	Dr. Shakirullah	01.01.1964	27.11.1998	29.10.2013	22.02.2017	14.07.2009	yes		2016 to 2021	No	No	No	NA	Not Eligible
4	33	Dr. Muhammad Ehsan Wabeed	15.11.1965	27.11.1998	29.10.2013	09.11.2016	14.07.2009	yes	55.77		No	No	Yes	NA	Eligible
5	34	Dr. Shahzad Faisal	16.03.1969	27.11.1998	28.02.2017	01.10.2018	14.07.2009	yes		2018 to 2021	No	No	No	NA	Not Eligible
6	35	Dr. Syed Nasir Shah	01.10.1964	27.11.1998	14.11.2017	04.01.2019	14.07.2009	yes	55.37		No	No	Yes	NA	Eligible
7	37	Dr. Safia	09.07.1972	16.08.1999	29.10.2013	26.09.2017	14.07.2009	yes	56.61		No	No	Yes	NA	Eligible
8	38	Dr. Muhammad Rehman Afridi	23.03.1969	16.09.2000	29.10.2013	26.09.2017	14.07.2009	yes	55.57		No	No	Yes	NA	Eligible
9	39	Dr. Jamal Abdul Nasir.	11.11.1965	16.09.2000	29.10.2013	26.09.2017	14.07.2009	yes	56.78		No	No	Yes	NA	Eligible
10	40	Dr. Nacem Shah	05.04.1970	16.09.2000	29.10.2013	26.09.2017	14.07.2009	yes	54.1		No	No	Yes	NA	Eligible
11	41	Dr. Muhammad Shuaib Khan	03.11.1969	16.09.2000	29.10.2013	26.09.2017	14.07.2009	yes	55.85		No	No	Yes	NA	Eligible
12	42	Dr. Siraj Muhammad	15.02.1968	16.09.2000	29.10.2013	26.09.2017	14.07.2009	yes	61.1		No	No	Yes	NA	Eligible
13	43	Dr. Abdul Qaddus.	15.12.1969	16.09.2000	29.10.2013	26.09.2017	14.07.2009	yes	50.98		No	No	Yes	NA	Eligible
14	44	Dr. Ahmad Faisal	16.10.1971	16.09.2000	28.02.2017	01.10.2018	14.07.2009	yes	56.53		No	No	Yes	NA	Eligible
15	45	Dr. Syed Muhammad Idrees	08.02.1971	01.07.2001	29.10.2013	26.09.2017	14.07.2009	yes	56		No	No	Yes	NA	Eligible
16	46	Dr. Wali Khan.	30.03.1966	01.07.2001	22.09.2014	26.09.2017	14.07.2009	yes		2001 to 2004, 2017 to 2021	No	No	Yes	NA	Not Eligible

Deputy Director (HRM)
Directorate General Health
Services K.P. Peshawar

Certificate

- (1). Certified that the officers included in the panel are eligible in all respect and possess that requisite length of service required for promotion. (Except S.No. 01,03,05 & 16)
- (2). Also certified that no disciplinary action / proceeding or criminal charges in any court of law are pending against any of the officers included in the panel Except S.No.01 who is under enquiry proceedings as per report of the DGHS Khyber Pakhtunkhwa.

Section Officer (EV)
Health Department
Khyber Pakhtunkhwa

Signature

Designation: Secretary

Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1164/2022

Dr. Shahzad Ali KhanAppellant

VERSUS

Government of Khyber Pakhtunkhwa & others.....Respondent

AFFIDAVIT

I Muhammad Tufail Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No.1164/2022 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.

Identified by:-

Mufir 3/5/23
Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

**Add: Advocate General,
Khyber Pakhtunkhwa**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

AUTHORITY LETTER

Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.

(MAHMOOD ASLAM)

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department

9/15/23