

Service Appeal No. 5795/2020

Titled "Siraj Mehmood versus Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa and others".

ORDER

6th July, 2023

KALIM ARSHAD KHAN, CHAIRMAN: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

02. The point involved in this and the connected Appeals No. 5796 to 5802/2020 is quite simple that the appellants seek similar treatment as was meted out to the other similarly placed people, who had filed appeals before this Tribunal. Learned counsel for the appellants submitted that the appellants would be satisfied if the matter was sent to the department for consideration of the prayer of the appellants in the light of various judgments of this Tribunal in Service Appeal No. 639/2017 titled "Lutf-e-Hakeem vs Health Department and others" and Service Appeal No 902/2019 titled "Inayat Ullah vs Director General Health Services, Khyber Pakhtunkhwa and others", if they were otherwise found eligibility/fitness for the desired relief in accordance with law/rules. Order accordingly but only in case the appellants are found similarly placed with those to whom relief was granted by the Tribunal. Copy of this order be also placed in all the connected appeals mentioned above. Consign.

03. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 6th day of July, 2023.*



(Rashida Bano)
Member(Judicial)



(Kalim Arshad Khan)
Chairman

Adnan Shah

SCANNED
KPKPST
Peshawar

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

No 365/2021

1. Aman Iqbal S/o Khurshed Iqbal R/o Khan Sher Gatta,
Pabbi P O Khass, District Nowshera

2. Nawad Khan S/o Ikhlas Khan R/o Mohallah Umar Khan
Pabbi, District Nowshera.

3. Mian Sajid Ali S/o Mian Khuda Bakhsh (late) R/o Hussain
Mian, Mian Khel, Pabbi, Tehsil and District
Nowshera (Petitioner)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary
Health Civil Secretariat, Peshawar

2. Director General Health, Khyber Pakhtunkhwa, Health
Directorate, Warsak Road, Peshawar

3. Superintendent (M.S) Raja Hospital, Sargodha
Memorial Hospital Pabbi District Nowshera

4. District Health Officer at Pabbi District Nowshera
Respondent

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

WP 2655-2021 Aman Iqbal VS GOVT OF PK

Respectfully Sheweth:

2

1. That petitioners are law abiding citizens of Pakistan and residing in Khyber Pakhtunkhwa, thus protected under the law of the land an Constitution of Pakistan, 1973.
2. That petitioner No. 1 was appointed in the year 2017, petitioner No. 2 in the year 2010 and petitioner No. 3 in the year 2010 as Muslim Sweepers. (Copies of appointment orders are attached as annexure "A").
3. That petitioners several times requested respondents/ department to alter the post from Muslim Sweeper to Ward Orderly, Chowkidar, Mali or any others Class-IV Post/ Vacancy but till date in.
4. That the said policy of merging Muslim Sweepers to other above mentioned Class-IV was circulated by the Provincial Government in the year 2006 vide No. SOH-III/1-179/06 (Class-IV), dated 25/07/2006. (Copy of minutes of meeting is attached as annexure "B").

W.P No.2655-P/2021

Usman Iqbal and 02 others

Vs

Government of Khyber Pakhtunkhwa through Secretary
Health, Civil Secretariat, Peshawar, and 03 others

Date of hearing: 03.11.2022.

Mr. Shah Faisal Ilyas, Advocate, for the petitioners

Syed Asif Jalal, AAG, alongwith Dr. Sarfaraz Ahmad, District
Specialist Surgery, on behalf of respondent No.3

JUDGMENT

ISHTIAQ IBRAHIM, J.- Through the instant writ petition, petitioners, have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, seeking the following prayer:

"It is, therefore, most humbly prayed that on acceptance of instant writ petition, this Hon'ble Court may very graciously be pleaded to direct the respondents to change the posts/cadre of petitioners from Muslim Sweepers to Ward Orderly, Chowkidar etc, which continuous service of seniority against initial appointment.

Any other relief deems fit/proper by this Hon'ble Court, which has not specifically been asked for may also be granted in favour of petitioners."

2. Heard.

~~ATTESTED~~
EXAMINER
Peshawar High Court

1 Para-1 of the comments of respondent No 1 is reproduced here asunder.

"Respondent No.1 was not appointing authority during petitioner's appointments and received no application regarding changing designation"

4 From para-3 of the comments of respondent No 1 it is clear that the petitioners have not applied to the concerned authority, therefore this writ petition be treated as representation application for change of cadre and the respondents shall be considered if as per rules and law and shall pass an appropriate order within two months time

5 This writ petition is disposed of in the above terms

Announced
03.11.2022

JUDGE

**DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

Correspondence should be addressed to the Director General Health Services
Peshawar and not to any official by name E-Mail Address K.P.K@khyber.gov.pk
Office # 091-9210260 Exchange # 091-9210187 9210196 Fax # 091-9210230

NO. 13678 /Personnel

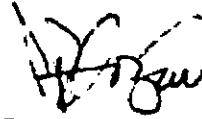
Dated: 13/12/2022

The Medical Superintendent
Mian Rashid Hussain Shaheed Memonal Hospital
Nowshera.

Subject:- DECISION OF PESHAWAR HIGH COURT PESHAWAR

Reference to your letter No. 2727-28/MRHSM dated 17 11 2022 on the
subject noted above

Please implement the decision of Peshawar High Court Peshawar in letter
& spirit under intimation to this Directorate.

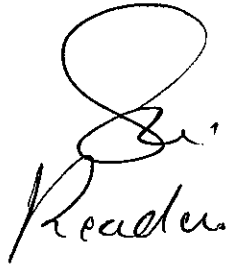


Add: Director General HRM)
Directorate General Health Services
Khyber Pakhtunkhwa Peshawar

29/12/22

01/02/22

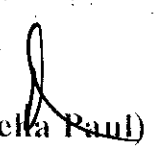
Deleted from the list
to come up on the
next date 27/2/23

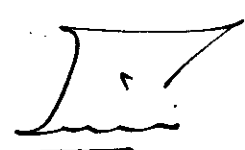

Reader

27th Feb, 2023

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought time for preparation of arguments. Last opportunity given. To come up for arguments on the questions formulated in order sheet dated 09.06.2021, on 25.04.2023 before the D.B. P.P given to the parties.


(Farzeela Paul)
Member (E)


(Salah-ud-Din)
Member (J)

25th April, 2023

25th April has been declared as public holiday on account of Eid-UI-Fitr, therefore, the case is adjourned. To come up for the same on 06.07.2023.


Reader

03.06.2022

Bench is incomplete, therefore, case is adjourned to 22.08.2022 for the same as before.



Reader.

22.08.2022

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

After hearing learned counsel for the appellant at certain length, he was asked to address arguments regarding the questions formulated in order dated 19.06.2021 passed by this tribunal, upon which he sought time for preparation. Adjourned. To come up for arguments on 29.09.2022 before the D.B.


(Rozina Rehman)
Member(J)


(Salah-Ud-Din)
Member(J)


29.09.2022

Junior counsel for appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

File to come up alongwith connected Service Appeal No.5795/2020 titled "Siraj Mehmood Vs. Government of Khyber Pakhtunkhwa" on 01.12.2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

15.12.2021 Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Fayyaz Ahmad, Assistant for respondents present.

Written reply/comments not submitted. Representative of the respondents seeks time to submit the same on the next date. Granted but as a last chance. To come up for written reply/comments on 28.02.2022 before S.B.

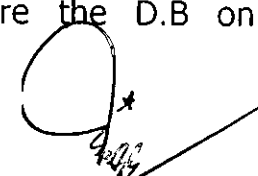

(MIAN MUHAMMAD)
MEMBER (E)

28.02.2022 Due to retirement of the Wor.hy Chairman, the Tribunal is defunct. therefore, case is adjourned to 17.05.2022 for the same as before.

Reader

17.05.2022 Learned counsel for the appellant present. Mr. Muhammad Adael Butt, Addl. AG for the respondents present.

Written reply/comments on behalf of respondents have been already submitted through office on 17.02.2022. Ccopy of the same is handed over to the learned counsel for the appellant today. To come up for arguments before the D.B on 03.06.2022.


(Mian Muhammad)
Member (E)

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.



Chairman

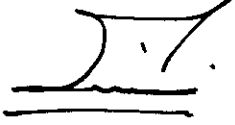
Stipulated period passed reply not submitted.

29.07.2021

Mr. Khair-ul-Wahab, Advocate, for the appellant present. Mr. Jaffar Ali, Assistant and Dr. Suleman, Medical Officer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned Deputy District Attorney sought adjournment for arguments. Adjourned. To come up for arguments before the D.B on 24.09.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned A.A.G alongwith Dr. Waleed Litigation Officer for respondents present.

Reply on behalf of respondents is still awaited. Representative of respondents requests for time to furnish reply; granted with direction to furnish the same within 10 days in office positively. To come up for arguments on 15.12.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

In view of the above questions, 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 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 29.07.2021 before the D.B.

Appellant Deposited
Security & Process Fee

18/6/21


Chairman

09.06.2021

Counsel for the appellant present. Preliminary arguments heard.

The appellant seeks relief on the basis of policy reflected in minutes of meeting regarding problems of Class-IV Paramedics Employees which was circulated by the Government of Khyber Pakhtunkhwa, Health Department vide letter No. SOH-III/1-79-06(Class-IV) dated 25.07.2006 addressed to different Authorities. It is in the prayer of the appellant that the respondents may be directed to implement the said policy and to promote him as Ward Orderly, Ward Attendant, Chowkidar, Mali or any other Class-IV posts on the basis of seniority.

In view of the peculiar nature of the policy pressed into service and relief sought there-under, some questions are very pertinent to be dealt with in accordance with law, which hereinafter follow:-

1. Whether the policy contained in minutes of meeting dated 12.07.2006 circulated by letter dated 25.07.2006 is valid under Article 8 r/w Article 25 and 27 of the Constitution of Islamic Republic of Pakistan?
2. If the first question is answered in positive, whether the present appeal is maintainable?
3. If the policy in question is held as unconstitutional, whether the judgments so far rendered by this Tribunal on the basis of above mentioned policy will have any binding effect as precedent?

28.09.2020

Counsel for the appellant present.

Appellant has submitted an application for amendment in Appeal No. 5795/2020. It is agitated through the application that respondent No. 2 has decided the departmental appeal after submission of service appeal, therefore, the grounds there against were not initially included in the memorandum of appeal.

Subject to all just exceptions, the application is allowed. The appellant may submit amended appeal within two weeks. To come up for further proceedings on 25.11.2020 before S.B.


Chairman

25.11.2020

Junior counsel for appellant is present. He requested for adjournment that his senior counsel is not available today. Adjourned to 23.02.2021 on which date file to come up for further proceedings before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

23.02.2021

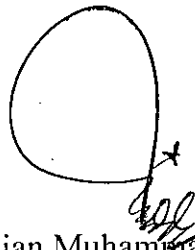
The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 09.06.2021.


Reader

17.07.2020

Counsel for the appellant present. Preliminary arguments to some extent heard. The appellant was appointed as Muslim Sweeper/Bheshti on 14.06.1993. That on 12.07.2006 Health Department framed a policy that all Health Institutions should promote Muslim Sweeper against the existing vacancy of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on the basis of seniority. That Respondent No.3 (District Health Officer/Executive District Health, Tehsil Lahor District, Swabi) has secretly conducted interviews for the appointment of fresh candidates violating the above promotion policy. That there are about 200 vacancies of Class-IV to be filled in the manner devised in the policy dated 12.07.2006 and duly circulated on 25.07.2006. The appellant filed writ petition No. 5032/2019 before the Peshawar High Court, Peshawar which was disposed off on 19.02.2020 treating the writ petition as representation and sent to the respondents to decide the same within thirty days, hence, the instant service appeal. The learned counsel for the appellant also quoted judgment of this Tribunal in Service Appeal No. 639/2017 dated 13.12.2018. Pre-admission notice be issued to learned AAG to assist the court on point of law.

Adjourned to 28.09.2020 before S.B.


(Mian Muhammad)
Member(E)



P

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. - 5795 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/06/2020	<p>The appeal presented today by Mr. Khair-ul-Wahab Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17/07/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

SCANNED
KPST
POSTAWAT

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

Amended Service Appeal No. 5795 of 2020

Siraj Mehmood Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Health
KPK, Civil Secretariat Peshawar and other
..... Respondents

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S.No.	Description of documents	Annexure	Pages
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2.	Copy of appointment order/letter	"A"	8
3.	Copy of policy	"B"	9-13
4.	Copies of judgment of this Hon'ble Tribunal	"C"	14-27
5.	Copy of judgment dated 19/02/2020	"D"	28-30
6.	Copy of order dated 17/07/2020	"E"	31
7.	Copy of order dated 28/09/2020	"F"	33

Dated 25/11/2020

Appellant

Through

Khair ul Wahab Youafzai
Advocate,
High Court Peshawar
Cell # 0300-5952824

1

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



Amended Service Appeal No. 5795 of 2020

Siraj Mehmood S/o Sultan Mehmood Posted as Muslim
Sweeper at Tehsil Head Quarter Hospital (THQ)
Lahor, Tehsil Lahor District Swabi

... .. Appellant

VERSUS

- 1) Govt of Khyber Pakhtunkhwa through Secretary
Health KPK, Civil Secretariat Peshawar.
- 2) Director General Health Khyber Pakhtunkhwa, Civil
Secretariat Peshawar.
- 3) District Health Officer/Executive District Health
Officer Health Lahor, District Swabi

... .. Respondents

**APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974.**

Prayer:

On acceptance of the instant appeal!

- i- The impugned order dated 17/07/2020 passed by the respondent No.2, during the pendency of original appeal may kindly be set aside.
- ii- The respondents may kindly be directed to implement the policy i.e. Health Deptt: Letter No.SOH-III/1-779/06 (Class-IV) dated 25th July 2006 to promote the

appellants as ward orderly/ward attendant, Chowkidar, Mali or any other Class-IV posts on the basis of seniority.

Respectfully Sheweth:

Brief Fact:

- 1) *That the appellant/petitioner was appointed as Muslim Sweeper/Behashti on 14/06/1993 (Copy of appointment Letter/order is attached as Annexure "A").*
- 2) *That the appellant / petitioner has performed his duties after the satisfaction of his seniors without no complaint on his part.*
- 3) *That in the year 25/07/2006 Health Department framed policy for promotion of Class-IV employees working in various Hospitals of the province which was duly circulated to all concerned vide No.SOH-III/1-179/06 (Class-IV) dated 25/07/2006 but respondents failed to implement the same till date. (Copy of policy is attached as Annexure "B").*

- 4) That respondent No.3 has secretly conducted interviews to appoint other persons / fresh candidates against the vacant posts of Ward orderlies, Attendants, Chowkidars etc.
- 5) That the respondents are reluctant to promote the appellants from the post of Muslims Sweepers in spite of clear cut policy.
- 6) That this Hon'ble Service Tribunal has already allowed various appeal on the basis of above mentioned policy. (Copies of this Hon'ble Tribunal judgments are attached as Annexure "C").
- 7) That the appellant amongst others filed writ petition No.5032 / 2019 before Peshawar High Court Peshawar which was disposed off on 19/02/2020 and was sent as representation to respondents to decide the same representation within 30 days but respondents failed to decided within time. (Copy of judgment dated 19/02/2020 is attached as Annexure "D").
- 8) That during the pendency of the Service appeal respondent No.2 by passing the impugned order dated 17/07/2020 rejected the plea of the appellant's. (Copy of the impugned

order dated 17/07/2020 is attached as Annexure "E").

- 9) That the appellant's was allowed to amend the service appeal vide order dated 28/09/2020 by this Hon'ble Tribunal. (Copy of order dated 28/09/2020 is attached as Annexure "F").
- 10) That appellant is constrained to approach this Hon'ble Tribunal for redressal of his grievances on the following ground:

Grounds:

- A) That the treatment of the respondents with the appellant is discriminatory, ultra virus of the service Rules and regulations.
- B) That the treatment of the respondents are colorable and futile exercise of the department.
- C) That the non action of the respondents are arbitrary, unlawful and against the

fundamental rights and judgments of apex Courts.

D) That acts and omission of the respondents are contrary to rules laid down by the Supreme Court of Pakistan.

E) That appellant may also be allowed to rely on additional grounds at the time of arguments.

It is, therefore, humbly prayed that!

On acceptance of the instant appeal!

- i- The impugned order dated 17/07/2020 passed by the respondent No.2, during the pendency of original appeal may kindly be set aside.*
- ii- The respondents may kindly be directed to implement the policy i.e. Health Deptt: Letter No.SOH-III/1-779/06 (Class-IV) dated 25th July 2006 to promote the appellants as ward orderly/ward attendant, Chowkidar, Mali or any other Class-IV posts on the basis of seniority.*
- iii- Any other remedy / relief deemed appropriate may also be granted to the appellant.*

Interim relief:

Byway of interim relief the respondents may kindly be restrained not to appoint any other fresh candidates on the available vacant posts of Ward Orderly, Attendant, Mali, Chowkidar and other class-IV in different Hospitals in District Swabi till the final disposal of this appeal.

Dated 25/11/2020

[Signature]
Appellant

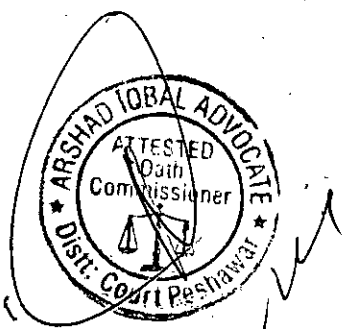
Through

[Signature]
Khair ul Wahab Youafzai
Advocate,
High Court Peshawar

Verification;

Verified that no such like appeal has earlier been filed before this Hon'ble Tribunal.

[Signature]
DEPONENT



[Handwritten signature]
21/11/20

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Amended Service Appeal No. _____ of 2020

Siraj Mehmood Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Health
KPK, Civil Secretariat Peshawar and others

... .. Respondents

**APPLICATION FOR AD-INTERIM
RELIEF TILL THE FINAL DISPOSAL OF
THE INSTANT AMENDED APPEAL.**

Respectfully Sheweth:

- 1- That the petitioner has filed an amended appeal before this Hon'ble Tribunal in which is fixed for 23/02/2021.
- 2- That respondent No.3 is appointing fresh candidates, violating the policy and rules laid down and fundamental rights applicant /appellant.
- 3- That the applicant/appellant has prima facie case and is hopeful for success of this application.
- 4- That the balance of convenience also lies in favour of petitioner.
- 5- That if the respondents are not restrained from appointing fresh candidates; the applicant / appellant would suffer irreparable loss.

It is, therefore, prayed that on acceptance of this application the, respondent may kindly be restrained not to appoint fresh candidates i.e. Ward orderly, Attendant, Chowkidar, Mali or any other Class-IV on the vacant posts till the final decision of this amended appeal.

Dated 25/11/2020

Appellant

Through

Khair ul Wahab Youafzai

Advocate,

High Court Peshawar

Cell # 0300-5952824

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

Amended Service Appeal No. _____ of 2020

Siraj Mehmood Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Health
KPK, Civil Secretariat Peshawar and others

..... Respondents

ADDRESSES OF THE PARTIES

Appellant

Siraj Mehmood Son of Sultan Mehmood Posted as
Muslim Sweeper at Tehsil Head Quarter Hospital
(THQ), Lahor District Swabi

Respondents

- 1- Govt of Khyber Pakhtunkhwa through
Secretary Health KPK, Civil Secretariat
Peshawar.
- 2- Director General Health Khyber Pakhtunkhwa,
Civil Secretariat Peshawar. District Health
Officer/Executive District Health Officer
Health Lahor, District Swabi

Dated 25/11/2020

Appellant

Through

Khair ul Wahab Youafzai
Advocate,

High Court Peshawar

Cell # 0300-5952824



8

Amman "A"

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI.

True copy
B. M.

OFFICE ORDER

As recommended by Sher Zaman Sher Minister for Agriculture/Fisheries & Wildlife NWFP, Peshawar Mr. Siraj Mahmood S/O Sultan Mahmood Village Lahore, Rapuri Tehsil Lahore District Swabi is hereby appointed as Behisti/Sweeper on fixed pay Rs. 1200/-P.M in Basic Health Unit Lahore, on the following terms and condition.

1. His domiciled of district Swabi.
2. He will be considered paid Govt. servant.
3. His services purely temporary and liable to termination at any time without reason.
4. He should report for duty at Basic Health Unit Lahore.

Sd/-----
District Health Officer,
Swabi.

3026-29/9-Behisti

Dated Swabi the 21/9 6/1993.

A Copy is forwarded to the:-

1. Sher Zaman Sher Minister for Agriculture Fisheries & Wildlife, NWFP, Peshawar.
2. Mr. Siraj Mahmood S/O Sultan Mahmood, Village Lahore Rapuri, Teh, Lahore District Swabi.
3. Account Clerk, DHO, Office, Swabi.

District Health Officer,
Swabi.

ATTESTED
B. M.

REGISTERED TO
B. M.

Attested to be true copy
B. M.

8/A

BETTER COPY

OFFICE OF THE DISTRICT HEALTH OFFICER, SWABI

OFFICE ORDER

As recommended by Sher Zaman Sher Minister for Agriculture/Fisheries & Wildlife NWFP, Peshawar Mr. Siraj Mehmood S/o Sultan Mehmood Village Lahor, Rapuri Village Lahor, District Swabi is hereby appointed as Behshti/Sweeper on fixed pay Rs.1200/- PM in Basic Health Unit Lahor, on the following terms and conditions.

1. His Domiciled of District Swabi
2. He will be contingent paid Govt Servant.
3. He services purely temporary and liable to termination at any time without reason.
4. He should report for duty at Basic Health Unit Lahor.

Sd/-
District Health Officer,
Swabi

14-6-1993

No.3026-29/Behshti

Dated Swabi the 19/06/1993

A Copy is forwarded to the:-

1. Sher Zaman Sher Minister for Agriculture Fisheries & Wild Life, NWFP, Peshawar.
2. Mr. Siraj Mehmood S/o Sultan Mehmood Village Lahor Rapuri, Tehsil Lahor, District Swabi.
- 3.
4. Account Clerk, DHO, Office Swabi.

Sd/-
District Health Officer,
Swabi

9

ANNEXURE - B

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

No. SOH-III/1-179/06 (Class-IV)
Dated 25th July, 2006

Attested to be
true copy
B-78

To

- 1) The Director General Health Services, NWFP, Peshawar.
- 2) The Chief Executives, LRH/KTH/HMC, Peshawar and ATH, Abbottabad.
- 3) Dr. Muhammad Rahim Jan Afridi, Director Admn. Directorate General Health Services, NWFP, Peshawar.
- 4) Dr. Abdus Sabooh Bacha, Medical Supdt., Hayatabad Medical Complex, Peshawar.
- 5) Dr. Iftikhar Ahmad, Deputy Medical Supdt., Ayub Teaching Hospital, Abbottabad.
- 6) Dr. Farman Ali, RMO, Khyber Teaching Hospital, Peshawar.
- 7) Mr. Javed Khan, President, Provl. Paramedical Association, Class-IV Employees, NWFP, Peshawar.

Subject: MINUTES OF MEETING REGARDING PROBLEMS OF CLASS-IV PARAMEDICS EMPLOYEES.

I am directed to refer to the subject and to enclose herewith a copy of minutes of subject meeting held on 12.07.2006, at 10:00 hours, under the chairmanship of Secretary Health, duly signed by all the participants, for further necessary action please.

for

Shahidullah
Section Officer-II

Encls. No. & Date Even.

Copy to PS to Secretary Health.

for

S
Section Officer-III

ATTESTED
B. A. Khan
B. A. Khan

ATTESTED

(10)

Subject: MINUTES OF MEETING REGARDING PROBLEMS OF CLASS-IV PARAMEDICS EMPLOYEES.

A meeting on the subject was held under the chairmanship of Secretary Health Department in Committee Room of Health Deptt. on 12/07/2006 at 10:00 AM.

- 2- The following attended the meeting.
- 1) Mr. Abdus Samad Khan, Secretary to Govt. of NWFP, Health Deptt.
 - 2) Prof. Abdus Samad Khan, Chief Executive Govt. Lady Reading Hospital, Peshawar.
 - 3) Dr. Muhammad Rahim Jan Afridi, Director Admn., Directorate General Health Services, NWFP, Peshawar.
 - 4) Dr. Abdus Sabooh Bacha, Medical Supdt., Hayatabad Medical Complex, Peshawar.
 - 5) Dr. Itikhar Ahmad, Deputy Medical Supdt., Ayub Teaching Hospital, Abbottabad.
 - 6) Dr. Farman Ali, RMO, Khyber Teaching Hospital, Peshawar.
 - 7) Mr. Javed Khan, President, Provl. Paramedical Association Class-IV Employees, NWFP, Peshawar.
 - 8) Mr. Naseer Khan, General Secretary, Provl. Paramedical Association Class-IV Employees, NWFP, Peshawar.
 - 9) Mr. Hakim Jan, General Secretary, Provl. Paramedical Association Class-IV Employees, Hayatabad Medical Complex, Peshawar.
- 3- The meeting started with recitation of the Holy Quran.
- 4- The Chair welcomed the participants.
- 5- The demands presented by the Provl. Paramedical Association Class-IV Employees, were discussed in detail and the following decision were taken

- i) The Association demanded that service structure for Class-IV paramedical employees, may also be framed.

Decision

It was decided that the Director General Health Services NWFP will come up with a self-contained case with full justification. The demand will be recommended and will be forwarded to Finance Department.

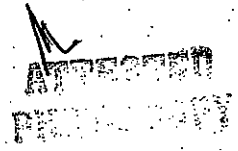
- ii) The Association demanded that Contract Policy may be implemented in Teaching and all other Health Institution of the Province.

Decision

It was decided that the Director General Health Services, and all the Chief Executives of Health Institutions may be directed to implement the Contract Policy of the provincial Government and all other relevant instructions in letter and spirit.

ARC 12/7/06





(11) (2)

iii) The Association demanded that children of retired Class-IV paramedical employees may be given preference when appointments are made against the vacant posts in Health Institutions.

Decision

It was decided that instructions circulated by the Health Department vide letter No. SOH/11/7-350/95-I dated 01.11.1997, may be followed strictly. The Medical Supdt., Khyber Teaching Hospital, should submit a report within fortnight in this regard.

iv) The Association demanded advance increments on the basis of higher qualifications, for Class-IV paramedical employees.

Decision

It was decided that instructions of Finance Department, in this regard will be implemented strictly, in all Health Institutions.

v) The Association demanded relaxation of science subjects for admission in different health technology courses, for Class-IV paramedical employees.

Decision

It was decided that if any Class-IV paramedical employee has completed the required qualification for admission in different health technology courses, according to the prescribed criteria, may be allowed to participate in the examination of different health technologies, conducted by NWFP, Medical Faculty, after completion of all codal formalities.

vi) The Association demanded that all Class-IV employees may be promoted to Class-III posts, existing in different Health Institutions.

Decision

It was decided that Class-IV employees may be given preference while filling the posts of promotion quota as per rules.

vii) The Association demanded for 33% Selection Grade for Class-IV paramedical employees.

Decision

It was decided that the demand of 33% Selection Grade will be included in revised service structure of Class-IV paramedical employees.

viii) The Association demanded Dress/Washing Allowance for all Class-IV paramedical employees.

18/11/97

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(12) (3)

Decision

It was decided that the Director General Health Services, and all Chief Executive, should submit a self contained case with total strength of Class-IV paramedical employees and propose Dress/Washing Allowance for Class-IV paramedical employees required to be considered, with full justification.

ix) The Association demanded that the Muslim Sweeper in each Health Institution may be promoted to the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis. In future, only sweeper may be appointed against the posts of sweeper.

Decision

It was decided that all the Health Institutions should promote the Muslim Sweeper against the existing vacancy of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis, and not appoint Muslim Sweeper against the post of Sweeper in future.

x) The Association demanded that 8 hours duty may be taken from Class-IV paramedical employees as per rules and they may be granted leave according to rules.

Decision

It was decided that Instructions of Government regarding duty hours should be implemented in letter and spirit and requests of Class-IV employees for grant of leave should also be considered on merit and according to rules. However, Heads of all the Health Institutions are advised to keep a vigilant eye on the performance of Class-IV paramedical employees.

6- The meeting ended with a vote of thanks by the Chair.

(PROF. ABDUS SAMAD KHAN)
Chief Executive,
Govt. Lady Reading Hospital,
Peshawar

(DR. MUHAMMAD RAHIM JAN AFRIDI)
Director Admn.,
Directorate General Health Services,
NWFP, Peshawar

(DR. ABDUS SABOOR BACHA)
Medical Superintendent,
Hayatabad Medical Complex,
Peshawar

(DR. IFTIKHAR AHMAD)
Deputy Medical Supdt,
Ayub Teaching Hospital,
Abbottabad

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FILE

Handwritten notes:
Sweep
Promotion of muslim sweepers

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17
seniority basis

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B. A. Khan

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(1)

Dr. Farman Ali
18/7/06

(DR. FARMAN ALI)
Resident Medical Officer,
Khyber Teaching Hospital,
Peshawar

Mr. Javed Khan

(MR. JAVED KHAN)
President,
Provl. Paramedical Association
Class-IV Employees,
NWFP, Peshawar

Mr. Naseer Khan

(MR. NASEER KHAN)
General Secretary,
Provl. Paramedical Association
Class-IV Employees,
NWFP, Peshawar

Mr. Hakim Jan

(MR. HAKIM JAN)
General Secretary,
Provl. Paramedical Association
Class-IV Employees,
Hayatabad Medical Complex, Peshawar

13-

Mr. Abdus Samad Khan
13/7/06

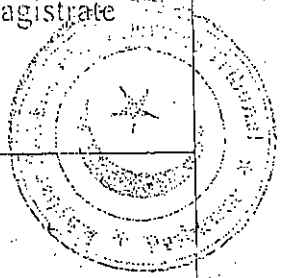
(MR. ABDUS SAMAD KHAN)
Secretary to Govt. of NWFP,
Health Department

Dr. Farman Ali

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Annexure - C
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Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>Service Appeal No. 639/2017</u></p>		
<p align="center">Date of Institution 16.06.2017 Date of Decision 13.12.2018</p>		
<p>Mr. Luft-E-Hakeem, Muslim Sweeper (BPS-01) DHQ Hospital timer Garra, District Dir Lower. Appellant</p>		
<p align="center">Versus</p>		
<ol style="list-style-type: none"> 1. The Secretary Government of Khyber Pakhtunkhwa through Secretary Health Department Khyber Pakhtunkhwa Peshawar. 2. Director General Health Department Khyber Pakhtunkhwa Peshawar. 3. The District Health Officer, District Dir Lower. 4. The Medical Superintendent DHQ Hospital Timergara, District Dir Lower. <p align="right">Respondents</p>		
13.12.2018	<p>Mr. Muhammad Hamid Mughal-----Member (J) Mr. Ahmad Hassan-----Member (E)</p>	
<p align="center"><u>JUDGMENT</u></p>		
<p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Mr. Noor Muhammad, learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.</p>		
<p>2. This single judgment in the above captioned appeal, shall also dispose of appeals (1). bearing No.640/2017 filed by Rab Nawaz</p>		

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(2). bearing No.641/2017 filed by Sahib Ullah (3). bearing No. 642/2017 filed by Akhtar Rasool (4). bearing No.643/2017 filed by Dilawar Khan (5). bearing No. 644/2017 filed by Hamid ur Rehman (6). bearing No.645/2017 filed by Khyal Muhammad (7). bearing No.646/2017 filed by Siraj ud Din (8). bearing No.647/2017 filed by Bakht Shah Zeb (9). bearing No. 648/2017 filed by Bakhtiar Khan (10). bearing No.649/2017 filed by Gul Saeed Khan (11). bearing No.650/2017 filed by Kifayat Ullah (12). bearing No.651/2017 filed by Sadiq Muhammad (13). bearing No. 652/2017 filed by Said Rehman (14). bearing No.653/2017 filed by Shams ul Islam (15). bearing No.654/2017 filed by Aftab ud Din (16). bearing No. 655/2017 filed by Muhammad Haq (17). bearing No.656/2017 filed by Abdur Rehman (18). bearing No. 724/2017 filed by Ismail Shah (19). bearing No.725/2017 filed by Rehmat Ali Shah (20). bearing No. 726/2017 filed by Gohar Rehman (21). bearing No.727/2017 filed by Miraj ud Din (22). bearing No. 728/2017 filed by Habib Ullah (23). bearing No.729/2017 filed by Umar Hakim (24). bearing No.730/2017 filed by Shahid Hussain (25). bearing No.731/2017 filed by Shah Khalid being identical in nature, having arisen from the same law, facts and circumstances.

3. The appellant, who was appointed as Sweeper (Muslim) at DHQ Hospital Timergra District Dir Lower in the year 2009 has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 16.02.2017 of the respondent No.1 whereby the respondent department accepted the



right of Muslim Sweepers appointed before 12.07.2006 for their adjustment against the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and thereby deprived the Muslim Sweepers appointed after 12.07.2006 to be adjusted as such. Learned counsel for the appellant mainly argued that the impugned order is a sheer example of discriminatory treatment to Muslim Sweepers appointed as such after 12.07.2006.

4. On the other hand learned Additional Advocate General defended the impugned order on the ground that the appellant himself was appointed as Muslim Sweeper in violation of policy decision dated 12.07.2006.

5. Arguments heard. File perused.

6. The respondent department vide its policy decision dated 12.07.2006 decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweeper against the post of Sweeper in future.

7. It was due to the violation of policy decision dated 12.07.2006 that many Muslim Sweepers had to knock the door of Hon'ble Peshawar High Court. The violation of policy decision led the respondent department to the issuance of fresh order dated 16.02.2017 made partially impugned in the present service appeal.

8. Upon the examination of the impugned order dated 16.02.2017, this Tribunal came to the conclusion that the same is




also in violation of policy decision dated 12.07.2006 in as much as


~~according to the policy decision dated 12.07.2006~~ gradually all the

Muslim Sweepers would have to be adjusted against other Class-IV posts.

9. Impugned order dated 16.02.2017 has the effect of depriving the appellant from his adjustment against other Class-IV post just for the reason that he was appointed as Muslim Sweeper after 12.07.2006. This Tribunal is therefore of the considered opinion that discriminatory treatment was met out to the appellant.

10. Resultantly this Tribunal holds that the cut off date i.e. 12.07.2006 as mentioned in the impugned order dated 16.02.2017 shall be treated as expunged. The present service appeal alongwith connected service appeals as mentioned in para-2 of this judgment are accepted in the above terms. The respondent department is directed to take strict disciplinary action against those responsible for inducting Muslim Sweepers in violation of the policy decision dated 12.07.2006. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member

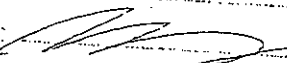

(Muhammad Hamid Mughal)
Member

ANNOUNCED Date of Filing of Appeal 31-1-19
13.12.2018 Number of Pages 1600

Copying Fee 10

Urgent 2

Total 12

Name of Officer 

Date of Signature of Officer 31-1-19

Date of Receipt of Copy 31-1-18

Office
13.12.2018


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 907/2017

Mr. Inayat Ullah, Muslim Sweeper (BPS-1)
DHQ Hospital, Battagram



VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
- 2- The Director General Health Department, Khyber Pakhtunkhwa Peshawar.
- 3- The District Health Officer, District Battagram
- 4- The Medical Superintendent DHQ Hospital Battagram District Battagram.....

RESPONDENTS

ATTESTED TO
TRUE COPY
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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 16.02.2017 WHEREBY THE APPELLANT HAS BEEN IGNORED/EXCLUDED FROM PROMOTION/ADJUSTMENT AGAINST ANY OTHER CLASS-IV POST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned Notification dated 16.2.2017 may kindly be modify to the extent that the appellant may be considered for promotion/adjustment against any other Class-IV post in light of the policy dated 25-07-2006 from the date when his other colleagues were promoted/adjusted. Any other remedy which His Honorable Tribunal deems appropriate that may also be awarded in favor of the appellant.

ATTESTED

R/SHEWETH:
ON FACTS:

EXAMINEE
Khyber Pakhtunkhwa

- 1- That appellant is the employee of the respondent Department and is serving as Sweeper (Muslim) for quite considerable time efficiently and upto the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure
- 2- That vide Notification dated 25-7-2006 the respondent Department including autonomous institutions have unanimously decided that all the Health Institutions should promote the Muslim sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mall Dayi, Aya and other Class-IV posts on seniority basis and not to appoint Muslim

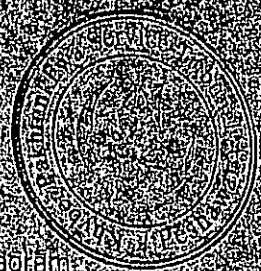
Re-submitted to
and filed

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 902/2019

Date of Institution: 05.07.2019

Date of Decision: 26.06.2019



Mr. Inayat Ullah, Muslim Sweeper, (BPS-01) DHO Hospital, Battaolam,
(Appellant)

VERSUS

The Director, General Health Services, Khyber Pakhtunkhwa, Peshawar, and
others.
(Respondents)

Mr. Mir Zaman Safi,
Advocate.

For appellant

MR. HAMID FAROOQ DURRANI,

CHAIRMAN

JUDGMENT.

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HAMID FAROOQ DURRANI, CHAIRMAN.-

1. The prayer of instant appeal is essentially to the effect that the respondents shall consider the appellant for promotion/adjustment against any other Class-IV post while at present the appellant is serving as Sweeper (Muslim) in BPS-01. The appellant has relied on the minutes of meeting dated 12.07.2006 regarding problems of Class-IV Paramedic employees. Inter-alia the decision was taken in the meeting to promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dair Aya and other Class-IV posts on seniority basis and not to appoint the Muslim Sweepers against the posts of Sweeper in future. Reliance is also placed on order issued by the secretary to Government of Khyber Pakhtunkhwa Health Department on 16.02.2017. In the order it is noted that those who were

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appointed as Muslim Sweepers before 12.07.2006 were eligible for adjustment against the aforementioned posts without disturbing the quota reserved under the rules for appointment of class IV Government servants etc. It was, however, provided in the order that those who were appointed as Muslim Sweepers after 12.07.2006 were not covered under the policy.

2. This Tribunal decided a number of appeals through judgment dated 13.12.2018 handed down in Appeal No. 639/2017 (Lutr-E-Hakeem Vs the Secretary Government of Khyber Pakhtunkhwa Health Department and others) in terms that the cut-off date mentioned in the order dated 16.02.2017 and 12.07.2006 shall be treated as expunged. In the said manner the benefit of decision made on 12.07.2006 as well as order dated 16.02.2017 was to be extended to the Muslim Sweepers appointed after 12.07.2006. The issue having been settled once by this Tribunal entails the extension of benefits to employees placed similar to those whose appeals were decided, in affirmative, on 13.12.2018.

3. Learned counsel after arguing the case at some length stated that the appellant would be satisfied at present in case he is considered for promotion to a Class-IV post other than that of Sweeper by the respondents in accordance with law.

4. As the issue of promotion of Muslim Sweeper having been appointed before and after 12.07.2006 has been repeatedly settled by this Tribunal as well as the Honourable Peshawar High Court, the respondents shall consider the appellant for requisite promotion in the order of seniority and his otherwise eligibility under the rules.

ATTESTED


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5. The appeal is accordingly disposed of. File be consigned to the records room.


(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
11.07.2019

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

22

1

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 5032 /2019

- 1- Siraj Mehmood S/o Sultan-Mehmood
- 2- Abdur Rashid Khan S/o Farid Khan
- 3- Muhammad Asim S/o Muhammad Aslam
- 4- Noural Amin S/o Abdul Qudoos
- 5- Amin Khan S/o Darwish Khan
- 6- Ikram Ullah khan S/o Said Wali
Muslim Sweepers posted at Tehsil Head Quarter
Hospital (THQ) Lahor, Tehsil and District Swabi.
- 7- Muhammad Farooq S/o Samar Khan Muslim
Sweeper Posted at Rural Health Centre (RHC)
Kunda District Swabi
- 8- Manzar Ali S/o Faiz UR Rehman Muslim Sweeper
Posted at Basic Health Unit (BHU) Jalbai, District
Swabi.

.....Petitioner

VERSUS

1. The State through Advocate General Khyber
Pakhtunkhwa Peshawar.
2. Secretary to Government, Khyber Pakhtunkhwa
Health Department, Peshawar.
3. Director General Health Services, Khyber
Pakhtunkhwa Peshawar, Office Khyber Road,
Peshawar.
4. District Health Officer/Executive District Officer
Health, Tehsil Lahor, District Swabi.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

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PRAYER:-

On acceptance of this writ petition Respondent No.4 may kindly be directed to appoint the petitioners as ward orderlies/Ward Attendants as per the policy vide health department letter No.SOH-III/1-179/06 (Class-IV), dated 25.07.2006 and any appointment of the said posts may kindly be declared as void and illegal.

Respectfully Sheweth:

1. That the petitioners No.1 to6 were appointed and posted as Muslim Sweepers in Tehsil Headquarter Hospital (THQ) Lahor, District Swabi, petitioner No.7 as Muslim Sweeper at Rural Health Centre (RHC) Kunda Tehsil Lahor, District Swabi and petitioner No.8 as Muslim Sweeper at Basic Health Unit (BHU) Jalbai Tehsil Lahor, District Swabi. **(Copies of the appointment orders of Petitioners are attached as Annexure "A-1" to A-).**
2. That the Respondent No.2 to 4 framed a policy frame work for the promotion of the Class-IV employees working in various hospitals and the same was circulated to the all concerns vide No.SOH-III/1-179/06 (Class-IV), dated 25.07.2006. **(Copy of the policy is attached as Annexure "B").**

(24)

(3)

3. That it was decided the Muslim Sweepers will be promoted against the vacant vacancies of Ward Orderlies/ Ward Attendants etc.
4. That the respondent No.4 secretly conducted interviews for the posts of Ward Attendants at THQ Hospital Lahor, District Swabi etc dated 08.08.2019 without any advertisement to deprive the petitioners of their valuable rights.
5. That the respondents are reluctant to promote petitioner from Muslim Sweepers to the post of Orderlies/ Ward Attendants etc inspite of clear cut policy.
6. That a writ Petition No.293-9/2013 has already been allowed by this Hon'ble Peshawar High Court, Peshawar on 27.09.2013. **(Copy of the judgment dated 27.09.2013 is attached as Annexure "C")**.
7. That the petitioner is aggrieved of the illegal act of the respondents, hence, filed this writ petition under article 199 of Constitution of Pakistan 1973 on the following grounds inter alia.

GROUND:-

- A. That the non action and non consideration of the respondents is against natural justice, void ab initio and violation of fundamental rights of the

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petitioners enshrined in Constitution of Islamic Republic of Pakistan 1973.

- B. That the policy referred in the impugned Act is not applicable to petitioner hence the illegal act is without jurisdiction and is of no legal effect.
- C. That the act of the respondents of not appointing the petitioners is illegal, unlawful, without lawful authority and thus of no legal effect, hence needs interference of this Hon'ble Court.
- D. That the bread and butter of the petitioner and his family is depended upon the job.
- E. That the appointments on the basis of secret interview dated 8/8/2019 inspite of already working petitioners, is against law and violation of principles and judgment of this Hon'ble Court dated 27.09.2013.
- F. That appointments made after 25/7/2006 and depriving petitioners is clear cut discrimination on the part of respondents.
- G. That this Hon'ble Court has got ample jurisdiction to entertain and disposed of the instant writ petition according to the facts and circumstances of the case in hand.

(26)

(5)

H. That any other ground will be raised at the time of argument with the prior permission of this Hon'ble Court.

It is, therefore most humbly prayed that on acceptance of this Writ Petition, the respondent No.4 may kindly be directed to appoint the petitioners as Ward Orderlies/Ward Attendants as per the Policy vide Health Department letter No.SOH-III/1-179/06 (Class-IV), dated 25.07.2006 and interview dated 8/8/2016 for the direct appointment of the said posts may kindly be declared as void and illegal.


Any other remedy deems fit and appropriate in the circumstance of the case may also be granted in favour of the petitioner.

INTERIM RELIEF

By way of interim relief, the appointments made on the basis of interview dated 8/8/2019 and may subsequent appointments may kindly be suspended till the final decision of the instant writ petition.

Petitioner

Through


Khair Ul Wahab Yousafzai
Advocate, High Court
Cell#0300-5952824

Dated 18/09/2019

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CERTIFICATE:-

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter, thus the tilted Writ Petition may kindly be fixed before the Worthy D.B of this Hon'ble Court.


ADVOCATE

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law book as per need.


ADVOCATE

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Amendment D-4

1

IN THE PESHAWAR HIGH COURT, PESHAWAR



True copy
B. J. J.

W.P No. _____ /2019

- 1- Siraj Mehmood S/o Sultan Mehmood
- 2- Abdur Rashid Khan-S/o Farid Khan
- 3- Muhammad Asim S/o Muhammad Aslam
- 4- Noural Amin S/o Abdul Qudoos
- 5- Amin Khan S/o Darwish Khan
- 6- Ikram Ullah Khan S/o Said Wali
Muslim Sweepers posted at Tehsil Head Quarter
Hospital (THQ) Lahor, Tehsil and District Swabi.
- 7- Muhammad Farooq S/o Samar Khan Muslim
Sweeper Posted at Rural Health Centre (RHC)
Kunda District Swabi
- 8 Munzar Ali S/o Faiz UR Rehman Muslim. Sweeper
Posted at Basic Health Unit (BHU) Jalbai, District
Swabi.

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B. J. J.

.....Petitioner

VERSUS

- 1. The State through Advocate General Khyber
Pakhtunkhwa Peshawar.
- 2. Secretary to Government, Khyber Pakhtunkhwa
Health Department, Peshawar.
- 3. Director General Health Services, Khyber
Pakhtunkhwa Peshawar, Office Khyber Road,
Peshawar.
- 4. District Health Officer/Executive District Officer
Health, Tehsil Lahor, District Swabi.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

ATTESTED
EXAMINER
Peshawar High Court

(29)

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET



Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge.
19/02/2020	<p><u>WP No. 5032-P/2019</u></p> <p><u>Present:</u> Mr. Khair-ul-Wahab Yousafzai, Advocate, for the petitioners.</p> <p>Mr. Atif Ali Khan, AAG, for the respondents.</p> <p>====</p> <p><u>WAQAR AHMAD SETH, CJ.</u>- Petitioners, Siraj Mehmood and others, through the instant Writ Petition, seeks issuance of an appropriate writ with the following prayer:-</p> <p><i>"It is, therefore most humbly prayed that on acceptance of this Writ Petition, the respondent No.4 may kindly be directed to appoint the petitioners as Ward Orderlies/Ward Attendants as per the Policy vide Health Department letter No. SOH-III/1-179/06 (Class-IV) dated 25.07.2006 and interview dated 8.8.2016 for the direct appointment of the said posts may kindly be declared as void and illegal".</i></p> <p>2. After hearing arguments at length, learned counsel for the petitioners stated at the bar that he would be satisfied if the instant Writ Petition is treated as representation and sent to respondent No.3 for decision in accordance with law.</p> <p>3. In view of the above, office is directed to send the instant Writ Petition to respondent No.3, copy whereof be</p>


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ATTESTED
EXAMINER
Peshawar High Court


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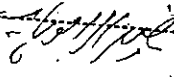
retained in office for the purpose of record, who shall treat the same as representation and decide it by explicit order within thirty (30) days positively as per law.

4. Writ Petition stands disposed of accordingly.


Chief Justice


Judge


CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Government of Punjab Order 1996
20 FEB 2020

No. 2683
Date of Presentation of Application 12/2/2020
No of Pages 02
Copying fee 100
Total 100
Date of Preparation of Copy 12/2/2020
Date of Delivery of copy 12/2/2020
Received By 



(31) (31) (31)

Annexure - E

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

E-Mail Address: mg@khyberpakhtunkhwa.gov.pk Office Ph# 091-9210269 Exchange# 091-9210187 9210196 Fax# 091-9210230
No. 3909-15 / Personnel / DHO Swabi Dated: 17/07/2020

REGISTERED/ THROUGH FAX

MOST IMMEDIATE COURT CASE

To,

1. The Siraj Mohinood S/O Sultan Mehmood.
2. Abdur Rasheed Khan S/O Farid Khan.
3. Mohammad Asim S/O Mohammad Aslam.
4. Noor Ul Amin S/O Abdul Qados.
5. Amin Khan S/O Darwaish Khan.
6. Iqram ullah Khan S/O Said Wali
Muslim Sweepers THQ Hospital Lahor District Swabi
7. Mohammad Farooq S/O Samar Khan Muslim Sweeper RHC Ambar
Kunda District Swabi.
8. Manzar Ali S/O Faiz ur Rahman Muslim Sweeper BHU Jalbay District
Swabi.
C/O District Health Officer Swabi

*Attached to be
true copy
B. P. S.*

Subject:- PERSONNAL HEARING-WP No. 5032-P/2019.

Memo:

Reference your personnel hearing dated 30/04/2020

In the light of Peshawar High Court Peshawar decision that the Writ Petition No. 5032-P/2019 be treated as representation therefore the representation was considered and you were heard in person by consulting the available record as well as brief received from the District Health Officer Swabi and to inform you that as per policy framed by the Govt: it is only for those Muslim Sweeper who were appointed before 25/07/2006 while you have been appointed after 25/07/2006 thus the policy does not applicable to you. As regard Mr. Siraj Muhammad, Abdul Rashid Khan and Mr. Manzar Ali, they were appointed as Behishti cum sweeper and not sweepers.

Therefore, you can apply for the post of Class-IV other than sweeper as and when becomes available for fresh appointment because your position cannot be changed or promoted to other Class-IV posts being not entitled in the light of the aforesaid policy of the Govt:

ns
Director General Health Services
Khyber Pakhtunkhwa Peshawar. *P. S.*

No /Personnel

1. Registrar Peshawar High Court Peshawar for information w/r to his letter No.8522/Judl: dated.27/02/2020
2. District Health Officer Swabi with reference to his letter No. 1383/C-1/DHO Swabi dated 13/03/2020
3. AD Litigation DGHS Khyber Pakhtunkhwa Peshawar.
4. P.A to DGHS Khyber Pakhtunkhwa Peshawar.

(32)

Annexure "F"



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

Service Appeal No. 5795 / 2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5066

Dated 17/6/2020

Siraj Mehmood S/O Sultan Mehmood posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, Tehsil Lahor, District Swabi

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Filed to
Registrar
17/6/2020

Prayer in Appeal:-

On acceptance of the instant appeal, the
respondents may kindly be directed to
implement the policy i.e Health
Department Letter No.SOH-III/1-179/06
(Class-IV) Dated 25th July, 2006, to promote

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

33

Annexure "F"



28.09.2020

Counsel for the appellant present.

Appellant has submitted an application for amendment in Appeal No. 5795/2020. It is agitated through the application that respondent No. 2 has decided the departmental appeal after submission of service appeal, therefore, the grounds there against were not initially included in the memorandum of appeal.

Subject to all just exceptions, the application is allowed. The appellant may submit amended appeal within two weeks. To come up for further proceedings on 25.11.2020 before S.B.

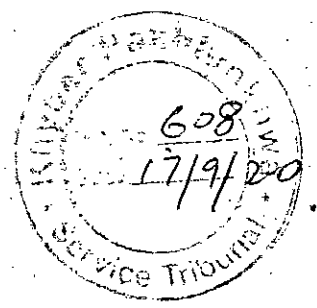
Sd/-
Chairman

Certified to be true copy
Sd/-
MINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Appeal 06/10/20
 Number of Words 1200
 Copying Fee 14/-
 Urgent
 Total 14/-
 Name of
 Date of 07/10/20
 Date of delivery of copy 07/10/20

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA PESHAWAR**

In Re C.M No. _____ of 2020
In
SA.NO. 5795/2020



Siraj Mehmood V/S Government of KPK & Others.

**APPLICATION FOR ~~EARLY HEARING AND~~
AMENDMENT OF ABOVE APPEAL.** *AKT*

Respectfully Sheweth,

1. That the captioned case is pending adjudication before this Hon'ble Tribunal and is fixed for 28-09-2020.
2. That the respondent No. 2 i.e. DG Health KPK has recently rejected the Departmental Appeal of the petitioner appellant on 17-07-2020 which was received by petitioner on 21-07-2020. **(Copy of the Rejection Order 17-07-2020 is attached)**
3. That now the petitioner wants to challenge and impugn the said order dated: 17-07-2020 before this Hon'ble Tribunal.
4. That the above mentioned appeal may kindly be fixed for early hearing so that the petitioner may be able to file amended appeal against the said order Dated: 17-07-2020 within time.
5. That if the case of the Appellant is not fixed for an early date, the Appellant shall suffer irreparable loss.
6. That in given circumstances of the case, fixation of the instant case to an early date and amendment is indispensable.

*Recd L.P. 20
The Court Order
copy of "u"
19/7/20*

Rdr

It is, therefore, most humbly prayed that on acceptance of the instant application the captioned case may very graciously be fixed for today and amendment of the above said appeal may kindly be allowed.

Dated: 17/08/2020

Appellant *70321*

Through

AKT

KHAIRUL WAHAB YOUSAFZAI

Advocate High Court Peshawar

Certified
[Signature]

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

Service Appeal No. 5795/2020

Siraj Mehmood S/O Sultan Mehmood posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, Tehsil Lahor, District Swabi

.....**Appellant**

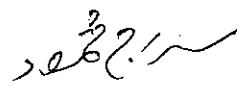
Versus

Govt of Khyber Pakhtunkhwa through Secretary
Health KPK, Civil Secretariat Peshawar & Others


.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Addresses of Parties		7
4.	Copy of Appointment letter	A	8
5.	Copy of the policy	B	9-13
6.	Copies of this Hon'ble Tribunal Judgments	C	14-21
7.	Copy of judgment dated 19.02.2020 + writ Petition	D	22-30
8.	Wakalatnama		31

Appellant 

Through


Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell# 0300-5952824

Dated: 16.06.2020

BEFORE THE HONBLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 5795 / 2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5066

Dated 17/6/2020

Siraj Mehmood S/O Sultan Mehmood posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, Tehsil Lahor, District Swabi

.....**Appellant**

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer/Executive District Officer Health Tehsil Lahor, District Swabi.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.**

Filed to Day
Registrar
17/6/2020

Prayer in Appeal:-


On acceptance of the instant appeal, the respondents may kindly be directed to implement the policy i.e Health Department Letter No.SOH-III/1-179/06 (Class-IV) Dated 25th July, 2006, to promote

the petitioner as Ward Orderly/Ward Attendant, Chowkidar, Mali and other Class-IV, post on the basis of seniority.

Respectfully Sheweth:

Brief Facts:-

1. That appellant/petitioner was appointed as Muslim Sweeper/Bheshti on 14.06.1993. **(Copy of Appointment letter is attached as Annexure "A")**.
2. That appellant/petitioner has performed his duties upto the satisfaction of his senior with no complaint on his part.
3. That in the year 25.07.2006 Health Department framed a Policy for the promotion of Class-IV employees working in various hospitals of the Province which was duly circulated to all concerned vide No.SOH-III/1-179/06 (Class-IV) dated 25.07.2006 but respondents failed to implement the same till date. **(Copy of the policy is attached as Annexure "B")**.
4. That respondent No.3 has secretly conducted interviews to appoint other persons/fresh candidates against vacant posts of Ward Orderlies, Attendants, Chowkidar and other Class-IV ignoring the petitioner.

5. That the respondents are reluctant to promote petitioner from Muslim Sweeper inspite of clear cut policy.
6. That this Hon'ble Service Tribunal has already allowed various appeals on the basis of above mentioned policy. **(Copies of this Hon'ble Tribunal Judgments are attached as Annexure "C")**.
7. That the petitioner/appellant amongst other filed a writ petition No.5032/2019 before Peshawar High Court, Peshawar which was disposed of on 19.02.2020 and was sent as representation to respondents to decide the same representation within 30 days but respondents failed to decide it. *within 90 days.* 
(Copy of judgment dated 19.02.2020 is attached as Annexure "D").
8. That the petitioner has no other alternate remedy, hence approaches this Hon'ble Tribunal in the instant appeal on the following grounds inter alia:

GROUND S:

- A. That the treatment of the respondents with the appellant is ultra virus of the service Rules and Regulations.
- B. That the treatment of the respondents are colourable and futile exercise of the Department.

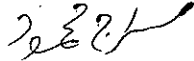
- C. That the non action of the respondents are arbitrary, unlawful and against the fundamental rights and judgments of Apex Court and based on discrimination.
- D. That acts and omission of the respondents are contrary to rules laid down by the Supreme Court of Pakistan.
- E. That appellant may also be allowed to rely on additional grounds at the time of arguments please.

Therefore, it is humbly submitted that On acceptance of the instant appeal, the respondents may kindly be directed to implement the policy i.e Health Department Letter No.SOH-III/1-179/06 (Class-IV) Dated 25th July, 2006, to promote the petitioner as Ward Orderly/Ward Attendant, Chowkidar, Mali and other Class-IV, post on the basis of seniority.

INTERIM RELIEF:-

By way of interim relief, the respondents may be restrained not to appoint any other fresh

candidate on the available vacant posts of Ward Orderly/Attendant, Mali, Chowkidar and other class-IV in different hospitals of District Swabi, till the final disposal of this appeal.

Appellant 

Through



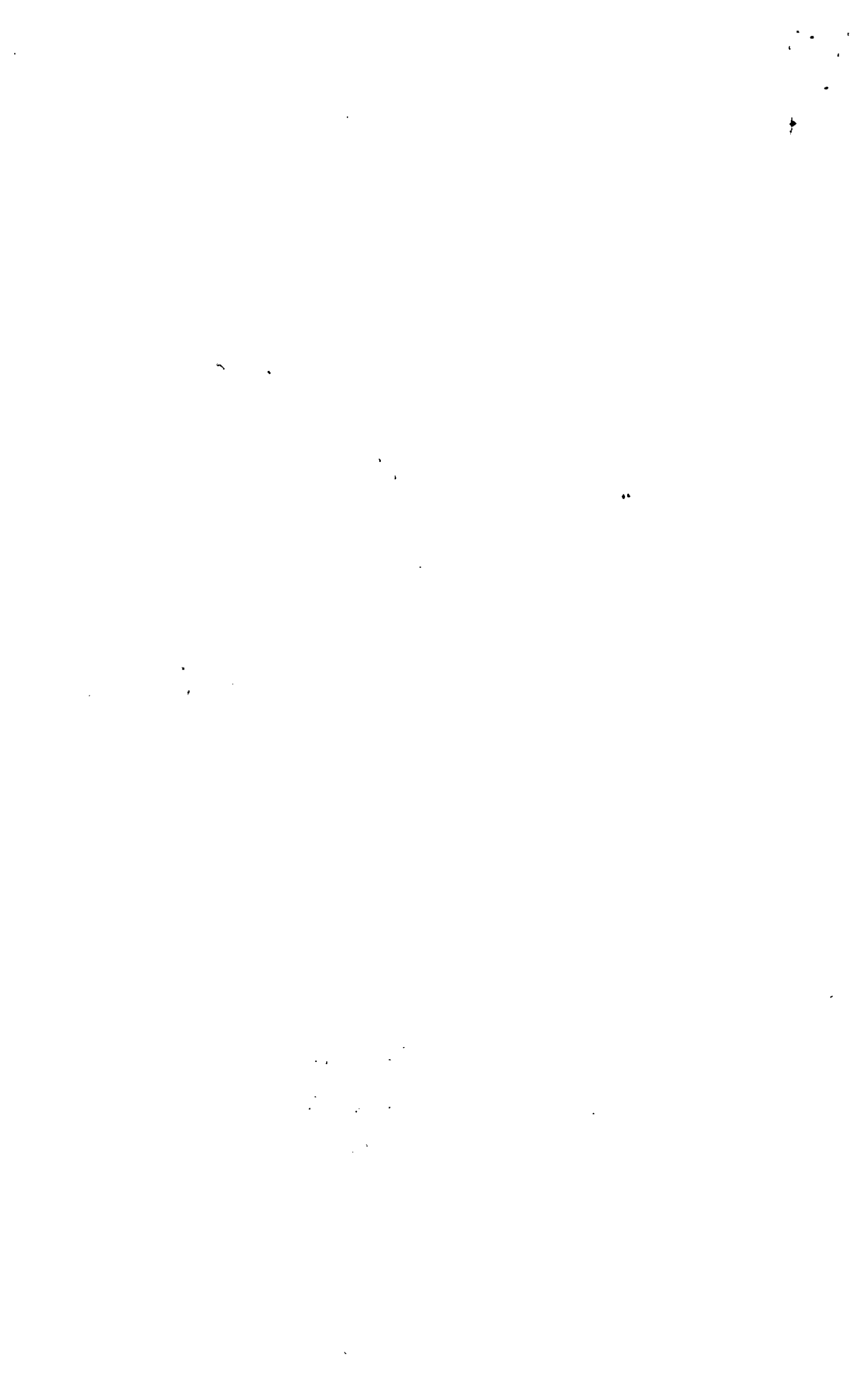
Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell#0300-5952824

Dated: 16.06.2020

VERIFICATION:-

It is to certify that no appeal has been submitted on the subject earlier to the instant appeal.


DEPONENT



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

Service Appeal No. _____/2020

Siraj Mehmood S/O Sultan Mehmood posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, Tehsil Lahor, District Swabi

.....**Appellant**

Versus

Govt of Khyber Pakhtunkhwa through Secretary
Health KPK, Civil Secretariat Peshawar & Others

.....**Respondents**

A F F I D A V I T

I, Siraj Mehmood S/O Sultan Mehmood posted as Muslim Sweeper at Tehsil Headquarter Hospital (THQ) Lahor, Tehsil Lahor, District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

2022/5

DEPONENT

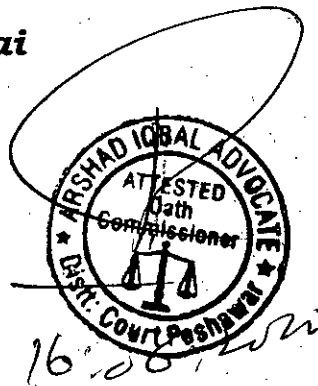
CNIC#_16201-0730354-1

Cell#_0311-0094623

Identified by

[Signature]

**Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar**



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

Service Appeal No. _____/2020

Siraj Mehmood S/O Sultan Mehmood posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, Tehsil Lahor, District Swabi

.....**Appellant**

Versus

Govt of Khyber Pakhtunkhwa through Secretary
Health KPK, Civil Secretariat Peshawar & Others

.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:

Siraj Mehmood S/O Sultan Mehmood posted as
Muslim Sweeper at Tehsil Headquarter Hospital
(THQ) Lahor, Tehsil Lahor, District Swabi

RESPONDENTS:

1. Govt of Khyber Pakhtunkhwa through Secretary
Health KPK, Civil Secretariat Peshawar.
2. Director General Health Khyber Pakhtunkhwa,
Peshawar.
3. District Health Officer/Executive District Officer
Health Tehsil Lahor, District Swabi.

Appellant 

Through



Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell# 0300-5952824

Dated: 16.06.2020

(8)

Annexure 'A'

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI.

OFFICE ORDER

As recommended by Sher Zaman Sher Minister for Agriculture/Fisheries & Wildlife NWFP, Peshawar Mr. Siraj Mahmood S/O Sultan Mahmood Village Lahore Kapuri Tehsil Lahore District Swabi is hereby appointed as Behshi/Sweeper on fixed pay Rs. 1200/-P.M in Basic Health Unit Lahore, on the following terms and conditions.

- 1. He is domiciled of District Swabi.
- 2. He will be employed as a Govt. servant.
- 3. His services purely temporary and liable to termination at any time without reason.
- 4. He should report for duty at Basic Health Unit Lahore.

District Health Officer, Swabi.

3026-29/9 - Behshi

Dated Swabi the 14/6/1993.

A Copy is forwarded to the:-

14.6.1993

- 1. Sher Zaman Sher Minister for Agriculture Fisheries & Wildlife, NWFP, Peshawar.
- 2. Mr. Siraj Mahmood S/O Sultan Mahmood Village Lahore Kapuri, Teh. Lahore District Swabi.
- 3. Account Clerk, DHO, Office, Swabi.

District Health Officer, Swabi.

ATTESTED TO BE TRUE COPY

ATTESTED TO BE TRUE COPY



BETTER COPY

OFFICE OF THE DISTRICT HEALTH OFFICER, SWABI

OFFICE ORDER

As recommended by Sher Zaman Sher Minister for Agriculture/Fisheries & Wildlife NWFP, Peshawar Mr. Siraj Mehmood S/o Sultan Mehmood Village Lahor, Rapuri Village Lahor, District Swabi is hereby appointed as Behshti/Sweeper on fixed pay Rs.1200/- PM in Basic Health Unit Lahor, on the following terms and conditions.

1. His Domiciled of District Swabi
2. He will be contingent paid Govt Servant.
3. He services purely temporary and liable to termination at any time without reason.
4. He should report for duty at Basic Health Unit Lahor.

Sd/-
District Health Officer,
Swabi

14.6.1993

No.3026-29/Behshti

Dated Swabi the 19/06/1993

A Copy is forwarded to the:-

1. Sher Zaman Sher Minister for Agriculture Fisheries & Wild Life, NWFP, Peshawar.
2. Mr. Siraj Mehmood S/o Sultan Mehmood Village Lahor Rapuri, Tehsil Lahor, District Swabi.
3. _____
4. Account Clerk, DHO, Office Swabi.

Sd/-
District Health Officer,
Swabi

19

ANNEXURE

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

No: SOH-III/1-179/06 (Class-IV)
Dated 25th July, 2006

To

- 1) The Director General Health Services, NWFP, Peshawar.
- 2) The Chief Executives, LRH/KTH/HMC, Peshawar and ATH, Abbottabad.
- 3) Dr. Muhammad Rahim Jan Afridi, Director Admin. Directorate General Health Services, NWFP, Peshawar.
- 4) Dr. Abdus Sabooh Bacha, Medical Supdt., Hayatabad Medical Complex, Peshawar.
- 5) Dr. Iftikhar Ahmad, Deputy Medical Supdt., Ayub Teaching Hospital, Abbottabad.
- 6) Dr. Farman Ali, RMO, Khyber Teaching Hospital, Peshawar.
- 7) Mr. Javed Khan, President, Provl. Paramedical Association, Class-IV Employees, NWFP, Peshawar.


Subject: MINUTES OF MEETING REGARDING PROBLEMS OF CLASS-IV PARAMEDICALS EMPLOYEES.

I am directed to refer to the subject and to enclose herewith a copy of minutes of subject meeting held on 12.07.2006, at 10:00 hours, under the chairmanship of Secretary Health, duly signed by all the participants, for further necessary action please.

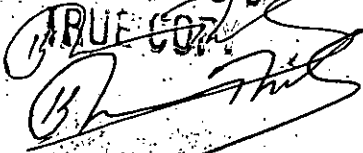
for 
Section Officer-II

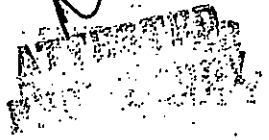
Encls. No. & Date Even.

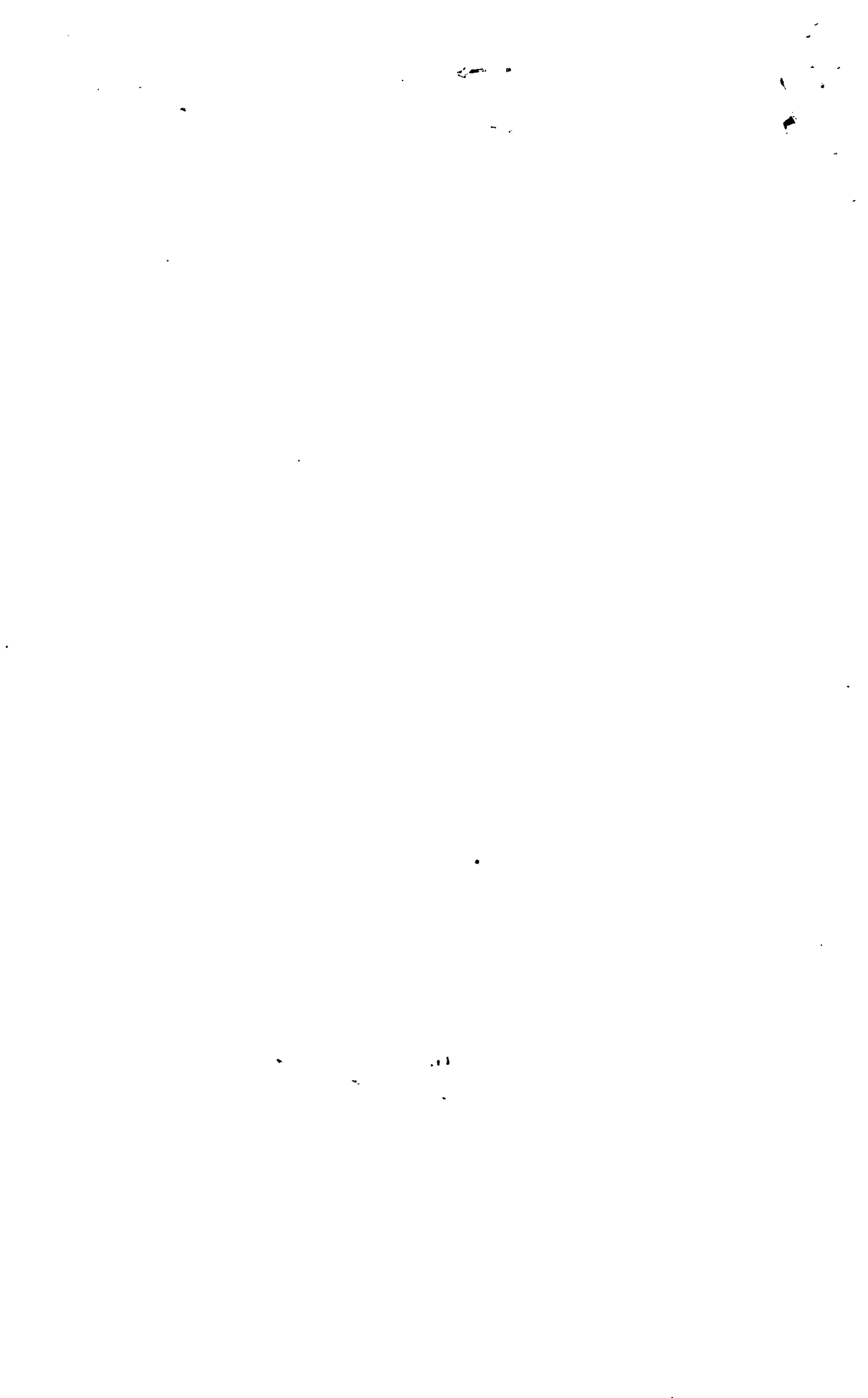
Copy to PS to Secretary Health.

for 
Section Officer-III

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TRUE COPY






(10)

Subject: MINUTES OF MEETING REGARDING PROBLEMS OF CLASS-IV PARAMEDICS EMPLOYEES.

A meeting on the subject was held under the chairmanship of Secretary Health Department in Committee Room of Health Deptt on 12/07/2006 at 10:00 AM.

- 2- The following attended the meeting:
- 1) Mr. Abdus Samad Khan, Secretary to Govt. of NWFP, Health Deptt.
 - 2) Prof. Abdus Samad Khan, Chief Executive, Govt. Lady Reading Hospital, Peshawar.
 - 3) Dr. Muhammad Rahim Jan Afridi, Director Admn., Directorate General Health Services, NWFP, Peshawar.
 - 4) Dr. Abdus Sabooh Bacha, Medical Supdt., Hayatabad Medical Complex, Peshawar.
 - 5) Dr. Iftikhar Ahmad, Deputy Medical Supdt., Ayub Teaching Hospital, Abbottabad.
 - 6) Dr. Farman Ali, RMO, Khyber Teaching Hospital, Peshawar.
 - 7) Mr. Javed Khan, President, Provl. Paramedical Association Class-IV Employees, NWFP, Peshawar.
 - 8) Mr. Nasoer Khan, General Secretary, Provl. Paramedical Association Class-IV Employees, NWFP, Peshawar.
 - 9) Mr. Hakim Jan, General Secretary, Provl. Paramedical Association Class-IV Employees, Hayatabad Medical Complex, Peshawar.
- 3- The meeting started with recitation of the Holy Quran.
- 4- The Chair welcomed the participants.
- 5- The demands presented by the Provl. Paramedical Association Class-IV Employees, were discussed in detail and the following decision were taken:

i) The Association demanded that service structure for Class-IV paramedical employees, may also be framed.

Decision

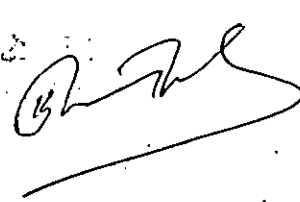
It was decided that the Director General Health Services NWFP will come up with a self-contained case with full justification. The demand will be recommended and will be forwarded to Finance Department.

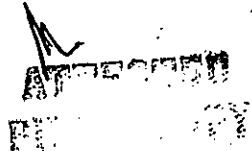
ii) The Association demanded that Contract Policy may be implemented in Teaching and all other Health Institution of the Province.

Decision

It was decided that the Director General Health Services, and all the Chief Executives of Health Institutions may be directed to implement the Contract Policy of the provincial Government and all other relevant instructions in letter and spirit.

AKL 18/7/06





11 (2)
iii) The Association demanded that children of retired Class-IV paramedical employees may be given preference when appointments are made against the vacant posts in Health Institutions.

Decision

It was decided that instructions circulated by the Health Department vide letter No. SOHIII/7-350/95-I dated 01.11.1997, may be followed strictly. The Medical Supdt., Khyber Teaching Hospital, should submit a report within fortnight in this regard.

iv) The Association demanded advance increments on the basis of higher qualifications, for Class-IV paramedical employees.

Decision

It was decided that instructions of Finance Department, in this regard will be implemented strictly, in all Health Institutions.

v) The Association demanded relaxation of science subjects for admission in different health technology courses, for Class-IV paramedical employees.

Decision

It was decided that if any Class-IV paramedical employee has completed the required qualification for admission in different health technology courses, according to the prescribed criteria, may be allowed to participate in the examination of different health technologies, conducted by NWFP, Medical Faculty, after completion of all codal formalities.

vi) The Association demanded that all Class-IV employees may be promoted to Class-III posts, existing in different Health Institutions.

Decision

It was decided that Class-IV employees may be given preference while filling the posts of promotion quota as per rules.

vii) The Association demanded for 33% Selection Grade for Class-IV paramedical employees.

Decision

It was decided that the demand of 33% Selection Grade will be included in revised service structure of Class-IV paramedical employees.

viii) The Association demanded Dress/Washing Allowance for all Class-IV paramedical employees.

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(12) (3)

Decision

It was decided that the Director General Health Services, and all Chief Executive, should submit a self contained case with total strength of Class-IV paramedical employees and propose Dress/Washing Allowance for Class-IV paramedical employees required to be considered, with full justification.

ix) The Association demanded that the Muslim Sweeper in each Health Institution may be promoted to the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis. In future, only sweeper may be appointed against the posts of sweeper.

Decision

It was decided that all the Health Institutions should promote the Muslim Sweeper against the existing vacancy of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis, and not appoint Muslim Sweeper against the post of Sweeper in future.

x) The Association demanded that 8 hours duty may be taken from Class-IV paramedical employees as per rules and they may be granted leave according to rules.

Decision

It was decided that Instructions of Government regarding duty hours should be implemented in letter and spirit and requests of Class-IV employees for grant of leave should also be considered on merit and according to rules. However, Heads of all the Health Institutions are advised to keep a vigilant eye on the performance of Class-IV paramedical employees.

6- The meeting ended with a vote of thanks by the Chair.

(PROF. ABDUS SAMAD KHAN)
Chief Executive,
Govt. Lady Reading Hospital,
Peshawar

(DR. MUHAMMAD RAHIM JAN AFRIDI)
Director Admin.,
Directorate General Health Services,
NWFP, Peshawar

(DR. ABDUS SABOOR DACHA)
Medical Superintendent,
Hayatabad Medical Complex,
Peshawar

(DR. IFTIKHAR AHMAD)
Deputy Medical Supdt.,
Ayub Teaching Hospital,
Abbottabad

ATTENDED
[Signature]

ATTENDED
PT. 1977

22/11/77
✓
✓
5/11/77
Promotion
of Muslim
Sweeper

13

Ali 18/7/06

(DR. FARMAN ALI)
Resident Medical Officer,
Khyber Teaching Hospital,
Peshawar

Javed Khan

(MR. JAVED KHAN)
President,
Prvl. Paramedical Association
Class-IV Employees,
NWFP, Peshawar

Naseer Khan

(MR. NASEER KHAN)
General Secretary,
Prvl. Paramedical Association
Class-IV Employees,
NWFP, Peshawar

Hakim Jan

(MR. HAKIM JAN)
General Secretary,
Prvl. Paramedical Association
Class-IV Employees,
Hayatabad Medical Complex, Peshawar

13

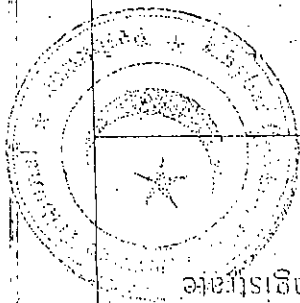
Samad 13/7/06

(MR. ABDUS-SAMAD KHAN)
Secretary to Govt. of NWFP,
Health Department

Signature

ATTACHED
PRIORITY

Annexure - "C"
 ATTEST TO BE
 COPIES



Sr. No	Date of Order/ proceeding
1	s proceeding

3	BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
---	--

Service Appeal No. 639/2017

Date of Institution 16.06.2017
 Date of Decision 13.12.2018

Mr. Luft-E-Hakeem, Muslim Sweeper (BPS-01) DHQ Hospital timer Gatra, District Dir Lower.

Appellant

Versus

1. The Secretary Government of Khyber Pakhtunkhwa through Secretary Health Department Khyber Pakhtunkhwa Peshawar.
2. Director General Health Department Khyber Pakhtunkhwa Peshawar.
3. The District Health Officer, District Dir Lower.
4. The Medical Superintendent DHQ Hospital Timergara, District Dir Lower.

Respondents

Mr. Muhammad Hamid Mughal -----Member (J)
 Mr. Ahmad Hassan -----Member (B)

JUDGMENT

MUHAMMAD HAMID MUGHAL MEMBER - Mr. Noor

Muhammad, learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

2. This single judgment in the above captioned appeal, shall also dispose of appeals (1) bearing No.640/2017 filed by Rab Nawaz

13.12.2018

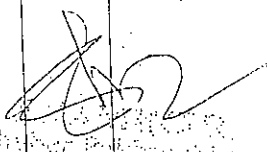
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(2). bearing No.641/2017 filed by Sahib Ullah (3). bearing No. 642/2017 filed by Akhtar Rasool (4). bearing No.643/2017 filed by Dilawar Khan (5). bearing No. 644/2017 filed by Hamid ur Rehman (6). bearing No.645/2017 filed by Khyal Muhammad (7). bearing No.646/2017 filed by Siraj ud Din (8). bearing No.647/2017 filed by Bakht Shah Zeb (9). bearing No. 648/2017 filed by Bakhtiar Khan (10). bearing No.649/2017 filed by Gul Saeed Khan (11). bearing No.650/2017 filed by Kifayat Ullah (12). bearing No.651/2017 filed by Sadiq Muhammad (13). bearing No. 652/2017 filed by Said Rehman (14). bearing No.653/2017 filed by Shams. ul Islam (15). bearing No.654/2017 filed by Aftab ud Din (16). bearing No. 655/2017 filed by Muhammad Haq (17). bearing No.656/2017 filed by Abdur Rehman (18). bearing No. 724/2017 filed by Ismail Shah (19). bearing No.725/2017 filed by Rehmat Ali Shah (20). bearing No. 726/2017 filed by Gohar Rehman (21). bearing No.727/2017 filed by Miraj ud Din (22). bearing No. 728/2017 filed by Habib Ullah (23). bearing No.729/2017 filed by Umar Hakim (24). bearing No.730/2017 filed by Shahid Hussain (25). bearing No.731/2017 filed by Shah Khalid being identical in nature, having arisen from the same law, facts and circumstances

3. The appellant, who was appointed as Sweeper (Muslim) at DHQ Hospital Timergra District Dir Lower in the year 2009 has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 16.02.2017 of the respondent No.1 whereby the respondent department accepted the


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

right of Muslim Sweepers appointed before 12.07.2006 for their adjustment against the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and thereby deprived the Muslim Sweepers appointed after 12.07.2006 to be adjusted as such. Learned counsel for the appellant mainly argued that the impugned order is a sheer example of discriminatory treatment to Muslim Sweepers appointed as such after 12.07.2006.

4. On the other hand learned Additional Advocate General defended the impugned order on the ground that the appellant himself was appointed as Muslim Sweeper in violation of policy decision dated 12.07.2006.

5. Arguments heard. File perused.

6. The respondent department vide its policy decision dated 12.07.2006 decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweeper against the post of Sweeper in future.

7. It was due to the violation of policy decision dated 12.07.2006 that many Muslim Sweepers had to knock the door of Hon'ble Peshawar High Court. The violation of policy decision led the respondent department to the issuance of fresh order dated 16.02.2017 made partially impugned in the present service appeal.

8. Upon the examination of the impugned order dated 16.02.2017, this Tribunal came to the conclusion that the same is

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also in violation of policy decision dated 12.07.2006 in as much as according to the policy decision dated 12.07.2006 gradually all the Muslim Sweepers would have to be adjusted against other Class-IV posts.

9. Impugned order dated 16.02.2017 has the effect of depriving the appellant from his adjustment against other Class-IV post just for the reason that he was appointed as Muslim Sweeper after 12.07.2006. This Tribunal is therefore of the considered opinion that discriminatory treatment was met out to the appellant.

10. Resultantly this Tribunal holds that the cut off date i.e. 12.07.2006 as mentioned in the impugned order dated 16.02.2017 shall be treated as expunged. The present service appeal along with connected service appeals as mentioned in para-2 of this judgment are accepted in the above terms. The respondent department is directed to take strict disciplinary action against those responsible for inducting Muslim Sweepers in violation of the policy decision dated 12.07.2006. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

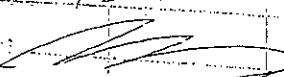
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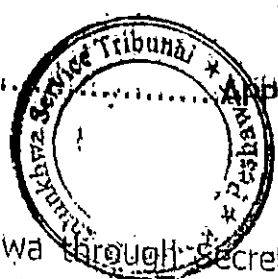
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO: 902 /2017

Mr. Inayat Ullah, Muslim Sweeper (BPS-1),
DHQ Hospital, Battagram.....

Khyber Pakhtunkhwa
Service Tribunal
Date: 26/6/2019
Case No: 896
APPELLANT



VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, District Battagram.
- 4- The Medical Superintendent DHQ Hospital Battagram, District Battagram.....

RESPONDENTS

ATTESTED TO BE TRUE COPY
[Signature]

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 16.02.2017 WHEREBY THE APPELLANT HAS BEEN IGNORED/EXCLUDED FROM PROMOTION/ADJUSTMENT AGAINST ANY OTHER CLASS-IV POST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned Notification dated 16.2.2017 may kindly be modify to the extent that the appellant may be considered for promotion/adjustment against any other Class-IV post in light of the policy dated 25-07-2006 from the date when his other colleagues were promoted/adjusted. Any other remedy which this Honorable Tribunal deems appropriate that may also be awarded in favor of the appellant.

ATTESTED

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and is serving as Sweeper (Muslim) for quite considerable time efficiently and upto the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure A.
- 2- That vide Notification dated 25.7.2006 the respondent Department including autonomous institutions have unanimously decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mall, Dayl, Aya and other Class-IV posts on seniority basis and not to appoint Muslim Sweepers against the post of sweeper in future. Copy of the policy is

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal

Re-submitted to day and filed

6/8/18

19

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 902/2019

Date of Institution .. 05.07.2019

Date of Decision ... 26.06.2019



Mr. Inayat Ullah, Muslim Sweeper (BPS-01) DHQ Hospital, Battagram.
... (Appellant)

VERSUS

The Director General Health Services, Khyber Pakhtunkhwa Peshawar and
others.
... (Respondents)

Mr. Mir Zaman Safi,
Advocate.
... For appellant

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

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1. The prayer of instant appeal is essentially to the effect that the respondents shall consider the appellant for promotion/adjustment against any other Class-IV post while at present the appellant is serving as Sweeper (Muslim) in BPS-01. The appellant has relied on the minutes of meeting dated 12.07.2006 regarding problems of Class-IV Paramedic employees. Inter-alia, the decision was taken in the meeting to promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and not to appoint the Muslim Sweepers against the posts of Sweeper in future. Reliance is also placed on order issued by the Secretary to Government of Khyber Pakhtunkhwa Health Department on 16.02.2017. In the order it is noted that those who were

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appointed as Muslim Sweepers before 12.07.2006 were entitled for adjustment against the aforementioned posts without disturbing the quota reserved under the rules for appointment of Class-IV Government Servants etc. It was, however, provided in the order that those who were appointed as Muslim Sweepers after 12.07.2006 were not covered under the policy.

2. This Tribunal decided a number of appeals through judgment dated 13.12.2018 handed down in Appeal No. 639/2017 (Lutf-E- Hakeem Vs. the Secretary Government of Khyber Pakhtunkhwa Health Department and others) in terms that the cut-off date mentioned in the order dated 16.02.2017 and 12.07.2006 shall be treated as expunged. In the said manner the benefit of decision made on 12.07.2006 as well as order dated 16.02.2017 was to be extended to the Muslim Sweepers appointed after 12.07.2006. The issue having been settled once by this Tribunal entails the extension of benefits to employees placed similar to those whose appeals were decided, in affirmative, on 13.12.2018.

3. Learned counsel after arguing the case at some length stated that the appellant would be satisfied at present in case he is considered for promotion to a Class-IV post other than that of Sweeper by the respondents in accordance with law.

4. As the issue of promotion of Muslim Sweeper having been appointed before and after 12.07.2006 has been repeatedly settled by this Tribunal as well as the Honourable Peshawar High Court, the respondents shall consider the appellant for requisite promotion in the order of seniority and his otherwise eligibility under the rules.

ATTESTED

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5. The appeal is accordingly disposed of. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
11.07.2019

Certified to be true copy
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Annexure "D"

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 5032 /2019

- 1- Siraj Mehmood S/o Sultan Mehmood ~~5032/2019~~
- 2- Abdur Rashid Khan S/o Farid Khan ~~5032/2019~~
- 3- Muhammad Asim S/o Muhammad Aslam
- 4- Noural Amin S/o Abdul Qudoos
- 5- Amin Khan S/o Darwish Khan
- 6- Ikram Ullah khan S/o Said Wali
Muslim Sweepers posted at Tehsil Head Quarter
Hospital (THQ) Lahor, Tehsil and District Swabi.
- 7- Muhammad Farooq S/o Samar Khan Muslim ~~5032/2019~~
Sweeper Posted at Rural Health Centre (RHC)
Kunda District Swabi
- 8- Manzar Ali S/o Faiz UR Rehman Muslim Sweeper ~~5032/2019~~
Posted at Basic Health Unit (BHU) Jalbai, District
Swabi.

.....Petitioner

V E R S U S

1. The State through Advocate General Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government, Khyber Pakhtunkhwa Health Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar, Office Khyber Road, Peshawar.
4. District Health Officer/Executive District Officer Health, Tehsil Lahor, District Swabi.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

**ATTESTED TO BE
TRUE COPY**



PRAYER:-

On acceptance of this writ petition Respondent No.4 may kindly be directed to appoint the petitioners as ward orderlies/Ward Attendants as per the policy vide health department letter No.SOH-III/1-179/06 (Class-IV), dated 25.07.2006 and any appointment of the said posts may kindly be declared as void and illegal.

Respectfully Sheweth:

1. That the petitioners No.1 to6 were appointed and posted as Muslim Sweepers in Tehsil Headquarter Hospital (THQ) Lahor, District Swabi, petitioner No.7 as Muslim Sweeper at Rural Health Centre (RHC) Kunda Tehsil Lahor, District Swabi and petitioner No.8 as Muslim Sweeper at Basic Health Unit (BHU) Jalbai Tehsil Lahor, District Swabi. (Copies of the appointment orders of Petitioners are attached as Annexure "A-1" to A-).
2. That the Respondent No.2 to 4 framed a policy frame work for the promotion of the Class-IV employees working in various hospitals and the same was circulated to the all concerns vide No.SOH-III/1-179/06 (Class-IV), dated 25.07.2006. (Copy of the policy is attached as Annexure "B").

3. That it was decided the Muslim Sweepers will be promoted against the vacant vacancies of Ward Orderlies/Ward Attendants etc.
4. That the respondent No.4 secretly conducted interviews for the posts of Ward Attendants at THQ Hospital Lahor, District Swabi etc dated 08.08.2019 without any advertisement to deprive the petitioners of their valuable rights.
5. That the respondents are reluctant to promote petitioner from Muslim Sweepers to the post of Orderlies/Ward Attendants etc inspite of clear cut policy.
6. That a writ Petition No.293-9/2013 has already been allowed by this Hon'ble Peshawar High Court, Peshawar on 27.09.2013. **(Copy of the judgment dated 27.09.2013 is attached as Annexure "C").**
7. That the petitioner is aggrieved of the illegal act of the respondents, hence, filed this writ petition under article 199 of Constitution of Pakistan 1973 on the following grounds inter alia.

GROUND:-

- A. That the non action and non consideration of the respondents is against natural justice, void ab initio and violation of fundamental rights of the

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H. That any other ground will be raised at the time of argument with the prior permission of this Hon'ble Court.

It is, therefore most humbly prayed that on acceptance of this Writ Petition, the respondent No.4 may kindly be directed to appoint the petitioners as Ward Orderlies/Ward Attendants as per the Policy vide Health Department letter No.SOH-III/1-179/06 (Class-IV), dated 25.07.2006 and interview dated 8/8/2016 for the direct appointment of the said posts may kindly be declared as void and illegal.

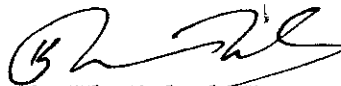
Any other remedy deems fit and appropriate in the circumstance of the case may also be granted in favour of the petitioner.

INTERIM RELIEF

By way of interim relief, the appointments made on the basis of interview dated 8/8/2019 and may subsequent appointments may kindly be suspended till the final decision of the instant writ petition.

Petitioner

Through



Khair Ul Wahab Yousafzai
Advocate, High Court
Cell#0300-5952824

Dated 18/09/2019

(27)

(6)

CERTIFICATE:-

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter, thus the tilted Writ Petition may kindly be fixed before the Worthy D.B of this Hon'ble Court.


ADVOCATE

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law book as per need.


ADVOCATE

IN THE PESHAWAR HIGH COURT, PESHAWAR



W.P No. _____ /2019

- 1- Siraj Mehmood S/o Sultan Mehmood
- 2- Abdur Rashid Khan S/o Farid Khan
- 3- Muhammad Asim S/o Muhammad Aslam
- 4- Noural Amin S/o Abdul Qudoos
- 5- Amin Khan S/o Darwish Khan
- 6- Ikram Ullah Khan S/o Said Wali
Muslim Sweepers posted at Tehsil Head Quarter
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- 7- Muhammad Farooq S/o Samar Khan Muslim
Sweeper Posted at Rural Health Centre (RHC)
Kunda District Swabi
- 8- Munzar Ali S/o Faiz UR Rehman Muslim Sweeper
Posted at Basic Health Unit (BHU) Jalbai, District
Swabi.

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[Signature]

.....Petitioner

VERSUS

- 1. The State through Advocate General Khyber Pakhtunkhwa Peshawar.
- 2. Secretary to Government, Khyber Pakhtunkhwa Health Department, Peshawar.
- 3. Director General Health Services, Khyber Pakhtunkhwa Peshawar, Office Khyber Road, Peshawar.
- 4. District Health Officer/Executive District Officer Health, Tehsil Lahor, District Swabi.

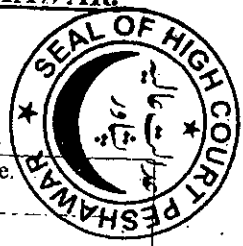
.....Respondents

**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

[Signature]
ATTESTED
EXAMINER
Peshawar High Court

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET



Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge.
19/02/2020	<p><u>WP No. 5032-P/2019</u></p> <p>Present: Mr. Khair-ul-Wahab Yousafzai, Advocate, for the petitioners.</p> <p>Mr. Atif Ali Khan, AAG, for the respondents.</p> <p>====</p> <p><u>WAOAR AHMAD SETH, CJ.</u>- Petitioners, Siraj Mehmood and others, through the instant Writ Petition, seeks issuance of an appropriate writ with the following prayer:-</p> <p><i>"It is, therefore most humbly prayed that on acceptance of this Writ Petition, the respondent No.4 may kindly be directed to appoint the petitioners as Ward Orderlies/Ward Attendants as per the Policy vide Health Department letter No. SOH-III/1-179/06 (Class-IV) dated 25.07.2006 and interview dated 8.8.2016 for the direct appointment of the said posts may kindly be declared as void and illegal".</i></p> <p>2. After hearing arguments at length, learned counsel for the petitioners stated at the bar that he would be satisfied if the instant Writ Petition is treated as representation and sent to respondent No.3 for decision in accordance with law.</p> <p>3. In view of the above, office is directed to send the instant Writ Petition to respondent No.3, copy whereof be</p>

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ATTESTED
EXAMINER
Peshawar High Court

retained in office for the purpose of record, who shall treat the same as representation and decide it by explicit order within thirty (30) days positively as per law.

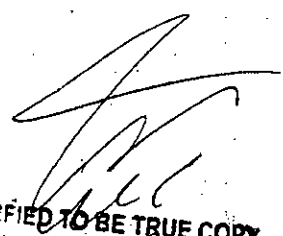
4. Writ Petition stands disposed of accordingly.



Chief Justice



Judge



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EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Government of Punjab Order 1994

20 FEB 2020

No. 26831

Date of Presentation of Application 19/2/2020

No of Pages 2




Copying fee 100

Total 100

Date of Preparation of Copy 20/2/2020

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قیمت 50 روپے	48268	  
ایڈوکیٹ: جسٹس الیوسا بوسقزنی بار کونسل ایسوسی ایشن نمبر: 5388-10 رابطہ نمبر: 0300595282		
پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: سروس ٹریڈینگز پرائیویٹ لمیٹڈ، خیبر پختونخواہ، پشاور

مخاطب: ایڈووکیٹ	دعویٰ:
سراج محمد بنام سکرٹری، سٹیٹ اسٹیم پاور پلانٹ	علت نمبر:
	موضوع:
	جرم:
	تھانہ:
باعت تحریر آنگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام کے لیے جسٹس الیوسا بوسقزنی کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم: 16-06-20

مقام سروس ٹریڈینگز پرائیویٹ لمیٹڈ کے لیے منظور ہے۔

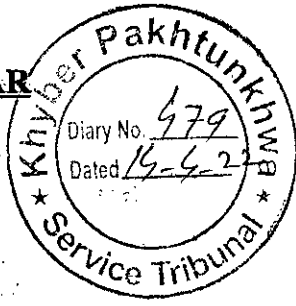
نوٹ: اس وکالت نامہ کی فوٹو کاپی تا قابل قبول ہوگی۔

Attested and
accepted


KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
PROFORMA FOR EARLY HEARING

Form "A"

To be filled by the counsel



Case No.	C.M No. _____/2022 IN Service Appeal No.5795/2020				
Case Title	Siraj Muhammad..... Appellant VERSUS Govt of KPK & others..... Respondents				
Date of Institution	2020				
Bench	SB		DB	✓	
Case Status	Fresh		Pending	✓	
Stage	Notice		Motion		PAN
Urgency to be clearly stated	That the respondents are going to employ new/fresh candidates as Ward Orderly, W. Attendant, Chowkidar and other Class-IV in different hospitals of District Swabi				
Nature of the relief sought	That if the respondents are not restrained from employing the fresh candidates against the vacant impugned posts of Ward Orderly, W. Attendant, Chowkidar and other Class-IV in different hospitals of District Swabi the appellant will suffer irreparable loss and the service appeal of the appellant will become infructuous.				
Next date of hearing	17.05.2022				
Alleged Target Date	Within this Week				
Counsel for	Petitioner	✓	Respondent		In Person


Signature of Counsel/Party

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing _____ -p/20 _____

In case No. 5795 -p/20 20

Siraj Mehmood Vs Govt of KPK

Presented by Khair ul Wahab on behalf of Appellant Entered in the relevant register.

Put up alongwith main case

REGISTRAR

Last date fixed	<u>28-02-2022</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Tribunal Defunct</u>
Date(s) fixed in the similar matter by the Branch Incharge	<u>NFA</u>
Available dates Readers/Assistant Registrar branch	<u>NFA</u>

mi
18/04/22
Assistant Registrar

REGISTRAR

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Amended Appeal No.5795 of 2020

Siraj Mehmood

..... Appellant


Versus

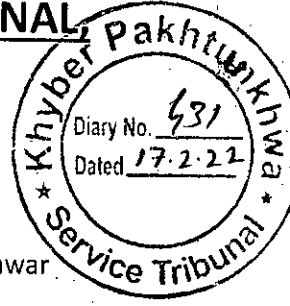
1. Government of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat Peshawar
2. Director General Health Services Khyber Pakhtunkhwa Peshawar
3. District Health Officer Swabi, District Swabi

..... Respondents

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5.	Govt. of KP Health Department Notification No. SoH-(Lit-1) 1-1/ 2017(Gen: Misc) Dated 08.12.2017 (Anex -B)	07
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District Health Officer
Swabi



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BEFORE THE Khyber Pakhtunkhwa Service Tribunal, PESHAWAR

Amended Service Appeal No. 5795 of 2020

Siraj Mehmood

Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa thorough Secretary Health KPK
- 2 Director General Health Services Khyber Pakhtunkhwa.
3. District Health Officer Swabi

Respondents

Comments on behalf of Respondents

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

- That the Appellant has no cause of action/locus standi
- That the Appellant has deliberately concealed the material facts from this honorable Tribunal, hence liable to be dismissed.
- That the Appellant has not come to this honorable tribunal with clean hands.
- That the Appellant has filed the instant appeals just to pressurize the respondents.
- That the Appellant has filed the instant appeal on malafide motives.
- That the instant appeal is against the prevailing Law and Rules.
- That the appeal is not maintainable in the present form and also in the present circumstances of the issue.
- That the appeal is bad for mis-joinder and non- Joinder of necessary and proper Parties.

PARA-WISE REPLY ON BRIEF FACTS:-

1. Pertains to record. However, the Appellant was appointed as Behishti cum Sweeper and Not Sweeper.(Annex-A)
2. Pertains to record.
3. In pursuance of Health Department order of even No. Dated 16.02.2017 (Annex-B), it is Clarified that every citizen shall have the right to enter upon any lawful profession or occupation as envisaged under Article-18 of the Constitution of Islamic Republic of Pakistan. Therefore, the Decision taken in the Meeting on 12.07.2006 was repealed. The Reasons behind are that the Decision ibid affected the Hygienic condition of the Health facilities in the province. In Some Areas of the Province, non-Muslim sweepers are not available. Furthermore, the Posts sanctioned in the budget book are sweepers.
There is no separate Category of Muslim Sweepers and non-Muslim Sweepers. (Govt of Khyber Pakhtunkhwa Health Department Notification NO. SOH (Lit-1) 1-1 / 2017 (Gen: Misc) Dated 08.12.2017 (Anex-C). Any vested right accrued in favor of any person in pursuance of decisions already announced by the Honorable Court and attained finality and Health Department order Dated 6.02.2017(Anex-B) shall be implemented.

Moreover, at Present, there are total 27 Muslim Sweepers in various Health Facilities of District Swabi including the Appellant and some appointees are senior from Appellant (Anex D) and in case of their conversion to other posts, the hygienic condition of the health facilities will be badly suffered as no Christian sweepers will be available to be hired.

- 4. As explained above
- 5. As in Pare 3 above
- 6. Pertains to record, however, appellant is not entitled for any relief.
- 7. Pertains to record
- 8. Pertains to record, detail reply is given in Para 3.
- 9. Pertains to record.
- 10. The subject appeal is not maintainable on following grounds:-

Para wise reply on Grounds:-

A to D, The appellant was neither discriminated nor any of his fundamental rights violated. The detail reply already given in Para 3 ibid.

E. The Respondents seek permission to raise additional grounds during Arguments.

Prayer:-

In view of the above, it is humbly prayed that this honorable court may graciously be pleased to dismiss the Appeal with costs.

Secretary to the Government of Khyber Pakhtunkhwa Health Department

R. No. 1.

Director General Health Services Khyber Pakhtunkhwa

District Health Officer Swabi

304

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Amended Appeal No.5795 of 2020

Siraj Mehmood

..... Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat Peshawar
2. Director General Health Services Khyber Pakhtunkhwa Peshawar
3. District Health Officer Swabi, District Swabi

..... Respondents

AFFIDAVIT

We the respondents do hereby solemnly affirm and declare that the contents of Para wise comments submitted by the respondents are true and correct to the best of our knowledge, record and that nothing has been concealed from Honorable Court.


Secretary Health KPK Peshawar


Director General Health Services KP


District Health Officer, Swabi





OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

Office Tel: 0938-300053 Fax No. 0938-300051 Email ID: edohealthswabi@yahoo.com

Facebook ID: <https://www.facebook.com/dho.swabi>

Twitter ID: <https://twitter.com/DHOSwabi2>

NO _____ /DHO Office Swabi

Dated ____ / ____ /2021

Computer Section DHO Office Swabi

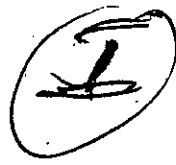
Authority Letter

Mr. Fayaz Ahmad O.A DHO Office Swabi having CNIC NO 17101-04808240-7 is authorized to submit the Para wise comments in Appeal No. 5795 to 5802 of 2020 Titled "Siraj Mehmood & 7 other versus Govt. of Khyber Pakhtunkhwa through Secretary Health and others" on behalf of Respondent No 03.


District Health Officer
Swabi



ORDER.



HEALTH DEPARTMENT.

No.SOH-(Lit-I) 1-1/2017 (Gen: Misc)
Dated Peshawar the 16th February, 2017

306

Am - A

1. WHEREAS attention is invited to the minutes of the meeting dated 12.07.2006 held under the Chairmanship of Secretary Health Khyber Pakhtunkhwa circulated vide Govt of Khyber Pakhtunkhwa Health Department letter No. SOH-III/1-179/06 (Class-IV) dated 25.07.2006. Extract of the decision taken in the meeting is reproduced below:-

Decision:-

"It was decided that all the Health Institutions should promote the Muslim Sweepers against existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweepers against the post of Sweepers in future.

2. AND WHEREAS the above decision was also affirmed by the Hon'ble Peshawar High Court Peshawar vide judgment dated 27.09.2013 in Writ Petition No.293-P/2013 - Titled "Noor ul Qamar S/O Shams ul Qamar Muslim Sweeper THQ Hospital Shabqadar, District Charsadda & 9 others versus Govt of Khyber Pakhtunkhwa Health Department & others.

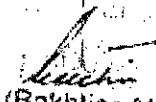
3. NOW THEREFORE in pursuance of the above decision taken/judgment of the Hon'ble Court, it is sufficiently clear that those who were appointed as Muslim Sweepers before 12.07.2006 are entitled for adjustment against the aforementioned posts without disturbing the quotas reserved under the Rules for appointment of Class-IV Govt. Servants and children of Retiring/Incapacitated/deceased civil servants etc. However, those who were appointed as Muslim Sweeper after 12.07.2006 in violation of the above decision/judgment are not covered under the policy.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst No. & Date even.

Copy of the above is forwarded to the:-

1. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. The Director Health Services, FATA.
3. All District Health Officers in Khyber Pakhtunkhwa.
4. All Medical Superintendent of Hospitals in Khyber Pakhtunkhwa.
5. All Medical Directors/Hospital Directors of MTIs in Khyber Pakhtunkhwa.
6. PS to Senior Minister Health, Khyber Pakhtunkhwa.
7. PS to Secretary Health, Khyber Pakhtunkhwa.
8. Provincial President Paramedical Class-IV Employees Association, LRH Peshawar.


(Bakhtiar Ali)
Section Officer (Lit.I)

307

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 08 December 2017

Am B

NOTIFICATION

No. SOH/ Lit/ D/ 1/ 2017 (Gen. Misc.) In pursuance of this Department order of even

dated 15-02-2017 it is clarified that every citizen shall have the right to enter upon any law (profession or occupation as envisaged under Article-18 of the constitution of Islamic Republic of Pakistan. Therefore, the decision taken in the meeting on 12-07-2006 reflected below sub-para-ix and above sub-para-x of para-5 is hereby repealed. The reasons behind are that the decision ibid affected the hygienic condition of the health facilities in the Province. In some areas of the Province non-Muslim Sweepers are not available. Furthermore, the posts sanctioned in the budget book are Sweepers. There is no separate category of Muslim Sweepers and non-Muslim Sweepers.

2. Any vested right accrued in favour of any person in pursuance of decisions already announced by the Hon'ble court and attained finality and this Department order dated 15-02-2017 shall be implemented.

3. Now therefore, it has been decided that whenever the appointment of sweepers are made, preference shall be given to non-Muslims. Wherever applications/requests are not received as such, the persons belonging to Muslim community shall be appointed as sweepers provided that a certificate of non-availability of non-Muslim candidates will be issued by the concerned Appointing Authority/Selection Committee, or as the case may be. In this regard the person seeking appointment as such shall submit an affidavit/undertaking on judicial stamp paper duly attested by Oam Commissioner, with no claim of change of cadre.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst No: & Date even.

Copy of the above is forwarded to the

- Director General Health Services, Khyber Pakhtunkhwa, Peshawa
- Director Health Services, FATA.
- Director General Provincial Health Services Academy, Peshawar.
- All Section Officer in Health Department.
- All Medical Directors/Hospital Directors of M.T.I.s in Khyber Pakhtunkhwa.
- All District Health Officers in Khyber Pakhtunkhwa.
- All Medical Superintendents of Hospitals in Khyber Pakhtunkhwa.
- Secretary, Ministry of Health, Khyber Pakhtunkhwa.
- Secretary Health, Khyber Pakhtunkhwa.
- Brigadier General Paramedical Class, VSNP, Peshawar.
- Brigadier General Health Department, Peshawar.

SECRETARY
HEALTH DEPARTMENT

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

Aug 308
AUC

Seniority List of Muslim Sweeper & Beheshti Cum Sweeper

S.No	Name	Father Name	Designation	Place of Duty	Date of Entry into Government Services	Date of Birth
1	Umar Khan	Kamal Khan	Sweeper	CD Chanai	18.12.1989	06.11.1970
2	Akhtar Hussan	Said Rehman	Sweeper	RHC Beka	21.02.1991	01.07.1972
3	Imtiaz Ali	Fazal Gafoor	Sweeper	Cat : D Hospital kalukhan	18.03.1993	01.07.1971
4	Siraj Mehmood	Sultani Mehmood	Beheshti Cum Sweeper	THQ Lahor	14.06.1993	01.07.1970
5	Said Bahar Shah	Said Faroosh	Sweeper	CD Narangi	24.11.2006	10.03.1976
6	Muhammad Farooq	Samar Khan	Sweeper	RHC kunda	26.12.2007	01.07.1982
7	Wahid Muhammad	Abdur Rahim	Sweeper	RHC Marguz	11.02.2010	01.07.1977
8	Abdul Gafar	Ambar Shah	Sweeper	BHU Gani Chatra	16.02.2010	01.07.1983
9	Bakhtair Hussan	Said Bar Shah	Sweeper	CH Topi	16.02.2010	05.01.1984
10	Shoukat Ali	Tawab Gul	Sweeper	DHO Office	03.05.2013	12.10.1980
11	Manzar Ali	Faith ur Rehman	Beheshti Cum Sweeper	THQ Lahor	01.03.2016	01.01.1983
12	Amin Khan	Darweesh Khan	Sweeper	THQ Lahor	01.03.2016	01.11.1984
13	Majid Ali	Mumtaz Ali	Sweeper	Cat : D Hospital kalukhan	01.03.2016	01.01.1988
14	Shah Rahman	Fazal rahman	Sweeper	THQ Lahor	01.03.2016	05.02.1997
15	Abdul Rasheed	Farid Khan	Beheshti Cum Sweeper	THQ Lahor	02.03.2016	17.09.1979
16	Amir Siyab	Bacha Mir	Sweeper	RHC Khunda	02.03.2016	01.07.1982
17	Arshad	Muhammad Isalm	Sweeper	THQ Lahor	02.03.2016	01.01.1989
18	Muhammad Asim	Muhammad Aslam	Sweeper	THQ Lahor	02.03.2016	01.05.1993
19	Basit Ali	Abdul Hadi	Sweeper	THQ Lahor	02.03.2016	28.03.1997
20	Noor ul amin	Abdul Qadoos	Sweeper	THQ Lahor	03.03.2016	07.01.1982
21	Ikram Ullah	Said Wali	Sweeper	THQ Lahor	03.03.2016	03.03.1988
22	Akhtar Munir	Muhammad Tahir	Sweeper	Cat : D Hospital kalukhan	04.04.2016	15.03.1998
23	Muhammad Azhar	Saifullah	Sweeper	RHC Kota	14.07.2016	19.10.1987
24	Basmmena	Haj Ameer	Sweeper	CH Kabgani	22.11.2016	01.07.1978
25	Niazar Ali	Said Ahmad	Sweeper	Cat : D Hospital kalukhan	09.01.2017	10.01.1980
26	Muhammad Hanif	Muhammad Hakeem	Sweeper	Cat : D Hospital kalukhan	16.08.2017	01.01.1978
27	Usman Khan	Mubrak Shah	Sweeper	Cat : D Hospital kalukhan	29.08.2017	03.04.1991

District Health Officer
Swabi

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA PESHAWAR

In Re C.M No. _____ of 2020

In


SA.NO.5795/2020

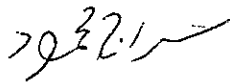
Siraj Mehmood

V/S

Government of KPK & Others

INDEX

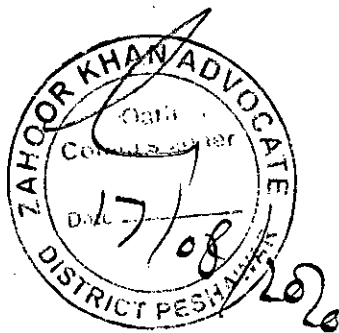
S#	Description of Documents	Annex	Page#
1	Application for early hearing and amendment 		1
2	Affidavit		2
3	Letter Dated: 17-07-2020		3

Appellant 

Through


KHAIRUL WAHAB YOUSAFZAI
Advocate High Court Peshawar

Cell# 0300-5952824



BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA PESHAWAR

In Re C.M No. _____ of 2020

In

SA.NO. 5795/2020



Siraj Mehmood V/S Government of KPK & Others.

APPLICATION FOR ~~EARLY HEARING AND~~
AMENDMENT OF ABOVE APPEAL.

[Handwritten Signature]

Respectfully Sheweth,

1. That the captioned case is pending adjudication before this Hon'ble Tribunal and is fixed for 28-09-2020.
2. That the respondent No. 2 i.e. DG Health KPK has recently rejected the Departmental Appeal of the petitioner appellant on 17-07-2020 which was received by petitioner on 21-07-2020. **(Copy of the Rejection Order 17-07-2020 is attached)**
3. That now the petitioner wants to challenge and impugn the said order dated: 17-07-2020 before this Hon'ble Tribunal.
4. That the above mentioned appeal may kindly be fixed for early hearing so that the petitioner may be able to file amended appeal against the said order Dated: 17-07-2020 within time.
5. That if the case of the Appellant is not fixed for an early date, the Appellant shall suffer irreparable loss.
6. That in given circumstances of the case, fixation of the instant case to an early date and amendment is indispensable.

It is, therefore, most humbly prayed that on acceptance of the instant application the captioned case may very graciously be fixed for today and amendment of the above said appeal may kindly be allowed.

Dated: 17/08/2020

Appellant

Through

[Handwritten Signature]
KHAIRUL WAHAB YOUSAFZAI

Advocate High Court Peshawar

*Recd up to
the court clerk
original & u
19/8/20*

Rudr

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA PESHAWAR

In Re C.M No. _____ of 2020

In

SA.NO. 5795/2020

Siraj Mehmood

V/S

Government of KPK & Others.

AFFIDAVIT

I, *Siraj Mehmood* S/o *Sultan Mehmood* presentaly posted as Muslim Sweeper at THQ Lahor District Swabi, Appellant, do hereby solemnly affirm and declare on oath that all the contents of the **Early Hearing Application** are true and correct to the best of my knowledge and belief and nothing has been concealed or misstated.

Deponent _____

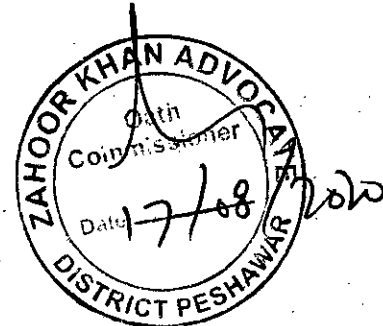
7/2/20

Identified by:

[Signature]
KHAIRUL WAHAB YOUSAFZAI

Advocate High Court

Peshawar.





DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUNKHWA PESHAWAR

E-Mail Address: dg@khyber.gov.pk Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax# 091-9210230
No. 3909-15/Personnel/DHO Swabi Dated: 17/07/2020

REGISTERED / THROUGH FAX

MOST IMMEDIATE COURT CASE

To,

1. ✓ The Siraj Mahmood S/O Sultan Mahmood.
2. Abdur Rasheed Khan S/O Farid Khan.
3. Mohammad Asim S/O Mohammad Aslam.
4. Noor Ul Amin S/O Abdul Qados.
5. Amin Khan S/O Darwaish Khan.
6. Ikram ullah Khan S/O Said Wali
Muslim Sweepers THQ Hospital Lahor District Swabi.
7. Mohammad Farooq S/O Samar Khan Muslim Sweeper RHC Ambar
Kunda District Swabi.
8. Manzar Ali S/O Faiz ur Rahman Muslim Sweeper BHU Jalbay District
Swabi.
C/O District Health Officer Swabi

Subject:-
Memo:

PERSONNAL HEARING-WP No. 5032-P/2019.

Reference your personnel hearing dated 30/04/2020

In the light of Peshawar High Court Peshawar decision that the Writ Petition No. 5032-P/2019 be treated as representation therefore the representation was considered and you were heard in person by consulting the available record as well as brief received from the District Health Officer Swabi and to inform you that as per policy framed by the Govt: it is only for those Muslim Sweeper who were appointed before 25/07/2006 while you have been appointed after 25/07/2006 thus the policy does not applicable to you. As regard Mr. Siraj Muhammad, Abdul Rashid Khan and Mr. Manzar Ali, they were appointed as Behishti cum sweeper and not sweepers.

Therefore, you can apply for the post of Class-IV other than sweeper as and when becomes available for fresh appointment because your position cannot be changed or promoted to other Class-IV posts being not entitled in the light of the aforesaid policy of the Govt:

[Signature]
Director General Health Services
Khyber Pakhtunkhwa Peshawar

No

/Personnel

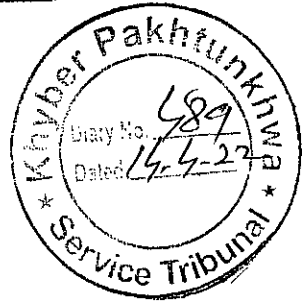
1. Registrar Peshawar High Court Peshawar for information w/r to his letter No.8522/Judl; dated 27/02/2020
2. District Health Officer Swabi with reference to his letter No. 1383/C-1/DHO Swabi dated 13/03/2020
3. AD Litigation DGHS Khyber Pakhtunkhwa Peshawar.
4. P.A to DGHS Khyber Pakhtunkhwa Peshawar.

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

C.M No. _____/2022

In

Amended Service Appeal No.5795/2020



Siraj Mehmood S/O Sultan Mehmood posted as Muslim Sweeper at Tehsil
Headquarter Hospital (THQ) Lahor, Tehsil Lahor, District Swabi

.....Appellant

Versus

Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil
Secretariat Peshawar & Others.

.....Respondents

**APPLICATION FOR RESTRAINING THE
RESPONDENT FROM EMPLOYING
NEW/FRESH CANDIDATES AGAINST THE
VACANT POSITIONS OF CLASS-IV STAFF I.E
WARD ATTENDANT, WARD ORDERLY, MALI,
CHOWKIDAR ETC AT DISTRICT HEALTH
OFFICE, SWABI FROM SERIAL NO.01 TO 43
TILL THE FINAL DISPOSAL OF THE MAIN
SERVICE APPEAL.**

Respectfully Sheweth:

1. That the above noted Service Appeal is pending adjudication before this Hon'ble Tribunal, in which next date of hearing is 17.05.2022.
2. That respondent No.03 has issued a letter No.1609/A-6/DHO Office Swabi dated:09.03.2022 to the Manager Employment Exchange Swabi for provision of the list of Unemployed candidates in Swabi and has stated that different categories of class-IV positions are lying vacant under the control of undersigned from BPS-03 to BPS-04. (Copy of letter dated:09.03.2022 is annexed as Annexure "A").

2

3. That respondent No.03/DHO Swabi has also provided a list of vacant positions of Class-IV at different hospitals of District Swabi which are going to be filled in near future. **(Copy of the list of vacant positions is annexed as Annexure "B")**.
4. That the appellant has got a good prima facie case in his favour, and is sanguine about its success.
5. That the balance of convenience also lies in favour of the petitioner.
6. That if the respondents are not restrained from employing fresh candidates, then the petitioners would suffer irreparable loss.
7. That the facts and grounds of the application may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the Respondent may kindly be restrained from employing fresh/new candidates against the vacant posts of Ward Orderly, Ward Attendant, Chowkidar, Mali and other class-IV till the final decision of the case.

Appellant 

Through



Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell#0300-5952824

Dated: 12.04.2022

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

C.M No. _____/2022

In

Amended Service Appeal No.5795/2020

Siraj Mehmood S/O Sultan Mehmood posted as Muslim Sweeper at Tehsil
Headquarter Hospital (THQ) Lahor, Tehsil Lahor, District Swabi

.....**Appellant**

Versus

Govt of Khyber Pakhtunkhwa through Secretary Health KPK, Civil
Secretariat Peshawar & Others

.....**Respondents**

A F F I D A V I T

I, Siraj Mehmood S/O Sultan Mehmood posted as Muslim Sweeper at
Tehsil Headquarter Hospital (THQ) Lahor, Tehsil Lahor, District
Swabi, do hereby solemnly affirm and declare on oath that the
contents of the accompanying **Application** are true and correct to the
best of my knowledge and belief and nothing has been concealed
from this Hon'ble Court.

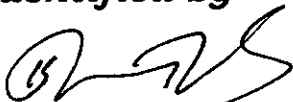
2022/11

DEPONENT

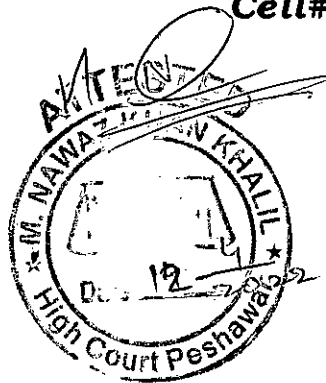
CNIC#_16201-0730354-1

Cell#_0311-0094623

Identified by



**Khair ul Wahab Yousafzai
Advocate, High Court
Peshawar**



4

Amure "A"

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

1608/A-6

DHO Office Swabi

Dated 09/13/2022

To

The Manager,
Employment Exchange, Swabi

Sub

PROVISION OF UNEMPLOYED CANDIDATES LIST.

It is stated that different categories of Class-IV positions are available under the control of undersigned from BPS-03 & BPS-04.

You are therefore requested to kindly send the list of unemployed candidates as per criteria, registered in your office for employment, within 15 days so as to proceed further in the matter.

District Health Officer
Swabi

Dated 09/13/2022

NO 1610-11/A-6
DHO Swabi

Copy Forwarded to the :

- 1 Director General Health Services, Khyber Pakhtunkhwa Peshawar
- 2 PS to Secretary to Government of Khyber Pakhtunkhwa, Health Department, Peshawar

For information and necessary action

District Health Officer
Swabi

2009 S C M R 1

[Supreme Court of Pakistan]

Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan
and Ch. Ejaz Yousaf, JJ

GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and
others----Petitioners

Versus

SAMEENA PARVEEN and others----Respondents

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of
2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P.
No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881,
11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008).

Civil service---

----Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to
the terms and conditions of a civil servant who litigated, and there were other civil servants, who may
not have taken any legal proceedings, in such a case, the dictates of justice and rule of good
governance demand that the benefit of the said decision be extended to other civil servants also, who
may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other
legal forum---All citizens are equal before law and entitled to equal protection of law as per Art.25 of the
Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996
SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005
SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department,
Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for
Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L
of 2008).

Nemo for other Respondents.

ORDER

ABDUL HAMEED DOGAR, C.J.---Through this order we intend to dispose of above captioned
petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of
Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525,
11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643
and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by

petitioner/authority were set aside.

2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

5. We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court in the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view

was reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before law and entitled to equal protection of law.

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismissed

2005 S C M R 499

[Supreme Court of Pakistan]

Present: Nazim Hussain Siddiqui, C.J., Javed Iqbal and Abdul Hameed Dogar, JJ

TARA CHAND and others---Petitioners

Versus

KARACHI WATER AND SEWERAGE BOARD, KARACHI and others---Respondents

Civil Review Petition No.259 of 2002, Civil Miscellaneous Applications Nos.874 and 875 of 2001 in Civil Appeal No. 1235 of 2000, decided on 14th December, 2004.

(On review against the judgment of this Court, dated 14-5-2002 passed in Civil Appeal No. 1235 of 2000).

(a) Constitution of Pakistan (1973)---

---Arts. 185, 188 & 25---Supreme Court Rules 1980, O.XXXIII, R.5--Civil Procedure Code (V of 1908), O.XLI, R.33---Review petition--Civil service---Contentions of the petitioner were that neither notice about grant of leave to appeal by the Supreme Court nor that of ex parte order by the Supreme Court was served upon him; that he was one of the petitioners who impugned the departmental orders of retrenchment and termination before the High Court, which were set aside to appeal by the Supreme Court; that the moment he came to know about the decision of the Supreme Court, he had approached the Court and filed Civil Review Petition well within time and that though he was a non-appealing party in the appeals, yet he was entitled to the same relief on the basis of principle of equality---Validity---Held, since the services of all such persons were dispensed with by, single order, as such, there was no distinction between their case and that of the appellants and was identical on all fours---When Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rule of good governance demand that the benefit of the decision be extended to other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum--Article 25 of the Constitution was also explicit on the point that all citizens were equal before law and were entitled to equal protection of law.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185; Abdul Hameed Nasir and others v. National Bank of Pakistan and others 2003 SCMR 1030; Hakim Muhammad Nabi Khan and 2 others v. Warasatullah through Legal Representatives 1987 SCMR 1698; Province of Punjab through Collector Bahawalpur, District, Bahawalpur and others v. Col. Abdul Majeed and others 1997 SCMR 1692 ref.

(b) Judgment in personam---

---Definition.

A judgment determining the rights of persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgment for money.

Normally a judgment binds only those who are parties to it. Such judgments are known as Judgments in personam.

Judgments in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem.

A judgment in personam determines the rights of the parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'.

A judgment against a particular person, as distinguished from a judgment against a thing or a right or status.

The Oxford Companion to Law by Dawid M. Walker; K.J. Aiyar's Judicial Dictionary (10th Edition 1988); Words and Phrases legally defined (Vol: 3 I-N) and Black's Law Dictionary with pronunciations (6th Edition) ref.

(c) Judgment in rem---

---Definition.

A legal determination binding not only the parties but all persons. It applies particularly to judgments in Admiralty, declaring the status of a ship, matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.

A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

A judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation, forfeiture, declaration of status or title or order for sale or transfer.

An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority is judgment in rem, It is founded on a proceeding instituted against or on something or subject-matter whose status or condition is to be determined or one brought to enforce a right in the thing itself. It operates upon the property. It is a solemn declaration of the status of some person or thing. It is binding- upon all persons insofar as their interests in the property are concerned.

The Oxford Companion to by Dawid M. Walker; K.J. Aiyar's Judicial Dictionary (10th Edition 1988); Words and Phrases legally defined (Vol: 3 I-N) and Black's Law Dictionary with pronunciations (6th Edition) quoted.

Syed Iftikhar Hussain Gillani, Senior Advocate Supreme Court for Petitioner (in Civil Review Petition No.259 of 2002).

Ibrar Hussain, Advocate Supreme Court for Respondents (in Civil Review Petition No.259 of 2002).

M. Bilal, Senior Advocate Supreme Court and Ch. Akhtar Ali, Advocate-on-Record for Applicants (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Ibrar Hussain, Advocate Supreme Court for, Respondents Nos. 1-3 (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Raja Abdul Ghafoor, Advocate-on-Record for Respondents Nos.4-5 (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Date of hearing: 14th December, 2004.

ORDER

ABDUL HAMEEIJ DOGAR, J.--The background leading to the filing of the above mentioned matters are that about 130 employees of Karachi Water and Sewerage Board including petitioner Tara Chand (in Civil Review Petition No.259 of 2002) and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher (In Civil Miscellaneous Applications Nos.874 and 875 of 2001) challenged the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 passed by Vice Chairman about retrenchment and termination of their services through Constitution Petition No.D-1151 of 1998 before the learned High Court of Sindh at Karachi. The said petition was dismissed vide judgment, dated 4-6-1999 by the learned Division Bench of High Court of Sindh, Karachi. The said judgment was challenged in Civil Petition Nos.352-K, 396-K and 464-K of 1999. In which leave to appeal was granted and the appeals were numbered as Civil Appeals Nos.1232 to 1235 of 2000. In the aforesaid appeals, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher were arrayed as respondents. After grant of leave to appeal, the notices were issued to them but were not served upon them and an ex parte order was passed by the Assistant Registrar (Civil) against them on 13-3-2001. However, above appeals were heard and allowed by this Court vide judgment, dated 14-5-2002 and the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 passed by-the Vice Chairman of the Board were set aside and were declared without lawful authority. All the appellants therein were reinstated in service.

2. On coming to know about the above decision, petitioner Tara Chand along with Javed Hussain, Muhammad Shah, Kanyolai, Muhammad Hanif Shaikh, Abdul Shakoor, Mujahid Hanif and Muhammad Iqbal Palejo filed Review Petition No.259 of 2002 on 11-6-2002 wherein they urged that in fact they were respondents in the aforesaid Civil appeals but were not served, as such, ex parte order passed against them in their absence be set aside and they may be allowed- the same relief as granted to appellants.

3. However the aforesaid Civil Review Petition was returned by Assistant Registrar (Civil) on 13-3-2001 to the Advocate-on-Record with the objection that the same was not entertainable under Order XXVI rule 6 of Supreme Court Rules, 1980 as the counsel who had drawn this review petition did not appear and argue the case in the above mentioned appeals. The said order was challenged through Civil Miscellaneous Appeal No.42 of 2003 under Order V rule 33 of Supreme Court Rules, 1980; which was allowed only to the extent of petitioner Tara Chand were as against others, it was dismissed for non-prosecution by a learned Judge in Chambers, vide order, dated 20-11-2003. Petitioner Tara Chand filed amended review petition whereas applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher moved Civil Miscellaneous Application No.874 of 2001 for setting aside the order, dated 13-3-2001 as Civil Miscellaneous Application No.875 of 2001 for transposition from the side of respondents to the side of appellants.

4. We have heard Messrs Syed Iftikhar Hussain Gillani, learned Senior Advocate Supreme Court for petitioner, M. Bilal, Senior Advocate Supreme Court for applicants and Messrs Ibrar Hussain and Raja Abdul Ghafoor, learned Advocates Supreme Court for the respondents and have gone through the record and proceedings in minute particulars.

5. Syed Iftikhar Hussain Gillani, learned Advocate Supreme Court, contended that in fact petitioner Tara Chand was arrayed as respondent No.47 in Civil Appeal No.1235 of 2000. According to him, neither notice about grant of leave to appeal nor that of ex parte order, dated 13-6-2001 was served upon him.

Admittedly, he was one of the petitioners who impugned the departmental orders of retrenchment and termination before the learned High Court of Sindh, which were set aside in appeal by this Court. The moment he came to know about the decision, he approached this Court and filed above mentioned civil review petition well within time. Though he is a non-appealing party in the aforementioned appeals, yet is entitled to the same relief on the basis of principle of rule of equality. In support, he relied upon the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185.

6. Mr. M. Bilal, learned Senior Advocate Supreme Court on behalf of applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher contended that the applicants were also the petitioners before the learned High Court of Sindh and had challenged the departmental orders passed against them. They were also arrayed as respondents Nos. 50, 58, 92 and 104 in Civil Appeal No. 1235 of 2000 before this Court, which was allowed. Their matter is identical on all aspects with those appellants, therefore, deserves the same relief.

7. On the other hand, Messrs Ibrar Hussain and Raja Abdul Ghafoor, learned Advocate Supreme Courts, vehemently opposed the above contentions and argued that the judgment of this Court passed in the aforesaid civil appeals was in fact judgment in personam and not in rem, as such, the petitioner and applicants are not entitled to any relief. According to them, this being a service matter, they should have approached the Service Tribunal for redressal of their grievance which jurisdiction was not invoked by them.

8. Admittedly, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher had challenged the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 of their retrenchment and termination along with other petitioners in writ petition before learned High Court of Sindh. It is also an admitted fact that petitioner and applicants were arrayed as respondents in Civil Appeal No. 1235 of 2000 before this Court wherein the above said order of learned High Court was challenged. Since the services of all of them were dispensed with by single order, as such, there is no distinction in between their case and that of appellants and is identical on all fours.

9. As to whether impugned judgment is 'judgment in personam' or 'judgment in rem', it would be appropriate to reproduce their definitions as defined in various dictionaries:

(I) The Oxford Companion to Law by David M. Walker

Judgment in personam.--- A judgment determining the rights of B persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgments for money.

Rem, Judgment in.--- A legal determination binding not only the parties but all persons. It applies particularly to judgments in Admiralty, declaring the status of a ship, matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.

(II) K. J. Aiyar's Judicial Dictionary (10th Edition 1988)

Normally a judgment binds only those who are parties to it. Such judgments are known as Judgments in personam.

Rem, Judgment in.--- A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

(III) Words and Phrases legally defined (Vol. 3 I-N)

Judgment, In personam.--- A judgment in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of

any kind whatever or a liquidated or unliquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem.

A judgment in personam determines the rights of the parties inter se to or in the subject matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'.

Judgment, In Rem.--- A judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation, forfeiture, declaration of status or title, or order for sale or transfer.

(IV) Black's Law Dictionary with pronunciations (6th Edition).

Judgment in personam or inter parties. A judgment against a particular person, as distinguished from a judgment against a thing or a right or status.

Judgment in rem. An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority. *Booth v. Copley*, 238 Ky.23, 140 S.W. 2d, 62, 666. It is founded on a proceeding instituted against or on something or subject-matter whose status or condition is to be determined. *Eureka Building and Iran Assn v. Shultz*, 139E Kan, 435, 32 P.2d 477, 480; or one brought to enforce a right in the thing itself. *Federal Land Bank of Omaha v. Jafferson*, 229 Iowa 1054, 295 N.W. 855, 857. It operates upon the property, *Guild v. Walis*, 150 Or. 69, 40 P. 2nd 747, 742. It is a solemn declaration for the status of some person or thing. *Jones v. Teat*, Tex Civ. Appellant. 57 S.W. 2d. 617, 620. It is binding upon all persons in so far as their interests in the property are concerned.

10. To further elaborate the above aspect, it would be relevant to refer the case of Hameed Akhtar Niazi (supra) wherein this Court has held that when Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the Civil servants who litigated, but also of other civil servants, who may have not taken any legal proceedings, the dictates of Justice and rule of C good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum. This Court in the case of *Khawaja Abdul Hameed Nasir and others v. National Bank of Pakistan and others* 2003 SCMR 1030 also extended the benefit to all the persons falling within the same category in order to do complete justice. To further fortify, reference is made to the case of *Hakim Muhammad Nabi Khan and 2 others v. Warasatullah through Legal Representatives* 1987 SCMR 1698, wherein this Court had allowed benefit of relief to non-appearing party of doing complete justice. Irrespective of above, this Court in the case of *Province of Punjab through Collector Bahawalpur, District, Bahawalpur and others v. Col. Abdul Majeed and others* 1997 SCMR 1692, while discussing the provisions of Order XLI, rule 33, C.P.C. and Order XXXIII; rule 5 of the Supreme Court Rules, 1980, has held at page 1709 as under:---

"Not only this it is now well-settled that under Order XLI, rule 33, C.P.C., that the High Court and under Order XXXIII, rule 5 of the Supreme Court Rules this Court, can exercise the appellate powers in favour of all or any of the respondents or parties although such respondents or parties may not have filed any appeal or objection".

11. Irrespective of above case laws, our Constitutional provisions are also explicit. According to Article

25 of the Constitution of Islamic Republic of Pakistan, 1973, all citizens are equal before law and are entitled to equal protection of law.

12. The result, therefore, is that for the reasons stated above, we find force in the contentions of learned counsel for petitioner and applicants and allow Civil Review Petition No.259 of 2002 and Civil Miscellaneous Applications Nos. 874 and 875 of 2001. Accordingly, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadulah, Saheer are also extended the same relief which has been allowed by this Court on 14-5-2002 in Civil Appeal No. 1235 of 2000.

M.B.A./T-11/S

Order accordingly.

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (November-2019)

WP-5032/2019



Handwritten signature and date

S-A-No 5797/20
عبدالرشید بام حکومت
NTN:
Length of Service: 03 Years 09 Months 000 Days

Personal Information of Mr ABDUL RASHID d/w/s of FARID KHAN
Personnel Number: 00772559 CNIC: 1620209303401
Date of Birth: 17.09.1979 Entry into Govt. Service: 02.03.2016

Employment Category: Active Temporary

Designation: SWEeper 80004691-DISTRICT GOVERNMENT KHYBE
DDO Code: SU6274-THQ Hospital Lahore Swabi
Payroll Section: 002 GPF Section: 002 Cash Center:
GPF A/C No: Interest Applied: No GPF Balance: 20,393.00
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 03 Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	10,780.00	1210	Convey Allowance 2005.	1,785.00
1300	Medical Allowance	1,500.00	1516	Dress/ Uniform Allowance	150.00
1567	Washing Allowance	150.00	2148	15% Adhoc Relief All-2013	240.00
2199	Adhoc Relief Allow @10%	155.00	2211	Adhoc Relief All 2016 10%	804.00
2224	Adhoc Relief All 2017 10%	1,078.00	2247	Adhoc Relief All 2018 10%	1,078.00
2264	Adhoc Relief All 2019 10%	1,078.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription	-770.00	3501	Benevolent Fund	-300.00
4004	R. Benefits & Death Comp:	-451.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till November-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 18,798.00 Deductions: (Rs.): -1,521.00 Net Pay: (Rs.): 17,277.00

Payee Name: ABDUL RASHID
Account Number: 05077900292203
Bank Details: HABIB BANK LIMITED, 220507 FAUJOON (LAHORE), SWABI. FAUJOON (LAHORE), SWABI, SWABI

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWABI Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: City: Email:

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (April-2022)

نورال امین نام حکومت
5798/20



Personal Information of Mr NOOR UL AMIN d/w/s of ABDUL QADOOS

Personnel Number: 00773082

CNIC: 1620106889277

Date of Birth: 07.01.1982

Entry into Govt. Service: 03.03.2016

NTN:

Length of Service: 06 Years 01 Months 029 Days

Employment Category: Active Temporary

Designation: SWEEPER

80814397-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6328-THQ Hospital Lahore Swabi

Payroll Section: 002

GPF Section: 002

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

44,440.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 03

Pay Stage: 6

Wage type	Amount	Wage type	Amount
0001 Basic Pay	11,950.00	1001 House Rent Allowance 45%	2,120.00
1210 Convey Allowance 2005	1,785.00	1300 Medical Allowance	1,500.00
2148 15% Adhoc Relief All-2013	240.00	2199 Adhoc Relief Allow @10%	158.00
2211 Adhoc Relief All 2016 10%	806.00	2224 Adhoc Relief All 2017 10%	1,195.00
2247 Adhoc Relief All 2018 10%	1,195.00	2264 Adhoc Relief All 2019 10%	1,195.00
2309 Adhoc Relief All 2021 10%	1,195.00	2311 Dress Allowance - 2021	1,000.00
2312 Washing Allowance 2021	1,000.00	2313 Integrated Allowance 2021	600.00
2341 Dispr. Red All 15% 2022KP	1,792.00	5155 Adj. Disp. Red All 2022KP	1,792.00

Deductions - General

Wage type	Amount	Wage type	Amount
3003 GPF Subscription	-770.00	3501 Benevolent Fund	-600.00
4004 R. Benefits & Death Comp:	-300.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal Amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till April-2022: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 29,523.00 Deductions: (Rs.): -1,670.00 Net Pay: (Rs.): 27,853.00

Payee Name: NOOR UL AMIN

Account Number: 0010038691440018

Bank Details: ALLIED BANK LIMITED, 250256 MANKI BRANCH MANKI BRANCH, SWABI

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: SWABI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (August-2019)

5799/20

منظر علی نام کو



Personal Information of Mr MANZAR ALI d/w/s of FAITH UR RAHMAN

Personnel Number: 00772577 CNIC: 1620107315217 NTN:
Date of Birth: 01.01.1983 Entry into Govt. Service: 01.03.2016 Length of Service: 03 Years 06 Months 001 Days

Employment Category: Active Temporary

Designation: SWEEPER 80004691-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6274-THQ Hospital Lahore Swabi

Payroll Section: 002

GPF Section: 002

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

15,550.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 03

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	10,780.00	1000	House Rent Allowance	1,413.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1516	Dress/ Uniform Allowance	150.00	1567	Washing Allowance	150.00
2148	15% Adhoc Relief All-2013	240.00	2199	Adhoc Relief Allow @10%	155.00
2211	Adhoc Relief All 2016 10%	788.00	2224	Adhoc Relief All 2017 10%	1,078.00
2247	Adhoc Relief All 2018 10%	1,078.00	2264	Adhoc Relief All 2019 10%	1,078.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription	-770.00	3501	Benevolent Fund	-300.00
4004	R. Benefits & Death Comp:	-451.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 0.00 Recovered till August-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 20,195.00 Deductions: (Rs.): -1,521.00 Net Pay: (Rs.): 18,674.00

Payee Name: MANZAR ALI

Account Number: 7900192203

Bank Details: HABIB BANK LIMITED, 220248 TORDHER, SWABI TORDHER, SWABI, SWABI

Leaves: Operating Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWABI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (November-2019)

5800/20
5/11/19



Personal Information of Mr MUHAMMAD ASIM d/w/s of MUHAMMAD ASLAM

Personnel Number: 00774761

CNIC: 1620170192089

NTN:

Date of Birth: 01.05.1993

Entry into Govt. Service: 02.03.2016

Length of Service: 03 Years 09 Months 000 Days

Employment Category: Active Temporary

Designation: SWEEPER

80004691-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6274-THQ Hospital Lahore Swabi

Payroll Section: 002

GPF Section: 002

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

19,396.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 03

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	10,780.00	1000	House Rent Allowance	1,413.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1516	Dress/ Uniform Allowance	150.00	1567	Washing Allowance	150.00
2148	15% Adhoc Relief All-2013	240.00	2199	Adhoc Relief Allow @10%	155.00
2211	Adhoc Relief All 2016 10%	788.00	2224	Adhoc Relief All 2017 10%	1,078.00
2247	Adhoc Relief All 2018 10%	1,078.00	2264	Adhoc Relief All 2019 10%	1,078.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription	-770.00	3501	Benevolent Fund	-300.00
4004	R. Benefits & Death Comp:	-451.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till November-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 20,195.00 Deductions: (Rs.): -1,521.00 Net Pay: (Rs.): 18,674.00

Payee Name: MUHAMMAD ASIM

Account Number: 78920019

Bank Details: ALLIED BANK LIMITED, 250123 JEHANGIRA JEHANGIRA,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWABI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

Signature: [Signature]

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (November-2019)

سروس ایفیل
5802/20
اکرام اللہ خان حکومت



Personal Information of Mr IKRAM ULLAH KHAN d/w/s of SAID WALI

Personnel Number: 00772579 CNIC: 1620112012751
Date of Birth: 30.03.1988 Entry into Govt. Service: 03.03.2016

NTN:
Length of Service: 03 Years 08 Months 029 Days

Employment Category: Active Temporary

Designation: SWEEPER

80004691-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6274-THQ Hospital Lahore Swabi

Payroll Section: 002

GPF Section: 002

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

17,860.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 03

Pay Stage: 3

Wage type	Amount	Wage type	Amount
0001 Basic Pay	10,780.00	1000 House Rent Allowance	1,413.00
1210 Convey Allowance 2005	1,785.00	1300 Medical Allowance	1,500.00
1516 Dress/ Uniform Allowance	150.00	1567 Washing Allowance	150.00
2148 15% Adhoc Relief All-2013	240.00	2199 Adhoc Relief Allow	155.00
2211 Adhoc Relief All 2016 10%	788.00	2224 Adhoc Relief All 2013 10%	1,078.00
2247 Adhoc Relief All 2018 10%	1,078.00	2264 Adhoc Relief All 2015 10%	1,078.00

Deductions - General

Wage type	Amount	Wage type	Amount
3003 GPF Subscription	-770.00	3501 Benevolent Fund	-300.00
4004 R. Benefits & Death Comp:	-451.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Interest	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till November-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 20,195.00 Deductions: (Rs.): -1,521.00 Net Pay: 18,674.00

Payee Name: IKRAM ULLAH KHAN

Account Number: 7900291803

Bank Details: HABIB BANK LIMITED, 220507 FAUJOON (LAHORE), SWABI FAUJOON (LAHORE), SWABI, SWABI

Leaves: Opening Balance: Aailed: Earned:

Permanent Address:

City: SWABI

Domicile: NW - Khyber Pakhtunkhwa

Temp. Address:

Marital Status: No Official

City:

Email:

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (April-2022)

سرویس میں ادیشن 5795/2022
سراج محمد بنام حکومت



Personal Information of Mr SIRAJ MEHMOOD d/w/s of SULTAN MEHMOOD

Personnel No: 00368719 CNIC: 1620107303541 NTN:
Date of Birth: 01.07.1970 Entry into Govt. Service: 14.06.1993 Length of Service: 28 Years 10 Months 018 Days

Employment Category: Active Temporary

Designation: SWEeper 80814397-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6328-THQ Hospital Lahore Swabi

Payroll Section: 002 GPF Section: 002

Cash Center:

GPF A/C No: 368719

Interest Applied: Yes

GPF Balance:

136,371.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 04

Pay Stage: 22

Wage type		Amount	Wage type		Amount
0001	Basic Pay	19,580.00	1001	House Rent Allowance 45%	2,187.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	424.00	2199	Adhoc Relief Allow @10%	288.00
2211	Adhoc Relief All 2016 10%	1,457.00	2224	Adhoc Relief All 2017 10%	1,958.00
2247	Adhoc Relief All 2018 10%	1,958.00	2264	Adhoc Relief All 2019 10%	1,958.00
2309	Adhoc Relief All 2021 10%	1,958.00	2311	Dress Allowance - 2021	1,000.00
2312	Washing Allowance 2021	1,000.00	2313	Integrated Allowance 2021	600.00
2341	Dispr. Red All 15% 2022KP	2,937.00	5155	Adj. Disp. Red All 2022KP	2,937.00

Deductions - General

Wage type		Amount	Wage type		Amount
3004	GPF Subscription	-830.00	3501	Benevolent Fund	-600.00
4004	R. Benefits & Death Comp:	-300.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till April-2022: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 43,527.00 Deductions: (Rs.): -1,730.00 Net Pay: (Rs.): 41,797.00

Payee Name: SIRAJ MEHMOOD

Account Number: 2072271362

Bank Details: KHUSHALI MICROFINANCE BANK LIMITED, 770407 REHMAN MKT MARDAN RD SWABI REHMAN MKT, SWABI

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWABI Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official

Temp. Address:

City: Email:

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (September-2019; S.No. 5796/20

محمد فاروق بنام حکومت



Personal Information of Mr. MUHAMMAD FAROOQ d/w/s. of SAMAR KHAN

Personnel Number: 00392050

CNIC: 1620107238691

NTN:

Date of Birth: 01.07.1982

Entry into Govt. Service: 26.12.2007

Length of Service: 11 Years 09 Months 006 Days

Employment Category: Active Temporary

Designation: SWEEPER

80004500-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6142-District Health Officer (RHCs) Swab

Payroll Section: 002

GPF Section: 002

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

41,273.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 03

Pay Stage: 10

Wage type		Amount	Wage type		Amount
0001	Basic Pay	13,510.00	1000	House Rent Allowance	1,413.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1516	Dress/Uniform Allowance	150.00	1567	Washing Allowance	150.00
2148	15% Adhoc Relief All-2013	293.00	2199	Adhoc Relief Allow @10%	209.00
2211	Adhoc Relief All 2016 10%	1,064.00	2224	Adhoc Relief All 2017 10%	1,351.00
2247	Adhoc Relief All 2018 10%	1,351.00	2264	Adhoc Relief All 2019 10%	1,351.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription	-770.00	3501	Benevolent Fund	-300.00
4004	R. Benefits & Death Comp:	-451.00			0.00

Deductions - Loans and Advances

(Payroll Section: 002)

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00

Recovered till September-2019:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.): 24,127.00

Deductions: (Rs.): -1,521.00

Net Pay: (Rs.): 22,606.00

Payee Name: MUHAMMAD FAROOQ

Account Number: 2721-0

Bank Details: NATIONAL BANK OF PAKISTAN, 231313 KUNDA BRANCH KUNDA BRANCH, SWABI

Leaves: Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SWABI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

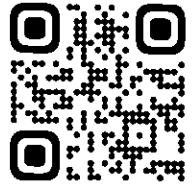
قیمت
50 روپے

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

1934

ایڈوکیٹ: عبد اللہ صاحب

PESHAWAR
BAR ASSOCIATION



بار کونسل ایسوسی ایشن نمبر: BC-1-7933

رابطہ نمبر: 03238 0382579

بجالات جناب: میر محمد سعید

مخانب: <u>انصاف</u>	دعویٰ: <u>دعویٰ نمبر 5795/8</u>
	علت نمبر: _____
	مورخہ: _____
	جرم: _____
	تھانہ: _____

باہر تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
آن مقام کیلئے عبد اللہ صاحب کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کی مقدمہ کی کل کارروائی کا اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقررات ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر داختر منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جائے التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTONKHA IWA

المرقوم: 17/12/2023

بدا واد شد العبد

کے لیے منظور ہے۔

عبد اللہ شہزاد (مختار قانونی) برائے ایڈووکیٹ