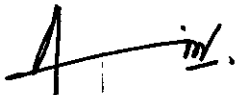


FORM OF ORDER SHEET

Court of _____

Appeal No. 1369/2023

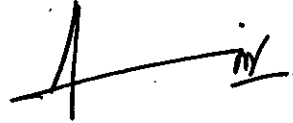
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/06/2023	<p>The appeal of Dr. Amin-ul-Haq resubmitted today by Mr. Naveed Akhtar Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Dr. Amin ul Haq son of Abdul Haq r/o Tangi Nasratzai Drug Inspector Charsadda received today i.e on 16.06.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days

- 1- Copy of seniority list dated 25.8.2022 is not attached with the appeal.
- 2- Copy of departmental appeal /review petition against the impugned order dated 02.02.2023 is not attached with the appeal.
- 3- Annexure-G & I of the appeal are illegible.

No. 1805 /S.T.

Dt. 19/6 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Naveed Akhtar Adv.
High Court Peshawar.

1. seniority listed was not issued by department.
2. objection is removed.
3. objection is removed.

amir ul haq

19/06/23

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR
Service Appeal No. 1369 /2023

Dr. Amin Ul Haq

VERSUS

Government of Khyber Pakhtunkhwa and others

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal		1-8
2.	Affidavit		0-9
3.	Copy of the Appointment Letter dated 27.05.2009	A	10-11
4.	Copy of the Promotion Notification dated 30.10.2019	B	0-12
5.	Copy of the Notification dated 08.09.2017, judgment dated 11.03.2020 alongwith writ petition No. 4378-P/2017	C - D	13-18
6.	Copy of the Notification dated 06.10.2022	E	19-20
7.	Copy of the Appeal and Judgment	F	21-33
8.	Copy of the order dated 06.05.2021	G	0-34
9.	Copy Application dated 24.05.2021 duly registered	H	0-35
10.	Copy of the letter dated 14.07.2021	I	0-36
11.	Copy of the Statement of Allegations and Reply	J	37-39
12.	Copy of the letter dated 02.02.2021 and reply	K	40-45
13.	Copy of the Show Cause Notice dated 20.04.2022 and reply	L	46-50
14.	Copy of the Inquiry Report and further reply	M	51-59
15.	Copy of the letter dated 02.02.2023	N	0-60
16.	Wakalat Nama + <i>Departmental appeal</i>		61-67

[Signature]
Appellant

Through

[Signature]
Naveed Akhtar

Dated: / /2023

Advocate Supreme Court
Mob No. 0300-9596181

**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No. 1369 /2023

Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman
Khail, District Charsadda. Senior Drug Inspector BPS-18.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa through Principal Secretary, CM Secretariat, Peshawar.
3. Secretary Health Services, Government of Khyber Pakhtunkhwa Peshawar.
1. Director General, Drug Control and Pharmacy Services, Khyber Pakhtunkhwa.
5. Director General Health Services, Government of Khyber Pakhtunkhwa Peshawar.

.....Respondents

**APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED
NOTIFICATION NO. SOH-III/7-262/2023(AMIN)
DATED 02.02.2023, WHEREBY MAJOR PENALTY OF
REMOVAL FROM SERVICE UPON THE APPELLANT
WAS IMPOSED AND THE REVIEW PETITION OF
THE APPELLANT DATED 12.02.2023 FILED
AGAINST THE IMPUGNED ORDER, TOO WAS LET
UN-ANSWERED.**

PRAYER:

**THAT ON ACCEPTANCE OF THIS SERVICE APPEAL
THE IMPUGNED OFFICE ORDER DATED 02.02.2023
OF THE RESPONDENT NO. 2 MAY KINDLY BE SET-**

ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.

ANY OTHER REMEDY THIS AUGUST TRIBUNAL DEEMS FIT MAY KINDLY BE AWARDED IN FAVOR OF THE APPELLANT AS WELL.

Respectfully Sheweth:

Short facts, giving rise to the present Service Appeal, are as under:

1. That the appellant is a respectable citizen and a highly qualified pharmacist.
2. That after qualifying open competition the appellant was appointed as Drug Inspector on the recommendation of Public Service Commission. (Copy of the Appointment Letter dated 27.05.2009 attached as annexure "A").
3. That the appellant was subsequently promoted to BPS-18 vide notification dated 30.10.2019. (Copy of the Notification dated 30.10.2019 is attached as annexure "B")
4. That the appellant performed his duties to the best of his abilities and never gave any chance of complaint to his high ups.
5. That on 10.04.2017 certain changes were brought in the relevant rules whereby three cadres of Drug Inspectors, Pharmacists and Chemists were merged which was challenged in WP No. 4378-P/2017 and the Hon'ble Peshawar High Court was pleased to allow the said writ petition vide judgment dated 11.03.2020. (Copy of the Notification dated 08.09.2017, judgment dated 11.03.2020 alongwith writ petition No. 4378-P/2017 are attached as annexure "C" and "D" respectively).
6. That instead of compliance with the judgment of the Hon'ble Peshawar High Court the respondent No. 3 issued a notification of posting/transfers of the officers in the department on 06.10.2020 whereby many pharmacists were posted against the posts of Drug Inspector and the Drug Inspectors were adjusted in the position of pharmacists in blatant violation of the law and favoritism to the blue eyed and only to quote the case of appellant, the appellant was transferred from his position of Senior Drug Inspector BPS-18 Mardan as a Senior Pharmacist KDA Hospital Kohat, while a BPS-17

pharmacist namely Abdur Rauf was posted as Drug Inspector Mardan. (Copy of the Notification dated 06.10.2020 is attached as annexure "E").

7. That aggrieved from the said Notification the appellant and his eight other colleagues approached this Hon'ble Tribunal and vide consolidated judgment dated 06.12.2021 this Hon'ble Tribunal was pleased to allow all the appeals. (Copy of the Appeal and Judgment is attached as annexure "F").
8. That the respondents leashed out a policy of harassment and victimization against the appellant and on 06.05.2021 the services of the appellant were suspended for initiation of disciplinary action on the basis of a so-called audit report by a committee constituted by respondent No. 3/department to which the appellant was never associated. (Copy of the order dated 06.05.2021 is attached as annexure "G").
9. That on receipt of the suspension order the appellant approached the respondent No. 5 to inquire about further proceedings in the case but was instead subjected to man handling and was threatened, that he shall be inquired into by a pharmacist to teach a lesson against which the appellant filed an application to respondent No. 1 in anticipation requesting him not to appoint any pharmacist as an inquiry officer as the appellant was in litigation with the pharmacist cadre but instead the prejudice prevailed and a pharmacist was ultimately included in the inquiry against the appellant. (Copy of Application dated 24.05.2021 duly registered is attached as annexure "H")
10. That no statement of allegation, charge sheet or any letter of explanation was issued to the appellant and on 14.07.2021 the appellant was directed by Mr. Asghar Khan Additional Secretary Relief Rehabilitation and Settlement Department who was Chairman of Inquiry Committee to appear on 26.07.2021 before the inquiry committee. (Copy of the letter dated 14.07.2021 is attached as annexure "I")
11. That on the said date the appellant was delivered a copy of the statement of allegations which was duly replied on 03.08.2021 and submitted. (Copy of the Statement of Allegations is attached as annexure "J")
12. That astonishingly on 03.08.2021 when the appellant submitted his reply another letter dated 02.02.2021 addressed to the Director General Drug Control and Pharmacy Services by Mr. Abdur Rauf (BPS-17) Provincial Drug Inspector District Mardan was handed over for reply which too was duly

replied on 11.08.2021. He was the same officer who was given charge in Mardan as Drug Inspector. (Copy of the letter dated 02.02.2021 and reply is attached as annexure "K")

13. That it is worth mentioning that since 11.08.2021 the appellant was never called for any proceedings or personal hearing by the inquiry committee and was issued a Show Cause Notice received on 20.04.2022 which too was duly replied. (Copy of the Show Cause Notice dated 20.04.2022 and reply is attached as annexure "L").
14. That since the earlier Show Cause Notice was not accompanied by any inquiry report and the same had been pointed out in the reply, therefore, vide letter dated 03.08.2022 received on 10.08.2022 the appellant was provided a copy of an undated inquiry report and a further reply was submitted to earlier show cause notice dated 16.08.2022. (Copy of the Inquiry Report and further reply is attached as annexure "M").
15. That the appellant was called for personal hearing on 25.11.2022 before the Secretary LG, E&RD Department which the appellant complied with and was waiting for exoneration but to the utter dismay received the above mentioned letter of removal from service. (Copy of the letter dated 02.02.2023 is attached as annexure "N").
16. That feeling aggrieved and left with no other remedy appellant approaches this honorable tribunal inter- alia on the following grounds.

GROUND:-

- A. That the inquiry has been conducted in violation of the law and the rules. The undated inquiry report on the face of it is not maintainable rather is result of sham proceedings wherein the inquiry committee except for a reply to the statement of allegations has never called the appellant either for personal hearing or for cross examination of any witness.
- B. That the inquiry proceedings were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer namely Abdur Rauf, who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where the appellant was one of the appellant and Mr. Abdur Rauf was a respondent. Ironically the said Abdur

Rauf was never called for cross examination by the appellant and thus the whole proceedings are vitiated and marred by prejudice against the appellant.

- C. That the inquiry committee has made no efforts to find the truth and instead has based its findings on a letter by a prejudiced officer of BPS-17 who was posted Ex-cadre against the law.
 - D. That the appellant raised objection to the inclusion of a pharmacist in the Inquiry Committee for the reason that Pharmacists were posted as Drug Inspectors against whom litigation was going on, on the issue of change of cadre and instead a pharmacist namely Zahid Khan was appointed as one of the Inquiry Officer, but no heed was paid to the same.
 - E. That bare perusal of the documents manifestly speak of malafide against the appellant as a Drug Inspector for the reason that the department has initiated a process for change of cadre of the Drug Inspector and Pharmacist.
 - F. That the audit report on which the inquiry committee has relied cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the public exchequer rather the same is aimed at changing the cadre of the answering officer.
 - G. It is, further submitted that no audit para was ever framed or sent to the appellant for reply nor the same has ever been taken to the Public Accounts Committee.
 - H. That the appellant as an incumbent Senior Drug Inspector was never associated while conducting and preparing the so-called audit report nor was taken on board ever for furnishing any relevant record and the whole proceedings have been completed in the offices of the Director General and Pharmacy Services.
 - I. That the so-called audit report was compiled on 15.07.2020, when the appellant had barely spent 08 months as an incumbent and all the files collected were not pertaining to the period of his incumbency and ironically the audit report does not mention the date on which this report was compiled, which is arising serious suspicions.
 - J. That the so-called inquiry report and its findings are an afterthought of the earlier reply to the show cause notice, because the inquiry report forwarded to the appellant too does not bear any date of its completion and submission.
-

- That no allegation of any illegal act, misappropriation or delinquency etc, worth the name has been proven against appellant.
- L. That the appellant beg to bring into the notice of this Hon'ble Tribunal that litigation was going on between the Drug Inspectors and the government on the issue of change of cadre and in this back drop the malice of the Pharmacists Cadre Officers and of the official high ups cannot be ignored.
- M. That the appellant remained under suspension from 06.05.2021 till 02.02.2023 which is unprecedented and remained without salaries since December 2020 against the law and the only reason was that the appellant pursued lawful remedy before the competent Court of law, which ultimately allowed his appeal.
- N. That it is worth mentioning that time and again the appellant visited the offices of high-ups to release the salaries and withdraw the suspension order beyond the lawful period, but of no avail. Even the suspension order was never extended which speaks of the high handedness against the appellant.
- O. That throughout the appellant has been treated in utter derogation of law. The appellant has been put under suspension beyond the statutory period. His salaries were stopped for more than two years since December 2020 and has been consistently condemned unheard against the norms of law and principles of justice.
- P. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations alongwith the time period provided for conclusion of inquiry have been blatantly violated and therefore, the harsh penalty is not sustainable under the law.
- Q. That the whole proceedings have been based on baseless allegations with malafide intentions of one of the members of Inquiry Committee namely, Zahid Ali Khan in connivance with the high ups of the department.
- R. That the letter dated 02.02.2021, which was never part of allegations was written by an officer BPS-17 Pharmacists, who had made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in Court cases against the Drug Inspectors, therefore, his malafide cannot be ignored, and the same letter was considered as a gospel truth in an illegal manner.
- S. That the statement of allegations was issued to the appellant by the Chief Secretary who was not competent to issue the same.

That the appellant has rendered more than 13 years meritorious services to the entire satisfaction of department and the allegations leveled against him are only the outcome of malafidies for agitating his lawful rights.

It is therefore, requested that in view of the above respectful submissions, the order dated 02.02.2023 for removal from service may kindly be withdrawn and the appellant may kindly be re-instated into service with all back benefits.

Any other remedy this august tribunal deems fit may kindly be awarded in favor of the appellant as well.


Appellant

Through


Naveed Akhtar

Advocate Supreme Court

Mob No. 0300-9596181


Munir Ud Din Ghori

Advocate High Court

Dated: / /2023

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. _____/2023

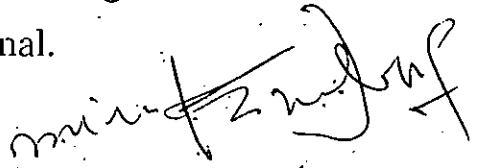
Dr. Amin Ul Haq

VERSUS

Government of Khyber Pakhtunkhwa and others

AFFIDAVIT

I, Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman Khail, District Charsadda. Senior Drug Inspector BPS-18, do hereby solemnly affirm and declare on oath that the contents of accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

CNIC: 17102-2846608-7



7

Amir A

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

10

Dated the Peshawar. 27th May 2009

NOTIFICATION.

No. SOH-III/2-58/2007(DI). The Competent Authority on the recommendation of NWFP Public Service Commission has been pleased to appoint the following candidates as Drug Inspectors (BPS-17) on regular basis with immediate effect:-

S.No.	Name with Father's Name	Address.
1.	Mr. Abdul Hafeez s/o Waliullah.	Drug Center Bus Stop, Lakki Marwat.
2.	Mr. Aminul Haq s/o Abdul Haq	Mohallah Usman-e- Khel, Tehsil Tangi Nusratzai District Charsadda, NWFP.
3.	Mr. Nazir Ahmad s/o Fazal Ghani.	Village and P.O.Box Bandai, Tehsil and District Swat NWFP.
4.	Mr. Zakir Shah s/o Haji Hussain Muhammad	Mohallah Parachgan, Bannu Chowk, Thall District Hangu.
5.	Mr. Toseef Muhammad s/o Pir Muhammad.	Village and P.O.Box Bahali Via Qalandarabad Tehsil and District Mansehra.
6.	Mr. Shafisur Rehman s/o Muhammad Miskeen.	Village Bajna Bala P.O.Shergarh Tehsil Oghi District Mansehra.

2. Their services will be governed under the NWFP Civil Servants Act 1973 as amended vide Civil Servants (Amendment) Act, 2005 and rules made there under and other relevant laws and rules.

3. Consequent upon their appointment as Drug Inspectors (BPS-17), they are hereby posted in the districts as noted against their names:-

S.No	Name	Present Status	Place of Posting	Remarks
1.	Mr. Abdul Hafeez	1 st Appointment	Drug Inspector District Swabi.	Against the vacant post.
2.	Mr. Aminul Haq	1 st Appointment	Drug Inspector District Malakand	-do-
3.	Mr. Nazir Ahmad	1 st Appointment	Drug Inspector District Upper Dir	-do-
4.	Mr. Zakir Shah	1 st Appointment	Drug Inspector District Hangu	-do-
5.	Mr. Toseef Muhammad	1 st Appointment	Drug Inspector District Abbottabad	-do-
6.	Mr. Shamsur Rehman	1 st Appointment	Drug Inspector District Battagram.	-do-

4. They are directed to assume charge within 30 days in their respective place of posting after the issuance of this notification, failing which, their appointment shall be treated as cancelled.

M. S. Sarwar
9/6

SECRETARY HEALTH

Continued-----

ATTESTED
EXAMINER
Peshawar High Court

st No. of even No and Date.

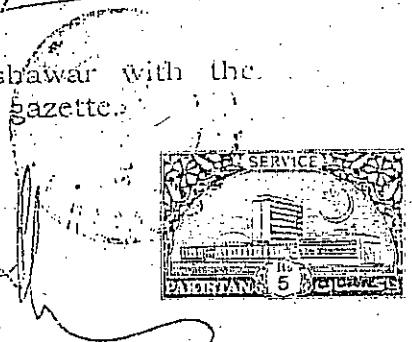


11

Copy forwarded to:

1. Accountant General NWFP.
2. Director General Health Services NWFP, Peshawar for information.
3. The Chairman Drug Court NWFP, Peshawar.
4. The Incharge, Government Drug Testing Laboratory, NWFP, Peshawar.
5. EDO (Health) Swabi, Malakand, Upper Dir, Hangu, Abbottabad and Battagram.
6. Director Recruitment, NWFP, Public Service Commission Peshawar w/r to his letter No. NWFP/PSC/SR-IV/08250 dated 10.02.2009 for information.
7. The Deputy Secretary (Drug), Health Department, NWFP.
8. The District Account Officers, Swabi, Malakand, Upper Dir, Hangu, Abbottabad and Battagram.
9. P.S to Secretary Health, NWFP.
10. The Manager Printing Press NWFP, Peshawar with the request to publish the notification in official gazette.
11. Programmer Health Department NWFP.
12. The Officers concerned.

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
DEPARTMENT OF HEALTH SERVICES
PESHAWAR
OFFICE OF THE DIRECTOR GENERAL
HEALTH SERVICES
PESHAWAR



Section Officer-(H-III)

S/ King
A/C



GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 30th October, 2019

Amirul Haq

NOTIFICATION

No. SOH-III/10-4/2019 (Nazir Ahmad etc), Upon appointment from BS-17 to BS-18 on Acting Charge Basis vide Health Department Notification of even number, dated 08-10-2019, the Competent Authority is pleased to order posting/transfer of the following Senior Drug Inspectors (BS-18) with immediate effect in the public interest.

S. NO.	Name of Officer with Designation	From	To
1.	Mr. Nazir Ahmad, Senior Drug Inspector, BS-18 (a.c.b)	District Swat	Against the vacant post of Senior Drug Inspector, BS-18 at District Swat.
2.	Toseef Muhammad, Senior Drug Inspector, BS-18 (a.c.b)	District Mansehra	Against the vacant post of Senior Drug Inspector, BS-18 at District Kohat.
3.	Aminul Haq, Senior Drug Inspector, BS-18 (a.c.b)	District Battagram	Against the vacant post of Senior Drug Inspector, BS-18 at District Mardan.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst. even No and Date.

Copy is forwarded to:-

1. The Director General, Health Services, Khyber Pakhtunkhwa.
2. The District Health Officer, Swat, Mansehra, Battagram & Kohat.
3. The District Accounts Officer, Swat, Mansehra, Battagram & Kohat.
4. PS Secretary Health, Khyber Pakhtunkhwa.
5. PA to Deputy Secretary-II, Health Department.
6. PA to Deputy Secretary (Drugs) Health, Khyber Pakhtunkhwa.
7. Deputy Director (I.T) Health, Khyber Pakhtunkhwa.
8. Officers concerned.

ATTESTED TO BE
TRUE COPY

Amirul Haq
30/10/2019
SECTION OFFICER-III

Annexure (B) 13



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 6th September, 2017

NOTIFICATION:

No: SOH (III)/HD/10-4/2017/DCPS: Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.
- 2) For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore all the three cadres are hereby merged into a single cadre for which rules shall be framed as per procedures.
- 3) All the three cadres are hereby declared as pool posts for posing/transfer only.

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst. of even number & date:

Copy forwarded for information to:

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. Secretary Public Service Commission, Khyber Pakhtunkhwa.
4. Manager Govt. Printing Press, Khyber Pakhtunkhwa with the request to publish in the official Gazette.
5. Director General Health Services, Khyber Pakhtunkhwa
6. All DHOs in Khyber Pakhtunkhwa.
7. Incharge MMC, DGHS, Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Establishment, Khyber Pakhtunkhwa
9. PS to Secretary Law, Khyber Pakhtunkhwa.
10. PS to Secretary Health, Khyber Pakhtunkhwa.
11. PA to Deputy Secretary (Drugs), Health Department



SECTION OFFICER (E-III)

(14)

AMIN UL HAQ D

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 4378-PI/2017

S.M. Assad Halimi and others

Vs

Chief Secretary to Govt. of KP and others

JUDGMENT.

Date of hearing: 11.03.2020

Petitioner (s): *G. M/s R. Abdul Latif Afridi - Submitter & Original*
Cher. M. Ahmad

Respondent (s): *G. M/s. F. H. Khan R. B. Khan*

WAQAR AHMAD SETH, CJ:- Petitioners,

through the instant Writ Petition, seeks issuance of an appropriate writ with the following prayer:-

"In view of the aforesaid submissions, it is humbly prayed that an appropriate writ may kindly be issued in favour of the petitioners in the following terms:-

- i. Declare that the impugned notification No. SOH(III)/HD/10-4/2017/DCPS is void ab initio, therefore the respondents may kindly be directed to withdraw the impugned notification as well as the posting/transfers orders made in pursuant to the impugned notification may kindly be withdrawn.*
- ii. To reconsider the matter in light of the logic, rationale and requirements of the rules/relevant law in the matter.*
- iii. The proportionate ratio of higher posts of B-18, B-19 and B-20 in the Drug Inspector cadre may be*

ATTESTED TO BE
TRUE COPY

A

AMIN UL HAQ
C.J.C.

equated to that of Drug Analysts and Pharmacists cadres as indicated in para-5 (table-2) above of the petitioner.

- iv. Direction be issued to respondents that in case the merger is required to be carried out, it be done in a rationale manner as per the prevailing procedure and renamed the so merged cadre with a new name and joint seniority of the employees of the so merged cadres be caused with reference to their respective dates of appointment or promotion to a particular post/grade. No cadre so merged should be dying cadre as this method is not applicable in the instant case.*
- v. Grant any other relief which is deemed appropriate by this Hon'ble Court in the circumstances of the case".*

2. Brief facts of the case are that the petitioners have been inducted in service of the Health Department through Khyber Pakhtunkhwa Public Service Commission as Drug Inspectors (BPS-17). According to the petitioners, Drug Inspectors, Pharmacists and Chemists and Drug Analysts are working in the Health Department Government of Khyber Pakhtunkhwa in separate cadres having same basic qualifications but with different job descriptions. The Provincial Government under the Agenda to improve the human resources management and to

ATTESTED TO BE
TRUE COPY

AN-SDM
C-T-C

minimizing the transfer and posting problems face by the Health Department in other sub-cadres having minimum choice, proposed the merging of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts and for this purpose, a meeting of "Standing Service Rules Committee" was held on 26.12.2016 wherein it was proposed to combine the three cadres into one as per structure given in para-ii of the minutes of the meeting and as such, the respondents have issued the impugned Notification No. SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, which reads as under:-

"Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) *These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.*
- 2) *For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore, all the three cadres are*

ATTESTED TO BE
TRUE COPY

[Signature]

[Signature]

[Signature]

[Signature]

hereby merged into a single cadre for which rules shall be framed as per procedures.

3) All the three cadres are hereby declared as pool posts for posting/transfer only".

3. Aggrieved from the aforesaid Notification,

the petitioners have filed the instant Writ Petition.

4. Respondents have furnished their comments and opposed the writ of petitioners.

5. Arguments heard and record perused.

6. Admittedly, the impugned notification of

merger of three cadres of Drug Inspectors, Pharmacists

and Chemists and Drug Analysts have been issued on

the recommendation of Standing Service Rules

Committee ("SSRC") but while perusing minutes of the

Committee, so constituted, the persons, who had

attended the meeting, are not in accordance with the

Notification No. SOR.VI(E&AD)2-69/2003 dated 29th

January, 2005 produced by the learned counsel for the

petitioners during the course of hearing, placed on file,

vide which, the Committee would comprising of

Administrative Secretary concerned (Chairman),

ATTESTED TO BY
TRUE COPY



ALL-304
C.T.C.
W


18

Additional Secretary (Regulation) E&A Department,
 Additional Secretary (Regulation) Finance Department,
 Additional Secretary Law Department, Head of the
 attached Department concerned and Deputy Secretary
 (Admn) of the Department concerned (Members); so,
 keeping in view the above fact, the impugned
 notification issued by the respondents is illegal, void ab-
 initio and the same, is, thus, liable to be set aside.

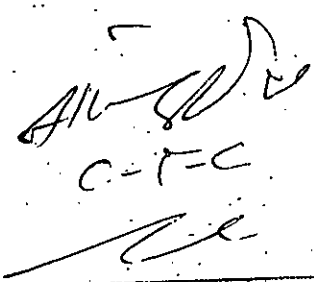
7. In view of the above, the Writ Petition is
 allowed and the impugned Notification No.
 SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, is set
 aside.

ANNOUNCED.
 Dated: 11.03.2020


Chief Justice

Judge

ATTESTED TO BE
 TRUE COPY


Nawab Shah SCS (DD) Justice Waqar Ahmed Sein CJ & Justice Ijaz Anwar J


 C-T-C

BETTER COPY OF THE PAGE NO.

GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 06th October, 2020

Annul R. E.

19

NOTIFICATION

No. SOH-III/10-1/2020. The Competent Authority is pleased to order following postings/transfers of the Officers with immediate effect in the public interest.

S.No.	Name & Designation	From	To
1	Mr. Inam Ul Haq, Senior Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director/Senior Pharmacist (BS-18) DG DG& PS against the vacant post
2	Mr. Arif Hussain, Analyst (BS-18)	Drugs Testing Laboratory, Peshawar	Sr. Pharmacist (BS-18) Services Hospital Peshawar vice Sr. No.1
3	Miss. Naila Basher, Senior Pharmacist (BS-18)	Govt. MCC, DG, DG & PS.	Analyst Drug Testing Laboratory Peshawar vice Sr. No.2
4	Mr. Fazle Haq, Pharmacist (BS-17)	Drugs Testing Laboratory, Peshawar	DG, DC & PS against the vacant post of Pharmacist/DI/Chemist (BS-17)
5	Mr. Fawad Alam, Pharmacist (BS-17)	Moulvi Ameer Shah Memorial Hospital Peshawar	DG, DC & PS against the vacant post of Pharmacist/DI/Chemist (BS-17)
6	Mr. Mishbah Ullah Jan Pharmacist (BS-17)	Bacha Khan Medical Complex, Swabi	Drug Inspector (BS-17) Mardan vice Sr. No. 17
7	Mr. Amin Ul Haq, Sr. Drug Inspector (BS-18)	District Mardan	Senior Pharmacist (BS-18) KDA Hospital Kohat against the vacant post.
8	Mr. Abdur Rauf, Pharmacist (BS-17)	DHQ Hospital Mardan	Drug Inspector (BS-17) DHQ Hospital Mardan vice Sr. No. 8
9	Mr. Shehzada Mustafa Durg Inspector (BS-17)	District Mardan	Pharmacist (BS-17) DHQ Hospital Mardan vic Sr. No. 8
10	Mr. Niamatullah, Pharmacist (BS-17)	DHQ Hospital Dir Lower.	Drug Inspector (BS-17) Swat against vacant post.
11	Mr Zia Ullah, Drug Inspector (BS-17)	Dir Lower.	Pharmacist (BS-17) DHQ Hospital Dir Lower vie Sr. No. 10
12	Mr. Rohullah, Drug Inspector (BS-17)	District Charsadda	Assistant Director (BS-17) DO, DC & PS against the vacant post.
13	Mr. Imran Burki, Drug Inspector (BS-17)	District D.I.Khan	Drug Inspector (BS-17) Lakki Marwat Vice Sr. 14

AKS
etc

20

BETTER COPY OF THE PAGE NO.

14	Mr. Ibrar Khan Drug Inspector (BS-17)	District Lakki Marwat	Drug Inspector (BS-17) Karak vice Sr. No. 15.
15	Mr. Muhammad Saleem Drug Inspector (BS-17)	District Karak	Drug Inspector (BS-17) D.I.Khan vice Sr. No. 13.
16	Mr. Manzoor Khattak, Drug Inspector (BS-17)	District Peshawar ✓	Pharmacists (BS-17) KDA Kohat against the vacant post. ✓
17	Mr. Shoaib Drug Inspector (BS-17)	District Mardan	Pharmacists (BS-17) BMMC, Swabi against the vacant post.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst of even No. and Date

Copy forwarded to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar
4. In charge, Drug Testing Laboratory, Hayatabad, Peshawar,
5. Medical Superintendent Services Hospital, Peshawar,
6. Medical Superintendent Moulvi Ameer Shah Meyorial Hospital, Peshawar.
7. Medical Superintendent, DHQ Hospital, concerned.
8. Hospital Director, BIMC Swabi.
9. District Health Officer concerned,
10. District Accounts Officer concerned
11. The Deputy Director
12. PS to Minister of Health
13. PS to Secretary Health
14. PA to

Handwritten signature and initials

Annul (F) (21)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 16578 /2021

Diary No. 657

Dated 11/1/2021

Mr. Manzoor Ahmad, Drug Inspector (BPS-17),
District Peshawar, under transfer to the post of Pharmacist (BS-17),
DHQ Hospital KDA, 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**

APEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 06.10.2020 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF DRUG INSPECTOR (BPS-18), DISTRICT PESHAWAR TO THE POST OF PHARMACIST (BS-17), DHQ HOSPITAL KDA, KOHAT IN UTTER VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

Filed to-day

Registrar

PRAYER:

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 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.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as

under:-

- 1- That appellant is the employee of respondent Department and is appointed as Drug Inspector (BPS-17) through proper

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

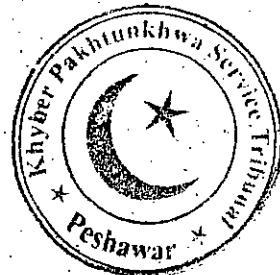
22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. 16578/2020

Date of Institution ... 11.01.2021

Date of Decision ... 06.12.2021



Mr. Manzoor Ahmad, Drug Inspector (BPS-17) District Peshawar, under
Transfer to the post of Pharmacist (BPS-17) DHQ Hospital KDA Kohat.
... (Appellant)

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa Peshawar and two other.
...(Respondents)

Present.

Mr. Noor Muhammad, ... For appellant.
Advocate.

Mr. Muhammad Adeel Butt, ... For respondents.
Addl. Advocate General

MR. AHMAD SULTAN TAREEN ... CHAIRMAN
MR. SALAH-UD-DIN, ... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-By the appeal described
above in the heading and eight other appeals bearing No. 10301/2020,
10535/2020, 16579/2020, 16580/2020, 923/2021, 1559/2021,
4821/2021, 5187/2021, the appellants have invoked the jurisdiction of this

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Tribunal to challenge their transfers from the post of Drug Inspectors/Drug Analyst to the post of Pharmacists with the prayer copied herein below:-

"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 (BPS-17), District Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant."

2. This single judgment shall stand to dispose of all the 09 appeals in one place as in all of them common questions of facts and law are involved.

3. The factual account as given by the appellant in Memo. of Appeal has been edited for the purpose of this judgment. The appellants in Appeals No. 16578/2020, 10301/2020, 10535/2020 16579/2020, 16580/2020 923/2021, 1559/2021, 4821/2021, 5187/2021, are holders of the post of Drug Inspector in pursuance to their appointment made on the said post in due process. Appellant in Appeal No. 16580/2020 is holder of the post of Drug Analyst. The respondent department transferred them from their respective posts held by them in the relevant cadre to the post of Pharmacist. They through their respective departmental appeals have challenged their transfer orders before the departmental appellate authority but they received no response of their departmental appeals. Consequently, they have preferred their service appeals respectively, as

[Handwritten signature]

[Handwritten signature]

ATTESTED
[Signature]
EXAMINER
Cyber Peshawar
Service Tribunal
Peshawar

24

enumerated herein above, for judicial review of the impugned transfer orders. The copies of the appointment orders of appellants, last transfer order within cadre and of impugned order followed by the copies of departmental appeals are available on record as annexed with their respective Memorandum of Appeals. The appellants have disputed the transfer as made vide impugned order on the ground that in terms of service rules for them, their appointment, promotion and transfer is governed by notification dated 09.04.2006 of the Government of Khyber Pakhtunkhwa Health Department quite differently from the Pharmacists. The copy of the said notification as annexed with the appeal is also available on file. The appellants amongst other grounds have urged that the impugned notification of their transfer is against law, facts, norms of natural justice and material on record and being not tenable is liable to be set aside to the extent of appellants and private respondents; and that the appellants were not treated by the respondents in accordance with law/rules on the subject in utter violation of Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

Handwritten signature/initials

4. On notice of appeal, the respondents turned up, joined the proceedings and contested the appeal by filing written replies stating therein that the appellants have got no cause of action or locus standi; that the appeals are against the prevailing law and rules and are not maintainable in present form. They with several factual and legal

Handwritten signature/initials

ATTESTED
Handwritten signature
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

objections submitted that the appeals having been filed with malafide intentions are liable to be dismissed as the impugned transfer notification has been issued in accordance with Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973.

5. We have heard the arguments and perused the record.

6. The arguments of the parties revolve around their submission in writing made in Memorandum of appeal and written reply respectively and discussed herein above.

7. Learned counsel for the appellant has argued that the impugned notification dated 06/10/2020 is against the law, facts, norms of natural justice and materials on the record; that the appellant has not been treated by the respondents in accordance with law and rules on the subject and as such the respondents has violated Articles-4 and 25 of the Constitution of Pakistan; that the impugned notification dated 06/10/2020 has been issued by the respondent No. 2 in arbitrary and malafide manner; hence, not tenable and liable to be set aside; that the impugned notification dated 06/10/2020 is based on discrimination, favoritism and nepotism and is not tenable in the eyes of law; that the impugned notification dated 06/10/2020 has neither been in the best interest of the public service nor in exigencies of service; that through impugned notification, the appellants has been transferred against the wrong cadre/post; that

[Handwritten signature]

[Handwritten signature]
C-T-C

ATTESTED
[Signature]
CLERK
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Handwritten mark)

through impugned notification is violation of clause-I and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa.

8. Learned AAG on behalf of respondents rebutted the arguments advanced by learned counsel for the appellants and has argued that the appellants are employees of Health Departments selected through Public Service Commissions of Khyber Pakhtunkhwa but their performance is questionable on the basis of their monthly progress reports compiled on the basis of set indicators besides their facing inquiries; that the appellants have already completed their normal tenure of two years and it is the discretion of the competent authority to transfer a civil servant at anytime even outside of the province; that no terms and conditions of their service have been violated; that the impugned notification is based on law, Rules and principles of natural justice; that there is no malafide on the part of respondents towards the appellants; that the application are transferred in accordance with law in the public interest; that it is the fitness of things to post a right person at a right place to achieve good governance and to enhance public service delivery; that the appellants have been transferred within their cadre within the same directorate even if they have been transferred in ex-cadre, the same is also covered under the second proviso of Act; that the notification issued after observance of all relevant rules/policy.

(Handwritten signature)

(Handwritten signature and initials)

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

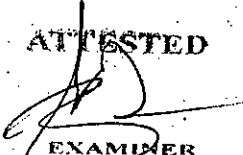
27

9. For any reason but as matter of fact, the posts held by the appellants as Drug Inspector or Drug Analyst, as the case may be, were got vacated by transfer of the appellants and filled by posting of the individuals from the cadre of pharmacists. The appellants in consequence of their transfer have been posted against non-cadre posts. The main defense of the respondents lies in their reply to para-4 of the memorandum of appeal. It has been stated vide para-4 of appeal that by the service rules dated 09/04/2006, the cadre of the appellants is completely different from that of service rule assigned for pharmacists. The reply of the respondents to said para is copied below:

"The Service Rules does not carry any kind of assignment to a cadre but it specifies the method of recruitment and promotion prospects which is otherwise protected after the merging of cadre. Although transfer is not a punishment but to make such like people punctual, subservient to the public and to overcome the deficiency of efficient of hardworking officer to post right person on right place, the three cadres i.e. hospital pharmacist, drug inspector and analyst having same basic qualification as required for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so any drug inspector or an analyst at DTL (who are the cadre of the 04 to 05 persons) can be transferred making them liable to work in hospital under the close

[Handwritten signature]

[Handwritten signature]

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

supervision of hospital administration and vice versa. Those who are transferred from hospital to work in the field as drug inspector are tremendously working, removing the bottlenecks and highlighting a lot of malpractices previously done by their predecessor who have been sacked from field duty. In other similar cases, the drug inspectors who are sacked are under probe at Provincial Inspection Team and other fora".

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?

11. For answer to the formulated questions, prior determination of the legal status of the appellants and the respondents is necessary, as far as their functional duties are concerned. It is pertinent to observe that the Government of Khyber Pakhtunkhwa made the Khyber Pakhtunkhwa Drug Rules, 1982 in exercise of powers conferred by Section 44 of Drug Act, 1976. Rule-2 of ibid rules provides definitions of different words and phrases. The expression "Act" in the said rules means the Drug Act, 1976. Analyst means an Analyst appointed by the Government under the Act. Inspector means an Inspector appointed by the Government under the Act. Board means the Quality Control Board for the Khyber Pakhtunkhwa Province set up under Section 11 (of the Act). Pharmacy

[Handwritten signature]

[Handwritten signature]


29

11

means a shop, store or place where drugs are compounded or prepared on prescription. Part-II of ibid rules relates to appointment and functions of enforcement staff. Sub Rule-(1) of Rule-3 in Part-II of the said Rules provides that an Inspector and Analyst shall submit monthly returns in Form-1 & Form-2 respectively, to the Board and a Summary on the overall situation of quality control in the area under their respective jurisdiction and the board shall maintain such information in a manner as to monitor the quality of all the drugs sold and to keep watch on the performance of all manufacturers. Rule-4 provides qualifications etc of Inspector and Analyst. Accordingly, no person shall be appointed as Inspector unless he possess the degree in Pharmacy from University or other institutions recognized for this purpose by the Pharmacy Council of Pakistan and has at least one year experience in the manufacture, sell, testing or analysis of drugs or in Drug Control Administration or in hospital or pharmacy. Sub Rule-(2) of Rule-4 provides the qualification for appointment as Analyst which is similar to that of the Inspector except experience which in case of Analyst is 05 years. The same rules i.e. of 1982 provide for duties of Inspectors and Analysts. From the given statutory expositions relating to the position of Drug Inspector and Drug Analyst, we have no hesitation to hold that the posts of Drug Inspector/Drug Analyst are statutory positions with authority of appointment vested in the Provincial Government. The Government of

[Handwritten signature]

*Atiqul
C-I-C*

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

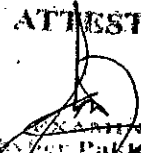
30



Khyber Pakhtunkhwa vide notification dated 09/04/2006 bearing No. SOH-III/10-04/05 issued in pursuance to the provisions contained in sub rule-(2) of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, laid down the method of recruitment, qualification and other conditions of service applicable to the posts specified in column-2 of the appendix. The qualification of Inspector in the appendix is similar to that of qualification provided under Sub-Rule-(1) of Rule-4 of Khyber Pakhtunkhwa Drug Rule, 1982. According to method of recruitment prescribed in column-5 of the appendix, the appointment to the post of Drug Inspector is to be made by initial recruitment while to the post of Chief Drug Inspector and Divisional Drug Inspector by promotion. The respondents in their reply vide para-4 as reproduced herein above have asserted with vehemence that there cadres i.e. Hospital Pharmacist, Drug Inspector and Drug Analyst having same qualification for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so Drug Inspector of Analyst at DTL (who are the cadre of 04 to 5 persons) be transferred making them liable to work in hospital under the close supervision of hospital administration. Those who are transferred from hospital to work in the field as Drug Inspector are tremendously working, removing the bottlenecks and

[Handwritten signature]

[Handwritten signature]

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal

(11)

highlighting a lot of discrepancies done by their predecessors who have been sacked from field duty.

12. The reply of the respondents as discussed above revolves around the expediency of filling the Drug Regulatory posts by *inter se* transfer of the holders of the post of Drug Inspector/Drug Analyst and of Pharmacists by merger of their cadre to ensure the discipline and quality of performance purportedly for the public good. We are not supposed to doubt the intentions of the respondents for such expediency but at the same time, we have to see that such an expediency is in conformity to the law and rules on the subject. Article 240 of Constitution of Pakistan enshrines that subject to the Constitution, the appointments and conditions of service in the Service of Pakistan shall be determined by or under the Act of Parliament in case of the services of Federation and by or under the Act of Provincial Assembly in case of services of Province and posts in connection with affairs of the Province. In pursuance of this command of Constitution, the Provincial Service Laws i.e. the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rules made there-under are in place in general besides other Special Service laws for particular posts and services in connection with affairs of the Province. As already discussed above, the notification dated 09/04/2006 issued in pursuance to Sub Rule-(2) of Rule-3 of (APT) Rules, 1989 is there which laid down the method of recruitment, qualification and other conditions of service

[Handwritten signature]


[Handwritten signature]
CIC

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

applicable to the posts of Drug Inspectors of different ranks. Thus, in presence of a legal instrument like notification dated 09/04/2006 having statutory backing, transfer of a Drug Inspector to an ex-cadre post to fill the resultant vacancy by transfer of a non-cadre officer is seemingly not credible. By the impugned order dated 06/10/2020, appellants holding the posts of Drug Inspector and one among them holding the post of Drug Analyst were transferred from their respective posts held by them in relevant cadre and posted as Pharmacist in a wrong cadre. The notification dated 06/04/2006 as far as column-5 of its appendix is concerned expressly provides for appointment of Drug Inspector through initial recruitment. With this position as to method of appointment of Drug Inspector, the post held by him cannot be filled by transfer or promotion from any other cadre albeit the person in the alien cadre may possess the qualification similar to the qualification of Drug Inspector. In holding so, we derive guidance from the law laid down by august Supreme Court of Pakistan in the case of Muhammad Sharif Tareen...vs... Government of Balochistan (2018 SCMR 54). In the ibid case, it was held by the Hon'ble Supreme Court that a post which is required by the rules to be filled by Initial recruitment cannot be filled by promotion, transfer, absorption, or by any other method which is not provided by the relevant law and rules. Furthermore, after making reference to the law laid down in the case of Ali Azhar Khan

[Handwritten signature]


[Handwritten signature]


ATTESTED

 EXAMINER
 Khayr Pakhtunخوا
 Service Tribunal
 Peshawar

Baloch...vs...Province of Sindh (205 SCMR 456), it was held as follows:

"8. The quintessence of the paragraphs reproduced above is that the appointments made on deputation, by absorption or by transfer under the garb of exigencies of service in an outrageous disregard of merit impaired efficiency and paralyzed the good governance and that perpetuation of this phenomenon, even for a day more would further deteriorate the state of efficiency and good governance."

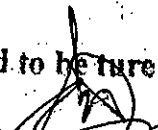
13. For what has gone above, all the appeals with their respective prayers are accepted as prayed for. Consequently, the impugned order is set aside and respondents are directed not to transfer the appellants from the post of Drug Inspector or Drug Analyst as the case may be. Parties are left to bear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


(SALAH-UD-DIN)
Member(J)

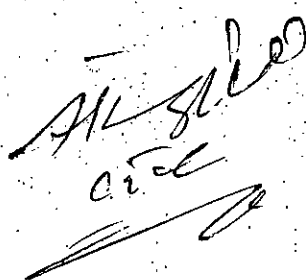

(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
06.12.2021

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 02/02/2022
Number of Words 5200
Copying Fee 54/-
Urgent 4/-
Total 58/-
Name of Copyist -
Date of Completion of Copy 02/02/2022
Date of Delivery of Copy 02/02/2022



Annulment (34)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 06th May, 2021

NOTIFICATION.

SO(H-III)7-262/2021. WHEREAS Health Department constituted the Committee vide Notification of even number, dated 24th June, 2020 to conduct the comprehensive audit of various districts including District Mardan for the purpose to evaluate the performance of Drug Inspectors and to unearth the reported discrepancies/irrat practices/complaints (that were poured indicating lack of Drug Sale Licensing's data, NDCs issued to other districts, data of seized stock pending cases for submission in the Provincial Quality Control Board and the Drug Court and data of FIRs in their respective Districts

AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Anis Ul Haq, the Drug Inspector District Mardan

AND WHEREAS the Provincial Inspection Team, Khyber Pakhtunkhwa has also conducted an inquiry where besides other corrupt practices the chance of bribe has been proved

AND WHEREAS there is likelihood of distorting the record under inquiry that may affect the inquiry proceedings

AND WHEREAS the Competent Authority, has ordered for conduction of Formal Inquiry under Conduct & Disciplinary (E&D) Rules, 2011

NOW THEREFORE the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to suspend the services of Mr. Anis Ul Haq under Rule-6 of Khyber Pakhtunkhwa Conduct & Disciplinary (E&D) Rules, 2011 and is directed to report to Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst even No & date.

A copy is forwarded to:-

1. PSC to Chief Secretary, Khyber Pakhtunkhwa
2. PS to Minister for Health, Khyber Pakhtunkhwa
3. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar
5. District Account Officer, Mardan.
6. District Account Officer, Kohat
7. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar.
9. Deputy Director (I.T), Health Department.
10. Officer concerned

Handwritten signature and initials

Handwritten signature
(Naseer Ahmad)
SECTION OFFICER-II

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar, the 06th May, 2021

NOTIFICATION:

SO(H-III)7-262/2021 whereas Health Department constituted the Committee vide notification of even number dated 24th June, 2020 to conduct the comprehensive audit of various districts including District Mardan for the purpose to evaluate the performance of Drug Inspector and to unearth the reported discrepancies/ mal practices/ complaints that were poured in indicating lack of Drug Sale Licensing's data. NOCs issued to other districts, data of seized stock, pending cases for submission in the Provincial Quality Control Board and the Drug Court and data of FIRs in their respective Districts.

AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Aman ul Haq the Drug Inspector District Mardan.

AND WHEREAS the Provincial Inspection Team, Khyber Pakhtunkhwa has also conducted an inquiry where besides other corrupt practices, the chance of bribe has been proved.

AND WHEREAS there is likelihood of distorting the record under Inquiry that may affect the inquiry proceedings.

AND WHEREAS the Competent Authority has ordered for conduction of Formal Inquiry under Efficiency & Disciplinary (E&D) Rules, 2011.

NOW THEREFORE the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to suspend the services of Mr. Aman Ul Haq under Rule-6 of Khyber Pakhtunkhwa Efficiency & Disciplinary (E&D) Rules, 2011 and is directed to report to Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa with immediate effect.

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

Endst even No. & date.

A copy is forwarded to:-

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Minister for Health, Khyber Pakhtunkhwa.
3. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Mardan.
6. District Account Officer, Kohat.
7. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar.
9. Deputy Director (I.T), Health Department.
10. Officer concerned.

Sd/-
(Naseer Ahmed)
Section Officer-III

D-NO 9650

CS office

24/5/21

35

Annular: (Hs)

The Chief Secretary
Khyber Pakhtun Khwa Peshawar

Subject: ENQUIRY AGAINST MR. AMIN UL HAQ SENIOR DRUG INSPECTOR BS-18

Respected Sir,

With great respect, I have the honor to state that an enquiry against me has under progress in Health Department, for which I have some observation on the enquiry officers,

1. That a departmental case is under process in court against me and the enquiry officers due to ~~change~~ change of Post cadre (Drug Inspector) which is illegal. Moreover the enquiry officer is a pharmacist before he change his post cadre.
2. That one enquiry officer is below the rank of BS-18 and I am serving in BS-18, and it is illegal and against the Government rules that a BS-17 Officer has inquired a BS-18 Officer.

Keeping to the above observation I have requesting in your honor to kindly nominate a BS-19 enquiry officers, to enquire the matter/case to proceed further in the case for justified decision.

Thanks

Date: 24-05-2021

Yours Sincerely,

Amin Ul Haq

Senior Drug Inspector BS-18

Mardan

PSIC.S Khyber Pakhtunkhwa

Diary No. 2650

Date: 24-05-2021

Say: Health

Subj: Inquiry Against Mr.
Amin-ul-Haq Senior Drug
Inspector, BS-18.

AL-ND
O-T-C
W



GOVERNMENT OF KHYBER PAKHTUNKHWA
RELIEF REHABILITATION & SETTLEMENT
DEPARTMENT *Annulka*

36
C

No. SO (Admn.) RR&SD/2-14/2012/812
Dated the Peshawar 14th July 2021

To

1. Mr. Amin ul Haq
Senior Drug Inspector (BS-18)
Mohallah Usman Khan, Village & Post Office Tangi Nasrat Zai,
Tehsil Tangi, District Charsadda.
2. Mr. Shoaib Khan
Drug Inspector (BS-17)
Mohallah Hafizan, Mohib Road, Par Hoti, Mardan.

Subject: DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOR DRUG INSPECTOR (BS-18) AND MR. SHOAIB KHAN, DRUG INSPECTOR (BS-17) DIRECTOR GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR.

Referring to the Health Department Khyber Pakhtunkhwa letter No. SDH-1/7
262/2021 (Amin ul Haq SDI & Shoaib Khan DI) dated 08th July 2021.

2. The Competent Authority has nominated the undersigned along with Mr. Zahid Khan, Chief Drug Inspector (BS-19), District Peshawar as inquiry officer to conduct formal inquiry against both of you.

3. Under Rule 5(b) of Government Servants (Efficiency & Discipline) Rules 2011, you are required to appear before the inquiry committee along with written statement.

4. In this regard, you are directed to appear before the inquiry committee along with written statement on 26th July, 2021 at 11:00 AM in the Relief, Rehabilitation and Settlement Department Khyber Pakhtunkhwa.

A. Ghaffar Khan
A. Ghaffar Khan
Additional Secretary,
Relief, Rehabilitation & Settlement Department
14/7/21

Copy forwarded for information to the:

1. Secretary Health Department Khyber Pakhtunkhwa.
2. Naseer Ahmed Section Officer-III Health Department Khyber Pakhtunkhwa
3. Mardan File, 2019.

W. S. Khan
W. S. Khan
C. T. C.

**GOVERNMENT OF KHYBER PAKHTUNKHWA
RELIEF REHABILITATION & SETTLEMENT
DEPARTMENT**

No. SO(Admn.) RR&SD/2-14/2019/812

Dated the Peshawar 14th July 2021

To

1. Mr. Amin ul Haq
Senior Drug Inspector (BPS-18)
Mohallah Usman Khel, Village & Post Office Tangi Nasrat Zai,
Tehsil Tangi, District Charsadda.
2. Mr. Shoaib Khan
Drug Inspector (BPS-17)
Mohallah Hafizan, Mohib Road, Par Hoti, Mardan.

Subject: **DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOR DRUG INSPECTOR (BPS-18) AND MR. SHOAIB KHAN, DRUG INSPECTOR (BPS-17) DIRECTOR GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR**

Referring to the Health Department Khyber Pakhtunkhwa letter No.SOH-III/7-262/2021 (Amin ul Haq SDI & Shoaib Khan DI) dated 08th July 2021.

2. The Competent Authority has nominated the undersigned alongwith Mr. Zahid Khan Chief Drug Inspector (BPS-19), District Peshawar as inquiry officer to conduct formal inquiry against both of you.

3. Under Rule 5(b) of Government Servants (Efficiency & Discipline) Rules 2011, you are required to appear before the inquiry committee along with written statement.

4. In this regard, you are directed to appear before the inquiry committee along with written statement on 26th July, 2021 at 1100 AM in the Relief, Rehabilitation and Settlement Department, Khyber Pakhtunkhwa.

Sd/-
Asghar Khan
Additional Secretary,
Relief, Rehabilitation &
Settlement Department

Copy forwarded for information to the:

1. Secretary Health Department Khyber Pakhtunkhwa.
2. Naseer Ahmed Section Officer-III, Health Department, Khyber Pakhtunkhwa.
3. Master File, 2019.

Ammar. a J

37

DISCIPLINARY ACTION

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as the Competent Authority, am of the opinion that Mr. Amin Uj Haq, Senior Drug Inspector BS-18, currently posted as Senior Pharmacist KDA Hospital District Kohat, has rendered himself liable to be proceeded against, as he committed the following Acts/ Omissions within the meaning of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure showing least or no interest in searching market / area of jurisdiction .
- D. No attendance record was found available.
- E. No record of NOCs issued to applicants of Distt. Mardan who applied for getting Drug Licenses in other districts/provinces.
- F. Licensing record was lying in dilapidated condition with no tracking system without fulfilling legal formalities.
- G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses to ascertain authenticity of qualified persons resulted in spreading of fake licenses in the district.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured by you at the time of issuing DSL whereby in certain cases, picked randomly, the QP was unaware of his license at district Mardan.
- I. Seized medicines/court property and its record was in bad condition, not identifiable without any record maintained.
- J. The stock of medicines, seized during your inspection for its exhibition before Drug Court/PQCB was dumped haphazardly without any record to indicate from which facility it was drawn and with how much quantity.
- K. No record of taking over/handing over of charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
- M. His performance in the implementation of the Drug laws/rules, was poor.
- N. Statement of Dr. Noor Islam is on record that he took one Lac twenty thousand rupees (Rs. 120,000) through his private tout namely, Mr. Rashid (a chemist operating shop at tehsil Takht bhai) for granting Drug Sale license.
- O. A subsequent report highlighting issuance of illegal/fake drug sale licenses by him besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug law & Rules.
- P. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements/under taking .

ATM
CITE
A

Received 26/07/21

(38)

**WRITTEN STATEMENT OF AMIN UL HAQ, SENIOR DRUG
INSPECTOR (BPS-18), CURRENTLY IN DIRECTORATE GENERAL,
DRUG CONTROL AND PHARMACY SERVICES, KHYBER
PAKHTUNKHWA, PESHAWAR.**

I- The undersigned recruited/appointed as Drug Inspector in BPS-17 through KPSC and post in various Districts of Khyber Pakhtunkhwa. In 2019 through PSB promoted in BPS-18 and posted as Senior Drug Inspector (BPS-18), Mardan. Para wise reply of the copy of charge sheet provided by the inquiry committee dated 26th July, 2021 are as under please:-

A. The undersigned after carrying over inspection regularly forwarded Daily Activity Reports of Drug control along with pictorial evidence with DG DC&PS in their official whatsapp group created for the said purpose.

B. The Sealing Memo sheet used during sealing of premises under - Section 18 (h), which is a part of case file and counter file is regularly being delivered to sealing premises in charge on spot. **A copy of Sealing Memo is attached (Annex-I)** for information, please.

C. The undersigned is responsible for to take and send for test or analysis if necessary, samples of any drug which he has reason to suspect is being manufactured, sold, stocked or exhibited for sale in contravention of any of the provisions of the Drug Act. Declaring failed or passed is the duty of govt Analyst.

D. The undersigned regularly attended the office but neither previously nor presently there was any practice of maintenance of register for attendance of officers was available. Once the undersigned after posting inquired about the register for which I have been told that according to Secretariat Manual of Instructions for attendance, BPS-17 and above are exempted.

E. Proper record has been maintained for NOCs issued during my tenure **(Photo copies attached as Annex-II)**.

F. No proper racks were available in the office for storage of record. The undersigned after posting prepared proper racks for record keeping which can be verified. However, the undersigned may not be held responsible for the dilapidated condition of old record as it was not properly maintained by the then officers / officials. Moreover, due to shortage of space the record was previously dumped in a room of EPI which was even not allotted to the office. Resultantly, the old record is in dilapidated condition.

G. No legal provisions to obtain NOC from KP Pharmacy Council is available therefore, the charge regarding obtaining NOC is denied and the undersigned may not be held responsible for this.

H. Totally denied this charge, as initial step of License is Form-8 which is basically an application which is filled by the Qualified Person. Issuing of Drug Sale License is subject to field inspections carried out by the drug Inspector to inspect / verify the information provided in form-8 by the Qualified Persons and is subject to proper approval. Therefore, it is a vague expression without any solid footings.

I. Totally denied, the under signed not received a single complaint from Drug Court or PQCB that the case property is missing or not presented in a proceedings or in a trial. Moreover, all the record of seized medicine of my tenure is available and is in identifiable condition. Copy of the PQCB Register of Issues attached As **Annex-III** for ready reference.

J. Denied. All the record of medicine seized in my tenure is available on form-6 (Attached as **Annex-IV**) and it clearly shows the facility from which it was drawn and clearly indicates the quantity seized. However, as early mentioned due to non availability of space, the record prior to the tenure of the undersigned has not been properly maintained.

K. Nothing was handed over to me due to the fact that the Post of Senior Drug Inspector (BS-18) was lying vacant at the time of arrival of the undersigned.

L. Charge denied. Regular inspections have been carried out by the undersigned and suspected drugs has been entered on form-5 and forwarded for checking its quality and the quantity of samples as required by the Drug Testing Laboratory are sent for testing. However as

(39)

earlier mentioned, declaring failed or passed is the duty of govt. Analyst. Copies of Form-5 (attached as Annex-V) for ready reference, please.

M. Charge denied. I during my entire tenure, being the law enforcing agent worked with honesty and with punctuality. It is a proof of my statement that not even a single explanation has been called by any authority during my tenure.


N. Charge denied. It is totally a baseless charge neither I received any money and nor I have any tout. During my entire career I have worked with my entire devotion, punctuality and honesty towards fulfilling my assigned duties. Written statement of Mr. Rasheed is also attached as Annex-VI which proves that the allegation is baseless.

O. It is denied, no such case has been found during my entire tenure. Infact Hospital Pharmacist Community is against the drug Inspectors. We the drug inspectors have challenged the amalgamation of three cadres i.e. pharmacist, government analyst and Drug Inspector in which the Peshawar High Court set aside the amalgamation notification and resultantly the other two cadres became against the drug inspector cadre and trying to embarrassed them in eyes of Provincial Govt, through different techniques. As conflict of interest of three cadres involved, the said allegation may be set aside as it has no concrete weight and baseless. Moreover, no such reports have been provided to the undersigned to enable to clarify my position.

P. My cadre was changed from Drug Inspector to Hospital Pharmacist due to which I lodged a complaint in the KP Service Tribunal in which the Service tribunal granted stay. Due to the said stay, employees of the other two cadres started to work against the undersigned. As earlier stated I have worked with honesty in my entire service and totally deny the charge of issuing fake licenses. Even though it has been mentioned in the allegation that proprietors had paid huge amount but no proof of such corruption was provided. Therefore, the allegation is baseless. In fact such tactics have been adopted to defame the undersigned and nothing else. Written statement of Mr. Rasheed proves the allegation wrong. Hence the undersigned is being charged with unseen crime and decision on hear say, which based on presumption and assumption. Therefore, I being innocent totally deny the charge. Moreover, the undersigned pay due attention towards issuing licenses during my entire tenure and proper record was maintained. I visited the Drug Control Secretariat office Mardan regarding the verification of record of the list of 29 fake licenses provided by the inquiry committee. Even though no co-operation was extended to the undersigned during my visit but fortunately one proprietor of M/S United Medicos was present at that time that have provided me a copy of his license bearing No. 571/RS dated Nil (Copy attached as Annex-VII). The said license was issued by the undersigned and the holder of the license was a qualified person and can be verified. It is also an evident that all these licenses are not fake. Even then if the committee requires verification of licenses, then it is requested that the copies of under question licenses may be provided to the undersigned for verification. In addition, it has been mentioned on the page provided that the said 29 licenses have been issued by three drug inspectors i.e. Amin Ul Haq, Tayyab and Shoaib as explained by Mr. Abdur Raul Drug Inspector. This person is basically Hospital Pharmacist but his cadre was changed as drug inspector. As earlier requested weightage may not be given to his statement due to the fact that there is conflict of interest involved as explained in the reply to allegation at Para-O. It is also explained that the undersigned was kept unaware about the in process of inspection carried out by the Provincial Inspector Team and no one has bothered to call/ interview me therefore the report is totally one sided. It is also added that No signed /legal charge sheet has been provided so far which proves that the overall process was completed one sided.

2- It is, therefore, requested to consider the above facts and proof provided by the undersigned and humbly requested to exonerate me from the baseless allegations leveled against me.

All-800
a-t-c
P


AMIN UL HAQ
SENIOR DRUGS INSPECTOR

Annexure A

40

OFFICE OF THE CHIEF DRUG INSPECTOR
ROOM NO.13, 14 DISTRICT SECRETARIAT MARDAN

NO. 628 /PD-AR/MRD

Dated Mardan, the 01/02/2021

From: The Provincial Drug Inspector
District Secretariat Mardan.

To: The Director General Drug Control &
Pharmacy Services Khyber Pakhtunkhwa
Peshawar.

Subject: MISAPPROPRIATION IN ISSUANCE OF DRUG SALE LICENSES

Respected Sir,

I have the honor to submit that:
During course of inspections of medical stores in district Mardan by undersigned the following medical stores were checked with different time interval and days and found that licenses which were issued by predecessor inspectors of drugs were illegal/without fulfilling the legal requirements under the drugs laws and rules/fake, doubling and tripling of qualified person in same district which are as under;

S.NO	License No.	Type Form	Premises/ Medicose	Proprietor	Qualified	Issued by Predecessor SDI
01	617/RS	9,11	IHSAN	SAJJAD ALI	FAZLE KHALIQ	AMIN UL HAQ Same person has been issued three licenses at S.NO. 01, 07 & 03.
02	279/RS	9,11	SHER ALAM	SHER ALAM	SHAJAR KHAN	AMIN UL HAQ
03	703/RS	9,11	IKRAM	MUHAMMAD IKRAM	FAZLE KHALIQ	AMIN UL HAQ
04	681/RS	9,11	✓	ISHAQ MUHAMMAD	FAZLE RABI	AMIN UL HAQ
05	707/RS	9,11	SHAHID	SHAHID KHAN	QAJEERKHAN	AMIN UL HAQ
06	678/RS	9,11	COMMUNITY PHARMACY	MEHDI ALI	SAJJAD ALI KHAN	AMIN UL HAQ

AK Sidd
e-t-c
[Signature]

41

[Handwritten mark]

07	433/RS	9,11 to DISTRIBUTION	HOTI DISTRIBUTION		MUHAMMAD ASHRAF	AMIN UL HAQ
08	623/RS	9,11	MEDICINE POINT	IFTEKHAR ALI	MUHAMMAD ZAHID	AMIN UL HAQ
09	87/RS	9,11	AYAAN	MUHAMMAD TAYYEB	ALI GAUHAR	AMIN UL HAQ
10	614/RS	9,11	ABDUL QAYYUM	SYED UL IBBAR SHAH	SHAJAR KHAN	AMIN UL HAQ
11	677/RS	9,11	KHAN		NAIMAT ULLAH	AMIN UL HAQ
12	508/WS	10,11	KHALIL UR REHMAN		HUSSAIN SHAH	AMIN UL HAQ
13	571/RS	9,11	UNITED	AMIR KAMAL	FAQIR GUL	AMIN UL HAQ
14	704/RS	9,11	SUFYAN	YOUSAF SHAH	ALTAF HUSSAIN	AMIN UL HAQ
15	729/RS	9,11	GLOBAL	HAYAT KHAN	SAIF ULLAH	AMIN UL HAQ
16	202/RS	9,11	SHERAB	UMAR KHITAB	UMAR KHITAB	AMIN UL HAQ
17	102/RS	9,11	TAKHAT BHAI VETERINARY	AMAL KHAN	KHAN AFSAR KHAN	AMIN UL HAQ
18	326/RS	9,11	ZAMAN	AHAD ZAMAN	JANAS KHAN	AMIN UL HAQ
19	492/RS	9,11	M-TEHANGIR	SHER ALAM KHAN	NIZAM UDDIN	AMIN UL HAQ

The undersigned issued show cause notices to the above medical store owners to explain their position regarding violating of the drug laws and rules framed there under. During investigation, some of the proprietor of the medical stores confessed that they don't even know the qualified persons rather these licenses are issued by the concern drug inspectors of district Mardan. It was also instructed to the proprietors /owners to appear the qualified person along with original documents, but they failed to do so.

Furthermore, for verification of record of these licenses from the clerk of the drug control office Mardan and he declared that no record of these medical store licenses are present in the office not in official register. After completing my investigation I had referred the cases to the chairman PQCB for taking legal action as per law.

[Handwritten signature]
[Handwritten signature]

42



The complete detail of these fake illegal /without adopting the legal requirements to issuing licenses and without record in the office of Drug control Mardan is forwarding for information, perusal and further necessary action please.

Abdur Rauf
Provincial Inspector of Drugs
District Mardan.

Endst: No. & date even.

Copy to:

1. The Chairman Provincial Quality Control Board Khyber Pakhtunkhwa Peshawar.

Recievd from
Inventory Committee
date 03/08/21

||

IAHSR
CPS

(43) (E)

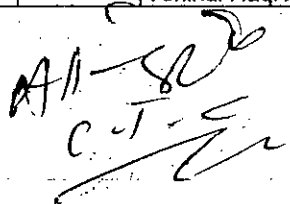
WRITTEN STATEMENT OF AMIN UL HAQ, SENIOR DRUG INSPECTOR (BPS-18), CURRENTLY IN DIRECTORATE GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR.

1- The undersigned after submission of reply to charge sheet has been given a copy of letter of the office of the Chief Drug Inspector District Secretariat Mardan on 03-08-2021. The said letter was signed by Mr. Abdur Rauf Provincial Inspector of Drugs addressed to DG Drug Control & Pharmacy Services Khyber Pakhtunkhwa bearing No. 628/PDI-AR/MRD dated 02-02-2021 wherein it was stated that these licenses have been issued without fulfilling the legal requirements under the drugs laws and rules/ fake, doubling and tripling of qualified person in same district. Remarks of the undersigned /factual position of each license is given below:-

S#	License No	Type	Premises/ Medicos	Proprietor	Qualified	Issued by	Factual position
1	617/RS	9,11	Ihsan	Sajjad ali	Fazale Khaliq	Aminul Haq same person has been issued three licenses at S/No.01, 07 & 03.	Not agreed the qualified persons of all three licenses are not same as mentioned in the report that the qualified person of S/No.7 is different. As far as licenses mentioned at S/No.1 & 3 are concerned it is pertinent to mentioned herein that the proprietor committed while issuance of licenses that he will present its qualified person but he failed therefore, while inspection carried out by the undersigned the license bearing No. 617/RS was cancelled on 01-10-2020 accordingly by the undersigned. The doubling is regretted on the ground that the system of licenses are operated manually. However the license bearing No.703/RS was cancelled by the undersigned on 01-10-2020. Copies annexed as Annex-I
2	279/RS	9,11	Sher alam	Sher alam	Shajar khan	Aminul haq	The said license has not been issued by the undersigned. If someone who states that this license was issued by me then he should produce license with my original signature. Because if someone scanned my signature and issue a fake license I may not be held responsible for that.
3	703/RS	9,11	Ikram	Muhamma d Ikram	Fazal khaliq	Aminul haq	Not agreed the said license has already been cancelled by the undersigned on 01-10-2020.
4	681/RS	9,11	City	Ishaq Muhamma d	Fazlerabi	Aminul haq	The license is totally genuine as per rules. However, his qualified person as per his statement is abroad. Statement of the proprietor is Annexed as Annex-II.
5	707/RS	9,11	Shahid	Shahid khan	Qajeerkhan	Aminul haq	The license has been issued to the medicos in presence of qualified person. The owner stated that he can present his qualified person to everyone who thinks that the license is fake or illegal. Vide Annex-III
6	678/RS	9,11	Communi ty pharmacy	Mehdi ali	Sajjad ali khan	Aminul haq	Not agreed. Statement of proprietor and pectoral evidences are attached which clearly support the stance of the undersigned and shows that the allegations are not true and due to conflict of interest the complainant AbdurRauf has used it against me

Aminul Haq
S.D.O. Peshawar

							for defamation. Statement Annexed as Annex-IV
7	433/RS	9,11 to distribution	Hoti distribution		Muhammad ashraf	Aminul haq	It is mentioned in the objection that license No. 433/RS has been issued to Hoti distribution. This statement is incorrect RS license are issued to retailers whereas hoti distribution is a whole sale dealer and WS licenses are issued to wholesaler. Hence, the allegation is incorrect.
8	623/RS	9,11	Medicine point	Ifukhar ali	Muhammad zahid	Aminul haq	It is pertinent to mention herein that as per rule only one license can be issued on one name. Medicine point medical store is situated in main bazaar shergarhari chard road. All the information mentioned in the letter about the said medical store is incorrect. The license No. of the said medical store is 32/WS issued on 19-05-2017 and its proprietor is Hazrat Younas. No license at the above medical store has been issued by the undersigned. Statement of the proprietor is annexed as Annex-V
9	87/RS	9,11	Ayaan	Muhammad tayyeb	Ali gauhar	Aminul haq	Not issued by me. If someone scanned my signature and produced any fake photocopy then I shall not be held responsible for that.
10	614/RS	9,11	Abdul qayyum	Syed ulibrar shah	Shajar Khan	Aminul haq	The said license has already been cancelled by the undersigned on 01-10-2020 (Annex-VI)
11	677/RS	9,11	Khan		Niamat Ullah	Aminul haq	The information provided is incorrect. Statement of the proprietor is produced which indicate clear position and nothing illegal on part of the undersigned (Annex-VII).
12	508/RS	9,11	Khalil Ur. Rehman		Hussain shah	Aminul haq	Not issued by me. If someone scanned my signature and produced any fake photocopy then I shall not be held responsible for that.
13	571/RS	9,11	United	Amir kamal	FaqirGul	Aminul haq	The license is totally genuine and run by a qualified person. We along with the qualified person twice visited the office when called and also presented ourselves to PQCB. We can visit again if required. Annex-VIII.
14	704/RS	9,11	Sufyan	Youaf shah	Altaf Hussain	Aminul haq	Statement of the proprietor is annexed which shows that the license is issued to me after observing all codal formalities. However, presently as per his statement his QP has went abroad. Moreover, the proprietor has lodged a complaint against AbdurRauf in court of law which clearly shows that the issue lies with complainant and not with undersigned (Annex-IX).
15	729/RS	9,11	Global	Hayat khan	SaifUllah	Aminul haq	The said license has already been cancelled by the undersigned on 01-10-2020 Annex-X
16	202/RS	9,11	Shahab	Umar khitab	Umar khitab	Aminul haq	The holder of the license is himself a qualified person. The license of the medical store was not issued by Mr. Aminul Haq. Annex-XI




45

17	102/RS	9,11	Takhatbhai veterinary	Amal khan	Khan afsar khan	Aminul haq	The said license has been issued by the then Chief Drug Inspector on 14-07-2017 and was cancelled by the undersigned on 18-05-2020 due to non availability of the Qualified Person. Hence the allegation is incorrect (Annex-XII).
18	326/RS	9,11	Zaman	AhadZaman	Janas khan	Aminul haq	The license is totally genuine and run by a qualified person. We along with the qualified person can visit every office if required(Annex-XIII).
19	492/RS	9,11	M.Jehangir	Sheralam Khan	Nizamuddin	Aminul haq	The license is totally genuine and run by a qualified person. We along with the qualified person visited the office when called by the inspector. We can visit again if required. Annex-XIV.

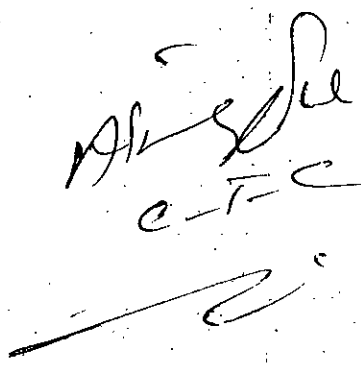
2. Apart from the above explanation the following are submitted for your kind perusal please:

- (a) My cadre was changed from Drug Inspector to Hospital Pharmacist due to which I lodged a complaint in the KP Service Tribunal in which the Service tribunal granted stay. Due to the said stay, employees of the other two cadres i.e. pharmacist and government analyst started to work against the undersigned.
- (b) As earlier stated I have worked with honesty in my entire service and totally deny the charge of issuing fake licenses. Therefore, the allegation is baseless. In fact such tactics have been adopted to defame the undersigned and nothing else.
- (c) The undersigned is being charged with unseen crime and decision on hear say, which based on presumption and assumption.
- (d) It is evident from the above statements and record produced by the undersigned that all these licenses are not fake. Even then if the committee requires i can present all the proprietors along with qualified persons.
- (e) Mr. AbdurRauf Drug Inspector is basically a Hospital Pharmacist but his cadre was changed as drug inspector. As earlier requested weightage may not be given to his statement due to the fact that there is conflict of interest involved as explained in the reply to allegation. It is also explained that the undersigned was kept unaware about the in process of inspection carried out by the Provincial Inspector Team and no one has bothered to call/ interview me therefore the report is totally one sided.

3- It is, therefore, requested to consider the above facts and proof provided by the undersigned and humbly requested to exonerate me from the baseless allegations leveled against me.


AMIN UL HAQ
SENIOR DRUGS INSPECTOR

11/08/2021



Amirul, et al

46

SHOW CAUSE NOTICE.

I, Mr. Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Amin ul Haq, Senior Drug Inspector (BPS-18), Directorate of Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, as follows:-

- i. Consequent upon completion of inquiry conducted against you by the Inquiry Committee for which you were given an opportunity of hearing vide communication No. SO(Admn.) RR& SD/2-14/2019, dated 14th July, 2021 wherein the charges of inefficiency, misconduct and misuse of authority stand proved, and
- ii. On going through the findings of the Inquiry Committee, material on record and other connected papers including your defense before the Inquiry Committee:-

2. I am satisfied that you have committed the acts/omissions of **inefficiency, misconduct and misuse of authority** specified in Rule-3 of the said rules:

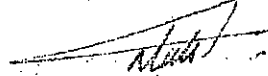
3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service

under Rule-4 of the said rules.

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

5. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

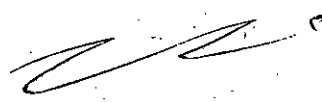
6. Copy of the findings of the Inquiry Committee is enclosed.



(Mahmood Khan)
Chief Minister, Khyber Pakhtunkhwa

Mr. Amin ul Haq,
Senior Drug Inspector,
Directorate General Drug Control & Pharmacy Services.

Aminul
C-1-1



(47) (2)

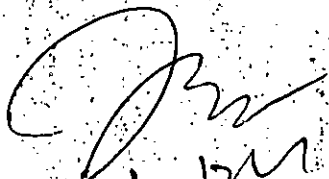
بانی حلقہ

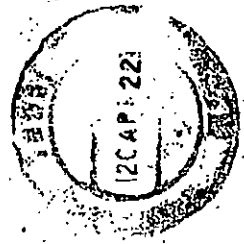
از حورم 20/04/2019 No 74487950 کو سہ لقمہ

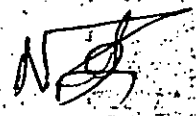
سہ لقمہ سے لقمہ دے کر جو کہ ریسپنڈنٹ (سہ لقمہ) سے
ہیں۔ اگر ڈاکٹر نے میں کہوں کہ دیکھا گیا
تو پھر صورت پر مشتمل تھا۔

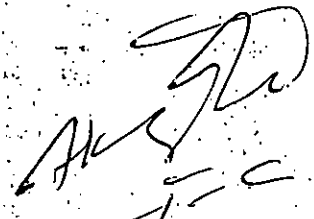
عہدہ منظور طور پر فرم کر دی تاکہ
لوقت ضرورت کام آسکے۔

۹ ک
۱۰:۰۰ PM


20/4/2019






20/4/2019

RP-3

PARCEL LIST From

To

No. & Class of bags used		
C =	D =	B =

	Class	No.	Office of posting	Weight	Charges due		Class	No.	Office of posting	Weight	Charges due
1						11					
2						12					
3						13					
4						14					
5						15					
6						16					
7						17					
8						18					
9						19					
10						20					



D.O. Date-stamp

(In words)
R.O. Date-stamp

Ordinary Registered parcels
 V.P. Registered parcels
 Insured (including V.P.) parcels

Total

D.O. Signature

R.O. Signature

Verified the entry relating to the insured articles above.
entries

Signature of the Postmaster
Head Sorter

48

The Hon'ble Chief Minister
Khyber Pakhtunkhwa.

Subject: - WRITTEN REPLY TO THE SHOW CAUSE NOTICE ISSUED VIDE LETTER DATED 15.04.2022 AND RECEIVED ON 20.04.2022 THROUGH REGISTERED POST

Respected Submitted,

1. That I Amin Ul Haq Senior Drug Inspector (BPS-18) have received the above mentioned Show Cause Notice on 20.04.2022 issued vide letter dated 15.04.2022.
2. That the contents of the registered post did not have a copy of the inquiry report and in this regard the statement of the postman along with a copy of the envelop is attached for ready reference.
3. That since the inquiry report was neither enclosed nor a copy has ever been furnished to me, therefore, I shall be submitting my reply in light of the available record.
4. That I beg to bring in to the notice of your honor that litigation was going on between the Drug Inspectors and the government on the issue of change of cadre and in this back drop the malice of the Pharmacist cadre officers and of the official high ups cannot be ignored.
5. That vide notification dated 06.05.2021 my services were suspended for the purposes of inquiry. (Copy of the Notification dated 06.05.2021 is attached).
6. That the inquiry committee was constituted comprising of Mr. Asghar Khan, The Additional Secretary Relief, Rehabilitation and Settlement Department and Mr. Zahid Khan, Chief Drug Inspector, District Peshawar.
7. That I raised objection to the inclusion of Mr. Zahid Khan in the inquiry committee for the reason that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on on the issue of change of cadre. (Copy of the Objection dated 24.05.2021 is attached) but no heed was paid to the same.
8. That after more than two months without issuing any charge sheet, letter of explanation or statement of allegations I was issued letter dated 14.07.2021 by the inquiry committee to appear along with written statement on 26.07.2021. (Copy of the letter dated 14.07.2021 is attached)
9. That I appeared before the inquiry committee on 26.07.2021 and requested for copies of the explanation letter, statement of allegations and charge sheet to be able to furnish my written reply. I was handed over only a copy of the charge sheet received on the same date and was directed to appear before the inquiry committee on 03.08.2021. (Copy of the charge sheet is attached)
10. That I furnished my reply on 03.08.2021 in detail. (Copy of my written reply is attached)

Amin Ul Haq
CT-C

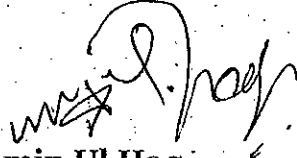
11. That on the same date I was handed over a letter by the inquiry committee dated 02.02.2021 from Mr. Abdul Raof, Provincial Inspector of Drugs District Mardan and was instructed to furnish to the same as well. It is pertinent to mention that the contents of the said letter were neither part of the statement of allegations nor the subject of inquiry and were furnished by yet again an officer who basically was a Pharmacist and was a respondent in the litigation regarding change of cadre. Therefore, the malice cannot be ignored. (Copy of the letter dated 02.02.2021 is attached)
12. That I submitted a detailed reply to the letter dated 02.02.2021 as well. (Copy of the reply to the letter dated 02.02.2021 is attached).
13. That thereafter I was never called for any further proceedings nor was afforded a chance of personal hearing.
14. That till date I am under suspension and my salaries are stopped against the law for the last more than a year and the only reason was that I pursued my lawful remedy before the competent court of law which ultimately allowed my appeal.
15. That time and again I visited the offices of high ups to release my salaries and withdraw the suspension order beyond the lawful period, but of no avail.
16. That constrained of the illegal treatment I filed a contempt application before the Khyber Pakhtunkhwa Services Tribunal and when put on notice, I was issued the above subject show cause notice.
17. That through out I have been treated in utter derogation of law. I have been put under suspension beyond the statutory period. My salaries have been stopped for almost one and a half year since January 2021 and I have been consistently condemned unheard against all the norms of law and principles of justice.
18. That since no inquiry report has been furnished to me in spite of my request before and after receipt of the show cause notice, therefore, my replies to the statement of allegations and the letter dated 02.02.2021 may kindly be read as part and parcel of the instant reply.
19. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations along with the time period provided for conclusion of inquiry have been blatantly violated and therefore, the show cause notice is not sustainable under the law.
20. That the whole proceeding has been based on baseless allegations with malafide intentions of one of the members of inquiry committee namely Zahid Khan in connivance of the high ups of the department.
21. That the letter dated 02.02.2021 which was made as part of allegations was written by an officer BPS-17 Pharmacist who had made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in court cases against the Drug Inspectors, therefore, his malafide cannot be ignored.
22. That I have rendered more than 13 years meritorious services to the entire satisfaction of my departmental authorities and the allegations leveled against me are only the outcome of malafidies against me for agitating my lawful rights.

Ali Sidi
et al

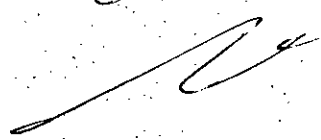
50

- 23. That I request for provision of the inquiry report for a further detailed reply as well.
- 24. That I request for a chance of personal hearing as well.

In view of the above respectful submissions I request before your honor to withdraw the show cause notice dated 15.04.2022 and exonerate me from all the charges.



Amin Ul Haq
Senior Drug Inspector BPS-18

AMU-SDS
CTC


Amir ul Haq
Amir ul Haq
①

CONFIDENTIAL

INQUIRY REPORT

DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOUR DRUG INSPECTOR (BS-18) DIRECTORATE GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KYBER PAKHTUNKHWA.

INTRODUCTION:

The undersigned along with Mr. Zahid Khan, Chief Drug Inspector (BS-19) District Peshawar was entrusted with the task to initiate a formal inquiry against Mr. Amin ul Haq, Senior Drug Inspector (BS-18) vide letter No. SOH-III/7-262/2021 (Amin ul Haq SDI & Shoaib Khan DI) dated 8th July, 2021, (Annex-I).

In order to ascertain the factual position as per record available in the instant case, the accused officer was served upon with the "Charge Sheet" (Annex-II) having the following allegations;

- A. No register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in your tenure showing your least or no interest in searching market/ area of jurisdiction.
- D. No attendance record was found available.
- E. No record of NOCs issued to applicants of District Mardan who applied for getting Drug Licenses in other districts/provinces.
- F. Licensing record was lying in dilapidated condition with no tracking system without fulfilling legal formalities.
- G. No NOCs was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses to ascertain authenticity of qualified persons resulted in spreading of fake licenses in the district.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured at the time of issuing DSL whereby in

Section Officer-III
Health Department
Khyber Pakhtunkhwa

Amir ul Haq
DI

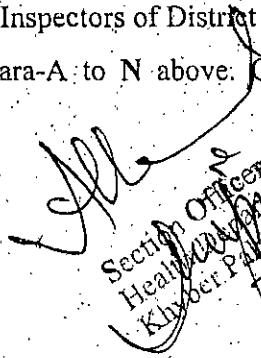
52

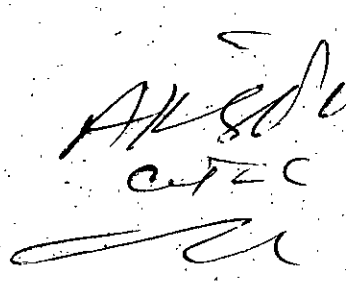
certain cases, picked randomly, the QP was unaware of his license at district Mardan.

- I. Seized medicines/ court property and its record was in bad condition, not identifiable without any record maintained.
- J. The stock of medicines seized during your inspection for its exhibition before Drug Court/PQCB was dumped haphazardly without any record to indicate from which facility it was drawn and with how much quantity.
- K. No record of taking over/handing over of your charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
- M. Your performance in the implementation of the Drug laws/rules was poor.
- N. Statement of Dr. Noor Islam is on record that you took one lac twenty thousand rupees (Rs. 120,000) through your private tout namely Mr. Rashid (a chemist operating shop at tehsil takht bhai) for granting Drug Sale license.
- O. Subsequently, the recently posted drug inspector has forwarded a report highlighting issuance of illegal/fake drug sale licenses by you besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug Law & Rules.
- P. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements.

BACKGROUND:

The competent authority constituted a four members committee under the chairmanship of Additional Secretary (B&D), Health Department for conducting a comprehensive audit of Drug Inspectors of Districts Mardan, Kohat, Dir Lower and Peshawar with regard to their activities in respect of Drug sale License's data, NOCs issued, case properties, pending cases and the status of FIRs etc. (Annex-III). The audit committee visited the Office of Drug Inspectors of District Mardan on 15th July 2020 and found the irregularities as mentioned from para-A to N above. Consequently, the committee has recommended to the


Section Officer
Health Department
Khyber Pakhtunkhwa


A. S. D. C.
C. T. C.

(53)

competent authority to initiate disciplinary action against Mr. Amin Ul Haq under E & D Rules 2011 (Annex-IV).

Similarly, Provincial Inspection Team (PIT) had conducted a fact-finding inquiry against Mr. Amin ul Haq which had proved, apart from other irregularities, taking bribes from the pharmacy shops of district Mardan (Inquiry Report of PIT is annexed as Annexure-V). Para O and P of the above charges were included in the charge sheet due to the PIT report.

Besides, Mr. Abdur Rauf successor of the accused officer had submitted a comprehensive report in the office of Director General Drug Control & Pharmacy Services Khyber Pakhtunkhwa Peshawar against the accused officer regarding misappropriation in issuance of drug sale licenses of District Mardan (Annex-VI).

In light of afore-mentioned charges, Competent Authority (Chief Secretary Khyber Pakhtunkhwa) suspended the services of Mr. Amin ul Haq under Rule-6 of Khyber Pakhtunkhwa Efficiency and Disciplinary (E&D) Rules 2011 to conduct a formal inquiry against the accused officer.

INQUIRY PROCEEDINGS:

The inquiry committee initiated its proceedings by intimating Mr. Amin ul Haq, via notice bearing No. SO (Admn.) RR&SD/2-14/2019 dated 14th July 2021, whereby he was directed to appear before the Inquiry Committee for personal hearing on 22-02-2021 at 1100hrs to clarify his position along with written statement (if any) on the statement of allegations. Accordingly, the accused complied with instructions and appeared before the Inquiry Officer as per schedule.

At the onset of Inquiry proceedings, cross-examination of the accused officer was carried out for the purpose of final findings. The accused officer has submitted his written reply against the charges levelled in the Charge Sheet which is unconvincing (Annex-VII). Furthermore, Mr. Abdur Rauf appeared before the inquiry committee and seconded his report regarding the illegal drug licenses.

FINDINGS:

After assessing of both verbal and written statements during the inquiry proceedings, the following findings have been ascertained;

[Handwritten signature]
SECTION OFFICER-III
HEALTH DEPARTMENT
Khyber Pakhtunkhwa

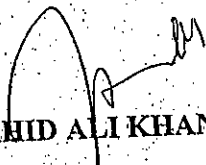
[Handwritten signature]
A. S. R.
A. S. R.


54

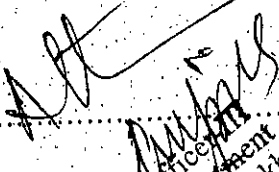
- I. The audit committee observation regarding issuing illegal licenses is a fact which is further supported by the report of Mr. Abdur Rauf, successor of the accused officer.
- II. The accused officer has unlawfully issued licenses to many pharmacy shops, while using name and registration of the same qualified person.
- III. In contravention with Rule-14 of the Drug Rules 1982 as amended in 2017, the accused Drug Inspector issued an illegal license to the pharmacy shop of late Dr. Noor Islam, having no official record.
- IV. The record-keeper clerk of Drug Control office Mardan substantiated the report of Mr. Abdur Rauf regarding non-existence of official record of the licenses issued by the accused officer.

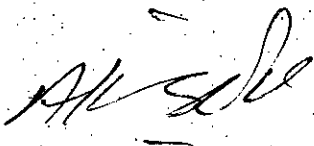
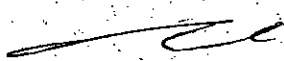
CONCLUSION:

After evaluating the available record and oral statement of Mr. Amin ul Haq, the inquiry committee has reached upon the conclusion that the charges of inefficiency, misconduct and misuse of authority stand proved against Mr. Amin Ul Haq. Moreover, the charges of taking bribes/corruption from pharmacy shops need to be investigated by the Anti-corruption Establishment Khyber Pakhtunkhwa as recommended by the Provincial Inspection Team (PIT) Khyber Pakhtunkhwa.


(ZAHID ALI KHAN)
Member Inquiry Committee/
Chief Drug Inspector (BS-19)
District Peshawar.


(ASGHAR KHAN)
Chairman Inquiry Committee/
Additional Secretary,
Relief, Rehabilitation and Settlement
Department.


Section Officer
Health Department
Khyber Pakhtunkhwa


2021


55

THROUGH PROPER CHANNEL

To,


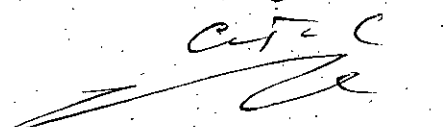
Hon'ble Chief Minister,
Govt. of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.

Subject:

FURTHER WRITTEN REPLY TO THE SHOW CAUSE
NOTICE ISSUED VIDE LETTER DATED 15.04.2022
AND RECEIVED ON 20.04.2022 THROUGH
REGISTERED POST.

Respectfully Submitted:


1. That I, Amin ul Haq Senior Drug Inspector (BPS-18) have received the above mentioned Show Cause Notice on 20.04.2022 issued vide letter dated 15.04.2022.
2. That the contents of the registered post didn't have a copy of the inquiry report and in this regard the statement of the postman alongwith a copy of the envelop is attached herewith for ready reference.
3. That since the inquiry report was neither enclosed nor a copy was ever furnished to me, therefore, I submitted my reply in light of the available record, however, on 10.08.2022 received the copies of the inquiry report and the audit report, hence my further reply in light of furnished documents is submitted, which is as under:
 - a. That by perusal of the documents manifestly speaks of malafide against me as a Drug Inspector for the reason that the department has initiated a process for change of cader of the Drug Inspector and Pharmacist.
 - b. That the audit report attached herewith cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the


Amin ul Haq


56

public exchequer rather the same is aimed at changing the cader of the answering officer.

- c. It is, further submitted that no audit para was ever framed or it sent to me for reply nor the same has ever been taken to the Public Accounts Committee.
- d. That I as an incumbent Senior Drug Inspector was never associated while conducting and preparing the so-called audit report nor was taken on board ever for furnishing any relevant record and the whole proceedings has been completed in the offices of the Director General and Pharmacy Services.
- e. That the so-called audit reprot was compiled on 15.07.2020, when I had barely spent 08 months as an incumbent and all the files collected were not pertaining to the period of my incumbency and ironically the audit report does not mentioned the date on which this report was compiled, which is arising serious suspicions.
- f. That the inquiry proceedings too were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer, who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where I was one of the petitioner and Mr. Abdur Rauf was a respondent. Moreover, the audit committee neither find any fake license during office record checking nor reported fake licenses in their audit report. Astonishingly, Mr. Abdur Rauf letter to D.G, DC & P.S is consider as authentic documentary supporting evidence
- g. That the allegations regarding duplicity of licenses is not maintainable and the same was answered in detail in my reply to the statement of allegation, because I had already cancelled those licenses on 01.10.2020 after issuing proper

Abdur Rauf
C-T-C


57

- notice under the law. (Copies are attached for ready reference)
- h. That the so-called inquiry report and its findings are an afterthought of my earlier reply to the show cause notice, because the inquiry report forwarded to me too does not bear any date of its completion and submission.
 - i. That no allegation of any illegal act, misappropriation or delinquency etc, worth the name has been proved against me.
 - j. That no reason has been given as to how the license issued to the Drug Shop of Dr. Noor Islam was illegal rather I had brought the said shop under the law, which was being run without a proper license.
4. That I beg to bring into the notice of your honor that litigation was going on between the Drug Inspector and the government on the issue of change of cadre and in this back drop the malice of the Pharmacists Cadre Officers and of the official high ups cannot be ignored.
5. That vide notification dated 06.05.2021 my services were suspended for the purpose of inquiry. (Copy of Notification dated 06.05.2021 is attached)
6. That the Inquiry Committee was constituted comprising of Mr. Asghar Khan, the Additional Secretary Relief, Rehabilitation and Settlement Department and Mr. Zahid Khan, Chief Drug Inspector, District Peshawar.
7. That I raised objection to the inclusion of Mr. Zahid Khan in the Inquiry Committee for the reason that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on, on the issue of change of cadre. (Copy of the objection dated 24.05.2021 is attached), but no heed was paid to the same.
8. That after more than two months issuing any charge sheet, letter of explanation or statement of allegations, I was issued

Atiqul
CTC
—

58

letter dated 14.07.2021 by the Inquiry Committee to appear alongwith written statement on 26.07.2021. (Copy of the letter dated 14.07.2021 is attached)

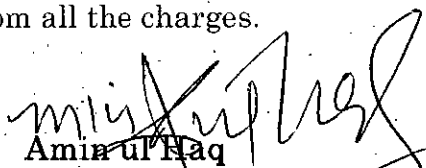
9. That I appeared before the Inquiry Committee on 26.07.2021 and requested for copies of the explanation letter, statement of allegations and charge sheet to be able to furnish my written reply. I was handed over only a copy of the charge sheet received on the same date and was directed to appear before the Inquiry Committee on 03.08.2021. (Copy of the charge sheet is attached)
10. That I furnished my reply on 03.08.2021 in detail. (copy of my written reply is attached)
11. That on the same date, I was handed over a letter by the Inquiry Committee dated 02.02.2021 from Mr. Abdul Raof, Provincial Inspector of Drugs District Mardan and was instructed to furnish to the same as well. It is, pertinent to mention that the contents of the said letter were neither part of the statement of allegations nor the subject of Inquiry were furnished by yet again an officer who basically was a Pharmacists and was a respondent in the litigation regarding change of cadre. Therefore, the malice cannot be ignored. (Copy of the letter dated 02.02.2021 is attached)
12. That I submitted a detailed reply to the letter dated 02.02.2021 as well. (Copy of the reply to the letter dated 02.02.2021 is attached)
13. That thereafter, I was never called for any further proceedings nor was afforded a chance of personal hearing.
14. That till date, I am under suspension and my salaries are stopped against the law for the last more than a year and the only reason was that I pursued my lawful remedy before the competent Court of law, which ultimately allowed my appeal.
15. That time and again I visited the offices of high-ups to release my salaries and withdraw the suspension order beyond the lawful period, but of no avail.

AM 8200
CFC
cc

59

16. That constrained of the illegal treatment I filed a contempt application before the Khyber Pakhtunkhwa Services tribunal and when put on notice, I was issued the above subject show cause notice.
17. That throughout I have been treated in utter derogation of law. I have been put under suspension beyond the statutory period. My salaries have been stopped for almost one and a half year since January 2021 and I have been consistently condemned unheard against the norms of law and principles of justice.
18. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations alongwith the time period provided for conclusion of inquiry have been blatantly violated and therefore, the show cause notice is not sustainable under the law.
19. That the whole proceeding has been based on baseless allegations with malafide intentions of one of the members of Inquiry Committee namely, Zahid Khan in connivance of the high ups of the department.
20. That the letter dated 02.02.2021, which was made as part of allegations was written by an officer BPS-17 Pharmacists, who had made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in Court cases against the Drug Inspectors, therefore, his malafide cannot be ignored.
21. That I have rendered more than 13 years meritorious services to the entire satisfaction of my departmental authorities and the allegations leveled against me are only the outcome of malafidies against me for agitating my lawful rights.
22. That I request for a chance of personal hearing as well.

In view of the above respectful submission, I request before your honor to withdraw the show cause notice dated 15.04.2022 and exonerated me from all the charges.

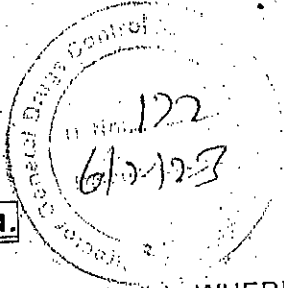

Amin ul Haq

Senior Drug Inspector BPS-18

16/08/2022



NOTIFICATION



GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated, Peshawar the 2nd February, 2023

Amirul Haq
60

No. SOH-III/7-262/2023(Amin). WHEREAS, Mr. Amin ul Haq, Senior Drug Inspector (BPS-18) at Distt: Mardan was preceded against the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of committing the acts/omissions of inefficiency, misconduct and misuse of authority.

2. AND WHEREAS, an Inquiry committee was constituted to conduct a Formal Inquiry in terms of the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

3. AND WHEREAS, upon completion of Formal Inquiry, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) issued Show Cause Notice to the accused Senior Drug Inspector, Amin ul Haq, while imposed major penalty of "Removal from Service" tentatively and duly served vide letter No. SOH-III/7-262/2021(Amin ul Haq & Shoaib), dated 13th April, 2022.

4. AND WHEREAS, the opportunity of Personal Hearing was given to the above mentioned accused on 25-11-2022 and he was personally heard.

5. NOW THEREFORE, in exercise of the powers conferred on him under Rule-14 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011 and all such powers on that behalf, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to confirm and impose a major penalty of "Removal from Service" upon the accused Amin ul Haq, Senior Drug Inspector (BS-18) at District Mardan on account of commission/omission of inefficiency, misconduct and misuse of authority, with immediate effect.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

OFFICE OF THE DIRECTORATE GENERAL DRUG CONTROL & PHARMACY
SERVICES KHYBER PAKHTUNKHWA PESHAWAR



No. 1661-67 /DGDCPS/2023

Dated: 13/02/2023

Copy forwarded to:

1. Amin Ul Haq, Ex-Senior Drug Inspector at District Mardan.
2. The District Health Officer Mardan.
3. The District Accounts Officer, Mardan.
4. PS to Secretary Health Khyber Pakhtunkhwa, Peshawar.

For Information and necessary action Please.

[Signature]
DIRECTOR GENERAL
Drug Control & Pharmacy Service
Khyber Pakhtunkhwa Peshawar.

*All [Signature]
cc-c
[Signature]*

61

THROUGH PROPER CHANNEL

The Hon'ble Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

**REVIEW PETITION AGAINST THE ORDER OF MAJOR
PENALTY OF REMOVAL FROM SERVICE VIDE
NOTIFICATION NO. SOH-III/7-262/2023(Amin)
DATED 02.02.2023 RECEIVE ON 15/02/2023**

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Review Petition		1-6
2.	Copy. of the Suspension order dated 06.05.2021	A	
3.	Copy of the letter dated 14.07.2021	B	
4.	Copy of the Statement of Allegations & Replay	C	
5.	Copy of the letter dated 02.02.2021 and reply	D	
6.	Copy of the letter, Show Cause Notice dated 15.04.2022 and reply	E	
7.	Copy of the letter dated 03-08-2022, Inquiry Report and further reply	F	
8.	Copy of the letter dated 02.02.2023	G	
9.	Copy of the objection dated 24.05.2021	H	

Amin ul Haq

Dated: 21.02.2023

Senior Drug Inspector BPS-18

62

THROUGH PROPER CHANNEL

The Hon'ble Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Subject: **REVIEW PETITION AGAINST THE ORDER
OF MAJOR PENALTY OF REMOVAL FROM
SERVICE VIDE NOTIFICATION NO. SOH-
III/7-262/2023(Amin) DATED 02.02.2023
received on 15.02.2023.**

Respectfully Submitted:

1. That I, Amin ul Haq Senior Drug Inspector (BPS-18) have received the above mentioned order of removal from service and I submit the instant review petition.
2. That the brief background of the case is that my department changed the rules by making way for the pharmacists to be posted as Drug Inspectors which was challenged in the Hon'ble Peshawar High court and the amendments in the rules were set aside.
3. That this decision of the Hon'ble Peshawar High court was not implemented and instead again the department posted the Hospital Pharmacists as Drug Inspectors.
4. That due to the said prejudice departmental proceedings were initiated on 06.05.2021 by suspending the services of the petitioner. (Copy of the Suspension order dated 06.05.2021 is attached as annexure "A")
5. That no statement of allegation, charge sheet or any letter of explanation was issued to the petitioner and on 14.07.2021 the petitioner was directed by Mr. Asghar Khan Additional Secretary Relief Rehabilitation and Settlement Department who was Chairman of Inquiry Committee to appear on 26.07.2021 before the inquiry committee. (Copy of the letter dated 14.07.2021 is attached as annexure "B")
6. That on the said date the petitioner was delivered a copy of the statement of allegations which was duly replied on 03.08.2021 and

submitted. (Copy of the Statement of Allegations is attached as annexure "C")

7. That astonishingly on 03.08.2021 when the petitioner submitted his reply another letter dated 02.02.2021 addressed to the Director General Drug Control and Pharmacy Services by Mr. Abdur Raof (BPS-17) Provincial Drugs Inspector District Mardan was handed over for reply which too was duly replied on 11.08.2021. (Copy of the letter dated 02.02.2021 and reply is attached as annexure "D")
8. That it is worth mentioning that since 11.08.2021 the petitioner was never called for any proceedings or personal hearing by the inquiry committee and was issued a Show Cause Notice received on 20.04.2022 which too was duly replied. (Copy of the Show Cause Notice dated 20.04.2022 and reply is attached as annexure "E").
9. That since the earlier Show Cause Notice was not accompanied by any inquiry report and the same had been pointed out in the reply, therefore, vide letter dated 03.08.2022 received on 10.08.2022 the petitioner was provided a copy of an undated inquiry report and a further reply was submitted to earlier show cause notice 16.08.2022. (Copy of the Inquiry Report and further reply is attached as annexure "F").
10. That the petitioner was called for personal hearing on 25.11.2022 before the Secretary LG, E&RD Department which the petitioner complied with and was waiting for exoneration but to the utter dismay received the above mentioned letter of removal from service. (Copy of the letter dated 02.02.2023 is attached as annexure "G").
11. That feeling aggrieved, the petitioner requests for review of the order of removal from service inter alia on the following grounds;

GROUND: -

- A. That the inquiry has been conducted in violation of the law and the rules. The undated inquiry report on the face of it is not maintainable rather is result of sham proceedings wherein the inquiry committee except for a reply to the statement of allegations has never called the

petitioner either for personal hearing or for cross examination of any witness.

- B. That the inquiry proceedings were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer namely Abdur Rauf , who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where the petitioner was one of the petitioner and Mr. Abdur Rauf was a respondent. Ironically the said Abdur Rauf was never called for cross examination by the petitioner and thus the whole proceedings are vitiated and marred by prejudice against the petitioner.
- C. That the inquiry committee has made no efforts to find the truth and instead has based its findings on a letter by a prejudiced officer of BPS-17 who was posted Ex-cadre against the law.
- D. That the petitioner raised objection to the inclusion of Mr. Zahid Khan in the Inquiry Committee for the reason that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on, on the issue of change of cadre, but no heed was paid to the same. (Copy of the objection dated 24.05.2021 is attached as annexure "H")
- E. That by perusal of the documents manifestly speaks of malafide against the petitioner as a Drug Inspector for the reason that the department has initiated a process for change of cadre of the Drug Inspector and Pharmacist.
- F. That the audit report on which the inquiry committee has relied cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the public exchequer rather the same is aimed at changing the cadre of the answering officer.
- G. It is, further submitted that no audit para was ever framed or sent to the petitioner for reply nor the same has ever been taken to the Public Accounts Committee.

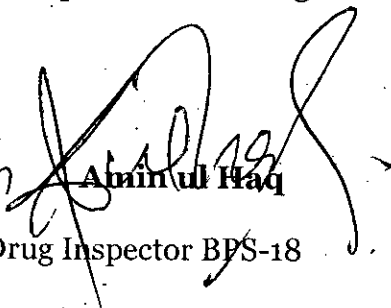
- H. That the petitioner as an incumbent Senior Drug Inspector was never associated while conducting and preparing the so-called audit report nor was taken on board ever for furnishing any relevant record and the whole proceedings have been completed in the offices of the Director General and Pharmacy Services.
- I. That the so-called audit report was compiled on 15.07.2020, when the petitioner had barely spent 08 months as an incumbent and all the files collected were not pertaining to the period of my incumbency and ironically the audit report does not mention the date on which this report was compiled, which is arising serious suspicions.
- J. That the so-called inquiry report and its findings are an afterthought of the earlier reply to the show cause notice, because the inquiry report forwarded to the petitioner too does not bear any date of its completion and submission.
- K. That no allegation of any illegal act, misappropriation or delinquency etc, worth the name has been proved against petitioner.
- L. That the petitioner beg to bring into the notice of your honor that litigation was going on between the Drug Inspector and the government on the issue of change of cadre and in this back drop the malice of the Pharmacists Cadre Officers and of the official high ups cannot be ignored.
- M. That the statement of allegations was issued to the petitioner by the Chief Secretary who was not competent to issue the same.
- N. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations alongwith the time period provided for conclusion of inquiry have been blatantly violated and therefore, the harsh penalty is not sustainable under the law.
- O. That the whole proceedings have been based on baseless allegations with malafide intentions of one of the members of Inquiry Committee namely, Zahid Ali Khan in connivance with the high ups of the department.
- P. That the letter dated 02.02.2021, which was made as part of allegations was written by an officer BPS-17 Pharmacists, who had

made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in Court cases against the Drug Inspectors, therefore, his malafide cannot be ignored.




- Q. That the petitioner remained under suspension from 06.05.2021 till 02.02.2023 which is unprecedented and remained without salaries since December 2020 against the law and the only reason was that the petitioner pursued lawful remedy before the competent Court of law, which ultimately allowed my appeal.
- R. that it is worth mentioning that time and again the petitioner visited the offices of high-ups to release the salaries and withdraw the suspension order beyond the lawful period, but of no avail. Even the suspension order was never extended which speaks of the high handedness against the petitioner.
- S. That throughout the petitioner has been treated in utter derogation of law. The petitioner has been put under suspension beyond the statutory period. His salaries were stopped for more than two years since December 2020 and has been consistently condemned unheard against the norms of law and principles of justice.
- T. That the petitioner has rendered more than 13 years meritorious services to the entire satisfaction of departmental authorities and the allegations leveled against are only the outcome of malafidies for agitating his lawful rights.

It is therefore, requested that in view of the above respectful submissions, the order dated 02.02.2023 for removal from service may kindly be withdrawn and the petitioner may kindly be re-instated into service with all back benefits.

The petitioner requests for a chance of personal hearing as well.


 Aminul Haq
 Senior Drug Inspector BPS-18

Dated: 21.02.2023

72586			
ایڈوکیٹ: <i>فہرہ علی</i>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 7400-10			
رابطہ نمبر: <i>33095963</i>			

بعدالت جناب:

منجانب: <i>فہرہ علی</i>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام *پشاور* کیلئے *فہرہ علی* صاحبہ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقررات و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور ان کا ساختہ پر داخیت منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: *فہرہ علی*
 العہدہ: *پشاور*
 مقام: *پشاور*

نوٹ: اس وکالت نامہ کی کوئی کاپی ناقابل قبول ہوگی۔