

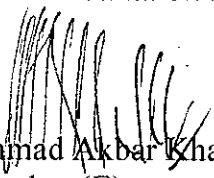
Service Appeal No. 387/2018

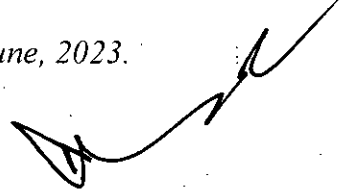
2nd June, 2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondent.

2. Learned counsel for the appellant submits that the grievance of the appellant is going to be resolved outside the court, which resolution may take some time and instead of seeking adjournments, he request that it may be adjourned *sine-die*. leaving the appellant at liberty to make an application to get it restored and decided after resolution of the matter in respondent department. Learned Addl. AG has also no objection on the *sine-die* adjournment. Adjourned sine-die accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 02nd day of June, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

Kaleem Ullah

SCANNED
KPST
Peshawar

24.03.2023

Junior to learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

The Worthy Chairman is on leave today, therefore, the bench is incomplete. The case is, therefore, adjourned to 14.04.2023 for arguments before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar



(FAREEHA PAUL)
Member (E)


14th April, 2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

2. Learned counsel for requested for adjournment on the ground that he has not made preparation for arguments. Last chance is given to the appellant to argue the case on the next date positively, failing which the case will be decided on the available record without arguments. Adjourned. To come up on 02.06.2023 before D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman


07.11.2022


Counsel for the appellant present.

Naseer Ud Din Shah learned Assistant Advocate General for respondents present.

Former made a request for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 03.01.2023 before D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)

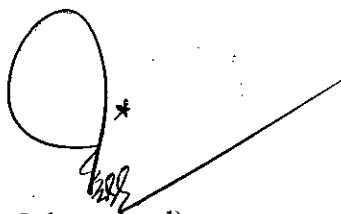

(Rozina Rehman)
Member (J)


03.01.2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments on 24.03.2023 before the D.B.

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

06.06.2022

Clerk of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 18.08.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

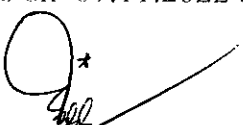
18.8.22


Due to summer vacation the case is adjourned to 6-10-22 for the hearing.

06.10.2022

Junior to counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Atta Ur Rehman, Inspector respondents present.

Junior to counsel for the appellant made a request for adjournment on the ground that senior counsel is busy before Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 07.11.2022 before D.B.


(Mian Muhammad)
Member (E)



(Kalim Arshad Khan)
Chairman


13.10.2021

Learned counsel for the appellant present.

Mr. Kabiurullah Khattak, Additional Advocate General for respondents present.

Due to non-availability of Member Copy, case is adjourned with direction to learned counsel to make sure the availability of Member Copy and file to come up for arguments on 10.11.2021 before D.B.



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


(Rozina Rehman)
Member (J)

10.11.2021

Mr. Said Khan, Advocate junior of learned counsel for the appellant present. Mr. Javed Ullah, Assistant Advocate General for respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal today due to illness. Adjourned. To come up for arguments before the D.B on 10.02.2022.


(ATIQ UR REHMAN WAZIR)
MEMBER (E)


(SALAH-UD-DIN)
MEMBER (J)

10-02-2022

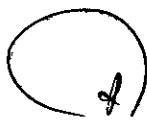
Due to retirement of the Honorable chairman the case is adjourned to come up for the same as before on 6/6/22



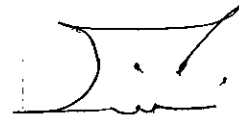
22.06.2021

Mr. Said Khan, Advocate, junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional 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 busy in the august Peshawar High Court, Peshawar, therefore, adjournment may be granted. Adjourned. To come up for arguments before the D.B on 13.10.2021.



(Rozina Rehman)
Member(Judicial)



(Salah-ud-Din)
Member(Judicial)

Bakht Zamain 387/2018

Postscript

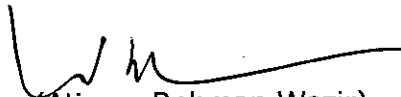
26.05.2021

The order dated 24.03.2021 was written but could not be signed by the D.B including the then Chairman who due to unforeseen reason could not attend the office in coming days. He died in the meantime and the order sheet was left unsigned. To bring the proceedings of appeal on track, it is become expedient for ex-post facto completion of the order sheet. The unsigned order dated 24.03.2021 is reproduced below which be given effect accordingly:-

"Junior to counsel for the appellant and Mr. Riaz Khan Paindakhel, learned Asst. AG for respondents present.

Former requests for adjournment due to illness of learned senior counsel for the appellant.

Adjourned to 23.06.2021 for arguments before D.B."

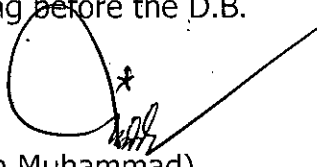

(Atiq-ur-Rehman Wazir)
Member


Chairman

01.10.2020

Junior to counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present.

Request for adjournment is made due to engagement of learned senior counsel before the Hon'ble High Court in many cases today. The matter is adjourned to 22.12.2020 for hearing before the D.B.


(Mian Muhammad)
Member (Executive)


Chairman

22.12.2020

Due to COVID-19, the matter is adjourned to 24.3.21 for the same.


Reader

24.03.2021

Junior to counsel for the appellant and Mr. Riaz Khan Paindakheil learned Asst. AG for respondents present.

Former requests for adjournment due to illness of learned senior counsel for the appellant.

Adjourned to 23.06.2021 for arguments before D.B.

Chairman

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

28.02.2020

Junior to counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not available today. Adjourn. To come up for arguments on 14.04.2020 before D.B.


Member


Member

14.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 03.07.2020 before D.B.


Reader

03.07.2020

Due to COVID19, the case is adjourned to 01.10.2020 for the same as before.

Reader

27.03.2019

Counsel for the appellant and Addl. AG alongwith Danyal Ahmad, Store Keeper for the respondents.

Respondents have not submitted written reply/comments despite last opportunity was granted to them on 01.07.2019. The appeal is, therefore, posted to D.B for arguments on 14.10.2019.


Chairman

14.10.2019

Learned counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Assistant Advocate General alongwith Mr. Shah Nawaz Junior Clerk for the respondents present. Representative of the respondents department submitted written reply which is placed on file. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for further proceedings on 24.12.2019 before D.B.


Member


Member

24.12.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 28.02.2020 before D.B.


Member


Member

10.04.2019

Counsel for the appellant present. Mr. Aziz Rehman M.S
Bajaur representative of the respondents present.

Counsel for the appellant has submitted an application for
amending the word "FATA" to "Merged Area" as mentioned in
the penal of respondents.

The application is allowed and the office is directed to
make requisite amendment in the memorandum of appeal and
thereafter, issue notice to all the respondents for the submission
of written reply and comments on 16.05.2019 before S.B


Chairman

16.05.2019

Junior to counsel for the appellant present. Written
reply not submitted. Daud Jan Superintendent representative
of the respondent department absent. He be summoned with
the direction to furnish written reply/comments. Adjourn. To
come up for written reply/comments on 01.07.2019 before
S.B. Respondents be also put to notice for reply/comments.


Member

01.07.2019

Junior to counsel for the appellant and Mr. Kabirullah
Khattak learned Additional Advocate General for the
respondents present. Written reply not submitted. None
present on behalf of the respondents department, therefore,
notice be issued to the respondents to attend the court and
submitted written reply/comments. Last opportunity is granted.
Adjourned. To come up for written reply/comments on
27.08.2019 before S.B.


Member

30.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned to 06.02.2019 for written reply/comments before S.B.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

06.2.2019

Appellant in person and Addl. AG for the respondents present.


Learned AAG requests for adjournment for submission of written reply by the respondents. Adjourned to 28.02.2019 before S.B.

The appellant may submit a list of respondents under their fresh nomenclature, if any, after merger of FATA on the next date.


Chairman

28.02.2019

No one present on behalf of appellant. Written reply not submitted. Daud Jan Superintendent representative of the respondents absent. He be summoned with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 10.04.2019 before S.B.


Member

22.9.2018

Due to muharram ul haram
vacations the case was
not heard on 20.9.2018
Adjourned for 7-11-2018

7-11-2018

^{of all}
Due to retirement of ~~READER~~ Honorable Chairman
the Tribunal is non functional therefore
the case is adjourned to come up for
the same on 25-12-2018

^{of all}
Reader


26.12.2018

Learned counsel for the appellant present. Written reply not
submitted. Daud Jan Superintendent representative of the
respondent department absent. Adjourn. To come up for written
reply/comments on 30.01.2019 before S.B. Notice be
issued as the usual


Member

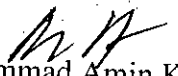
27.06.2018

Counsel for the petitioner present. Arguments on restoration of appeal heard. Record reveals that service appeal was dismissed in default on 05.06.2018. Learned counsel for the petitioner submitted application on 11.06.2018 for restoration of the same. The application is well within time therefore, restoration application is accepted and the appeal is restored. To come up for arguments on 08.08.2018 before D.B. Notice be also issued to the respondents accordingly.


(Muhammad Amin Khan Kundi)
Member

08.08.2018

Learned counsel for the applicant and learned AAG for the respondents present. Adjournment requested. Adjourned. To come up for further proceedings on 03.9.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

03.09.2018




Learned counsel for the applicant and Mr. Kabirullah Khattak, Additional Advocate General, for the respondents present. Written reply not submitted. Therefore, notices be issued to the respondents for written reply/comments. Adjourned. To come up for written reply/comments on 21.09.2018 before S.B.


(Muhammad Amin Kundi)
Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 185/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.06.2018	<p>The application for restoration of appeal no. 387/2018 submitted by Mr. Noor Muhammad Khattak Advocate, may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25.06.2018	<p>This restoration application is entrusted to S. Bench to be put up there on <u>25/6/18</u></p> <p style="text-align: right;"> CHAIRMAN</p>
		<p>Counsel for the petitioner present. Learned Additional AG on behalf of respondents present. Adjourned. To come up for reply and arguments on 27.06.2018 before S.B.</p> <p style="text-align: right;"> Member</p>

SCANNED
KEPST
PESHAWAR


08.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 03.07.2018.


Reader

22.05.2018


Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Written reply not submitted. Learned Additional AG seeks adjournment. Adjourned. To come up for written reply/comments on 05.06.2018 before S.B. The restraint order shall continue till the date fixed.


(Muhammad Amin Khan Kundi)
Member

05.06.2018

Appellant absent. Learned counsel for the appellant absent. Learned Additional Advocate General present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. File be consigned to the record room.

ANNOUNCED
05.06.2018



Member

11.04.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 23.04.2018 before S.B.


Member

23.04.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that the appellant was appointed as Pharmacy Technician vide order dated ~~28.11.2006~~ ²⁰⁻⁴⁻²⁰⁰⁷ on contract basis. That later on he was regularized on 10.11.2008. It was further contended that the government also issued policy regarding Agency cadre vide order dated 25.05.2009. That on the basis of such Agency cadre policy the appellant submitted application from North Waziristan to Bajaur Agency. It was further contended that in the light of the said policy the appellant was transferred from North Waziristan to Bajaur Agency but against the vacant post of Chief Blood Bank Technician till proper posting of original incumbent of the post vide order dated ~~03.10.2013~~ ^{29.7.2016}. It was further contended that four posts of the Pharmacy Technician has been created for financial year 2017-18 and the respondent-department are going to recruit other people on the said post, although the appellant is entitle for adjusting on the same post, therefore, he filed departmental appeal which was not responded, hence, the present service appeal. Learned counsel for the appellant contended that the appellant was transferred to Bajaur Agency on the wrong post vide order dated ~~03.10.2013~~ ^{29.7.2016} till proper posting of original incumbent of the post, therefore, the respondent-department are bound to adjust the appellant on the said post instead of recruiting the other people.

SCANNED
KPST
Peshawar

Appellant Deposited
Process Fee

Points urged need consideration. Admit, subject to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments on 8.05.2018 before S.B.

In the meanwhile status quo to be maintained till date





(Muhammad Amin Khan Kundi)

Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 387/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16/03/2018	<p>The appeal of Mr. Bakht Zamin 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-	29/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
29.03.2018		<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 11.04.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 387 /2018

BAKHT ZAMIN

VS

A.C.S FATA & OTHERS

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Stay application	4.
3.	Appointment order	A	5.
4.	Agency cadre policy	B	6.
5.	CNIC	C	7.
6.	Domicile	D	8.
7.	Order	E	9.
8.	Departmental appeal	F	10.
9.	Vakalat nama	11.

APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 387 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 408

Dated 16-3-2018

Mr. Bakht Zamin, Pharmacy Technician (BPS-12),
Agency Headquarter Hospital, Bajaur Agency.

..... **APPELLANT**

VERSUS

Merged Area

*order sheet
10/04/19*

- 1- Additional Chief Secretary (~~FATA~~), FATA Secretariat, Warsak Road, Peshawar. *Merged Area*
- 2- The Director Health Services (~~FATA~~), FATA Secretariat, Warsak Road, Peshawar. *Merged Area*
- 3- The Agency Surgeon, Bajaur at Khar. *Ag District*
- 4- The Pharmacy Superintendent, AHQ Hospital Bajaur Agency.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ADJUSTING THE APPELLANT ON HIS ORIGINAL POST OF PHARMACY TECHNICIAN IN LIGHT OF THE AGENCY CADRE POLICY AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY (90) DAYS

PRAYERS:

That on acceptance of this appeal the inaction of the respondents may be declared as illegal and unwarranted upon the rights of the appellant. That the respondents may be directed to adjusted the appellant on his original post of Pharmacy Technician (BPS-12) at Bajaur Agency under the Agency Cadre policy. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the bonafide resident of Bajaur Agency and was initially appointed as Pharmacy Technician (BPS-09) now (BPS-12) in NW Agency by Respondent No.2 vide appointment order dated 20.4.2007 after fulfilling all the codal formalities required for the post. Copy of the appointment order is attached as annexure..... **A.**

*Filed to day
Registrar*

- 2- That the appellant took over the charge of his post at the assigned station and started performing duties quite efficiently, whole heartedly and up to the entire satisfaction of his high ups, in the meanwhile the appellant was issued regularization order dated 10-11-2008.
- 3- That being the bonafide resident of Bajaur Agency the appellant submitted application for his transfer from North Waziristan Agency to Bajaur Agency under the agency cadre policy of the respondent Department. That the said application was properly corresponded between respondents and finally the appellant was transferred from North Waziristan Agency to Bajaur Agency. Copies of the Agency cadre policy, CNIC and Domicile are attached as annexure **B, C & D.**
- 4- That, unfortunately the appellant was not adjusted on his original post of Pharmacy Technician but was adjusted on the post of Chief Blood Bank Technician at Agency Headquarter Hospital Khar Bajaur Agency vide office order dated 29.7.2016. Copy of order is attached as annexure **E.**
- 5- That, appellant time and again requested the respondents for his adjustment against the original post of Pharmacy technician but recently it came into the knowledge of the appellant that some post of Pharmacy Technicians have been sanctioned for the newly constructed Trauma Center at Bajaur Agency for which the appellant filed an appeal/request which was not respondent to the appellant till date. Copy of the Departmental Appeal is attached as annexure **F.**
- 6- That appellant having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That by not adjusting the appellant on his original post is against the law, facts and norms of natural justice.
- B- That 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 respondents acted in arbitrary and malafide manner by not adjusting the appellant on his original post of Pharmacy Technician.

- D- That the respondents are intentionally not adjusting the appellant against his original post of Pharmacy Technician but they are just to accommodate their blue eyed persons on the said post.
- E- That the post held by appellant is not his original post on which he was initially appointed in light of Appointment, promotion and transfer Rules 1989 but the respondents malafidely adjusted the appellant to another which is a post falling vacant due to non availability of its original incumbent.
- F- That the respondents discriminated the appellant on the subject noted above and as such the respondents violated their own policy regarding agency cadre.
- G- That 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: 13-03-2018

APPELLANT


BAKHT ZAMIN

THROUGH:


NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI
ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____/2018

BAKHT ZAMIN

VS

A.C.S FATA & OTHERS

APPLICATION FOR RESTRAINING THE
RESPONDENTS NOT TO FILL UP THE POST OF
PHARMACY AND MEDICAL TECHNICIANS TILL THE
DISPOSAL OF THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the appellant filed above mentioned appeal along with this application before this august service Tribunal in which no date has been fixed so for.
- 2- That all the three ingredients necessary for the stay is in favor of the appellant.
- 3- That the inaction of the respondents by not adjusting the appellant on his original post is against the Civil Servant Act 1973 as well as the appointment, promotion and transfer Rules 1989.
- 4- That the inaction of the respondents by not adjusting the appellant on his original post is also violative of agency cadre policy.
- 5- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore humbly prayed that on acceptance of this application the respondents may be restrained that not to fill up the posts of Pharmacy and Medical Technicians at Bajaur Agency till disposal of this appeal.

APPELLANT



BAKHT ZAMIN

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE

DIRECTORATE OF HEALTH SERVICES FATA
Governor's Secretariat Warsak Road Peshawar

Order

A-5

On the recommendation of the Departmental Selection Committee the competent authority is pleased to appoint Mr/Ms. Bakht Zamin S/D/W/O Asar Khan as Dispenser BPS 06 on contract basis on the terms and conditions laid down below:

1. His/Her appointment shall be for a period of 3 years and shall be extended on his satisfactory performance.
2. He/She is declared medical fit for this job.
3. His/Her appointment is purely on contract basis (prescribed under Government of NWFP Contract Policy 2002) till the availability of post and he / she shall be bound to serve for at least 5 years in FATA.
4. His/ Her appointment is non-transferable. Moreover spouse policy and district cadre policy shall not be applicable to him/ her.
5. Either party can terminate this contract with 60 days notice or pay in lieu thereof.
6. He/She shall be dealt in accordance with rules and regulations applicable to contract employees under contract policy 2002.
7. He/She shall not indulge in any trade, business and any other activity what so ever which has been declared prohibited for the Government Servants in Civil Servant Act 1973.
8. He/She shall be entitled for all those allowances admissible under the rules.
9. He/She will not be entitled for any TA/DA for joining service and the offer shall be automatically held cancelled if he/she fails to join the duty in 15 days of the receipt of this offer.
10. He/She shall be posted anywhere in FATA.
11. The appointment shall be declared null and void and penalty be imposed in accordance with the prevalent law if the documents are proved tempered or bogus.
12. Prescribed affidavit shall be submitted as per format endorsed prior to join duty.

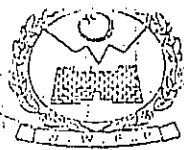
If he/she accepts the above terms and conditions, he/ she is directed to report for duty to the Agency Surgeon/ Medical Superintendent - MOHAMMAD for further posting with in Agency.

Sd/xxxx
Dr Muhammad Zubair Khan
Director Health Services FATA
Peshawar

No. 2545-51 /DHS/Admin/FATA Dated 20/04/2008
Copy for information an necessary action to:

1. AGPR, Sub Office Peshawar.
2. Deputy Director Admin DHS FATA.
3. Agency Surgeon / Medical Superintendent MOHAMMAD Agency
4. Agency Account Officer / EDO
5. Accountant Local Office, DHS FATA Peshawar.
6. Dealing Assistant for record DHS FATA
7. Official Concerned.


Deputy Director (Admin)
DHS FATA Peshawar



GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Dated the Peshawar 25th May 2009

NOTIFICATION.

No. SOH-III/8-90/2009 (FATA). The Governor of the North West Frontier Province (NWFP), in his capacity as agent to the President of Islamic Republic of Pakistan for FATA has been pleased to delegate powers of appointing authority to Director Health Services FATA, Political Agents and the Agency Surgeons for appointment against posts in the Health sector given hereunder:-

Sr.No.	Pay Scale	Appointing Authority
1.	Posts up to BPS-15 in the FATA Directorate.	Director of Health Services FATA.
2.	Posts in BPS-11 to BPS-15 in an Agency.	Political Agent of the concerned Agency.
3.	Posts in BPS-10 and below in an Agency.	Agency Surgeon of the concerned Agency.

Secretary to Govt. of NWFP,
Health Department.

Endst No. of even No and Date.

Copy forwarded for information to:



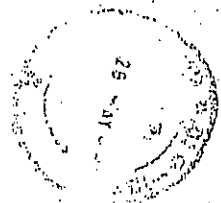
1. Secretary to Governor NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. Accountant General, NWFP.
4. Secretary to Govt. of NWFP, Establishment Department.
5. Secretary to Govt. of NWFP, Administration and Coordination Department FATA Secretariat NWFP Peshawar.
6. Director General Health Services, NWFP.
7. Director Health Services, FATA.
8. All Political Agents.
9. All Agency Surgeons in FATA.
10. PS to Chief Secretary NWFP.
11. PS to Secretary Health, NWFP.
12. Programmer, Health Department, NWFP.

Handwritten notes and stamps on the right margin.

Handwritten signature

Section Officer (H-III)

Handwritten notes: Sec, 27/5/09



ATTESTED

Handwritten signature

Handwritten marks and numbers: 10, 11, 12, B-6

C-2



حکومت پاکستان
قومی شناختی کارڈ

21104-2159156-3

1968

دستکار مائل کارڈ

TESTED

شخصی نمبر: 21104-2159156-3 قائدانہ نمبر: X7J4F7



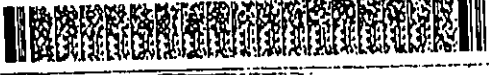
موجودہ پتہ: بدایاں، ونگ 2، ٹاور 2 کے، تحصیل ایسٹ، ضلع ایبٹ آباد

سکون پتہ: بدایاں، ونگ 2، ٹاور 2 کے، تحصیل ایسٹ، ضلع ایبٹ آباد

تاریخ اجراء: 21/07/2009 تاریخ منسوخ: 30/06/2018

نسخہ کارڈ بننے پر قریبی دفتر میں داخل دیں

1198014273

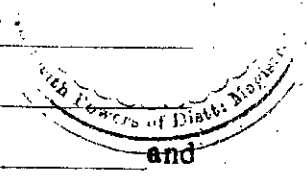




D-8



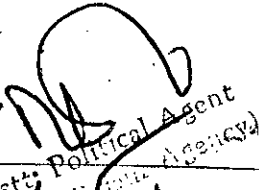
DOMICILE CERTIFICATE


I solemnly affirm that I BAKHT ZAMIN
 son of ASAR KHAN Tribe SAR KANI
 Section Mamund Sub Section Barazi
 Village Badan Tehsil MAMUND
 belongs to a recognized tribe of SAR KANI
 that my father is a bonafide/resident of the tribal Areas of Bajaur Agency.



Signature/LTI of applicant. Bakht Zamin
 Date 12.4.81


Certified that BAKHT ZAMIN
 son of ASAR KHAN Tribe SAR KANI
 Section MAMUND is a bonafide resident of Village Badan
 Tehsil Mamund Bajaur Agency as verified by his Sectional
 Maliks and is of CATEGORY "A"

Verified to be correct.
 Signature of APA 
 Name Mr. Khudadad Khan
 Bajaur Agency Nawagai
 Dated _____

Signature of P.T/BNT 
 Name Mr. Fiaz Mohammad
 Tehsil Mamund
 Dated 12.4.81

(Court Seal)
 No. 83
 Dated Bajaur Agency 6.6.81
 District Magistrate
 Bajaur Agency


ATTESTED

 Attested

COUNTERSIGNED

 27/5/81
 LAKHTAR MUHAMMAD KHAN
 POLITICAL AGENT

BAJAUR AGENCY

 27/5/81
 Medical Officer
 Hospital Khan
 Bajaur Agency



E-9

DIRECTORATE HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR

OFFICE ORDER:

Mr. Bakht Zaman, Dispenser attached to Agency Surgeon Mohmand Agency is hereby transferred and placed his services at the disposal of Medical Superintendent AHQ Hospital Khar Bajaur Agency for further posting in AHQ Hospital Bajaur Agency.

-----Sd-----

Director Health Services
FATA, Peshawar

No. 12859-63/DHS/FATA/Admn

Dated: 29/07/2016

CC to:

- The Deputy Director (Admn) DHS FATA.
- The Agency Surgeon Mohmand Agency w/r to his letter No.8500/ASM dated 20-07-2015.
- The Medical Superintendent AHQ Hospital Khar Bajaur Agency
- The Agency Account Office Bajaur and Mohmand Agency
- Official Concerned.

For information and necessary action please.

ATTESTED

Director Health Services
FATA, Peshawar

کھنڈر جہاں ڈاکٹر صاحب نے سہ ماہی اور سب سے پہلے لکھا اور

ایجنسی سر جن باجوڑ ایجنسی

F-10

درخواست براد: تصانیح صحیح اپنے لوسٹ فار میسی ٹیکنیک

جنا بعلی!

میرا بڑا گرام ہے کہ سائل کی تصانیح لکھ کر دے۔ سنہ 6-8-75
میں ہوئی تھی سائل کو باجوڑ ایجنسی میں صدر دفتر تفسیر کیا گیا تو
محل کو فارمیسی میں ڈیکٹ کی لوسٹ کی جانے کسی دوسرے لوسٹ
کا دیا گیا۔ سائل نے وقتاً فوقتاً اب حضور والہ سے درخواست
کی تھی اپنے پھر میں فارمیسی ٹیکنیک پر لگا دیں تھیں
آج تک کو شہوانی تیب ہوئی۔ آپ سائل کو معلوم ہوا ہے
کہ اب باجوڑ ایجنسی میں نئے لوسٹوں کی منظوری ہوئی ہے
اس لیے آپ صاحب سے اتنا سے لے کر سائل کو اس سے فارمیسی
ٹیکنیک کی لوسٹ پر تصانیح لکھ دیں سائل مستور ہے گا۔

الغرض

المقوم
5/18
5/17

آپ کا تالیف Bath

کتب زمین
فارمیسی ٹیکنیک
باجوڑ ایجنسی

ATTESTED

Handwritten signature

VAKALATNAMA

Before the KPK Service Tribunal Peshawar

_____ OF 2018

Bakht Zamin

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

A. C. S FATA

(RESPONDENT)
(DEFENDANT)

I/we Bakht Zamin

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, 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. ____/____/2018

Bakht Bakht Zamin
CLIENT

12
ACCEPTED

NOOR MOHAMMAD KHATTAK

&
MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

BEFORE THE SERVICES TRIBUNAL

KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 387 / 2019

Mr. Bakht Zamin Pharmacy Technician (BPS-12)
DHQ Hospital, Bajaur at Khar----- Appellant

VERSES

Additional Chief Secretary (FATA) and others----- Respondents

S NO.	DETAIL	PAGE NO.	Description
1	Para wise Comments	1-2	
2	Letter of M.S. DHQ Hospital Bajaur	3	A

BEFORE THE SERVICES TRIBUNAL

KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 387 / 2019

Mr. Bakht Zamin Pharmacy Technician (BPS-12)
DHQ Hospital, Bajaur at Khar----- Appellant

VERSES

Additional Chief Secretary (FATA) and others----- Respondents

Reply / comments on behalf of the Respondents No. 1, 2, 3 & 4.

Respected Sheweth

Preliminary objections

1. That the appellant has not yet submitted departmental appeal.
2. That the appellant has got no locus standi to file the instant appeal.
3. That the appellant has not come to this Honorable Court with clean hands.
4. That the appellant has got no cause of action to file the instant appeal.
5. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.

FACTS

1. Incorrect, the appellant was appointed as Dispenser BPS-6 on contract basis for a period of 3 years and posted in Mohmand Agency not in NW Agency vide office order attached with the appeal. Now the appellant is working as Pharmacy Technician BPS-12 in DHQ Hospital Bajaur.
2. Pertains to record.
3. Correct to the extent of application and transfer order but it is pertinent to mention here that the appellant was transferred from Mohmand Agency to Bajaur Agency as per transfer order attached with the appeal. It is pertinent to mention here that as per para-4 of Terms and Conditions of the appointment order, the post was non-transferrable, moreover, spouse policy and district cadre policy was also not applicable upon him. However, the appellant was transferred from Mohmand Agency to Bajaur Agency.
4. Incorrect, the appellant has misguided the Honorable Court by stating that the appellant was adjusted against the post of Chief Blood Bank Technician. In fact, as per letter of the Medical Superintendent DHQ Hospital Bajaur at **Annex-A**, the appellant was adjusted against the post

of Charge Nurse for the purpose of drawl of salary due to non-availability of his original post.

5. Incorrect, the appellant has not submitted departmental appeal. As far as sanction of new posts for the Trauma Centre at DHQ Hospital Bajaur is concerned so it is stated that these posts have been filled by transfer of Pharmacy Technician belonging to Tribal District Bajaur and working in other Tribal Districts, under District Cadre Policy. Now there is no vacant post of Pharmacy Technician in DHQ Hospital Bajaur.
6. The appellant has no right to file the instant appeal as he is getting salary regularly.

GROUND

A- *Incorrect. Due to non-availability of* [REDACTED] adjusted against the post of Charge Nurse for the purpose of drawl of salary till date.

B- Incorrect, as stated above.

C- Incorrect, as stated in Para 1 to 6 above.

D- Incorrect, as stated in Para – 5 above.

E- Incorrect, as stated in above paras.

F- Incorrect as stated in above paras.

G- The Department will also raise other grounds at the time of arguments.

As the vacant position of Pharmacy Technician is not available at DHQ Hospital Bajaur at the moment, therefore, it is humbly prayed that the appeal may please be dismissed.


District Health Officer
Tribal District Bajaur

Respondent No. 3.


Medical Superintendent,
DHQ Hospital Khar,
Tribal District Bajaur

Respondent No. 4


Director Health Services,
Merged Areas Peshawar.

For Respondent No. 1 & 2

**OFFICE OF THE MEDICAL SUPERINTENDENT
DHQ, HOSPITAL BAJAUR AT KHAR.**

No. 4327 Phone Office 0942-221200
/C-6/MS Dated Khar the 28 / 8 /2019.

To,

The Director Health Services
Merged Areas Peshawar.

Attention Faiz
Mohd. Sb.

Subject: -

POSTING OF PARAMEDICAL STAFF/ COURT CASE.

Sir,

Kindly refer to your office telephonic message today on 2/8/2019.
The following paramedical staff members were posted by the Directorate Health Services
Merged Areas Peshawar in this hospital against the posts noted against each:-

Sr.#	Name	Designation	with	Working against
1	Noor-ul Islam	BPS Pharmacy (BS-12)	Tech:	Working against the post of Chief blood bank Technician (BS-16)
2	Adam Khan	-do-		Working against the post of Charge Nurse (BS-16)
3	Bakht Zamin	-do-		-do-
4	Muhammad Zahid	Medical Technician (BS-12)		Working against Chief Pathology Technician (BS-16)

Medical Superintendent,
DHQH, Bajaur at Khar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.M NO. 185 /2018
IN
SERVICE APPEAL NO.387/2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 665

Bakht zamin

VS

A.C.S FATA

Dated 11/06/2018

APPLICATION FOR RESTORATION OF THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned service appeal was pending adjudication before this august Tribunal in which 05.06.2018 date was fixed for hearing.
- 2- That appellant filed the above mentioned appeal against the adjustment of his original post i.e. Pharmacy Technician in light of the Agency Cadre Policy.
- 3- That due to non appearance of the Counsel for appellant the above mentioned appeal of the appellant has been dismissed by this august Tribunal vide order/ judgment dated 05.06.2018. Copy of the order/judgment is attached as annexure.....**A.**
- 4- That on the same date Counsel for the appellant was busy before the Hon'ble Peshawar High Court Peshawar and when he came to attend the above mentioned appeal but unfortunately the same was dismissed due to non presence of counsel for the appellant.
- 5- That the non appearance of the Counsel for appellant was neither deliberate nor intentionally but caused due to the above mentioned reason.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal No. ~~387~~ 387/2018 may very kindly be restored.

Dated: 11.05.2018.

APPLICANT

Bakht
BAKHT ZAMIN

THROUGH:

NK
NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M NO. _____/2018

IN

SERVICE APPEAL NO.387/2018

BAKHT ZAMIN

VS

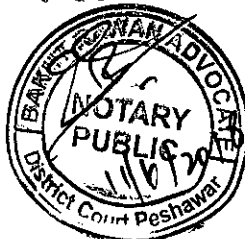
A.C.S FATA

AFFIDAVIT

I Noor Mohammad Khattak Advocate, on the instruction and on behalf of my client do hereby solemnly affirm that the contents of this **application for resotoration** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


NOOR MOHAMMAD KHATTAK
ADVOCATE

ATTESTED



A-3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 387 /2018



Mr. Bakht Zamin, Pharmacy Technician (BPS-12),
Agency Headquarter Hospital, Bajaur Agency.

..... APPELLANT

VERSUS

Merged Area

- 1- Additional Chief Secretary (FATA), FATA Secretariat, Warsak Road, Peshawar.
- 2- The Director Health Services (FATA), FATA Secretariat, Warsak Road, Peshawar. *Merged Area*
- 3- The Agency Surgeon, Bajaur at Khar. *District*
- 4- The Pharmacy Superintendent, AHQ Hospital Bajaur Agency.

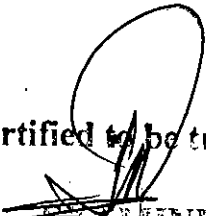
.....RESPONDENTS

*order sheet
10/04/19*

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ADJUSTING THE APPELLANT ON HIS ORIGINAL POST OF PHARMACY TECHNICIAN IN LIGHT OF THE AGENCY CADRE POLICY AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY (90) DAYS

05.06.2018.

Appellant absent. Learned counsel for the appellant absent. Learned Additional Advocate General present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. File be consigned to the record room.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

6-6-18
Date of Presentation of Application _____
Number of Words *400* _____
Copying Fee *4* _____
Urgent _____
Total *4* _____
Name of Copyist *Hanis* _____
Date of Copying *7-6-18* _____
Date of Delivery *7-6-18* _____