

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 1716 /ST Dated 09/06/2023

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The Medical Superintendent,
BBS Teaching Hospital, Abbottabad.

SUBJECT: JUDGMENT IN SERVICE APPEAL NO. 7033/2021 TITLED SAID AFZAL VERSUS SECRETARY HEALTH DEPARTMENT AND OTHERS.

I am directed to forward herewith a certified copy of judgment dated 11.05.2023, passed by this Tribunal in the above mentioned appeal for compliance.

Encl. As above.

(AAMIR FAROOQ)
ASSISTANT REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Judicial)

Service Appeal No.7033/2021

Date of presentation of Appeal.....13.07.2021

Date of Hearing.....02.05.2023

Date of Decision.....11.05.2023

Mr. Said Afzal Clinical Technician (Pharmacy) BS-12, BBS Teaching Hospital Abbottabad.

.....*Appellant*

Versus

1. **The Secretary Health, Government Of Khyber Pakhtunkhwa, Peshawar.**
 2. **The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.**
 3. **The Medical Superintendent, BBS Teaching Hospital Abbottabad.**
-(*Respondents*)

Present:

Syed Noman Ali Bukhari,
Advocate.....For the appellant

Mr. Asif Masood Ali Shah,
Deputy District AttorneyFor respondents.

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH CLAUSE XIV OF THE POSTING TRANSFER POLICY AGAINST THE IMPUGNED TRNASFER ORDER DATED 25.05.2021 AND 03.05.2021 AND ALSO AGAINST NOT DECIDING THE APPEAL OF THE APELLANT WITHIN 15 DAYS AS PROVIDED UNDER CLAUSE XIV OF THE POSTING TRANSFER POLICY.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are that appellant was serving in Benazir Bhutto Shaheed Teaching

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Peshawar

Hospital Abbottabad. During service, his wife who was serving in the same hospital, was transferred to District Haripur. She challenged that transfer order in this Tribunal by filing Service Appeal No.766/2021. During the pendency of that appeal, appellant was relieved from Abbottabad and was directed to report to DG Health Services vide order dated 03.05.2021. In the meanwhile, appeal of the wife of appellant was allowed by this Tribunal. Thereafter, appellant filed application for cancellation of the order dated 03.05.2021 by showing all the reasons regarding his responsibilities and spouse policy but no heed was paid and vide order dated 25.05.2021, appellant was transferred to DHO Kohistan Upper. Feeling aggrieved, he filed departmental appeal which was not responded to, hence, the present service appeal.



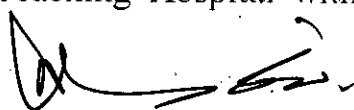
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

4. Learned counsel for appellant contended that the orders dated 25.05.2021 and 03.05.2021 were against law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside; that the appellant had been condemned unheard and had not

been treated according to law and rules. He argued that the impugned transfer order of the appellant was against the wedlock policy as announced in the rules; that by violating the Article-35 (Protection of Family, etc.) of the Constitution of Islamic Republic of Pakistan, 1973, the respondents had stopped the salary of the appellant which was discriminatory and against the fundamental rights. Learned counsel contended that instead of giving the appellant medical leave, the department transferred him to another district which was illegal and irrational; that no opportunity was provided to the appellant for personal defense which was against the spirit of Article 10-A of the Constitution. Further submitted that the impugned transfer order of the appellant had immensely affected the family life of the appellant and being away from the wife in serious illness and from mother who was on bed, the respondents had troubled the life of appellant. Lastly, he submitted that the respondents passed the impugned order by violating the laws regarding Human Rights and the allegation leveled against the appellant was baseless. Reliance was placed on 2012-PLC (CS) 187.

5. As against that learned Deputy District Attorney argued that the orders dated 03.05.2021 and 25.05.2021 were in accordance with law and based on facts and norms of justice and the appellant was not entitled to any relief. He submitted that appellant was a habitual absentee as he was warned many a times but in vain. That the appellant was found wandering in the Benazir Bhutto Shaheed Teaching Hospital with hooligans which created terror among the



staff which act was a misconduct under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Further submitted that son of the appellant also harassed, abused and terrified respondent No.3 in office, therefore, appellant was relieved and the competent authority adjusted him placing his services at the disposal of DHO Kohistan Upper; that personal hearing was not necessary in case of transfer; that wife of the appellant had already been transferred out from Benazir Bhutto Shaheed Teaching Hospital Abbottabad; that the appellant had not performed his duty, therefore, salary was not paid. Lastly, he submitted that the appellant was transferred on administrative grounds and the appellant had served at BBS Teaching Hospital for the last 32 years. Therefore, he requested for dismissal of the instant service appeal.

6. Vide the impugned transfer order passed during the pendency of appeal of the wife of the appellant on administrative grounds (not disclosed in the order) rather in the reply of the respondents cannot be termed as an exigency or interest of public. This Tribunal in a case reported as 2012-PLC (CS) page-187 titled "Shamshad Begum Vs. The Chief Secretary Khyber Pakhtunkhwa" has already held that transfer of civil servant cannot be made on the basis of complaint which required a regular inquiry in the matter because the transfer had not been mentioned as punishment in the penalty list in the rules & regulations regarding the conduct of civil servant. In the reply, the respondents have contended that the appellant remained habitual absentee; that he was found wandering in the Benazir Bhutto Shaheed



Teaching Hospital, Abbottabad with hooligans which created terror amongst the staff. That the appellant held a press conference without the permission of the authority; that son of the appellant also harassed, abused and terrified respondent No.3. It was then he was transferred. The Department may proceed against the appellant under the relevant rules if it all he was found guilty of any misconduct which could not transfer the appellant solely as a punishment. Therefore, the impugned transfer order is not maintainable and is set aside. However, the department is at liberty to conduct regular inquiry into the allegations leveled against the appellant and may proceed against, if so required. In case the competent authority is of the view that the appellant had committed misconduct, which disturbed the discipline of service, then the same could have been enquired through an inquiry and transferring the appellant before any such inquiry, was not a proper procedure covered under the Provincial Government, Posting/Transfer Policy. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of May, 2023.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)

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KIPST

ORDER

11th May, 2023

1. Learned counsel for appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

2. Vide our detailed judgment of today of this Tribunal placed on file, the impugned transfer order is not maintainable and is set aside. However, the department is at liberty to conduct regular inquiry into the allegations leveled against the appellant and may proceed against, if so required. In case the competent authority is of the view that the appellant had committed misconduct, which disturbed the discipline of service, then the same could have been enquired through an inquiry and transferring the appellant before any such inquiry, was not a proper procedure covered under the Provincial Government, Posting/Transfer Policy. Consign.

3. *Pronounced in open Court at Peshawar under our hands and the seal of the Tribunal on this 11th of May, 2023.*



(Salah Ud Din)
Member (J)




(Kalim Arshad Khan)
Chairman

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18th April, 2023 1. Clerk to counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel is not available today. Last chance is given to the appellant argue the case on the next date failing which the case will be decided on the available record without arguments. To come up on 02.05.2023 before D.B. P.P given to the parties.

(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman


Adnan Shah, P.A

02nd May, 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Arguments heard. To come up for consideration and order on 11.05.2023 before the D.B. Parcha Peshi is given to the parties.


(Salah-ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

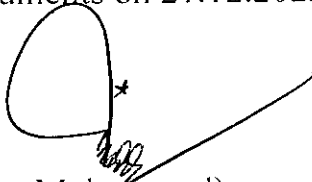
Nacem Amin


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01.11.2022

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

Learned counsel for the appellant requested for adjournment on the ground that he is not feeling well today. Adjourned. To come up for arguments on 21.12.2022 before the D.B.


(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)


21.12.2022

Appellant present through counsel. Muhammad Adeel Butt learned Additional Advocate General for respondents present.

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Former made a request for adjournment in order to further prepare the brief. Last chance is given with direction to make sure the presence of appellant on date fixed. Adjourned. To come up for arguments on 10.01.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

16-1-23

Due to Rush of
work therefore case

is adjourned to

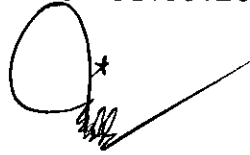
18-4-2023


Reader

13.06.2022

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

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 05.09.2022.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

05.09.2022

Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on 04.10.2022 before the D.B.



Reader

4th October, 2022

Counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

Learned counsel for the appellant seeks adjournment as he has not prepared the case. Last opportunity granted for arguments failing which the case will be decided on the available record without arguments. To come up for arguments on 01.11.2022 before the D.B



(Fareeha Paul)
Member(Executive)

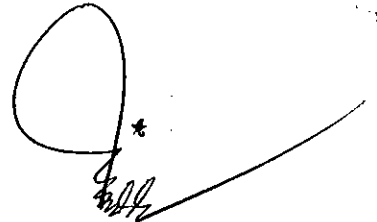


(Kalim Arshad Khan)
Chairman

22.11.2021

Appellant in person and Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Jafar Ali, Assistant, Mr. Tahir Ali, Junior Clerk and Mr. Murad Ali, Electro Medical Engineer for respondents present.

Representative of the respondents has been submitted written reply/comments which is placed on file. A copy of the same is also handed over to the appellant. Adjourned. To come up for arguments on 01.02.2022 before D.B. The operation of impugned order to the extent of appellant shall remain suspended till the next date.



(MIAN MUHAMMAD)
MEMBER (E)

1-3-22

*Due to Retirement of the Hon, ble Chairman
The case is adjourned on 13-6-22*


Rehder

18.10.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Safiullah, Focal Person and Usman, Asstt. for the respondents present.

An opportunity was granted to the respondents for submission of written reply/comments on request of the representative on previous date but the reply has not been submitted. It has been stated on behalf of the respondents that reply is ready and will be submitted on next date after signature and finalization by the respondent No. 1. The last opportunity is given for filing of reply/comments within ten days in office, failing which the right of submission of the comments/reply shall be deemed as struck off.

An application has been submitted by the appellant wherein he has complained about non-payment of salary to him for four months despite suspension of the impugned order. The said application is placed on file and a copy of the application is given to the representative of the respondents. If there is no other reason for stoppage of pay, the action of the concerned respondent as such is questionable for want of justification, when the operation of the said order is under suspension. Let the respondents No. 2 and 3 show cause as to why the salary of the appellant has been stopped, he pursuing the judicial remedy against the impugned order. File to come up on 22.11.2021 before the D.B.


(Salahud Din)
Member(J)

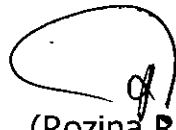

Chairman

13.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned A.A.G alongwith Muhammad Haroon Superintendent for official respondents present.

Representative of respondents made a request for time to furnish reply/comments. Opportunity is granted with direction to submit the same within 10 days positively in office. To come up for arguments on 18.10.2021 before D.B. The operation of impugned order to the extent of appellant shall remain suspended till the next date.



(Rozina Rehman)
Member (J)



Chairman

19.07.2021

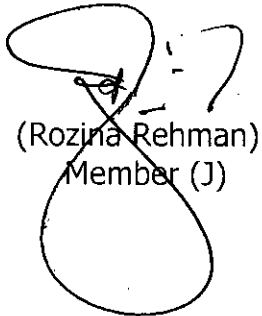
Appellant present through counsel.

Preliminary arguments heard. Record perused.

The appellant has impugned the orders dated 25.05.2021 and 03.05.2021 of his relieving and transfer to D.H.O Kohistan Upper. Subject to all just and legal objections including limitation, this appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 10 / 08 / 2021 before D.B.

Appellant Deposited
Security & Process Fee

An application has been submitted alongwith the memorandum of appeal seeking ad interim relief for suspension of the impugned order to the extent of appellant. Notice of the application be given to the respondents for the same date as already fixed. The operation of impugned order to the extent of appellant shall remain suspended till next date.


(Rozina Rehman)
Member (J)

10.08.2021

Since, 1st Moharram has been declared as public holiday, therefore, case is adjourned to 13 / 9 / 2021 for the same as before.


Reader

12.05.2012

Appellant present through counsel

Muhammad Adnan son of Muhammad Adnan (Appellant) vs
Muhammad Haroon Superintendent of Police (Respondent)
(Police)

The learned Additional Sessions Judge has held that the respondent is not entitled to the benefit of the provisions of Section 147 of the Criminal Procedure Code. The respondent's impugned order to the effect of the respondent shall remain suspended till the next date.

(Rozina Rehman)
Clerk (9)



(Signature)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7033 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/07/2021	<p>The appeal of Mr. Said Afzal presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/07/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Said Afzal

V/S

Govt of KP etc.

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S.NO.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-07
2.	Copy of suspension application	-----	08-09
3.	Copy of judgment	---A---	10-14
4.	Copy of impugned reliving order	---B---	15
5.	Copy of application	---C---	16
6.	Copy of Impugned transfer order	---D---	17
7.	Copy of Departmental Appeal	---E---	18
8.	Copy of wife service documents	---F---	19
9.	Copy of posting policy	---G---	20-26
10.	Copy of notification 2012	---H---	27-28
11.	Copy of medical prescription	---I---	29-39
12.	Copy of judgment	---J---	40-51
13.	Copy of court order	---K---	52-54
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APPELLANT

Said Afzal

THROUGH:

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

Dated
09.07.2021

①

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 7033 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7242

Mr. Said Afzal Clinical Technician (Pharmacy) Bs-12,
BBS Teaching Hospital Abbottabad.

Dated 13-7-2021

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. The Medical Superintendent BBS Teaching Hospital Abbottabad.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 READ WITH CLAUSE XIV OF THE POSTING TRANSFER POLICY AGAINST THE IMPUGNED TRANSFER ORDER DATED 25.05.2021 AND 03.05.2021 AND ALSO AGAINST NOT DECIDING THE APPEAL OF THE APPELLANT WITHIN 15 DAYS AS PROVIDED UNDER CLAUSE XIV OF THE POSTING TRANSFER POLICY.

Filed to-day
Registrar
13/7/21

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE ORDER DATED 25.05.2021 and 03.05.2021 MAY BE SET ASIDE AND THE APPELLANT MAY BE ALLOWED TO CONTINUE AS CLINICAL TECHNICIAN AT BBS TEACHING HOSPITAL ABBOTTABAD AS PRIOR TO THE ISSUANCE OF THE IMPUGNED TRANSFER ORDER IN VIOLATION OF POSTING TRANSFER

**POLICY. ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE
THAT MAY ALSO BE AWARDED IN FAVOUR OF THE
APPELLANT.**

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is a respectable citizen of Pakistan and is serving in the Government of Khyber Pakhtunkhwa BBS Teaching Hospital Abbottabad.
2. That appellant has been giving his sweat and blood for the department for long years; therefore, enjoys noteworthy reputation owing to his humble nature and behavior.
3. That appellant's wife was transferred illegally, to favor the blue eye person, the appellant's wife challenge the same illegal transfer order before the KP Service tribunal Peshawar in appeal no. 766/2021 at that time during the pendency of appeal of the appellant's wife, the appellant was relieved from Abbottabad to weaken the case of the appellant's wife but despite that tribunal kind enough to accept the appeal of the appellant's wife vide judgment dated 22.06.2021. **Copy of judgment is attached as Annexure – A.**
4. That the appellant was relieved from duties by the MS BBS teaching hospital Abbottabad and directed to report to DG Health Services on baseless allegations vide order dated 03.05.2021 which was in real result of the Appellant's wife transfer appeal. The appellant filed application to cancel the order dated 03.05.2021 by showing all the reasons and his responsibilities which was covered under the spouse policy. However, it was paid no heed and just after, the respondent no.2 issued the transferred order dated 25.05.2021 wherein appellant was transferred to DHO Kohistan Upper in violation of spouse policy and without taking into consideration the illness of the appellant's wife. **Copy of the relieving order, application and Impugned Order dated 25.05.2021 is attached as Annexure –B, C & D.**
5. That the appellant then submitted departmental appeal on against the transfer order to the department and the said appeal was

not responded. **Copy of the Departmental Appeal dated .05.2021 are attached as Annexure - E.**

6. That it is pertinent to mention here that appellant's wife namely: Gul Nasreen is serving in the BBS Teaching Hospital Abbottabad as a Chief Nurse Superintendent. **Copy of Relevant Documents of the appellant's wife is attached as Annexure - F.**
7. That now the appellant comes to this august Tribunal for the redressal of his grievances on the following grounds amongst others.

GROUND:

- A) That the order dated 25.05.2021 and 03.05.2021 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That the impugned transfer order of the appellant to Kohistan is also against the wedlock policy as annunciated in the rules "ix" of the posting/transfer policy of the provincial Government which is reproduced as:

“(ix) Regarding the posting of husband/wife, both in provincial services, efforts where possible would be made to post such persons at one station and this will be subject to the public interest.” And also establishment notification dated 07.08.2012. **copy of transfer policy annexed as annexure-G.**
- D) That it is important to mention here that the aforementioned posting/transfer rules has been made in accordance to and in pursuance of the Article 35 (Protection of Family, etc.) of the Constitution of the Islamic Republic of Pakistan. That beside that the department has also stopped the salary of the appellant which is discriminatory in nature and against the fundamental rights of the appellant. That instead of giving the appellant medical leave, the department transferred him to another district which is illegal, and irrational and referred to as Wednesday Unreasonableness. That the opportunity of personal hearing and personal defense was not

provided to the appellant which is against the spirit of Article 10-A of the Constitution.

- E) That the impugned transfer order of the appellant has immensely affected the family life of the appellant. Being away from the wife in that serious illness and from mother who was on bed, not only affected the mental health of the appellant but also troubled the life of who needs the immediate presence and help of their Husband in daily chores because the wife of the appellant was also on wheel chair now a days due to severe heart attack. Which is also in violation of clause-iv of the establishment notification dated 07.08.2012. **Copy of notification and medical is attached as annexure-H & I**

- F) That serving in another district will bring gap between the life of the married couple and that also in the government service but posted at far away districts from each other postings.

- G) That not only the national laws and rules but also the international conventions like Universal Declaration of Human Right and International Covenant on Civil and Political Rights urge the promotion and protection of family life in order to guarantee a happy life to family. And the impugned transfer is contravening to these conventions to which Pakistan is a signatory.

- H) That the appellant also filed this appeal on serious and grave personal humanitarian ground the appellant is only male person to look after family. In the same situation the tribunal already accepted the appeal titled Jamal Ahmad vs Govt Of KP. So the appellant also entitled to same relief. **Copy of judgment is attached as annexure-J.**

- I) That this august Tribunal itself held in its judgment reported as 2012-PLC (CS) page-187 that transfer cannot be made on complaint/Administrative ground. The case of the appellant is same and is also entitled for the same relief. Further it is added that the allegation leveled against the appellant is baseless rather on malice and personal gradaues.

- J) That in the special circumstances of the case and due to urgency in the instant appeal being transfer matter the appeal of the appellant may be heard in the light of posting policy and order dated 03.06.2021 of this tribunal in appeal no.5338/2021. **Copy of order is attached as annexure-K.**

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K) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT

Said Afzal

THROUGH:


**(SYED NOMAN ALI BUKHARI),
ADVOCATE HIGH COURT**

&

**(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.**

6

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2021

Said Afzal

V/S

Govt. of KP etc.

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

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BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2021

Said Afzal

VS

Govt. of KP etc.

AFFIDAVIT

I, Said Afzal (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT


Said Afzal



BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Said Afzal

V/S

Govt of KP etc.

.....

**APPLICATION FOR SUSPENSION OF
OPERATION OF ORDER DATED
25.05.2021 and 03.05.2021 TO THE EXTENT
OF APPELLANT TILL THE DISPOSAL OF
MAIN APPEAL.**

RESPECTFULLY SHEWETH:

1. That the appellant has filed an Appeal along-with application in which no date has been fixed so far.
2. That the appellant has good prime facie case and all the ingredients of stay is in favour of appellant.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the impugned order has passed on favouritism and nepotism and has been passed in-violation of Posting, Transfer Policy.
5. That the appellant has not completed his tenure and the order dated 25.05.2021 and 03.05.2021 is also in violation of spouse policy. Further it is pertinent to mentioned here that the post of the appellant is still vacant so no hurdle for Govt: if the order may be suspended.

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6. That if the order dated 04.05.2021 is not suspended. It badly effect the right of appellant.

It is, therefore, most humbly prayed that the order dated 25.05.2021 and 03.05.2021 may be suspended till the disposal of main appeal, the post of the appellant was still vacant. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.

APPELLANT


Said Afzal

THROUGH:


(**SYED NOMAN ALI BUKHARI**)
ADVOCATE HIGH COURT

&

(**SHAHKAR KHAN YOUSAFZAI**)
ADVOCATE PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of this Application are true and correct to the best of my knowledge and belief.


DEPONENT

Annex (A)

(10)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 766 /2021

Mst. Gul Nasreen w/o Sajid Afzal Chief Nursing Superintendent (BS-18)
Benazir Bhutto Shaheed Teaching Hospital Abbottabad.

(APPELLANT)
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 1703

- Dated 29/1/2021
1. The Chief Secretary KPK, Civil Secretariat, Peshawar.
 2. The Secretary to Govt: (Health) Deptt., KPK, Peshawar.
 3. The Director General, health services, KP, Peshawar.
 4. District account office Abbottabad.
 5. The Medical Superintendent, Benazir Butto Shaheed, Teaching Hospital Abbottabad.
 6. Mst Shama Gul, Nursing Instructor (BPS-17) Benazir Butto Shaheed, Teaching Hospital Abbottabad.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 01.01.2021 and 04.1. 2021 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED PREMATURELY, UTTER VIOLATION OF POSTING TRANSFER POLICY AND AGAINST THE SPOUSE POLICY, AND AGAINST REJECTION ORDER DATED 28.01.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Filed to-day

Registrar

29/1/2021

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 01.01.2021, 04.1. 2021 and 28.01.2021, MAY BE SET ASIDE TO THE EXTENT OF THE APPELLANT BEING, PASSED PREMATURELY IN VIOLATION OF POSTING/TRANSFER & SPOUSE POLICY AND ALSO POLITICALLY MOTIVATED. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT

(11)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 766/2021

Date of Institution ... 29.01.2021

Date of Decision ... 22.06.2021

Mst. Gul Nasreen Chief Nursing Superintendent (BS-18) Benazir Bhutto Shaheed Teaching Hospital Abbotabad. ... (Appellant)

VERSUS

The Chief Secretary, Government of Khyber Pakhtunkhwa and four others. ... (Respondents)

SYED NOMAN ALI BUKHARI

Advocate

For Appellant

MUHAMMAD ADEEL BUTT

Additional Advocate General

For Official Respondents No. 1 to 5

MR. AHMAD SULTAN TAREEN

MR. ATIQ UR REHMAN WAZIR

CHAIRMAN

MEMBER (E)

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E): - Brief facts of the case are that the appellant was promoted as Chief Nursing Superintendent (CNS) on 31-08-2018 and posted as CNS (BPS-18) in Benazir Bhutto Shaheed (BBS) Teaching Hospital Abbotabad. The appellant was transferred vide order dated 01-01-2021/04-01-2021 to District Headquarter Hospital Haripur, whereas respondent No 6, who was Nursing Instructor in BPS-17, was posted against the said post in her own pay and scale. Feeling aggrieved, the appellant filed departmental appeal dated 20-01-2021, which was also turned down vide order dated 28-01-2021, hence the instant service appeal with prayers that the impugned orders dated 01-01-2021/04-01-2021 may be set aside to the extent of the appellant.

[Handwritten signature and stamp]

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant contended that the impugned order is pre-mature, as the appellant has not completed her tenure yet, therefore, the impugned transfer order is in violation of transfer policy of provincial government, hence not tenable; that the impugned transfer order is also in violation of the spouse policy, as husband of the appellant is also an employee of the health department serving as clinical technician in Abbotabad. Learned counsel for the appellant added that the appellant was not transferred in the public interest, but on the request of respondent No. 6, who was transferred to a BPS-18 position in her own pay and scale in anticipation of her promotion to BPS-18; that the impugned order was issued on the basis of personal like and dislike with no compelling reasons. Learned counsel for the appellant also referred to Anita Turab case and argued that when an ordinary tenure for a posting has been specified in the law or rule made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons and which should be recorded in writing; that tenure in respect of the appellant was not honored nor any reason was recorded. Learned counsel for the appellant prayed that since the impugned order is illegal, made in violation of policies of provincial government, hence may be set aside and the appellant may be allowed to complete her normal tenure against such post.

05. Learned Additional Advocate General appeared on behalf of official respondents and when at the outset, his attention was drawn to the reference of expression "public interest" used in the impugned order, and asked to justify the same in juxtaposition with two applications of the Respondent No. 6; he frankly conceded that in the given state of things, he is at loss to assist the Bench with required justification. Learned Additional Advocate General though went ahead to

~~APPEALED~~
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make submissions in support of impugned order citing some information given to him by the departmental representative in attendance but he could not get tangible proof of such information from the said representative to substantiate his arguments. So, he concluded his arguments without further submissions.

06. We have heard learned counsel for the parties and perused the record. The appellant annexed with her Memo of appeal two applications of Respondent No. 6, one submitted to the respondent No. 5 and other to the respondent No. 2. In the former application, she while pressing into service her anticipated promotion from BS-17 to BS-18, requested to Respondent No. 5 to issue to her (NOC of) vacant position of CNS BS-18, so that she could be able to get her posted against the mentioned post. NOC was issued to her by Respondent No. 5 with his endorsement on the same application. In the second application submitted to Respondent No. 2, she citing the same reason of anticipated promotion with further reference of NOC of Respondent No. 5, requested for her adjustment at BBS Teaching Hospital against the vacant post of CNS BS-18. The department was gracious enough to accede to her request of adjustment on the post to which she was yet to be promoted but not against the vacant post. Rather her request was favored by the transfer of appellant and that too on consideration of public interest. We are unable to understand on touchstone of logic that how it served the public interest in passing of the impugned order when the impugned transfer order is meant to extend undue favor to Respondent No. 6 by her adjustment against a higher post to which her promotion is yet to take-place after due process; while on the other hand it caused undue disturbance to the appellant apparently without any fault of her. We have found the impugned order befitting to an idiomatic case of robbing Peter to pay Paul. Since the impugned transfer order was not made in the public interest and was issued in violation of Provincial Transfer Policy, hence is liable to be struck down.

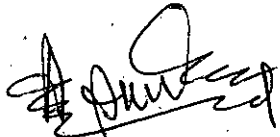
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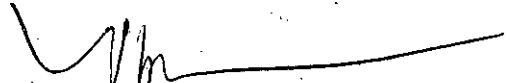
07. In view of the situation, while setting aside the impugned order; we accept the appeal as prayed for with no order as to costs. File be consigned to the record room.

ANNOUNCED

22.06.2021

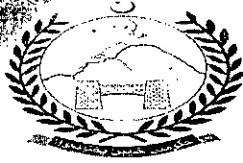


(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ATIQ UR REHMAN WAZIR
MEMBER (E)



Ann (B)
(15)

**OFFICE OF THE MEDICAL SUPERINTENDENT,
BBS TEACHING HOSPITAL, ABBOTTABAD**

Tel # 0992-9310191, Fax # 0992- 9310193

Email Id: dhqabbottabad@yahoo.com

OFFICE ORDER:-

You Mr. Said Afzal CT resident of Village and post office Panian District Haripur (domiciled of District Haripur) Serving as Pharmacy BPS-12 in BBS Teaching Hospital Abbottabad.

During your posting in BBS Teaching Hospital; record reflected from your personal file, you remained habitually absent from your duties.

Many times you were warned to mend your behavior but all were in vain. Recently you wandered in this Hospital with hooligans, with arms which created terror amongst the staff and confessed in the press conference (on social media) record available.

Later on you made a press conference without permission and leveled allegation which badly affect the good reputation of the Institution, Department and higher Provincial authorities.

In such circumstances; this hospital is not in position to hold the burden of such problematic official, as on other side whole health staff is combating against the corona virus.

So, the services of such reluctant and derogant official are no more required at BBS Teaching Hospital Abbottabad, therefore; You Mr. Said Afzal S/o Muhammad Afzal Khan CT Pharmacy BPS-12 is hereby relieved off from your duty from BBS Teaching Hospital Abbottabad and directed to report to Director General Health services Khyber Pakhtunkhwa Peshawar for further adjustment anywhere in the province.

Sd/---

**Medical Superintendent
BBS Teaching Hospital
Abbottabad**

No:

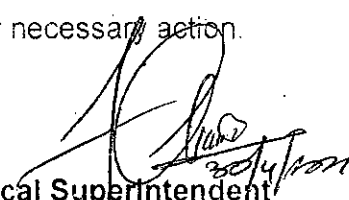
2413-17

Dated:

03/05/2021.

Copy to the:-

1. Director General Health services Khyber Pakhtunkhwa Peshawar for information.
2. PS To Secretary Health Govt of Khyber Pakhtunkhwa Peshawar for information.
3. District Accounts Officer Abbottabad.
4. Accounts officer /Accounts Section of undersigned office for necessary action.
5. Official for immediate compliance.


**Medical Superintendent
BBS Teaching Hospital
Abbottabad**

ATTESTED

To

Dated: May 07, 2021

Ans (C)
(18)

Director General Health Services Khyber Pakhtunkhwa, Peshawar

Subject: Self-Explanation of Said Afzal Khan Panni (Clinical Technologist Pharmacy, Benazir Bhutto Shaheed Teaching Hospital, Abbottabad)

I have to submit following for your kind consideration.

It is humbly submitted that I have been transferred to Director General Health, KPK Peshawar for further adjustment.

It is to be highlighted that my wife Gul Nasreen is serving as a Chief Nursing Superintendent (CNS) (BPS-18) in Benazir Bhutto Shaheed Teaching Hospital (BBS), Abbottabad since 1982. She is a heart patient and currently surviving with 20% Left Ventricular Ejection Fraction (LVEF) of heart and requires extensive care all the time (relevant documents attached).

As medical superintendent (Dr. Amir Israr) is well aware of my wife's health condition and medical history that she is going through Ischemic Heart Disease (IHD) and severe hypertension. She is under continuous treatment from Armed Forces Institute of Cardiology (AFIC) Rawalpindi and Combined Military Hospital (CMH), Abbottabad (Documents Attached). In such conditions, she was transferred to District Headquarter DHQ hospital, Haripur in the month of January 2021 without any reason. The respective case is under court since then. She has been under continuous mental stress and torture by the stubborn behavior of medical superintendent, which ended up in taking her to the Neonatal Intensive Care Unit (NICU) CMH, Abbottabad due to cardiac arrest (Documents attached).

I would also like to mention that my son is serving in military (Pakistan Navy commissioned officer) for the past 10 years, and is posted in Karachi since then. Both of my daughters are married and I am the only person to take care of my wife and my bed-ridden mother (80s) at home. The doctors have advised my wife with complete bed rest followed by putting her on wheel chair/ walker for coming few months.

Now my point is that, both of us have been posted to different regions, by totally ignoring and putting behind the 'Spouse Policy'.

In view of above all, I would like to request for our 'Spouse Policy adjustment' in Benazir Bhutto Shaheed Teaching (BBS) Hospital, Abbottabad.

Your cooperation in this regard would be highly appreciated and acknowledged. It is submitted for your kind consideration please.

Many thanks

Mr. Said Afzal Khan Panni

Clinical Technologist Pharmacy, BBS, Abbottabad

ATTESTED

Amr (D)

(17)



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications should be Addressed to The Director General
Health Services Peshawar and not to any official by name

Office Phone No. 92120072-8000 Fax No. 92110187, 92110192, 92110197, 92110201

OFFICE ORDER.

On his relieving from BBS Teaching Hospital Abbottabad Mr Saad Afzal Clinical Technician (Pharmacy) BS-12 is hereby transferred & posted at the disposal of DHO Kohistan Upper against the vacant post of Clinical Technician (Pharmacy) BS-12 on Administrative grounds, with immediate effect-


NB: - A final/Departure report should please be submitted to this Directorate for record.

Sd/-
DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR.

No. 3285-90 /AE.VI, Dated Pesh. The 25/05/2021.
Copy forwarded to the:-

01. Medical Supdt. BBS Teaching Hospital Abbottabad w/r to his office order No. 2413-17/ dated 03.05.2021.
02. District Health Officer, Kohistan Upper.
03. District Accounts Officer, Abbottabad.
04. District Accounts Officer, Kohistan.
05. Official concerned.
05. Incharge Promotion Cell, DGHS KP Peshawar.

For information and n/action.


DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR

18

بخدمت جناب ڈائریکٹر جنرل ہیلتھ سروسز خیبر پختونخواہ

عنوان: سروس اپیل برائے معطلی تبدیلی

جناب عالی!

مضمون درخواست ذیل ہے:

- 1- یہ کہ سائل جناب کے زیر سایہ BBS ہسپتال ایبٹ آباد میں بطور کلینکل ٹیکنالوجسٹ فارمیسی بغیر کسی عوامی یا اخلاقی شکایت کے ڈیوٹی کر رہا ہے۔
- 2- یہ کہ ہسپتال ہڈا کے ایم ایس ڈاکٹر عامر اسرار نے سائل کی زوجہ کے ساتھ ذاتی عناد اور عدالتی کیس کے انتقام میں سائل کو ایک لیٹر 03 مئی 2021 کو بلا جواز اور قواعد و ضوابط سے ہٹ جاری کر کے ہسپتال سے فارغ کر کے جناب کے دفتر رپورٹ کرنے کا آرڈر کر دیا۔
- 3- یہ کہ سائل نے اس نا انسانی کے خلاف 07 مئی 2021 کو جناب کی خدمت میں اپنے حقیقی مسائل کو مد نظر رکھتے ہوئے Compassionate Grounds پر ایک درخواست جناب کی خدمت میں پیش کی۔
- 4- یہ کہ جناب نے بجائے سائل کے مسائل پر غور کرنے اور دادرسی کے سورخہ 25 مئی 2021 کو کوہستان تبدیلی کے احکامات جاری کر دیے۔

جناب عالی!

سائل جناب سے اپیل کرتا ہے کہ سائل کی اس غیر منصفانہ تبدیلی (چونکہ سائل کی زوجہ بھی ہسپتال ہڈا میں بطور CNS ملازمہ ہے) کو معطل فرما کر سائل اور اہل خانہ کو ذہنی کوفت اور اذیت سے نجات دلائی جائے۔

شکریہ

العرض
سید افضل خان

CT فارمیسی

بینظیر بھٹو شہید ہسپتال ایبٹ آباد

سورخہ: 28 مئی 2021 (سوموار)






OFFICE OF THE MEDICAL SUPERINTENDENT
BBS TEACHING HOSPITAL ABBOTTABAD

Tel # 0992-9310191, Fax # 0992- 9310193

SERVICE CERTIFICATE

Certify that Mrs. Gul Nasreen W/o Said Afzal Khan is working as Chief Nursing Superintendent in BBS Teaching Hospital Abbottabad.

She is permanent employee of Khyber Pakhtunkhwa Health Department.


Medical Superintendent
BBS Teaching Hospital.
Abbottabad

Medical Superintendent
BBS Teaching Hospital Abbottabad

~~ATTESTED~~

NO.SOR-II (E&AD) 1-1/85(VOL-II)
Dated Peshawar the 15th February 2003

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Subject: POSTING /TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

I am directed to refer to the subject noted above and to say that in supersession of all policy instructions issued in this behalf, the competent authority has approved the following posting Transfer Policy.

i. All the postings /transfers shall be strictly in public interest and shall not be abused misused to victimize the Government servants.

ii. All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting /transfer authorities for seeking posting /transfers of their choice and against the public interest.

iii. All contract Government employees, appointed against specific posts, cannot be posted against any other post.

iv. The normal tenure of posting shall be three years subject to the condition that for the officers /officials posted in unattractive areas, the tenure shall be two years and for hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.

v. Months of March and July are fixed for posting /transfer of the officers /officials excluding the officers in B-19 and above in the Province. Posting /transfer in Education and Health Departments shall be made in March while the remaining Departments shall make posting /transfers in July. There shall be a ban on posting/transfers throughout the year excluding the aforesaid two months. However, there shall be no restriction in cases where posting /transfer of Government employees become inevitable in other months due to promotion /retirement /creation of new posts/return from long leave/involvement in



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disciplinary proceedings and adjustment of surplus staff for which specific relaxation shall be obtained from the Chief Minister.

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vi. While making postings transfers from settled areas to FATA and vice versa specific approval of the Governor, NWFP needs to be obtained.

vii. Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thana) of his area/resident is situated.

viii. No postings/transfers of the officers/officials on detailment basis shall be made.

ix. Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station and this will be subject to the public interest.

x. All the posting/transferring authorities may facilitate the postings/transfers of the unmarried female Government Servants at the station of the residence of their parents.

xi. Officers/officials except DCOs and SPs who are due to retire within one year may be posted on their option, on posts in the Districts of their domicile and be allowed to serve till the retirement.

xii. In terms of Rules-17 (1) and (2) read Schedule-III of the Government of NWFP Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against.

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Outside the Secretariat

i. Officers of the all Pakistan Unified Group i.e DMG , PSP including Provincial Police Officers in BPS-18 and above.

ii. Other officers in BPS-17 and above to be posted against schedule posts, or posts normally held by the APUG, PCS (EG) and PCS (SG).

iii. Head of Attached Departments and other Officers in B-19 & above in all Departments.

In the Secretariat:

iv. Secretaries.

v. Other Officers of and above the rank of Section Officers:-
a. Within the Same Department.
b. Within the Secretariat from one Department to another.

vi. Officials upto the rank of Superintendent:-
a. Within the same Department.
b. To and from an Attached Department.

2

Chief Secretary in consultation with the Establishment Department and the Department concerned with the approval of the Chief Minister.

--do--

--do--

Chief Secretary with the approval of Chief Minister.

Secretary of the Department concerned .
Chief Secretary/Secretary Establishment.

Secretary of the Department concerned.
Secretary of the Department in consultation

~~SECRET~~ ATTACHED

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c. Within the Secretariat from one Department to another.

with Head of Attached Department concerned. Secretary (Establishment)

ATTENDED

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xiii. While considering postings/transfers proposals all the concerned authorities shall keep in mind the following:

a. To ensure the posting of proper persons on proper posts, the annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.

b. Tenure on present post shall also be taken into consideration and the posting transfers shall be in the best public interest.

ix) Governments servants including District Govt. employees feeling aggrieved due to the orders of posting/transfers authorities may seek remedy from the next higher authority/the appointing authority) as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting /transfer orders could be exercised only in the following cases:-

i) pre-mature posting/transfer or posting/transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.

To streamline the postings /transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North- West Frontier Province District Government Rules of Business 2001 read with schedule -IV thereof is referred. As per schedule -IV the posting/transferring authorities for the officers /officials against each are as under :-

S.No	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government
2.	Posting of District Police Officer	Provincial Government.
3.	Other Officer in BPS-17 and above posted in the District.	Provincial Government .

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4.	Official in BPS-16 and below.	Executive District Officer in consultation with District Coordination Officer.
----	-------------------------------	--

As per Rule 25(2) of the Rules above the District Coordination Department shall consult the Government if it is proposed to :

- a. transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure; and
- b. require an officer to hold charge of more than one post for a period exceeding two months.

4. I am directed further to request that that above noted policy may be strictly observed implemented.

ATTN

ATTN

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4.	Official in BPS-16 and below.	Executive District Officer in consultation with District Coordination Officer.
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As per Rule 25(2) of the Rules above the District Coordination Department shall consult the Government if it is proposed to :

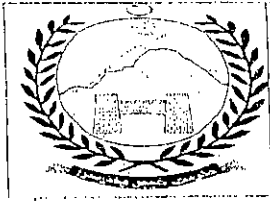
- a. transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure; and
- b. require an officer to hold charge of more than one post for a period exceeding two months.

4. I am directed further to request that that above noted policy may be strictly observed implemented.

ATTN

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5 (17) Ann (H) (27)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII
Dated Peshawar, the, 07th August, 2012

To

3. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject: POSTING OF SERVING HUSBAND/WIFE AT THE SAME STATION OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

I am directed to refer to the subject noted above and to state that keeping in view the Socio economic Problems and hardships faced by husbands and wives in Government Service due to posting at different station of duty, the competent authority has been pleased to prescribe the following guideline to facilitate posting of husband and wife at the same station:-

- i) Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.
- ii) If request involves temporary deputation to another department, it may be processed in consultation with the concerned department and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.

AC(R)

Commissioner Peshawar
No. 915/2... Dated 10/8/12

iii) If there is a tie between two or more Government servants for posting at the same station in the same department/unit of an

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10/8/12
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organization, the Government servant with greater length of service may be preferred.

iv) Request for posting by a spouse facing serious medical problems may be accorded highest priority.

v) Spouses already posted at one station, including those posted on deputation may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.

2. Kindly acknowledge receipt.

Yours faithfully,

NAJAM
7/8/12

(NAJ-MUS-SAHAR)
SECTION OFFICER (REG:VI)

Endst No. & date even

Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Registrar, Peshawar High Court, Peshawar.
4. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. The Director General, Provincial Disaster Management Authority.
6. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Incharge Resource Centre, Estt. & Admn. Department.

NAJAM
7/8/12
SECTION OFFICER (REG: VI)

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[Signature]

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MEDICAL CASE SHEET

Annex I
29

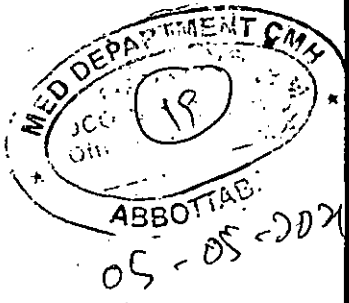
(See instr of 52 Regs for Med Svcs of Armrd Forces Vo-II.....1978)

Serial No. In admission and disch book..... Hosp.....

No: PN 9006 Rank: M/21 Name: Afand Jan Unit: Pns
Age: Svc: *QAMM*

Disease:

Date and time Condition on Admission and Progress of Case.
(Incl complaints, present, past hist, family and personal hist. clinical exam investigation and their results and the treatment prescribed Progress report will be written as often as is nec)



BP
90/60

CBC
RFLC

Post COVID
Cardiac arrest survivor
~~HFA+~~
LBBB+
HFrEF (EF 20%).
↓ CTSS
Dyspnea 25%
better. Bilal-

Adw
Tab Lipinex (10g) OX HS
~~(4)~~ OX HS
Tab Loprin OX OD
(12)
Tab Citanew (10) OX HS
Tab Lasix (10) OX OD
Tab Vastard MR 1-1
Tab Bone-oe OX OD
Tab Lophas - OX ODs
*
of death

Remove Foley Catheter

Col Sajjad Hussain
Consultant Medical Specialist
Cardiologist
Associate Professor of Cardiology

30

Restd

Combined Military Hospital HOSPITAL DISCHARGE SLIP

Ward OPPO Family

A&D No

Time / Date of Admission 08-04-2021

No PIN-9006

Rank M/O Lt

Name Asfand Yar Khan

Unit PNS Qasim

Category of Patients

- Serving
- Retired
- Shaheed
- CE
- CNE
- NCSE

Entitlement

- Self
- Father
- Mother
- Wife
- Son
- Daughter

Name of The Patient

Type Of Admission

- Form MRC
- Form OPD
- Transfer
- Med Board Case
- Re-admission
- Referred Case
- Brought In Dead

Age 57 yrs

Gender Male Female

Primary Diagnosis	<u>Bradycardia</u>
ICD Number	
Secondary Diagnosis	<u>post covid pneumonia</u>
Treating Physician	<u>Med splt</u>

Date of Discharge 30-04-2021

Patient Disposal

- Routine Discharge
- Discharge On Request
- Left Against Medical Advice
- Transferred
- Died

Svc Disposal (If Any) RTH

MO I/C Case [Signature]

Countersigned _____

CO Hospital _____

Note: Case Summary and Follow up advice provided separately

Restd

[Signature]

Follow up

Post COVID Pneumonia

30/04/21

epi-

- Post COVID Pneumonia
- Altered sensorium
- ↓ Peripheral pulses
- Bradycardia
- Tall T waves on ECG
- VT (Cardioversion Done)

Investigations:-

- 10-04-21
- HRET COVID
- Prone
- mill severity
- 08-04-21:-
- Hb: 12.3, TLL: 9.0, PLT: 237
- Urea: 10.6, CRT: 137
- LFTs: ALT: 63, ALP: 154
- ~~ADPs~~ Cardiac profile
- CK: 150 U/L, LDH: 290 U/L
- PT: 14/14, PTTK: 36/36

A/C:-

- left shoulder Pain
- Foot swelling

O/E:-

- Edema
- IV line passed at Rt leg
- No signs of inflammation
- BP: 110/80
- Stable, not on O₂

- 13-04-21:-

- LFTs: ALT: 165, ALP: 268
- RFTs: Urea: 15.1, CRT: 148
- Cardiac Profile:
- CK: 55, LDH: 509
- CRP: 35 mg/dL

- 25-04-21:-

- Hb: 12.8, TLC: 24.1, PLT: 447
- Urea: 23.6, CRT: 228
- ALT: 21, ALP: 115
- CK: 101, LDH: 429
- CRP: 42 mg/L, PT: 15/14, PTTK: 36/36

- 21-04-21

- pH: 7.428
- PCO₂: 27.9
- PO₂: 180

- 28-04-21

- Hb: 9.6, TLL: 8.3
- PLT: 192
- Urea: 14.0, CRT: 136

(All investigations handed over to patient)

Adv

- Tab Ibent-F 1xOD
- Tab Lipiget 40mg qd
- Tab Renalz 500mg 1xBD
- Tab Cophas 1xTDS
- Tab Bone one 0.3mg qd
- Tab Couplate 75mg 1xOD
- Tab Zopent 40mg BD
- Tab Braxaton 50mg TDS
- Tab Citarex 50mg ~~BD~~ BD
- Tab ALP 0.25 mg BP
- Tab Cas-x 40 mg OD
- SyP Duphalar 30ml

Follow up in OPD on wednesday (05-05-2021)

1x month
3/5/21

Recommended
Sick leave x 04 Wks
(Plz contact your
own employer)

Dr. Sultan Hussain
MBBS, MD, FRCP, FICP, FICM, FICN, FICG, FICP, FICM, FICN, FICG

ATTACHED

NO IC /
OF /
/

33

NUCLEAR MEDICAL CENTRE
ARMED FORCES INSTITUTE OF PATHOLOGY, RAWALPINDI

Pakistan Phone: +92-5176419, Ext: 384

MYOCARDIAL PERFUSION SCAN

Patient ID	: 50144	Registration ID	: 50156
Name	: M/O ASFAND YAR	Unit	: PNA HQ
Age	: 54 Yrs	NO	: PN-9006
Sex	: FEMALE	Payment ID	: NIL
Rank	: LT	Signed Date	: 12 July 2018

GATED MYOCARDIAL PERFUSION SPECT WITH Tc-99m MIBI AFTER EXERCISE AND AT REST

Indications: This 54 years of age female patient presented with dyspnea on mild exertion. ECG reveal LBBB. Myocardial perfusion scan for determination of extent and severity of coronary artery disease.

Exercise Stress

ECG Result

- Exercise Duration = 03 min: Rest HR – 112 bpm: Exer HR – 152 bpm
- (100% maximum target-predicted): METs = 4.6
- Blood pressure: Rest: 120/80 mmHg: Peak stress 150/80 mmHg.
- Symptom during test: NIL
- Reason for termination of exercise: She achieved THR
- Resting ECG: LBBB
- Exercise ECG: No significant fresh ischemic changes

Procedure:

The patient had myocardial perfusion imaging performed on 12 July 2018 with the injection of 20.0 mCi of Tc-99m MIBI at peak stress. Images were acquired at 45 min post injection. Resting study was acquired with 10.0 mCi of Tc-99m MIBI before stress study.

Scan findings:

The study acquired after stress exhibit dilated LV cavity with loss of uptake involving apex, distal anteroseptal wall and basal septum; together with severely decreased tracer uptake in rest of the anterior wall and mid segments of septum. There is also moderate to severe reduction of uptake in inferior and inferoseptal walls. The resting re-injection study show reperfusion in apex, distal anteroseptal and distal anterolateral walls, while persist decreased/absent uptake in rest of the hypoperfused area. The gated SPECT images exhibit dyskinetic anteroseptal wall and apex that is due to LBBB with 30% LVEF.

Impression:

1. Fixed perfusion defect (full thickness MI) – basal anteroseptal wall
2. Severe ischemia/partial thickness MI – distal anterospetal wall and apex
3. Dyskinetic anteroseptal wall and apex that is due to LBBB with 30% LVEF.

Viable Myocardial Segments: 6 /10 of LAD, 6/6 of LCx and 4/4 of RCA territories

Report by: Brig Fida Hussain

MAJ GEN
COMMANDNAT
(MUHAMMAD TAHIR KHADIM)

NOTICE: Please carry this report with you, when travelling abroad, even many weeks after your scan, as the radiation from residual radioisotope in the body, may trigger sensitive radiation alarms, installed at international airports.

ATTESTED

34

CMH ABBOTTABAD

Specialist's Report

Report by spec in Date

No Rank Name

Age Unit

Diagnosis

1. Complaints

19-03-19

ischemic Cardiomyopathy

LBBB

EF = 30 - 35%

2. History of Present Illness

Tab. Co-Tasmi	40/2.5	
	1x0D	
Tab. Lipiget 20,	mg	
	1x1D	
Tab. Spironide	20 mg	
	1x0D	
Tab. Costac	2.6 mg	
	1x1D	
Tab. Zolof	30 mg	
	1x0D	

04 weeks

3. Clinical Exam

ATTESTED

35

CONFID

PAFM-1316 (cs)

MED CASE SHEET

ARMED FORCES INSTITUTE OF CARDIOLOGY-RAWALPINDI
(See Instr of 52 Regs for Med Svcs of Armed Forces Vol II-1978)

Serial No in admission and disch book.....

Hosp.....

No 9006

Rank

M/O

Name Asfand
Jr

Unit Pns
Qasin

Age

Svc

Capt

Disease

Date and Time

Condition on Admission and Progress of Case

(Incl complaints, present past hist, family and personal hist, clinical exam investigation and their results and the treatment prescribed Progress reports will be written as often as is nec.)

18/8/18

patient not present
ischemic cardiomyopathy

-35%

Ef 30-35;

UBB

R

CG - 3 months.

To assess patient

on 23rd Aug 2018

Tuesday

04 weeks

Associate Professor
Brig DR. IMTIAZ AHMED KHAN
MBBS, FCPS (Medicine), FCPS (Cardiology)
Consultant Interventional Cardiologist &
Classified Medical Specialist
AFIC/INID Rawalpindi.

CONFID

~~ATTACHED~~

CONFID

In Lieu of PAFM-1316(CS)

36

MEDICAL CASE SHEET

(See instr of 52 Regs for Med Svcs of Armrd Forces Vo-II.....1978)

Serial No. in admission and disch book..... Hosp.....

No: *PN 9006* Rank: *m/lt capt* Name: *Asfanel* Unit: *PVC*

Age: *54* Svc:

Disease:

Date and time	Condition on Admission and Progress of Case. (Incl complaints, present, past hist, family and personal hist, clinical exam investigation and their results and the treatment prescribed Progress report will be written as often as is n' b)
---------------	---

11/0/70

ischemic cardiomyo

Pally

LTBBB

EF 30%

AD

Tab Concor 25mg 1+0+0

Tab Spiramide 20mg 1+0+0

~~*Tab Sustac 26mg 1+0+1*~~

~~*Tab Vastocel MR 35mg 1+0+1*~~

Tab Loprin 75mg 1+0+0

Cap Rised 40mg 1+0+0

~~*Tab Lipiget 20mg 0+0+1*~~

~~*Tab Co-Tasw 40/125*~~

15/09/70

*x 03
06*

PC

ATTESTED

14/10/18

CT * 03
06

murad CAP
on
CT angogera

24/10/18

CT Feb of month.

18/11
2

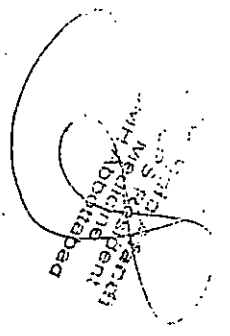
1/11/18

AD
CT

withhold Co-Termi 40/12.5

~~Feb Termi 20y~~

~~0 + 0 + 1~~
Feb E3 day 25 y
0 + 0 + 1



~~ATTESTED~~

14/1/19.

R

باتی ۰ آتی ۰ ۶ ۰ ۶ ۰ ۶ ۰ ۶ ۰ ۶ ۰ ۶

Tab Spiramide 20mg

1+0+0

X Tab nistac 2.6mg

1+0+1

Tab Zolot 50mg

1/2+0+0

ECC

~~DIS~~

2/6/19

2D Eds

withhold spiramide

باتی ۰ ۶ ۰ ۶ ۰ ۶ ۰ ۶ ۰ ۶

x 02
new

Review after 02 wks

~~DIS~~

TRANSTHORACIC ECHOCARDIOGRAPHY REPORT

Name: GUL NASREEN

Patient ID: 000175014

Date: 17/09/2018 Time: 10:20 AM

Age: 52 yrs Gender: Female

Echo No:

Weight: Kg Height: cm

Referring Physician: PROF. M. MASUDUL HASAN NURI

Clinical Diagnosis:

Measurements

Parameter	Result	Normal Values
AORTIC ROOT	29	20-40 mm
LA	44	19-39 mm
RV		7-25 mm
Mitral Inflow E:A		>1
RVSP		20-30 mmHg
LVISD	8	8-12 mm
LVPWD	8	7-11 mm
LVIDD	.63	36-56 mm
LVIDS	.56	25-41 mm
LV EF	20	50-70 %

Valves

AV: Trileaflet, normal excursion; No AS or AR

MV: Normal structure and function, mild MR

TV: Normal structure and function, mild TR with TVPG 30mmHg

PV: Grossly Normal structure and function; No PR

LV: Normal thickness, dilated LV cavity, segmental wall motion shows severe hypokinesia of anterior, anteroseptal and anterolateral segments, severely depressed LV systolic function; EF 20%

Chambers

RV: Normal dimensions and function

Atria: Dilated LA

Pericardium: No pericardial effusion

Other:

Conclusions:

1. Segmental wall motion abnormalities as above
2. Severely depressed LV systolic function; EF 20%
3. No significant valvular abnormality

Echo Tech: IFFAT TASNEEM

PROF. M. MASUDUL HASAN NURI
FCPS, MRCP, FRCP, FACC

Prepared by: AMTUL QUDDUS

Phone +92 47 6216010-1

Tahir Heart Institute

info@tahirheart.org

ATTACHED

42

MED CASE SHEET

ARMED FORCES INSTITUTE OF CARDIOLOGY-RAWALPINDI
(See Instr of 52 Regs for Med Svcs of Armed Forces Vol II-1978)

Serial No in admission and disch book

No

Age

Disease

Rank
M/O
Capt
Svc

Name

Asfandy Unit

Hosp

Date and Time

Condition on Admission and Progress of Case:
(Incl complaints; present past hist; family and personal hist, clinical exam investigation and their results and the treatment prescribed Progress reports will be written as often as nec.)

3/9/18

Ischemic Dem

Ef 20

PCF

in various beam

LAD 6/10

Recommended high risk consent
04 weeks
sick leave for coronary Angiography
(complete bed needs family
counseling done)

family to discuss
with each other

Associate Professor
Brig DR. ISTIAZ AHMED KHAN
MBBS, FCPS (Medicine), FCPS (Cardiology)
Consultant Interventional Cardiologist &
Cin Certified Medical Specialist
AFI (C) Rawalpindi

[Signature]

CONFID

~~ATTESTED~~

43

MED CASE SHEET

ARMED FORCES INSTITUTE OF CARDIOLOGY-RAWALPINDI
(See Instr of 52 Regs for Med Svcs of Armed Forces Vol II-1978)

Serial No in admission and disch book:

No

Age

Disease

M/O

Rank

Svc

Capt

Name

Asfandyar

Hosp

Unit

Date and Time

Condition on Admission and Progress of Case?
(Incl. complaints, present past hist, family and personal hist, clinical exam investigation and their results and the treatment prescribed Progress reports will be written as often as nec.)

3/9/18

Ischemic Dem

EF 20%

Pat

In various scans

LAD 6/10

Recommended high risk consent
04 weeks
(complete bed needs family
rest) counselling done
to family to discuss
each other

Associate Professor
Brig DR. ISTIAZ AHMED KHAN
MBBS, FCPS (Medicine), FCPS (Cardiology)
Consultant Interventional Cardiologist &
Certified Medical Specialist
AFI (MIR) Rawalpindi.

(Signature)

CONFID

ATTACHED

ARMED FORCES INSTITUTE OF CARDIOLOGY & NATIONAL INSTITUTE OF HEART DISEASES

AFIC-F-272

WU

RAWALPINDI

Phone : Mil : 561-31114
: 561-33236
Civ : 9271002

No. _____ Rank M/alt Name Ahsan Jax Date 12-7-18
 Unit PNA Age 54y Sex L Weight _____
 Referring physician _____ ETT No. _____

TREADMILL EXERCISE TEST REPORT

Reasons for Test	Therapy Patient receiving	Resting ECG
Diagnosis of Chest Pain	<input type="checkbox"/> Digoxin	<input type="checkbox"/> Normal
Assess Exercise Tolerance	<input type="checkbox"/> B-Blockers	<input type="checkbox"/> Non Specific T-Changes
Unmasking of Arrhythmia	<input type="checkbox"/> Antihypertensives	<input type="checkbox"/> Old Infarct Pattern
Assess Response of Treatment	<input type="checkbox"/> Anti Arrhythmics	<input type="checkbox"/> QRS > 0.10 Sec (RBBB-LBBB)
Research	<input type="checkbox"/> Tranquilizers	<input type="checkbox"/> S. T. Depression
Other (Specify) _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> BP <u>120/80</u> <u>112</u> HR

Stage	Speed	Grade	Duration	B.P.	HR	ECG Changes	Symptoms
I	1.7 M/H	10%	03 Min				
II	2.5 M/H	12%	03 Min		<u>152</u>		
III	3.4 M/H	14%	03 Min				
IV	4.2 M/H	16%	03 Min				
V	5.0 M/H	18%	03 Min				
VI	5.5 M/H	20%	03 Min				
Immediate					<u>152</u>		
02 Min					<u>150</u>		
05 Min					<u>125</u>		
10 Min							THR <u>152</u>

TEST END POINT

Target Heart Rate

Chest Pain

Fatigue

Dyspnea

Claudication

ECG Changes

Exercise Time 31:00

COMMENTS

ETT PERFORMED ACCORDING TO BRUCE PROTOCOL
100 % TARGET HEART RATE ACHIEVED
 ETT STOPPED DUE TO: THR
 RESTING ECG: (LBBB)
 EXERCISE ECG: ST changes in 7 leads
 BP RESPONSE: Adequate
 RECOVERY: uneventful

FINAL INTERPRETATION:

Positive

Negative

MO I/C ETT Deptt. Dr. Saad Muhammad
 Dip Card Technol

ATTESTED

TRANSTHORACIC ECHOCARDIOGRAPHY REPORT

45

Name: GUL NASREEN

Patient ID: 000175014

Date: 17/09/2018 Time: 10:20 AM

Echo No:

Age: 52 yrs Gender: Female

Referring Physician: PROF. M. MASUDUL HASAN NURI

Weight: Kg Height: cm

Clinical Diagnosis:

Measurements

Parameter	Result	Normal Values
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LA	44	19-39 mm
RV		7-25 mm
Mitral Inflow E:A		>1
RVSP		20-30 mmHg
LVISD	8	8-12 mm
LVPWD	8	7-11 mm
LVIDD	63	36-56 mm
LVIDS	56	25-41 mm
LV EF	20	50-70 %

Valves

- AV: Trileaflet, normal excursion; No AS or AR
 MV: Normal structure and function, mild MR
 TV: Normal structure and function, mild TR with TVPG 30mmHg
 PV: Grossly Normal structure and function; No PR
 LV: Normal thickness, dilated LV cavity, segmental wall motion shows severe hypokinesia of anterior, anteroseptal and anterolateral segments, severely depressed LV systolic function; EF 20%.

Chambers

- RV: Normal dimensions and function
 Atria: Dilated LA
 Pericardium: No pericardial effusion
 Other:

Conclusions:

1. Segmental wall motion abnormalities as above
2. Severely depressed LV systolic function; EF 20%
3. No significant valvular abnormality

Echo Tech: IFFAT TASNEEM

PROF. M. MASUDUL HASAN NURI
FCPS, MRCP, FRCP, FACC

Prepared by: AMTUL QUDDUS

Phone +92 47 6216010-1

Tahir Heart Institute

info@tahirheart.org

AMTUL QUDDUS

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MED CASE SHEET

ARMED FORCES INSTITUTE OF CARDIOLOGY-RAWALPINDI
(See Instr of 52 Regs for Med Svcs of Armed Forces Vol II-1978)

Serial No in admission and disch book

No AN-1006 Rank capt Name Ajandyar Hosp _____
 Age 54 Svc _____ Unit ANS
 Disease _____

Date and Time _____ Condition on Admission and Progress of Case
 (Incl complaints, present past hist, family and personal hist, clinical exam investigation and their results and the treatment prescribed Progress reports will be written as often as is nec.)

26/8/80
B/125/80

Dem
 EF 30-35%
 CABG
 Th. Pacemaker
 +ve for ischemia

CT - 3 months
 Coronary Angiography
 on Monday

ECHO

Le Concor 2.5
 100
 Pe Spiramide 20
 100
 Pe Sustac 200
 17
 Pe Vastarel ML
 171
 Le liprim 25
 100

3/8/80
 Associate Professor
 Brig DR. INTIAZ AHMED KHAN
 MBBS, FCPS (Medicine), FCPS (Cardiology)
 Consultant, Interventional Cardiologist &
 Clinical Medical Specialist
 AFIC/MIHD Rawalpindi.

Pe Lipret
 200/100
 Pe Co Tasmu
 40/12.5
 27-3 months

Associate Professor
 Brig DR. INTIAZ AHMED KHAN
 MBBS, FCPS (Medicine) FCPS (Cardiology)

~~ATTACHED~~

Amir J (48)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 222 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 230

Date: 16-2-2018

Jamal Ahmad, (PMS BS-17),
Section officer, Home & TA'S Department.
KPK, Peshawar.



APPELLANT)

VERSUS

1. The Provincial Govt: though Chief Secretary KPK, Peshawar.
2. The Chief Secretary KPK, Civil Secretariat, Peshawar.
3. The Secretary to Govt: Establishment Deptt., KPK, Peshawar.
4. Ms. Humaira Mehmood (PMS BS-17), Section officer Finance Deptt.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 26.01.2018 WHEREBY THE APPELLANT WAS TRANSFERRED PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST REJECTION ORDER DATED 13.2.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO. GOOD GROUNDS.

PRAYER:

Filed today
16/2/18

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 26.1.2018 and 13.02.2018, MAY BE SET ASIDE TO THE EXTENT OF THE APPELLANT BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER & SPOUSE POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER & SPOUSE POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

ATTESTED

(49)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 222/2018

Date of Institution ... 16.02.2018
Date of Decision ... 03.04.2018



Jamal Ahmad, (PMS BS-17).
Section officer, Home & TA'S Department,
Khyber Pakhtunkhwa, Peshawar.

(Appellant)

VERSUS

1. The Provincial Govt: though Chief Secretary Khyber Pakhtunkhwa,
Peshawar and 3 others. (Respondents)

SYED NOMAN ALI BUKHARI,
Advocate.

--- For appellant.

MR. MUHAMAMD RIAZ PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER(Executive)
--- MEMBER(Judicial)


JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was promoted as Section Officer (PMS BPS-17) vide order dated 27.05.2016 and subsequently posted as Section Officer in Home & TA's Department on 07.06.2016. Vide impugned order dated 26.01.2018 he was transferred/posted as Addl. Assistant Commissioner (Rev), Mansehra. He preferred departmental appeal on 01.02.2018, which was rejected on 13.02.2018, hence, the instant service appeal.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

~~ATTESTED~~

50

ARGUMENTS

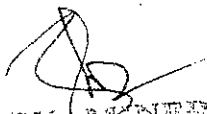
3. Learned counsel for the appellant argued he was promoted as Section Officer (PMS BPS-17) vide notification dated 27.05.2016 and subsequently posted as Section Officer in Home & TA's Department on 07.06.2016. He was prematurely transferred as AAC (Rev) Mansehra. The appellant has not completed normal tenure as S.O Home Department. Wife of the appellant is also serving as Associate Professor (BPS-19) in Higher Education Department at Charsadda. They have two daughters and no other male member is available to look after the family. The case of the appellant is also covered under the transfer of Husband/Wife instructions notified by the Provincial Government on 07.08.2012. Action taken by the respondents also goes against their own instructions circulated on 27.02.2013. No speaking order was passed on the departmental appeal of the appellant, hence, Section-24-A of the General Clauses Act was also violated.

4. On the other hand learned Assistant Advocate General argued that all codal formalities were fulfilled before notifying the transfer of the appellant. Under Section-10 of the Civil Servant Act 1973 every civil servant is required to serve anywhere in the province.

CONCLUSION

5. It is pertinent to mention here that clause-1 of the Posting/Transfer Policy elucidates that all the postings/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government Servants. Clause-IV of the said policy has laid down specified tenure against various posts. Neither this transfer was

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

ATTESTED

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made in public interest nor guidelines for normal tenure were observed. The respondents violated their own instructions circulated vide letter dated 27.02.2013. We are of the view that appellant's case is further fortified by the instructions regarding posting of serving husband/wife circulated by the respondents on 07.08.2012. As his wife is serving as Associate Professor in Higher Education at Charsadda, hence, his case squarely falls in the ambit of aforementioned instructions. They have two grown up daughters and no other male member is available at Peshawar to look after the family. It is otherwise a strong ground for considering his case even ^{on} humanitarian grounds. On this score alone the appellant should not have been transferred to Mansehra. Respondents failed to pass speaking order on the departmental appeal, as such it is hit by Section-24(A) of General Clauses Act, 1897. As a sequel to above, the impugned transfer order is illegal, unlawful and not sustainable in the eyes of law.

6. As a sequel to above, the appeal is accepted. The impugned transfer order is set aside. Parties are left to bear their own costs. File be consigned to the record room.

Announced
03.04.2018

Self - Ahmad Hassan, Mansehra
Self - M. Hummel Nughal, Mansehra

Certified to be true copy

EX-100
Khayber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 17-4-18
 Number of Words 1600
 Copying Fee 10.00
 Urgent 2.00
 Total 12.00
 Name of Copyist [Signature]
 Date of Completion of Copy 17-4-18
 Date of Delivery of Copy 17-4-18

ATTESTED

①
N
Amir (40)
521

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5757

Dated 26/5/2021

538
APPEAL No. _____/2021

Shahida Begum,
Librarian (Bps-17),
Government Girls Higher Secondary School, Chamkani, Peshawar.



..... Appellant

Versus

1. **The Government of Khyber Pakhtunkhwa,**
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.
2. **The Elementary and Secondary Education,**
Through Secretary Elementary and Secondary Education, Government of
Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. **Principal,**
GGHSS, Chamkani
4. **Principal,**
GCET, Jamrud, Khyber District.
5. **Mst. Rubab Tabassum**
Librarian (BPS-17).
GCET, Jamrud, Khyber District.

..... Respondents

Ex. parte on
24/6/21
Filed today

Registrar

26/5/2021

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT 1974 AGAINST THE TRANSFER ORDERS OF THE APPELLANT WHEREBY SHE HAS
BEEN TRANSFERRED/POSTED ILLEGALLY AND WITHOUT LAWFUL AUTHORITY AND**

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

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the next higher authority/the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. It is further provided in the said Para that such appeal shall be disposed of within fifteen days. As far as the office objection based on general waiting of 90 days is concerned, it is not workable in presence of a special condition of 15 days under the policy is in field for disposal of appeal. Therefore, office-objection is overruled. Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 24.06.2021 before the D.B.

stipulated time
not filed

29-6-21

In the prayer part of the appeal, the appellant has also requested for interim relief. Notice of the same be also given to the respondents.

Date of Presentation of Application 29-6-21

Number of Words 1200

Copying Fee 14.00

Urgent 4.00

Total 18.00

Name of Copyist _____

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Chairman

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

VAKALATNAMA

NO. _____/20

IN THE COURT OF KP SERVICE TRIBUNAL PESHAWAR



Appellant
Petitioner
Plaintiff

VERSUS

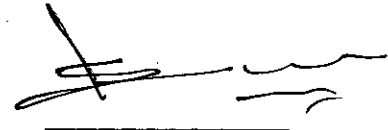
Health Dept

Respondent (s)
Defendants (s)

I/WE Said Abzal

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20



(CLIENT)

ACCEPTED



**SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT**

KPK

خواب چیمبر میں صاحبہ موہائی سرور ٹریبیونل کے پیشاور



Accepted to the Court
along with original
file.
Sooresh
18/10/21

پرواستے بمراد قلم برائے اجراء تنخواہ

خواب عالی! مضمونہ درخواستہ ذیل ہے۔

① یہ کہ سائل BBS ہسپتال ایسے آباد میں بطور کلینکل ٹیڈینے فارمی سے ڈیوٹی سے فراخام دے رہا ہے۔

② یہ کہ ہسپتال مذکور کے MS ڈاکٹر ماسٹرسوار نے ذاتی آنا اور مناد می بنا کر پورے سائل کے زوجہ کے DG ضابطہ کے ملے جگت سے فلائیے ضابطہ تبدیلی سے کچھ اور 8 ماہ تنخواہ بند رکھے۔ چونکہ معزز ٹریبیونل نے تبدیلی کے کو فلائیے ضابطہ قرار دے کر میری زوجہ کے حق میں ضابطہ دیے دیا۔

③ یہ کہ اس دوران ہی MS اور DG ضابطہ نے بلاوجہ اور قانون سے غٹے کر سائل کو کوہستان ٹرانسفر کر دیا۔ جس سے پورے سائل نے معزز ٹریبیونل سے رجوع کیا۔ جس سے پورے سائل نے 22 جولائی کو سائل کو MS اور DG کے احکامات کو مقلے فرما کر تمام امتنا سے جاری فرما کر سائل کو ڈیوٹی جاری رکھنے کے حکم سے جاری فرمائے۔

خواب عالی! عدالت عالیہ کے واضح احکامات کے باوجود سائل کو نہ تو

ڈیوٹی کرنے دیے جا رہے ہیں۔ نہ ہی چار ماہ کے سائل کو تنخواہ دیے جا رہے ہیں۔ جسکی وجہ سے سائل سختے ذبحے اور ماشیے سائل سے دو جا رہے۔ کیونکہ سائل کے گھروں میں واحد مورد ہے۔ ٹھہر سیدہ والدہ اور عارفہ تلبے میں مبتلا زوجہ کے دلجو مالہ کرتا ہے۔

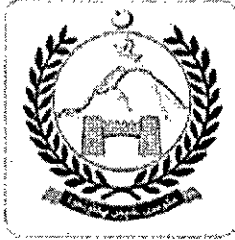
بذریعہ درخواستہ خوابہ سے پہلے ہے کہ سائل کی تنخواہ کے اجراء کے احکامات جاری فرما کر مشکور فرما دیے۔ اور مذکورانہ کے فلائیے کو سب سے عدالت کے احکامات جاری فرمائے تاکہ فلائیے کاروائی فرمائے جائے۔

شکریہ

العادلہ
میدان گل خانہ

C. 7 فارمی سے آباد
BBS ہسپتال ایسے آباد

التعموم 18-95-2021



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2086-87 /ST

Dated: 20/10 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

1. The Director General Health Services,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Medical Superintendent BBS Teaching Hospital,
Government of Khyber Pakhtunkhwa,
Abbottabad.

Subject: ORDER IN APPEAL NO. 7033/2021 MR. SAID AFZAL.

I am directed to forward herewith a certified copy of order dated 18.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

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78

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO.7033 OF 2021

Said Afzal.....Appellant

Versus

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Correct to the extent that appeal of wife of appellant was accepted by the Honorable Tribunal, remaining para is incorrect, baseless and wrong. The appellant was relieved due to his inefficiency.
4. Incorrect, baseless & wrong. Infact the appellant remained habitual absentee as he was warned many times (verbally), but in vain. He was called for explanation on the report of IMU vide office letter No. 6230-32/Estab dated 16/11/2021 (Annex-A). He was found wandering in the Benazir Bhutto Shaheed Teaching Hospital Abbottabad with hooligans (Annex-B, C & D) (video is also available) which created terror among the staff. This act of the appellant was non-professional, which is misconduct and punishable under Efficiency and Disciplinary Rules (E&D Rules, 2011). Furthermore, the appellant hold a press conference without permission of competent authority, and leveled false allegations against the department and provincial authorities (Annex-E). The son of the appellant who is serving in Pakistan Navy also harassed, abused and terrified the respondent No. 03 in office (Annex-F). Consequently appellant was relieved vide office order No. 2413-17 dated 03/05/2021 and directed to report to DGHS Khyber Pakhtunkhwa (Annex-G). Consequently competent authority adjusted him at the

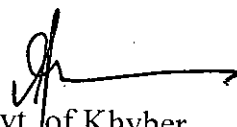
- 79
- disposal of District Health Officer Kohistan at Dassu after 25 years tenure at DHQ Hospital Abbottabad (Annex-H).
5. The departmental appeal of the appellant was regretted being non maintainable as he was transferred on administrative grounds (Annex-I).
 6. Wife of the appellant has been transferred out from BBS Teaching Hospital Abbottabad.
 7. That the appellant is not an aggrieved person within the meaning of Civil Servants Act, 1973.

ON GROUNDS:


- A) Incorrect hence denied. The order dated 03/05/2021 and 25/05/2021 is according to the law and based on facts and norms of justice and material on record in the light of replies submitted in preceding paras. The facts and record reveals that the appellant is not entitled to any relief, hence denied.
- B) Incorrect, baseless & wrong hence denied. Personal hearing is not necessary for transferring of such inefficient officials.
- C) The Wedlock policy is not made to adjust an inefficient and notorious official of the department like appellant hence appellant is not entitled to any relief. Moreover, wife of the appellant has already been transferred out from BBS Teaching Hospital Abbottabad.
- D) Salary is paid for the duty performance by a Civil Servant, and as the appellant did not perform his duty, so the appellant was not paid. Opportunity of personal hearing is not necessary in case of transfer. Moreover, the appellant was transferred on administrative grounds on the recommendations of Respondent No. 3.
- E) Wrong, incorrect & baseless. The appellant has never obeyed the order of competent authority.
- F) Wife of the appellant is 59 years approximately while the appellant is 54 years old and they both have served this hospital for the last 32 years.
- G) Wrong, baseless hence denied.
- H) Wrong, baseless hence denied.
- I) The allegations leveled against the appellant are true, correct and are supported by the evidence.
- J) Pertains to record.
- K) The replying respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

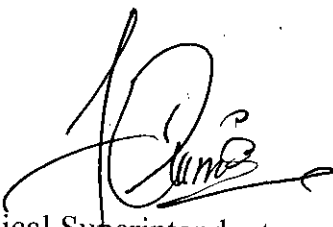
PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.


Secretary to Govt. of Khyber
Pakhtunkhwa Health Department
Respondent No. 01




Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 02


Medical Superintendent
Benazir Bhutto Shaheed Teaching Hospital
Abbottabad
Respondent No. 03

Annex-(A)

**OFFICE OF THE MEDICAL SUPERINTENDENT
BBS TEACHING HOSPITAL ABBOTTABAD**

Tel # 0992-9310191, Fax # 0992- 9310193
Email id: dhqabbottabad@yahoo.com

80 (A) (B)

No. 6230-32 / Estab
Dated ATD the 16/11 / 2020.

3


1. Dr. Irda (WMO)
2. Said Afzal (CT Pharmacy)
3. Maliha Javed (CT Dental)

Subject: EXPLANATION

During the surprised visit of IMU Team on 14/11/2020 from 9.00am to 01:00 pm you were found absent from your duties without permission.

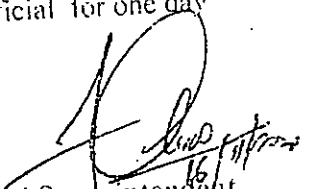
You are well aware about the fact that willful absent from duties for a single day is tantamount misconduct, which is liable to preceded disciplinary action against a civil servant under E& D rules 2011.

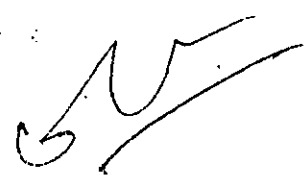
You are hereby directed to reassume your duties immediately and explain the reason of willful absence; otherwise you will be dealt under E&D rules 2011.


 Medical Superintendent
 BBS Teaching Hospital
 Abbottabad

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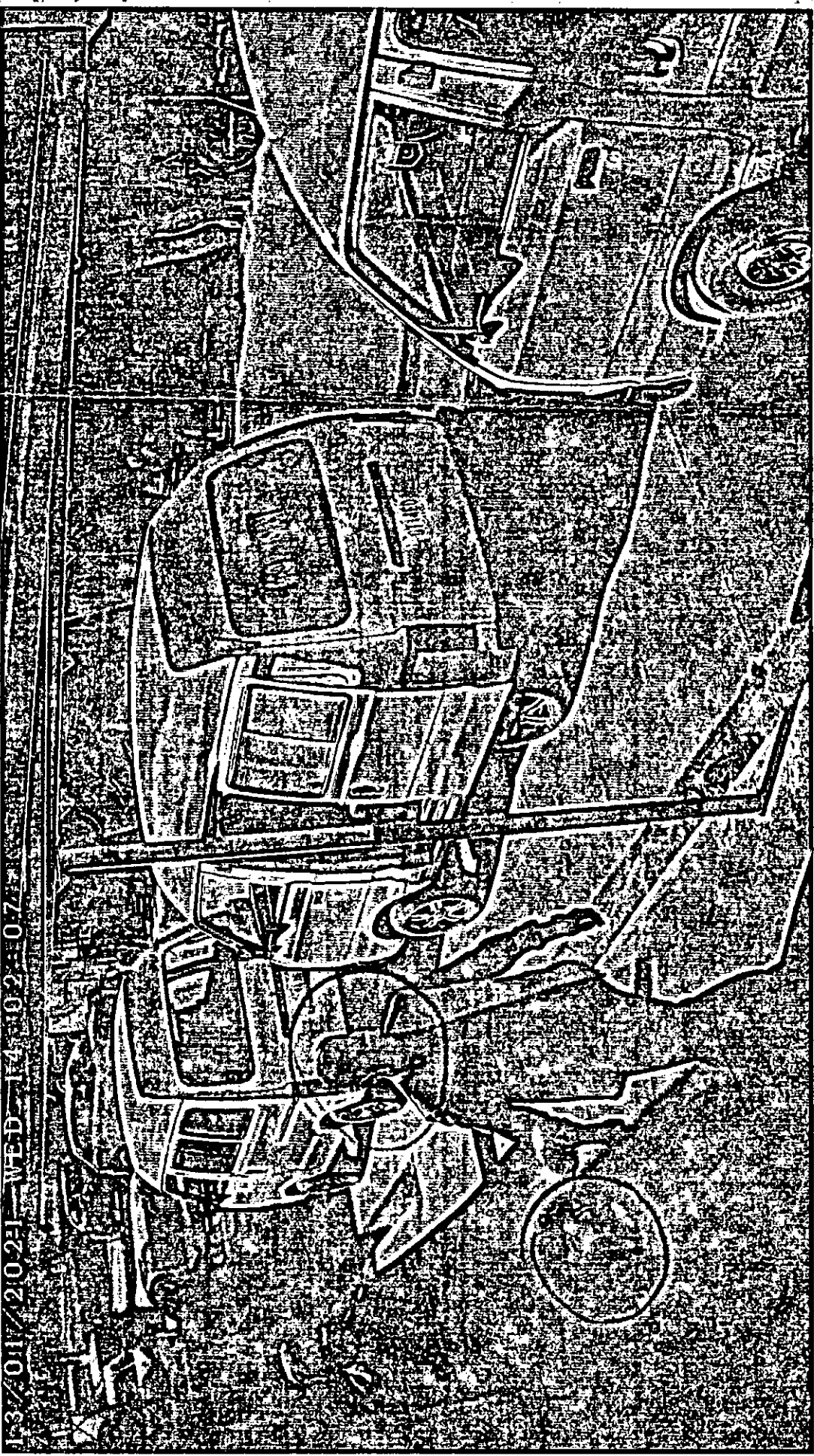
1. Accounts Section of undersigned office to deduct the pay of officer/official for one day
2. DMO-IMU, Hazara -I for information.


 Medical Superintendent
 BBS Teaching Hospital
 Abbottabad



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Amek 'B



13/01/2021 WED 14:02:07



13/01/2021 WED 14:02:08

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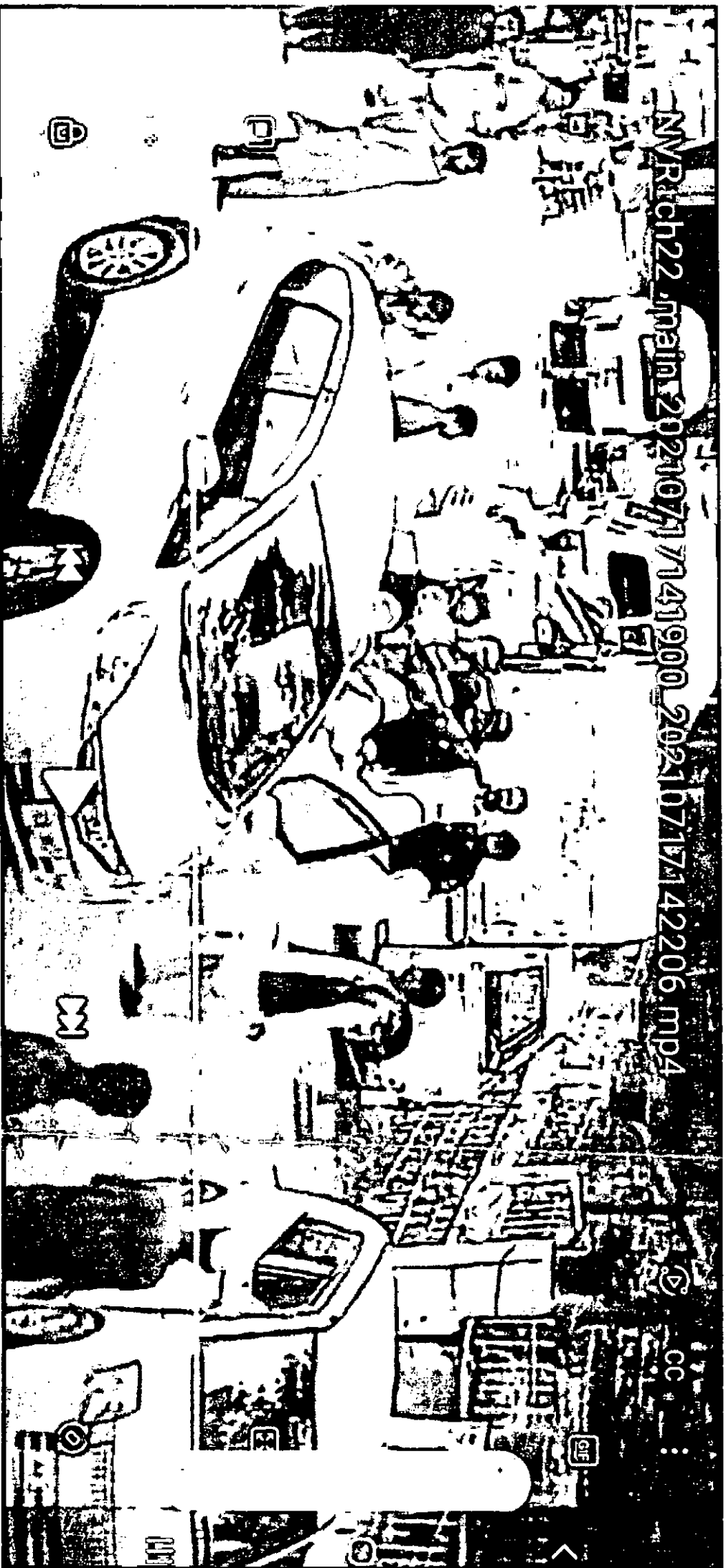
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ایک اور جگہ پر سیکرٹری کے دل کا دورہ



بواحقہ صحت کی خلاف ورزی

انصاف؟



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cc :

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Annex
(=F=)

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Annex 'G'

Page (4) 86



**OFFICE OF THE MEDICAL SUPERINTENDENT,
BBS TEACHING HOSPITAL, ABBOTTABAD**

Tel # 0992-9310191, Fax # 0992- 9310193
Email Id: dhqabbottabad@yahoo.com

9

OFFICE ORDER:-

You Mr. Said Afzal CT resident of Village and post office Panian District Haripur (domiciled of District Haripur) Serving as Pharmacy BPS-12 in BBS Teaching Hospital Abbottabad.

During your posting in BBS Teaching Hospital; record reflected from your personal file, you remained habitually absent from your duties.

Many times you were warned to mend your behavior but all were in vain. Recently you wandered in this Hospital with hooligans, with arms which created terror amongst the staff and confessed in the press conference (on social media) record available.

Later on you made a press conference without permission and leveled allegation which badly affect the good reputation of the Institution, Department and higher Provincial authorities.

In such circumstances; this hospital is not in position to hold the burden of such problematic official, as on other side whole health staff is combating against the corona virus.

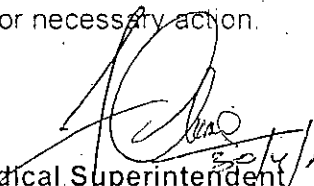
So, the services of such reluctant and derogant official are no more required at BBS Teaching Hospital Abbottabad, therefore; You Mr. Said Afzal S/o Muhammad Afzal Khan CT Pharmacy BPS-12 is hereby relieved off from your duty from BBS Teaching Hospital Abbottabad and directed to report to Director General Health services Khyber Pakhtunkhwa Peshawar for further adjustment anywhere in the province.

Sd/---
Medical Superintendent
BBS Teaching Hospital
Abbottabad

No: 2413-17 Dated: 03/05/2021

Copy to the:-

1. Director General Health services Khyber Pakhtunkhwa Peshawar for information.
2. PS To Secretary Health Govt of Khyber Pakhtunkhwa Peshawar for information.
3. District Accounts Officer Abbottabad.
4. Accounts officer /Accounts Section of undersigned office for necessary action.
5. Official for immediate compliance.


Medical Superintendent
BBS Teaching Hospital
Abbottabad

Medical Superintendent
BBS Teaching Hospital
Abbottabad.

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DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications should be made to the Director, Health Services, Peshawar and not to any other office.
Phone: (035) 241317, 241318, 241319, 241320, 241321, 241322, 241323, 241324, 241325, 241326, 241327, 241328, 241329, 241330, 241331, 241332, 241333, 241334, 241335, 241336, 241337, 241338, 241339, 241340, 241341, 241342, 241343, 241344, 241345, 241346, 241347, 241348, 241349, 241350, 241351, 241352, 241353, 241354, 241355, 241356, 241357, 241358, 241359, 241360, 241361, 241362, 241363, 241364, 241365, 241366, 241367, 241368, 241369, 241370, 241371, 241372, 241373, 241374, 241375, 241376, 241377, 241378, 241379, 241380, 241381, 241382, 241383, 241384, 241385, 241386, 241387, 241388, 241389, 241390, 241391, 241392, 241393, 241394, 241395, 241396, 241397, 241398, 241399, 241400

OFFICE ORDER

On this, following from BBS Teaching Hospital Abbottabad, Mr. Saad Azeem, Chief of Pharmacist (Pharmacy) BS-12 is hereby transferred / posted to the disposal of DHO Kohistan Upper against the vacant post of Chief Pharmacist (Pharmacy) BS-12 on Administrative grounds with immediate effect.

NB: - Arrival/Departure report should please be submitted to this Directorate for record.

DIRECTOR GENERAL HEALTH SERVICES, K.P. PESHAWAR.

No. 3285-90/AT/VI Dated Pesh. The 25/05/2021
Copy forwarded to the

- 01 Medical Supdt. BBS Teaching Hospital Abbottabad w/r to his office order No. 2413-17/ dated 03.05.2021.
- 02 District Health Officer, Kohistan Upper.
- 03 District Accounts Officer, Abbottabad.
- 04 District Accounts Officer, Kohistan.
- 05 Official concerned.
- 06 Incharge Promotion Cell, D.G.H.S. K.P. Peshawar.

DIRECTOR GENERAL HEALTH SERVICES, K.P. PESHAWAR

18/5/21

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Annex ^{11 21} E

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**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications Should be Addressed to The Director General
Health Services Peshawar and not to any official by name
Office: Ph (+091 - 9210269) Exchange: (+091 - 9210187, 091 - 9210196) Fax (+091 - 9210230)

No. 7080-82 /AE.VI, Dated Peshawar the 02/07/2021

To:-

Mr. Said Afzal S/O Muhammad Afsar Khan,
Clinical Technician (Pharmacy) BS-12
C/O BBS Teaching Hospital, Abbottabad

Subject:
Memo:-

APPEAL FOR CANCELLATION OF TRANSFER ORDER.

Reference your application dated 07.05.2021 on the subject
noted above.

Your request for cancellation of transfer order from BBS
Teaching Hospital Abbottabad at the disposal of DHO Kohistan Upper is
regretted.

**ADD: DIRECTOR GENERAL (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES, KP PESHAWAR**

MD
28/6/21

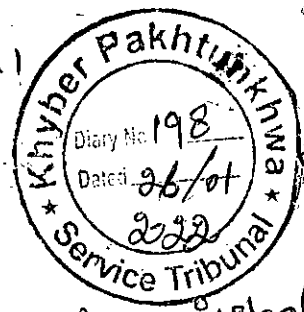
C.C

1. Medical Supdt. BBS Teaching Hospital Abbottabad.
 2. District Health Officer, Kohistan Upper.
- For information and necessary action.

Before the KP Service Tribunal, Peshawar

Put up to the worthy chair-man with appeal.

Appeal No: 7033/21



Health Deptt.

Said Afzal

vs

Read 26/1/22.

Subject: Application for early hearing instead of 01/02/2022

Said Afzal

NFA

27/1/2022

Respectfully sheweth:

1. That the above mentioned appeal is pending in Argument stage & fixed for Arguments.
2. That on previous date the appeal was adjourned due to Bench was incomplete & the next date was given as 01/02/2022 which is too lay date.
3. That in the instant appeal transfer matter is involved therefore needs urgent disposal in interest of Justice.

It is, therefore kindly requested that kind allowed this application and the date may be fixed early instead of 01/02/2022.

Appellant

through

Syed Noor Ali

Associate High Court