

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

**Service Appeal No. 1873/2022**


Syed Muhammad Asad halimi -----Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and  
others ----- Respondent

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12/16/2023  
Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department  
**Section Officer (Lit-II)**  
**Health Department**  
**Khyber Pakhtunkhwa**

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

**SERVICE APPEAL NO. 1873 /2022**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6234

Dated 3/7/23

Syed Muhammad Asad Halimi Chief Drug Inspector (BPS-19), District Kohat  
.....Appellant

**Versus**

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar
2. The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
3. The Director General Drug Control & Pharmacy Services, Khyber  
Pakhtunkhwa, Peshawar

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**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 Appeal is badly time barred.
6. That the Honourable Tribunal has no Jurisdiction to adjudicate upon the matter.
7. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
8. That the Appellant has filed the instant Appeal with mala-fide intention as Disciplinary proceedings against the appellant on account of corruption, Inefficiency & Misconduct (**Annexure-I**) has been initiated and has been suspended under Rule-6 of the Khyber Pakhtunkhwa Government Servants Rules 2011 (**Annexure-II**).
9. That Honourable PHC Peshawar vide judgment dated 28/09/2022 in WP No. 3508/P/2022(**Annexure-III**), and this Honourable Tribunal vide order/Judgment dated 31.10. 2022 in execution petition No. 4821/2021 had already adjudicated the matter hence the instant appeal is hit by principle of Res-judicata.
10. The impugned transfer Notification has been issued in accordance with Section 10 of the Civil Servant Act 1973.

## ON FACTS:

1. Correct to the extent filing Service Appeal bearing No. 10301/2020 by appellant along with others.
2. Correct to the extent filing Service Appeal bearing No. 10301/2020 by appellant along with others, before the Service Tribunal which were allowed by the Tribunal Vide Judgment dated 06/12/2021. The replying respondents in implementation of the Judgment of the Honourable tribunal dated 06/12/2021 posted the appellant as a Chief drug inspector DI Khan vide Notification dated 22/08/2022. The Appellant along with others filed various execution petitions for implementation of the judgment of the Honourable Tribunal which were decided vide judgment dated 31.10.2022 (**Annexure-IV**) wherein the honourable Tribunal declared the Impugned Notification dated Notification dated 22/08/2022 in accordance with the Judgment dated 06/12/2021 and disposed of all the execution petitions accordingly.

The operative clause of the order of execution petition dated 31<sup>st</sup> October 2022 is as under;

***"In view above state of affairs when we see the notification dated 22.08.2022 issued in compliance of the judgement it appears that judgement has been implemented in its letter & spirit and we cannot allow any body to exploit the terms by making a self-beneficial interpretation and to get any relief which was not granted in the judgement. Therefore the contentions of the petitioner/s that they could not be transferred from the station they were previously posted, is not well founded."***

3. Correct to the extent of the order dated 06.12.21 however the judgment of the Service Tribunal is implemented in its true letter & spirit as explained in para 2 above.

4. Already explained in para 2.

5. **Incorrect, False & Misleading Statement.** The Respondents had already implemented the judgment of the Service Tribunal in Service Appeal No. 10301/2020 & others in its true letters & spirit as already Explained in para 2 above. It is worth to mention that the appellant is unwilling worker and having poor performance in term of implementation of the Drug laws/Rules. The respondent No 3, the controlling office of the appellant/s issued explanation letters to the Drug inspector/s for not obeying the order of the competent authority and committing disobedience after the lapse of 2 months

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and 08 days. The noncompliance of the order to take the charge of the Chief Drug inspector at district DI-Khan will hamper the activities of the drugs/medicines in the market as well as in the Public Hospitals which will create unrest in District DI Khan. It is further to clarify that Disciplinary proceedings against the appellant on account of corruption, Inefficiency & Misconduct has already been initiated and suspended under Rule-6 of the Khyber Pakhtunkhwa Government Servants Rules 2011, by the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) considering the charges serious

6. Incorrect, False & misleading Statement. The appellant was transferred and posted to the post of the Chief Drug Inspector District DI Khan as per spirit of the WP No. 3508/P/2022 dated 28.09.2022 & in execution of the judgment of this Honorable Tribunal dated 06-12-2021 in the public interest Section 10 of the Civil Servant Act 1973.

7. Incorrect. The appellant is not an aggrieved person as no vested right of the appellant has been violated by the replying respondents however reply on the grounds is as under.

**Grounds:**

A. **Incorrect.** The impugned Notification is based on law Rules principles of Natural Justice and in accordance with dictum laid by Supreme Court of Pakistan in various judgment. As per 2020 PLCCS 1207 Supreme Court,

Place of service is the Prerogatives of employer. Government servant was required to serve anywhere his employer wanted him to serve; it was not a choice or prerogative of the employee to claim a right to serve at a place that he chose to serve.

Similarly in another judgment reported as 2004 PLC (CS) 705S.C. It has been laid down that civil servant could not claim posting at a particular station or at the place of his choice. Competent authority, under S 9 of the Punjab civil servant Act 1974, was empowered to transfer any civil servant from one place to other at any time in exigencies of service or on administrative ground.

B. **Incorrect.** There is no mala fide on the part of respondents towards the appellant. The appellant issued the transfer notification in accordance with law in the public interest and in implementation of the judgment of the Honorable Service Tribunal. Presently the appellant is under suspension under Rule 6 of E& D Rules and Disciplinary proceeding is under process.


C. Explained Para-A.

D. Explained Para-A.

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- E. **Incorrect.** The appellant has been posted as per compliance of the Judgement of the Service Tribunal in appeal No. 10301/2020 & Others within his cadre as a Chief Drug inspector.
- F. **Incorrect.** Already explained in Para A.
- G. **Incorrect.** Already replied in Paras above.
- H. Para No H of the grounds has referred to case law without giving any correlation with the instant case. The Apex Court has held in 2010 PLC CS Supreme Court 924 (b) "Every case is to be decided on its own peculiar circumstances and facts" hence the referred judgment in the para is not applicable to the instant case.
- I. **Incorrect.** Already replied above.
- J. **Incorrect.** The appellant has been treated as per law, Rules and in accordance with the Constitution of the Islamic Republic of Pakistan 1973.
- K. The implementation of the Apex court judgement has been validly implemented and the suspension of appellant was in accordance to the law.
- L. **Incorrect** the case law referred in the para has no relevancy with the instant case. The Apex Court has held in 2010 PLC CS Supreme Court 924 (b) "Every case is to be decided on its own peculiar circumstances and facts" hence the referred judgment in the para is not applicable to the instant case.
- M. Already explained in the preceding paras.
- N. No comments however, the replying respondents seek permission of this honorable Court to adduce other grounds during final hearing of the case.

**Keeping in view the above detailed para wise comments, it is therefore, requested that the instant service appeal may please be dismissed with heavy cost.**

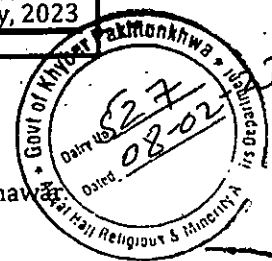
  
Secretary Health Govt. of Khyber  
Pakhtunkhwa  
(Respondent No-01&02)

  
Director General Drug Control & Pharmacy  
Services, Khyber Pakhtunkhwa  
(Respondent No-3)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

No. SOH-III/7-262/2022(Asaad Halimi)  
Dated the Peshawar 07<sup>th</sup> February, 2023



Amma 1  
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To

1. Mr. Shahid Sohail Khan (PMS-BS-20),  
Secretary, Auqaf, Hajj, Religious & Minority Affairs Department, Peshawar
2. Dr. Shiraz Qayum (BS-20),  
Director (E&A), Health Department.

SUBJECT: **DISCIPLINARY ACTION AGAINST SYED ASAAD HALIMI, CHIEF DRUG INSPECTOR (BS-19) KOHAT, PRESENTLY POSTED AS CHIEF DRUG INSPECTOR D.I KHAN.**

Dear Sir,

I am directed to refer to the subject noted above and to state that the Chief Secretary, Khyber Pakhtunkhwa (the Competent Authority) is pleased to approve initiation of disciplinary proceedings against Syed Muhammad Asaad Halimi, Chief Drug Inspector (BS-19), currently posted as Chief Drug Inspector (BS-19), D.I Khan, on account of misconduct, corruption & inefficiency vide attached Charge Sheet and Statement of Allegations.

Consequently, the Competent Authority is further pleased to appoint you as Inquiry Officers to inquire allegations and desires that the Inquiry Officers shall provide reasonable opportunity of hearing to the said Chief Drug Inspector and recommend appropriate actions against him within thirty (30) days in accordance with the provisions of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011.

It is, therefore, requested to conduct the said Inquiry and furnish report thereof within the specified time to proceed further in the matter, please.

**Encl: As above.**

Section Officer (I, II)  
Health Department  
Khyber Pakhtunkhwa

**Endst: of even no & date.**

Yours faithfully,

(Naseer Ahmad)  
Section Officer-III

Copy forwarded to:-

1. The Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar, with the request that the attached Charge Sheet may be served upon the aforementioned Chief Drug Inspector, please.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.  
PS to Secretary Health, Khyber Pakhtunkhwa.
3. Syed Muhammad Asaad Halimi, Chief Drug Inspector (BS-19), Kohat, currently posted as Chief Drug Inspector (BS-19), D.I Khan is directed to appear before the Inquiry Committee on the date time and venue fixed by the Inquiry Officers/Inquiry Committee.

Section Officer-III

## CHARGE SHEET

I, **Nadeem Aslam Chaudhry**, Chief Secretary, Khyber Pakhtunkhwa, as the Competent Authority do hereby charge you, **Syed Asaad Halmi**, Chief Drug Inspector (BPS-19), currently posted as Chief Drug Inspector, DI Khan, as under;

That you, while posted as Chief Drug Inspector (BPS-19) at District Kohat, have committed the following act of omission/commission:-

- I. As per record, 80 inspections/visits of medical Stores/Distribution setups were shown conducted by you in your Monthly Progress Report (MPR) but despite such a poor performance, no record was found in support of your inspections/visits.
- II. As per record, no samples of drugs/medicines were taken/drawn by you for the purpose of test analysis as per your Monthly Progress Report(s)/record examined which indicates that you had no performance while posted at Distt. Kohat.
- III. No mechanism of attendance or activity plan was available on record to substantiate your work/performance.
- IV. Issuance of No Objection Certificates (NOCs) to a qualified person is required to be issued by the inspector after ascertaining that the registration of the applicant is not engaged in any medicine store of that district. No record was maintained but NOCs were issued by you for granting licenses in other districts.
- V. It was noticed that no NOC either from Khyber Pakhtunkhwa Pharmacy Council or from concerned Districts was obtained by you before issuance/renewal of Drug Sale License as per instruction of the Government which resulted in the issuance of either fake or duplicate Drug Sale Licenses.
- VI. Handing over/taking over record was not present as reported by your successor. The data of cases under investigation or completed, Drug Sale Licenses, cases submitted to Provincial Quality Control Board (PQCB), NOCs, cases of Drug Court, FIRs data, Cases Property and documentary evidences were found missing to carry out a full and comprehensive audit.
- VII. During your tenure at Distt. Kohat you have not reported any seizure or confiscated any drug/medicine on Form-6 or Form-4, as required under the Drug Rules, 1982.
- VIII. Under the Drugs Act, 1976, Drug Inspectors have to convey seizure of the seized stock of drugs/medicines to the Competent Authority but no

*Amir*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

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such correspondence/permission has been found in the record that could indicate the quantity of the stock you have seized.

- IX. No medical stores were shown sealed in your tenure at District Kohat.
- X. No sample(s) were failed by the Drug Testing Laboratory (DTL) from July, 2016 to June, 2020 as per your Monthly Progress Report which indicates your poor performance and least interest in drawing drug samples from market for the purpose of test/analysis.
- XI. A random examination of Drug Sale Licenses, issued by you, shows gross irregularities committed by you during your tenure at Distt. Kohat that tantamount malpractice on your part.
- XII. No inspection proforma/checklist has been found filled by you which is mandatory for the grant and renewal of DSL during its issuance manually.
- XIII. Statements of the following eighteen (18) proprietors/owners of drug stores at district Kohat have been received wherein they have been issued Drug Sale Licenses by you by taking bribes;

S#	Name Of Medical Store	Amount Taken	Issued by
1	Hafiz Surgical	150000	Syed Asaad Halimi, Chief Drug Inspector Kohat
2	Malak Akbar Medical Store	150000	-do-
3	Basit Medical Store	80,000	-do-
4	Adil Medicose	130000	-do-
5	Abbas Medicose	192000	-do-
6	Shaheen Enterprises	200000	-do-
7	Ayub Medicose -	115000	-do-
8	Rehman Medicines	50000	-do-
9	Ali Medicose	132000	-do-
10	Life Pharmacy	110000	-do-
11	Family Care Pharmacy	210000	-do-
12	Abu Baker Medicose	145000	-do-
13	Abdul Aziz Medicose	80000	-do-
14	Hamdan Enterprises	160000	-do-
15	Amir Medicose	100000	-do-
16	Health Ways	14000	-do-
17	Khan G Medicose	160000	-do-
18	Siddique Surgical	150000	-do-
Total Amount		2,328,000/-	

*Punji*  
Section Officer (I, II)  
Health Department  
Cyber Park, Thana

- XIV. The gross irregularities, abuse of power and misuse of authority, surfaced during random checking at your office as CDI Kohat, is alarming and a threat to the lives of general public because hundreds of outlets/stores at Distt. Kohat are selling drugs without the observance of legal formalities/quality check.
- XV. You, as Chief Drug Inspector Kohat have failed in the performance of duties, assigned to you under the relevant law, during your tenure of more than 3 years and 5 months at District Kohat.

*Nadeem*



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2. By reasons of the above you appear to be guilty of "Inefficiency, Misconduct & Corruption" under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules *ibid*.

3. You are required to submit your written defense within ten (10) days and not more than 14 days of the receipt of this Charge Sheet to the Inquiry Officer / Inquiry Committee as the case may be.

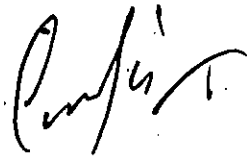
4. Your written defense, if any, should reach the Inquiry Officer/ Committee within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case *ex-parte* action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A Statement of Allegations is enclosed.



(Nadeem Aslam Chaudhry)  
Chief Secretary, Khyber Pakhtunkhwa,  
(Competent Authority).



Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa



GOVT. OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated, Peshawar the 7<sup>th</sup> February, 2023

Annex II

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**NOTIFICATION.**

No. SOH-III/7-262/2023(Asaad Halimi). WHEREAS, Health Department constituted a Committee vide Notification No. SOH-III/7-262/2020, dated 24<sup>th</sup> June, 2020 to conduct a comprehensive audit of various districts including District Kohat for the purpose to evaluate the performance of Drug Inspectors and to unearth the reported discrepancies/mal practices/complaints regarding Drug Sale Licenses, NOCs issued to other districts, seized stock, pending cases for submission in the Provincial Quality Control Board and the Drug Court and data of FIRs in their respective Districts.

2. AND WHEREAS, the Audit Report has surfaced abuse of authority, irregularities and corrupt practices on part of Syed Muhammad Asaad Halimi, Chief Drug Inspector District Kohat.

3. AND WHEREAS, the Competent Authority (the Chief Secretary Khyber Pakhtunkhwa) has appointed Inquiry Committee under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011

4. NOW THEREFORE, the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) while considering the charges serious, has been pleased to suspend the services of Syed Muhammad Asaad Halimi, Chief Drug Inspector, D.I.Khan, under Rule-6 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, with immediate effect.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Endst. of even No and Date.

Copy forwarded for information/necessary to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. District Accounts Officer, D.I.Khan.
5. Deputy Director (IT), Health Department.
6. PS to Secretary Health, Khyber Pakhtunkhwa.
7. The Officer concerned.

Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

(Naseer Ahmad)  
SECTION OFFICER-III

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PESHAWAR HIGH COURT, PESHAWAR.  
FORM "A"  
FORM OF ORDER SHEET.



Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Member of parties or counsel where necessary
1	2	3
	28.09.2022.	<p><u>W.P.No.3508-P/2022.</u></p> <p><u>Present:-</u> Mr.Noor Muhammad Khattak, Advocate for the petitioners.</p> <p>====</p> <p><u>S M ATTIQUE SHAH:-</u> Through instant writ petition, petitioners have approached to this court with the following prayer:-</p> <p>"1. An appropriate writ may kindly be issued to declare the impugned notification vide dated 22.08.2022 to the extent of the term "Competent Authority", as ineffective upon the rights of petitioners, without mandate of law, illegal, unlawful, unconstitutional, impracticable, invalid, void ab initio and ultra vires in light of the judgments cited as 2022 SCMR 439 narrated under the roof of grounds.</p> <p>2. Further, a writ of mandamus may also be kindly issued directing the respondents No.1, 2, 3, (Provincial Government) defined under Article 129 of the Constitution of Islamic Republic of Pakistan to act strictly in accordance with law while communicating the respondent No.05 to keep him bound for notifying/publishing the orders/directions contained in the judgment cited as 2022 SCMR 439 under proper authority in the official Gazette under Section 20-A of General Clauses Act to take a legal effect. "</p> <p>2, In essence, the petitioners are aggrieved from notification No.SOH-II/7-262/2022(Drug Inspector), issued by respondent No.4 being in violation of the judgment of the august Apex</p>

Section Officer (Lit-II)  
Health Department  
Peshawar

ATTESTED  
EXAMINER  
Peshawar High Court

Court rendered in *Province of Sindh and others Vs: Shahzad Hussain Talpur*, reported as (2022 SCMR 439).

- 3. Heard. Record perused.
- 4. Perusal of the ibid notification would reflect that the said notification has been issued pursuant to the judgment of the Khyber Pakhtunkhwa Services Tribunal dated 06.12.2021 in Service Appeal No.16578/2020. For ready reference, the said notification is reproduced below:-

NOTIFICATION

**SOH-III/7-262/2022(Drug Inspector)** : In compliance of the Services Tribunal, Peshawar judgment dated 06.12.2021 in Service Appeal no. 16578/2020, and consequent upon the approval of competent authority, the posting/transfer orders of the following Chief Drug Inspector/Drug Inspectors/Drug Analyst is hereby made with immediate effect.

S. No.	Name of Officers & Designation	From	To	Remarks
1.	Syed Muhammad Asad Hakeel Chief Drug Inspector BS-19	Chief Pharmacist (BP-19), KDA, Kohat	Chief Drug Inspector (BS-19), District D.I. Khan	Against the vacant post
2.	Tayyab Abbas Chief Drug Inspector BS-19	Chief Pharmacist (BS-19), Services Hospital, Peshawar	Chief Drug Inspector (BS-19), District Abbottabad	Against the vacant post
3.	Azhar ul Haq Senior Drug Inspector (BS-18)	Already under report to DG, DC&PS on account of Disciplinary proceeding under E&D Rules, 2011		
4.	Ali Hussain Analyst BS-18	Senior Pharmacist (BS-18), Services Hospital, Peshawar	Drug Analyst (BS-18), Drug Testing Laboratory (DTL), Peshawar	Against the vacant post
5.	Manzoor Ahmad Drug Inspector BS-17	Drug Inspector (BS-17) District Peshawar	Drug Inspector (BS-17) District Dir Lower	Against the vacant post
6.	Zia Ullah Drug Inspector BS-17	Drug Inspector (BS-17) District Dir Lower	Drug Inspector (BS-17) District Bannu	Against the vacant post
7.	Muhammad Shoab Khan Drug Inspector BS-17	Already under report to DG, DC&PS on account of Disciplinary proceeding under E&D Rules, 2011		
8.	Shahzade Mustafa Anwar Drug Inspector BS-17	Waiting for posting at Directorate of Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar	Drug Inspector (BS-17) District Karak	Against the vacant post

*[Signature]*  
 Section Officer (Lit-II)  
 Health Department  
 Peshawar, Paktunkhwa

*[Signature]*

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**ATTESTED**  
 EXAMINER  
 Peshawar High Court

(24)  
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Secretary to Govt. of Khyber  
Pakhtunkhwa Health Department.

Ibid notification clearly reflects that the same is based upon the judgment of the Service Tribunal dated 06.12.2021 passed in Service Appeal No.16578/2020 of the petitioners. In fact the petitioners through instant writ petition under the guise of the ibid judgment of the august Apex Court, seek setting aside of the said notification being violative of the ibid judgment of the august Apex Court.

The matter of the impugned notification revolves around the posting/ transfers of the petitioners which squarely falls within the terms and condition of the service of the petitioners provided by Chapter II of the Civil Servants Act, 1973, which are indeed amenable to the jurisdiction of the Khyber Pakhtunkhwa Service Tribunal provided by section 4 of the Service Tribunal Act, 1974. The jurisdiction of this court in such matter is explicitly barred under the provisions of Article 212 (2) of the Constitution. *Miss Rukhsana Ijaz Vs. Secretary, Education, Punjab & others (1997 SCMR 167), Ayyaz Anjum Vs. Govt. of Punjab, Housing & Physical Planning Department through Secretary and others (1997 SCMR 169), Rafique Ahmad Chaudhry Vs. Ahmad-Nawaz Malik & others (1997 SCMR 170), Secretary Education NWFP, Peshawar and 2 others Vs.*

*Punjab*  
(Lit-I)

ATTESTED  
EXAMINER  
Peshawar High Court

*Mustamir Khan & others (2005 SCMR 17) and Peer Muhammad Vs. Govt: of Baluchistan through Chief Secretary & others (2007 SCMR 54).*

5. The *ibid* view of the august Apex Court has further been affirmed in recent judgment rendered by the august Apex Court in *Chief Secretary, Govt: of Punjab Lahore and others Vs. M/s Shamim Usman's* reported in (2021 SCMR 1390), the relevant portion of the *ibid* judgment is reproduced below:-

*"The High Court had no jurisdiction to entertain any proceedings in respect of terms and conditions of service of a civil servant which could be adjudicated upon by the Service Tribunal. The High Court as a constitutional court should always be mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of such constitutional limitation would render the order of the High Court void and illegal."*

Coming to the contention of the learned counsel for the petitioners that the impugned notification is liable to be set aside being in violation of the judgment of the august Apex Court reported in the case of *Province of Sindh Vs. Shehzad Hussain Talpur (2022 SCMR 439)*, the relevant portion of the *ibid* judgment is reproduced below:-

*"15. Whenever the Constitution grants power to an individual it mentions the person's position/designation, for instance the President, the Prime Minister, the Chief Justice, the Governor, etc. The same also holds true with regard to Federal and provincial laws,*

*[Signature]*  
Section Officer (Lit-D)  
Health Department  
Khyber Pakhtunkhwa

ATTESTED  
EXAMINER  
Peshawar High Court

*[Signature]*

Including the cited laws and to the governments' rules of business. It is an individual who holds a particular position and by virtue of such position exercises power. Merely mentioning the competent authority without disclosing the designation and name of the person who is supposed to be the competent authority is utterly meaningless. Non-disclosure serves to obfuscate and enables illegalities to be committed. In this case the Secretary was not authorized to appoint the respondent but managed to do so by donning the competent authority cloak. We are not at all persuaded by the contention of the respondent's counsel that the respondent should not be penalized for the illegalities committed by the department. The respondent was illegally selected and appointed by the Secretary and his selection/appointment is not sustainable nor is it such a minor transgression that it could be condoned.

16. We may also observe that the use of vague and imprecise language, such as, the competent authority, in legal matters is an anathema and oftentimes results in avoidable disputes, which unnecessarily consume time and public resources. The use of accurate and precise language helps avoid disputes. Using the term the competent authority but without disclosing such person's designation and name is against public policy and also against the public interest since it facilitates illegalities to be committed and protects those committing them. Every functionary of the government, and everyone else paid out of the public exchequer, serves the people of Pakistan; positions of trust cannot be misused to appoint one's own or to illegally exercise power.

17. For the reasons mentioned above, this petition is converted into an appeal and allowed and the impugned judgment of the Tribunal is set aside. We are also convinced that there is a need to put a stop to the use of the illusive and elusive term - the competent authority without disclosure of the competent authority's designation and name. Therefore, the governments of Sindh, Balochistan, Punjab, the

*Amir*  
 Section Officer (Lit-II)  
 Health Department  
 Khyber Pakhtunkhwa

ATTESTED  
 EXAMINED  
 Peshawar High Court

*[Signature]*

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Government of Pakistan, Registrars of the Supreme Court and all High Courts, and through the Registrars of the High Courts all District and Sessions courts, are required to issue requisite orders/directions that they and their respective functionaries, semi-government and statutory organizations whenever issuing notifications, orders, office memorandums, instructions, letters and other communications must disclose the designation and the name of the person issuing the same to ensure that it is by one who is legally authorized to do so, and which will ensure that such person remains accountable. Copies of this judgment be sent to the Secretary, Establishment Division, Government of Pakistan, to the Chief Secretaries of the provinces, to the head of the Islamabad Capital Territory, Registrars of the Supreme Court and all High Courts who are directed to issue requisite orders/directions and to publish the same in their respective gazettes or ask the concerned government to do so. Compliance report be submitted for our consideration in chamber by or before 1 March 2022."

Pursuant to the above judgment of the august Apex Court the worthy Chief Secretary, Government of Khyber Pakhtunkhwa has issued a notification No.SO(Lit-1)E&AD/1-1/2020 dated 14.02.2022 vide which compliance of the ibid judgment was sought in letter and spirit in future. However, due to the reasons best known to the respondents at the time of issuance of the impugned notification the ibid judgment of the august Apex Court was not complied with in letter and spirit.

Under the provisions of Article 189 of the Constitution the decisions of the Supreme Court are binding on all other courts, for ready

*[Handwritten signature]*

(1-1-22)  
Department  
Khyber Pakhtunkhwa

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ATTESTED  
EXAMINER  
Peshawar High Court



(88)

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reference the same is reproduced below:-

*"Any decision of the Supreme Court shall, to the extent that it decides a question of law which is based upon or enunciates a principle of law, be binding on all other courts in Pakistan."*

Given that the decisions of the Supreme Court are binding upon all the stakeholders and, as earlier discussed the Government of Khyber Pakhtunkhwa has already issued a notification qua the compliance of the ibid judgment of the august Apex Court in letter and; spirit, however, mere non-compliance of the ibid judgment of the august Apex Court would not confer jurisdiction upon this court in a matter which is squarely arising out of the terms and; conditions of the service of a civil servant. Undeniably the decisions of the august Apex Court are binding on each and; every organ of the state by virtue of the provisions of Articles 189 and; 190 of the Constitution. It is well settled that a question of law, pronounced or declared by august Apex Court in terms of Article 189 of the Constitution has binding effect on all functionaries both executive and; the judicial authorities. The superior courts, tribunals have obligation to implement and; adhere to the judgment of the Supreme Court rendered. *Moulvi Abdul Qadir & others Vs. Moulvi Abdul Wassay and others (2010 SCMR 1877).*

6. In view thereof the worthy Service

*Confir*

**ATTESTED**  
EXAMINER  
Peshawar High Court

38-17

Tribunal Khyber Pakhtunkhwa is very much clothed with the jurisdiction and; authority to implement the ibid decision of the august Apex Court in terms of Articles 189 and; 190 of the Constitution and; petitioners can validly agitate the same before the worthy Service Tribunal if they so wish and; desire.

7. For what has been discussed above, this petition, being bereft of any merit, is hereby dismissed in *limine*. However, respondents are directed to implement and; enforce the ibid judgment of august Apex Court in its letter and; spirit. Copy of instant judgment be sent to the worthy Chief Secretary for compliance.

Section 13-M  
Headquarters  
Khyber Pakhtunkhwa

Announced.  
Dt.28.09.2022.

JUDGE  
JUDGE

No. 57026  
Date of Presentation of Application 1-11-22  
No of Pages 17-p  
Copying fee 68/-  
Date of Preparation of Copy 1-11-22  
Date of Delivery of Copy 1-11-22

REFUSED TO BE TRUE  
01 NOV 2022

1998 P.L.C (C.S.) 970

[Lahore High Court]

Before Ch. Ijaz Ahmad, J

ASHIQ ALI

Versus

GOVERNMENT OF THE PUNJAB through Additional Chief Secretary, S&GAD,  
Lahore and 5 others

Writ petition No. 12936 of 2004, decided on 30th July, 2004.

Service Tribunals Act (LXX of 1973)---

---S. 4---Constitution of Pakistan (1973), Arts.4, 199 & 212---General Clauses Act (X of 1897), S.24-A---Constitutional petition---Delay in deciding representation---Obligation of public functionaries---Petitioner whose representation was not decided despite considerable delay, had contended that it was the duty and obligation of public functionaries to decide representation of their subordinates without fear, favour, nepotism, with reasons and within reasonable time as envisaged by Art.4 of the Constitution, read with S.24-A of General Clauses Act, 1897---Counsel for the State, had submitted that constitutional petition was not maintainable in view of bar contained in Art.212 of the Constitution, read with S.4 of Service Tribunals Act, 1973---Validity---Despite the bar contained in Art.212 of the Constitution, read with S.4 of the Service Tribunals Act, 1973, High Court had ample jurisdiction to give direction to the public functionaries to act strictly in accordance with law in view of Art.4 of the Constitution, while exercising powers under S.199 of the Constitution---Public functionaries were duty bound to decide the representations of their subordinates without fear, favour, nepotism with reason and within reasonable time---No body should be penalized by inaction of the public functionaries---Order accordingly.

H.M. Rizvi and 5 others y. Maqsood Ahmad and 6 others PLD 1981 SC 612; Province of Sindh through Chief Secretary Sindh, Karachi and 4 others v. Gul Muhammad Hajano 2003 SCMR 325; Messrs Airport Support Service's case 1998 SCMR 2268 and Ahmad Latif Qureshi y. Controller of Examination, Board of Intermediate, Lahore PLD 1994 Lah. 3-ref.

Ch. Muhammad Arshad Bajwa for Petitioner.

Muhammad Hanif Khatana, Addl. A.-G. assisted by Muntazir Mehdi for Respondents.

ORDER

CH. IJAZ AHMAD, J.---The sole grievance of the petitioner is that the petitioner filed

11/28/2022, 11:55:46 AM

Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

40-19  
representation before respondent No.2 who has not decided the same till date. The petitioner being aggrieved filed this writ petition.

2. The learned counsel for the petitioner submits that it is the duty and obligation of public functionaries to decide the applications/representations of their subordinates without fear, favour, nepotism, with reasons and within reasonable time as is envisaged by Article 4 of the Constitution read with section 24-A of the General Clauses Act.

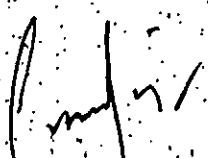
3. Mr. M. Hanif Khatana, Addl. A.-G. entered appearance on Court call. He submits that constitutional petition is not maintainable in view of bar contained in Article 212 of the Constitution read with section 4 of the Service Tribunals Act.

4. I have given my anxious consideration to the contentions of the learned counsel for parties and perused the record.

5. In spite of the bar contained in Article 212 of the Constitution read with section 4 of the Service Tribunals Act, this Court has ample jurisdiction to give direction to the public functionaries to act strictly in accordance with law in view of Article 4 of the Constitution, while exercising powers under Article 199 of the Constitution, as per principle laid down by Honourable Supreme Court in H.M. Rizvi and 5 others v. Maqsood Ahmad and 6 others PLD 1981 SC 612 and Province of Sindh through Chief Secretary Sindh, Karachi and 4 others v. Gul Muhammad Hajano 2003 SCMR 325. It is settled principle of law that it is the duty and obligation of public functionaries to decide the representations of their subordinates without fear, favour, nepotism, with reasons and within reasonable time as is envisaged by Article 4 of the Constitution read with section 24-A of the General Clauses Act, as per principle laid down by the Honourable Supreme Court in Messrs Airport Support Service's case 1998 SCMR 2268. It is also settled principle of law that nobody should be penalized by inaction of the public functionaries, as per principle laid down by this Court in Ahmad Latif Qureshi v. Controller of Examination, Board of Intermediate, Lahore PLD 1994 Lah. 3.

6. In this view of the matter, let a copy of writ petition be sent to respondent No.2, who is directed to decide the representation of the petitioner strictly in accordance with law after providing proper hearing to all the concerned including the petitioner and any other person, who would be aggrieved by his order, preferably within two months after receiving the order of this Court, after verifying the record of the respondents, in case the petitioner had already filed representation before him and he has not passed any order on the same till date and the petitioner has also not availed any other alternative remedy till date. The petitioner is directed to appear before respondent No.2 in his office at 11-00 a.m. on 9-8-2004, who is directed to decide the representation of the petitioner strictly in accordance with law within two months till 9-10-2004 either himself or send the same to competent authority for its decision, who is also directed to decide the same in terms of the aforesaid direction of this Court within two months till 9-10-2004. He is further directed to submit his report to the Deputy Registrar (J) of this Court within stipulated period.

7. The learned counsel for the petitioner is directed to hand over copy of writ petition along with all the Annexures to Mr. Muhammad Hanif Khatana, Additional Advocate-General, who is directed to send the same to respondent No.2 for necessary action and compliance. Office is also directed to

3  
  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

11/28/2022, 11:55 AM

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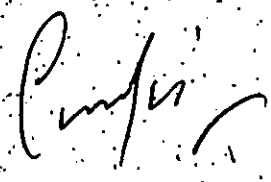
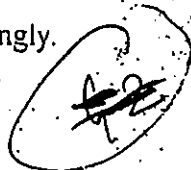
71

provide one copy of this order to the aforesaid learned Addl. Advocate-General for onward transmission to respondent No.2 for necessary action and compliance.

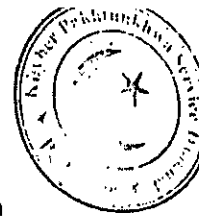
With these observations, the writ petition is disposed of. Copy Dasti on payment of usual charges.

H.B.T/A-40/L

Order accordingly.



Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa



Annex IV  
21

31<sup>st</sup> Oct, 2022

1. Learned for the petitioner present. Mr. Kabirullah Khan, Addl: AG alongwith Mr. Satiullah, Focal Person for respondents present.

02. This single order shall also dispose of executions petitions No. 171/2022 titled "Syed Mohammad Asad Halimi-vs-Health Department", No. 172/2022 titled "Muhammad Arif Hussain-vs- Health Department", No. 236/2022 titled "Tayyab Abbas-vs-Health Department", No. 533/2022 titled "Zia Ullah-vs-Health Department", No. 534/2022 titled "Manzoor Ahmad-vs-Health Department", No. 535/2022 titled " Shoaib Khan-vs-Health Department", No. 536/2022 titled "Gohar Ali-vs-Health Department" as all are regarding execution of the judgment dated 06.12.2021, passed in the appeals of the petitioners in all the petitions. The relief granted in the judgment was as under:-

"For what has gone above, all the appeals with their respective prayers are accepted as prayed for. Consequently, the impugned order is set aside and respondents are directed not to transfer the appellants from the post of Drug Inspector or Drug Analyst as the case may be. Parties are left to bear their own costs. File be consigned to record room after completion".

3. In the instant matter the prayer of the petitioner Amin Ul Haq was as under:-

"That on acceptance of this appeal the impugned notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Inspector (BS-17), District Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant".

*Cmp/11*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

ATTESTED  
*[Signature]*  
CLERK  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Execution Petition No 170/2022 in service appeal No 4831/2021 titled "Amin Ul Haq vs-The Chief Secretary, Khyber Pakhtunkhwa Peshawar and others" and connected execution petition No 171/2022 No 172/2022, 230/2022, No 333/2022 No 334/2022, No 335/2022 and No 336/2022 are decided on 31<sup>st</sup> October 2022 by Single Bench comprising Karam Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar

4. Similarly in the appeal of the petitioner in execution petition No. 171/2022 titled "Syed Mohammad Asad Halimi-vs-Health Department" his prayer was as under:-

"On acceptance of this appeal the respondents may kindly be directed to pass an order in favor of the appellant in the following terms:-

- i. Declare that the impugned notification No. SOH-III/7-262/2020 dated 30<sup>th</sup> April, 2020 is void ab initio. Therefore, the respondents may kindly be directed to withdraw the impugned notification.
- ii. The posting/transfer be done in a rational manner as per the prevailing laws, the appellant is redressed & to get his constitutional rights through this Hon'ble Service Tribunal.
- iii. That the appellant order of illegal ex-cadre transfer/posting may kindly revoked and continue his services in his own cadre i.e. Drug Inspector.
- iv. Grant any other relief which is deemed appropriate by this Hon'ble Service Tribunal in the circumstances of the case."

5. In appeal of the petitioner in execution petition No. 172/2022 titled "Muhammad Arif Hussain-vs-Health Department" his prayer was as under:-

"that on acceptance of this appeal the impugned notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and private respondent No.5 and the respondents may kindly be directed not to transfer the appellant from the post of Drug Analyst (BS-18), Drug testing laboratory, Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant".

6. In appeal of the petitioner in execution petition No. 236/2022 titled "Tayyab Abbas-vs-Health Department" his prayer was as under:-

"On acceptance of this appeal the respondents may kindly be directed to pass an order in favor of the appellant in the following terms:-

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**ATTESTED**

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*(Handwritten signature)*

Section Officer (Lit-II)  
Health Department  
Peshawar

- i. Declare that the impugned notification No. SOH-III/7-262/2020 dated 30<sup>th</sup> April, 2020 is void ab initio. Therefore, the respondents may kindly be directed to withdraw the impugned notification.
- ii. The posting/transfer be done in a rational manner as per the prevailing laws, the appellant is redressed & to get his constitutional rights through this Hon'ble Service Tribunal.
- iii. That the appellant order of illegal ex-cadre transfer/posting may kindly revoked and continue his services in his own cadre i.e. Drug Inspector.
- iv. Grant any other relief which is deemed appropriate by this Hon'ble Service Tribunal in the circumstances of the case."

7. In appeal of the petitioner in execution petition No. 533/2022 titled "Zia Ullah-vs-Health Department" his prayer as under:-

"That on acceptance of this appeal the impugned notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Control Unite, Temargara, District Dir Lower. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant".

8. In appeal of the petitioner in execution petition No.534/2022 titled "Manzoor Ahmad-vs-Health Department" his prayer as under:-

"That on acceptance of this appeal the impugned notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Inspector (BS-17), District

*Prof.*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

ATTESTED

*[Signature]*  
Section Officer  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant".

9. In appeal of the petitioner in execution petition No. 535/2022 titled "Shoaib Khan-vs-Health Department", his prayer as under:

"That on acceptance of this appeal the impugned notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Inspector (BS-17), District Mardan. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant".

10. In appeal of the petitioner in execution petition No. 536/2022 titled "Gohar Ali-vs-Health Department" his prayed as under:

"That on acceptance of this appeal the impugned notification dated 11.01.2021 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Inspector (BS-17), District Swat. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant".

*Punjab*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

11. The prayer in the instant petition is to initiate contempt proceedings and to implement the judgment of this Tribunal while in the connected execution petitions No.171/2022, 172/2022 and 236/2022, the prayers are to implement the judgment in letter & spirit.

ATTESTED  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

12. During the pendency of the above petitions, respondents, in compliance with the judgment dated 06.12.2021, in Service Appeal No.16578/2020, produced a copy of Notification No.SOH-III/7-262/2022(Drug Inspector) dated 22.08.2022, vide which the petitioners were dealt with in the following manner:-

S.No	Name of Officers & Designation	From	To	Remarks
1.	Syed Muhammad Asad Halimi Chief Drug Inspector BS-19	Chief Pharmacist (BS-19), KDA, Kohat	Chief Drug Inspector (BS-19), District D.I. Khan	Against the vacant post
2.	Tayyab Abbas Chief Drug Inspector BS-19	Chief Pharmacist (BS-19) Services Hospital Peshawar	Chief Drug Inspector (BS-19), District Abbottabad	Against the vacant post.
3.	Amin ul Haq Senior Drug Inspector (BS-18)	Already under report to DG,DC&PS on account of disciplinary proceeding under E&D Rules, 2011		
4.	Arif Hussain Analyst (BS-18)	Senior Pharmacist (BS-18), Services Hospital, Peshawar	Drug Analyst (BS-18), Drug Testing Laboratory (DTL), Peshawar.	Against the vacant post.
5.	Manzoor Ahmad, Drug Inspector (BS-17)	Drug Inspector (BS-17), District Peshawar	Drug Inspector (BS-17), District 17, District, Dir Lower.	Against the vacant post
6.	Zia Ullah Drug Inspector BS-17	Drug Inspector (BS-17) District Dir, Lower.	Drug Inspector (BS-17) District Bannu	Against the vacant post
7.	Muhammad Shoaib Khan Drug Inspector (BS-17)	Already under report to DG, DC&PS on account of disciplinary proceedings under E&D Rules, 2011.		
8.	Shazada Mustafa Anwar Drug Inspector BS-17	Waiting for posting at Directorate of Drug Control & Pharmacy	Drug Inspector (BS-17) District Karak	Against the vacant post.

Section Officer (Lit-Health Department Khyber Pakhtunkhwa)

ATTESTED

*[Signature]*  
 Khyber Pakhtunkhwa Service Tribunal  
 Peshawar


		Services, Khyber Pakhtunkhw a, Peshawar		
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13. The above petitions were taken up for decision on 14.09.2022 when the learned counsel for the petitioners informed the Tribunal that he had filed four (4) more execution petitions on 14.09.2022, so it was deemed appropriate that let all the petitions be decided together and, therefore, the above petitions were adjourned for 31.10.2022 for decision of the same.

14. In the newly instituted execution petitions No.533/2022, 534/2022, 535/2022 and 536/2022, the petitioners prayed that the judgment might be implemented in true letter and spirit without wasting the precious time of the Tribunal as well as to avoid unnecessary rounds of litigation.

It is, however, urged in paragraph 6 of all the newly filed execution petitions that the respondent/department submitted compliance notification issued on 22.08.2022, which was totally in defiance of the judgment whereas proper compliance of the judgment as desired by the Tribunal was to be made and for which basically the appeals were accepted as prayed for.

15. The main stress of the learned counsel for the petitioners was that as all the appeals with their respective prayers were accepted as prayed for, therefore, the petitioners

  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

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Service Tribunal  
Peshawar

could not be transferred from the stations they were already posted.

16. It is cardinal principle that while judging the intention of a document, the construction of the document has to be seen and for the purpose not any portion but the whole/entire document has to be seen. Keeping in view the above principle, paragraph 10 of the judgment is worth reproduction, which reads as under:

*"10. From the divergent pleadings of parties particularly discussed herein before, the main question wanting determination is, whether vice versa transfer of the holders of the post of Drug Inspector/Analyst and of Pharmacist is reasonably doable?"*

17. The rest of the paragraphs of the judgment have answered the above, one and the only formulated question/point for determination in detail and the finding was in negative, which by all means very clearly speaks that the only issue before the Tribunal was whether vice versa transfer of the holders of the post of Drug Inspector/Analyst and of Pharmacist is reasonably doable and that was decided in negative. Thus by no stretch of imagination it could be inferred from the judgment that it also intended not to transfer the petitioners from one station to another. True that all the appeals with their respective prayers were accepted as prayed for but with specific and quite clear resultant consequence of setting aside the impugned order and not transferring the appellants from the post of DRUG INSPECTOR or DRUG

*Prof. /*

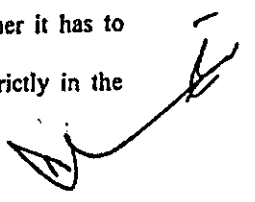
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Section 10(1) of the...  
Khyber Pakhtunkhwa Service Tribunal


ATTESTED  
*[Signature]*  
Khyber Pakhtunkhwa Service Tribunal

ANALYST as the case may be. This condition of the order, after acceptance of the appeals, has restricted the relief to the above extent only i.e. the Drug Inspectors should remain posted as Drug Inspectors while Drug Analyst should remain posted as such etc and none of the two or of any other category could be given posting against any other category. Therefore, this Tribunal, while executing the judgment and sitting as executing court, cannot extend the relief by giving that any other meaning or import, especially, to extract the meaning that the petitioners could not be transferred from the stations they are already posted.

18. There is no denying the fact that the executing court cannot go beyond the terms of the decree/order/judgment it stands for and it cannot modify these terms or deviate from them in exercise of its power of execution rather it has to execute/implement the judgment/decreed/order strictly in the terms of the same.



19. In the above state of affairs when we see the notification dated 22.08.2022, issued in compliance of the judgment, it appears that the judgment had been implemented in its letter and spirit and we cannot allow anybody to exploit the terms by making self-beneficial interpretation and to get any relief which was not granted in the judgment. Therefore, the contention of the petitioners that they could not be transferred from the stations they were previously posted, is not well founded.



Chief Secretary  
Khyber Pakhtunkhwa  
Peshawar

ATTENDED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Execution Petition No 170/2022 in service appeal No. 4821/2021 filed "Amin Ul Haq vs The Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others" and connected execution petition No 171/2022, No 172/2022, 236/2022, No. 333/2022 No 334/2022, No. 335/2022 and No 336/2022 are decided on 31<sup>st</sup> October 2022 by Single Bench comprising Kalim Arshad Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar

20. It was also argued by the petitioners Amin ul Haq and Muhammad Shoaib that instead of compliance of judgment, the department did not give them any posting because of some disciplinary proceedings. It is in this regards observed that in the appeals of the above two petitioners there is no mention of the disciplinary proceedings nor the same were discussed anywhere in the judgment. Therefore, the Tribunal, in the respective execution petitions of the petitioners, cannot direct the department not to take any disciplinary action against them. Needless to say that the above named two petitioners have every right to separately challenge the disciplinary proceedings, which they might have and if they did not already challenge those. In case they challenge the same now, those would definitely have to be decided subject to all limitations and restrictions and in accordance with law. Copy of this order to be placed on all the connected matters. Consequ.

21. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 31<sup>st</sup> day of October, 2022.

*Punji*

Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

*[Signature]*

(Kalim Arshad Khan)  
Chairman

Certified to be true copy  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 13/12/22  
Number of Words 3600  
Copying Fee 200  
Vocal 150  
Total 350  
Name of the Applicant  
Date of Presentation of Copy 13/12/22  
Date of Delivery of Copy 13/12/22

Serial

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

**Service Appeal No. 1873/2022**

Syed Muhammad Asad halimi -----Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and  
others ----- Respondent

**AFFIDAVIT.**

I Mohammad Tufail Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint Para-wise comments in Service Appeal No. 1873/2022 at Page-1-4 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 Service Tribunal.



Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department (II)  
Health Department  
Khyber Pakhtunkhwa

**Identified by:-**

**Addl: Advocate General,  
Khyber Pakhtunkhwa**

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**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

9/15/22

*[Handwritten signatures and stamps]*




Cost of Rs. 3000/- received in Service Appeal No. 1873/2022,

Titled Syed M. Asad Halimi vs. Health

in the office of Assistant Registrar, Dated: 03/07/2023. vide

order sheet dated: 23/05/23

  
Assistant Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar