


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 476/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.07.2023	<p>The implementation petition of Mr. Noor Ali Khan submitted today by Mr. Sheraz Ali Khan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR
CHECK LIST

Noor Ali Khan versus
 Appellant

Govt
 Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>SHAIBER KHAN Advocate</u> <u>H&H Court</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	Whether appeal is within time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Whether the enactment under which the appeal is filed mentioned?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.	Whether the enactment under which the appeal is filed is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Whether affidavit is appended?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Whether affidavit is duly attested by competent Oath Commissioner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.	Whether appeal/annexures are properly paged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.	Whether annexures are legible?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11.	Whether annexures are attested?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12.	Whether copies of annexures are readable/clear?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.	Whether copy of appeal is delivered to AG/DAG?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.	Whether numbers of referred cases given are correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16.	Whether appeal contains cutting/overwriting?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17.	Whether list of books has been provided at the end of the appeal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18.	Whether case relate to this court?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19.	Whether requisite number of spare copies attached?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20.	Whether complete spare copy is filed in separate file cover?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21.	Whether addresses of parties given are complete?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22.	Whether index filed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
23.	Whether index is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
24.	Whether Security and Process Fee deposited? On	<input checked="" type="checkbox"/>	<input type="checkbox"/>
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	<input checked="" type="checkbox"/>	<input type="checkbox"/>
26.	Whether copies of comments/reply/rejoinder submitted? On	<input type="checkbox"/>	<input type="checkbox"/>
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On	<input type="checkbox"/>	<input type="checkbox"/>

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- SHAIBER KHAN

Signature:- [Signature]

Dated:- _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition no: 476 /2023:

IN:

Service Appeal No: 482/2018:

Decided on: 03/03/2023:

Noor Ali Khan S/O Muamber Khan, JCT, Pharmacy Civil Hospital Chakesar, Shangla

.....Appellant

VERSUS

Secretary to Govt of Khyber Pakhtukhwa Administration and Establishment Department, Civil Secretariat, Peshawar & Others.....Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Application.		1-2
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3.	Copy of the appeal	B	11-20
4.	Wakalat Nama		21

Applicant/appellant

Through:


Shaiber Khan

& 
Sheraz Ali Khan

Advocates, High Court

Peshawar

Cell#0300-5870500

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution: Petition no: 476 /2023:

IN:

Service: Appeal No: 482/2018:

Decided on: 03.03.2023:

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6391

Dated 11-7-2023

Noor Ali Khan S/O Muamber Khan, JCT, Pharmacy, Civil Hospital Chakesar, Shangla:

.....Appellant

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa Finance Department, Civil Secretariat, Peshawar.
3. Secretary to Govt of Khyber Pakhtunkhwa Health Department, Civil Secretariat, Peshawar.
4. Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar

.....Respondents

APPLICATION ON BEHALF OF THE APPLICANT/APPELLANT FOR IMPLEMENTATION OF THE JUDGMENT AND ORDER DATED:03.03.2023 PASSED BY THIS HON'BLE TRIBUNAL IN ITS LETTER AND SPIRIT AND TO PROMOTE THE APPELLANT FOR THE POST OF CLINICAL TECHNOLOGIST/PHC TECHNOLOGIST BPS-17, WITH EFFECT FROM THE DATE OF OTHER TECHNOLOGIST HAVE BEEN PROMOTED WITH ALL CONSEQUENTIAL BENEFITS.

Respectfully Sheweth:-

- (1) That the above noted service appeal was pending adjudication in this Hon'ble Tribunal and was decided vide judgment and order dated:03.03.2023. (Attested Copy of the judgment is annexed as Annexure "A").
- (2) That this Hon'ble Tribunal vide judgment and order dated:03.03.2023 accepted the service appeal of the appellant as prayed in the appeal. (Copy of the appeal is annexed as Annexure "B").

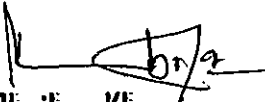

(2)

- (3) That the judgment of this Hon'ble Tribunal was duly communicated to the respondents however, the respondent/Department has not yet considered the applicant/appellant for the promotion and his name is not included in the seniority list of the qualified paramedics.
- (4) That inspite of the judgment and order of this Hon'ble Tribunal the appellant time and again approached to the respondents for implementation of the this judgment and order but in vain.
- (5) That the respondents are legally bound to implement the judgment and order of this Hon'ble Court in its letter and spirit without any further delay.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may please be directed to implement the judgment and order dated:03.03.2023 of this Hon'ble Tribunal in its letter and spirit and to promote the applicant/appellant for the post of Clinical Technologist/PHC Technologist BPS-17.

Applicant/appellant

Through:


Shaiber Khan
& 
Sheraz Ali Khan
Advocates, High Court
Peshawar
Cell#0300-5870500

AFFIDAVIT:-

I, Noor Ali Khan S/O Muamber Khan, JCT, Pharmacy Civil Hospital Chakesar, Shangla, do hereby solemnly affirm and declare on oath that the contents of accompanied petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.




DEPONENT

4A

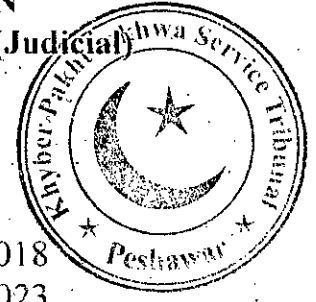
3

Service Appeal No.480/2018 titled "Khair-Ur Rehman-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" and connected Appeal No. 482/2020 titled "Noor Ali Khan-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others"; Appeal No. 483/2020 titled "Muhammad Saleem-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others"; and Appeal No.484/2020 titled "Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" decided on 03.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rozina Rehman, Member, Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar.

SCANNED
KPST
Peshawar

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
ROZINA REHMAN ... MEMBER (Judicial)



Service Appeal No.480/2018

Date of presentation of appeal22.03.2018
Dates of Hearing.....03.03.2023
Date of Decision.....03.03.2023

**Khair Ur Rehman S/O Bahadar Khan, JCT, Pharmacy BAU, Arif Kali,
Lower Dir.**

.....(*Appellant*)

Versus

1. **Secretary to Govt: of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar.**
2. **Secretary to Govt: of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.**
3. **Secretary Khyber Pakhtunkhwa Medical Faculty Peshawar.**
4. **Secretary to Govt: of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.**
5. **Directorate General, Health Services Department, Khyber Pakhtunkhwa, Peshawar.**

.....(*Respondents*)

Present:

Mr. Muhammad Anwar,
Advocate.....For appellant.

Muhammad Riaz Khan Paindakhel,
Assistant Advocate General.....For respondents.

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

.....
SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACT OF RESPONDENTS/DEPARTMENT OF NON-ENCLOSURE THE NAME OF THE APPELLANT IN THE QUALIFIED PARAMEDICS SENIORITY LIST AND NON-

Service Appeal No.480/2018 titled "Khair Ur Rehman-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" and connected Appeal No. 482/2020 titled "Noor Ali Khan-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others", Appeal No. 483/2020 titled "Muhammad Saleem-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others", and Appeal No.484/2020 titled "Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" decided on 03.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rozina Rehman, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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CONSIDERING THE APPELLANT DESPITE ELIGIBILITY AND HAVING THE REQUISITE QUALIFICATION OF B.SC DEGREE IN PHARMACY, OBTAINED FROM MEDICAL FACULTY KHYBER PAKHTUNKHWA PESHAWAR IN THE SESSION 2004-2005 FOR THE POST OF CLINICAL TECHNOLOGIST/PHC TECHNOLOGIST BPS-17, UNDER 20% QUOTA RESERVED FOR PROMOTION AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT HAVE BEEN REJECTED VIDE MINUTES OF THE MEETING HELD ON 22.01.2018 UNDER THE CHAIRMANSHIP OF SECRETARY HEALTH DEPARTMENT/RESPONDENT NO.4 WHICH MINUTES HAVE BEEN COMMUNICATED TO THE DIRECTOR GENERAL, HEALTH SERVICES/RESPONDENT NO.5 THROUGH LETTER BEARING NO SOH-III/8-602/2017 (QUALIFIED PARAMEDICS) DATED THE PESHAWAR 21ST FEBRUARY, 2018 AND SUBSEQUENTLY SERVED UPON THE APPELLANT ON 23.02.2018 (COPY OF THE DIRECTION IS ANNEXED AS ANNEXURE "AA").

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected service appeal No. 482/2020 titled "Noor Ali Khan-vs-Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others", service appeal No. 483/2020 titled "Muhammad Saleem-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others", and service appeal No. 484/2020 titled "Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" are being decided as all the four appeals are regarding the same facts, circumstances and the matter in issue.

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**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar**

2. According to the facts gathered from the record, the appellants were appointed in the Health Department in the capacity of Dispenser/Compunder/Dresser, the then combined cadre BPS-06 on 21.11.1989; that the Provincial cabinet, vide its decision dated 22.06.2000, had declared the combined cadre of Dispenser/Compunder/Dresser as dying cadre which had been replaced with the new and existing nomenclature of Pharmacy Technician; that the respondent/Medical Faculty through advertisement in the leading daily's, invited applications from in service candidates as well as fresh candidates for two years Bachelor Degree of Science in Pharmacy Technology and the appellants, being employees of the respondent department, applied, through proper channel, for admission and the appellants, on the basis of their merit position, were selected in B.Sc in Pharmacy Technology, Session 2004-2005 by respondent department with issuance of proper NOCs in their favour, followed by sanction of study leave; that the appellants have successfully completed their B.Sc in Pharmacy Technology and have passed their examination; that respondent department vide notification No. SOH-III/8-60/05 (Paramedics) dated 25.08.2006 approved eight stages paramedics service structure of the then NWFP now Khyber Pakhtunkhwa Paramedics Staff; that vide notification dated 14.10.2016, the Khyber Pakhtunkhwa Faculty of Paramedical and Allied Health service Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 26.09.2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 06.10.2016, had been published as an Act of the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Provincial Legislature of the Khyber Pakhtunkhwa; that respondent department vide notification No. SOH-III/HD/3-5/2014 dated 10.05.2016 in supersession of all notifications issues in this behalf by the Health Department in consultation with Administration/Establishment Department and the Finance Department had laid down the method of recruitment specified in column 3 to 5 of the appendix to the posts of paramedical staff in the Health Department Specified in column 2 of the said appendix; that the Finance Department vide notification No. SO(FR)FD/7-3/2015/paramedics dated 11.08.2015 had up-graded all the Paramedics Staff with immediate effect in the terms and conditions mentioned therein the notification; that the respondent department had issued provisional seniority list of the paramedics on 22.08.2017, and ignored the appellants against which the appellants filed departmental representation which was rejected vide minutes of the meeting held on 22.01.2018, hence the instant service appeals.

3. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned Assistant Advocate General for the respondents.

ATTESTED

ENABLER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Assistant Advocate General controverted the same by supporting the impugned order.

6. It is the case of the appellants that according to the latest rules in vogue notified vide notification No. SOH-III/HD/3-5/2014 dated 10.05.2016 as they were entitled to further promotion but the respondents had not promoted them despite being eligible and senior. The respondents in their reply had raised only one objection i.e. in paragraph-11 according to which the appellants had obtained degrees from the Khyber Pakhtunkhwa Medical Faculty and not from the University, therefore, their names had not been included in the seniority list of Degree Holders. Thus the only hurdle according to the respondents was the degree obtained by the appellants from the Khyber Pakhtunkhwa Medical Faculty whereas Sub-section-5 of Section-7 of the Khyber Pakhtunkhwa Faculty of Paramedical Allied Health Services Act, 2016, the degrees, certificates or Diplomas already granted by the Medical Faculty till the commencing date of the above Act, were admitted to the valid. When confronted with the above legal position, the learned Law Officer did not have anything to explain except to just support the written reply which stance of the Law Officer is not justified. The appellants are thus sanguine in seeking the relief prayed in the appeals. Therefore, we accept these appeals and direct that names of the appellants be included in the seniority list of the qualified Para-Medics and they shall also be considered for the promotion

ATTESTED

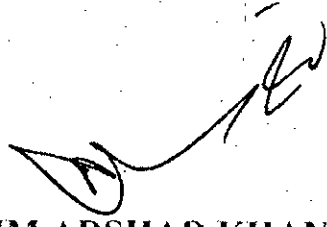
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.480/2018 titled "Khair Ur Rehman-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" and connected Appeal No. 482/2020 titled "Noor Ali Khan-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others", Appeal No. 483/2020 titled "Muhammad Saleem-vs- Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others", and Appeal No.484/2020 titled "Secretary to Government of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" decided on 03.03.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Rozina Rehman, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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from which their juniors were considered if they otherwise eligible. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of March, 2023.*



KALIM ARSHAD KHAN
Chairman



ROZINA REHMAN
Member (Judicial)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

11/7/23

Date of Presentation of Application 11/7/23
Number of Words Page 6
Copying Fee 30/-
Urgent _____
Total 25/-
Name of Copyist Shehryar
Date of Completion of Copy 11/7/23
Date of Delivery of Copy 11/7/23

9

P

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 482/2018

Noor Ali Khan s/o Muamber Khan, JCT, Pharmacy Civil Hospital Chakesar, Shangla.

..... Appellant

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa Administration and Establishment department, Civil Secretariat, Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar
3. *Secretary K P Medical Faculty Peshawar*
~~The Governing Body of the Medical Faculty Khyber Pakhtunkhwa Peshawar through its Chairperson, The Secretary to Govt of Khyber Pakhtunkhwa, Health Department Civil Secretariat Peshawar.~~
4. Secretary to Govt of Khyber Pakhtunkhwa, Health Department, Civil secretariat, Peshawar.
5. Director General, Health Services. Department, Khyber Pakhtunkhwa, Peshawar:

Written

..... Respondents

AS PER DIRECTION OF THE LEARNED

REGISTRAR VIDE NO 614/ST DATED

22.03.2018, SEPARATE SERVICE APPEAL

ATTESTED

 REGISTRAR
 KHYBER PAKHTUNKHWA
 SERVICE TRIBUNAL
 PESHAWAR

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ORDER

3rd Mar, 2023

1. Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

2. Vide our detailed order of today placed in service appeal No. 480/2018 titled "Khair Ur Rehman-vs- Secretary to Govt: of Khyber Pakhtunkhwa Administration and Establishment Department, Civil Secretariat, Peshawar and others" (copy placed in this file), this appeal is also accepted. Costs shall follow the events. Consign.

3. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 3rd day of March, 2023.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Signature)
(Kalim Arshad Khan)
Chairman

Date of Presentation of Application 27-3-23
Number of Page 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name of _____
Date of Completion of Copy 27-3-23
Date of Delivery of Copy 27-3-23

(Signature)
(Rozina Rehman)
Member (Judicial)

"B"

(11)

(1)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 482/2018

Noor Ali Khan s/o Muamber Khan, JCT, Pharmacy Civil Hospital Chakesar, Shangla.

..... **Appellant**

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa Administration and Establishment department, Civil Secretariat, Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.
3. *Secretary R.P Medical Faculty Peshawar*
~~The Governing Body of the Medical Faculty Khyber Pakhtunkhwa Peshawar through its Chairperson,~~
Abdya Road University Town Peshawar
~~The Secretary to Govt of Khyber Pakhtunkhwa, Health Department Civil Secretariat Peshawar.~~
4. Secretary to Govt of Khyber Pakhtunkhwa, Health Department, Civil secretariat, Peshawar.
5. Director General, Health Services Department, Khyber Pakhtunkhwa, Peshawar:

ostation

..... **Respondents**

AS PER DIRECTION OF THE LEARNED REGISTRAR VIDE NO 614/ST DATED 22.03.2018, SEPARATE SERVICE APPEAL

ATTESTED
[Signature]
Khyber Pakhtunkhwa Service Tribunal
Peshawar

(2)

(12)

UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE ACT OF
RESPONDENTS/DEPARTMENT OF NON
ENCLOSURE THE NAME OF THE
APPELLANT IN THE QUALIFIED
PARAMEDICS SENIORITY LIST AND NON
CONSIDERING THE APPELLANT DESPITE
ELIGIBILITY AND HAVING THE REQUISITE
QUALIFICATION OF B.SC DECREE IN
PHARMACY, OBTAINED FROM MEDICAL
FACULTY NWFP/KHYBER PAKHTUNKHWA
PESHAWAR IN THE SESSION 2004-2005
FOR THE POST OF CLINICAL
TECHNOLOGIST/PHC TECHNOLOGIST BPS-
17, UNDER 20% QUOTA RESERVED FOR
PROMOTION AGAINST WHICH THE
DEPARTMENTAL APPEALS OF THE
APPELLANT HAVE BEEN REJECTED VIDE
MINUTES OF THE MEETING HELD ON
22.01.2018 UNDER THE CHAIRMANSHIP OF
SECRETARY HEALTH DEPARTMENT

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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/RESPONDENT NO 4 WHICH MINUTES
HAVE BEEN COMMUNICATED TO THE
DIRECTOR GENERAL, HEALTH SERVICES /
RESPONDENT NO 5 THROUGH LETTER
BEARING NO SOH-III/8-60/2017
(QUALIFIED PARAMEDICS) DATED THE
PESHAWAR 21ST FEBRUARY, 2018 AND
SUBSEQUENTLY SERVED UPON THE
APPELLANT ON 23.02.2018. (Copy of the
direction is annexed as annexure "AA")

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Respectfully Sheweth:

1. That the Appellant , on the basis of their respective requisite qualification, were appointed in the Health Department in the capacity of dispenser/compunder /Dresser, the then combined cadre BPS-06 and joined the service on 21.11.1989
2. That the Provincial cabinet, vide its decision dated 22.06:2000, has declared the combined cadre of dispenser / compunder / dresser as dying cadre which has been replaced with the new and existing nomenclature of pharmacy technician.

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3. That Respondent / Medical Faculty through advertisement in the leading daily's, invited Applications from in service candidate as well as fresh candidates for two years Bachelor Degree of Science in Pharmacy Technology and the Appellant , being employees of the Respondents/department, applied, through proper channel, for admission and the Appellant , on the basis of their merit positions, were selected in B.Sc in Pharmacy Technology, Session 2004-2005 by the Respondent/department with issuance of proper NOCs in their favour, followed by sanction of study leave.

4. That the Appellant have successfully completed their B.Sc in Pharmacy Technology and have passed their examination. **(Copies of the Degrees are annexed Annex A-A/4)**

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5. That Respondent / department vide notification No. SOH-III/8-60/05 (Paramedics) dated 25.08.2006 approved eight stages paramedics service structure of the then NWFP now Khyber Pakhtunkhwa Paramedics staff. **(copy with enclosure annexed as annexure B)**

6. That Respondent / department vide notification bearing No SOH-III/8-60/05 dated 7th January 2008 laid down the method of recruitment, qualification and other conditions specified in

(5) (15)

column No 3 to 5 of the Appendix. **(Copy of the notification with appendix is annexed C)**

7. The Respondent / department vide notification bearing No SOH-III/8-60/05 (paramedics) dated 09.05.2012 withdraw the notification bearing no SOH-III/8-60/05 (paramedics) dated 25.08.2006 (Annexure B) and restored notification bearing No SOH-III/8/60/05 dated 10.05.2006 with additions, mentioned in the notification dated 09.05.2012.

(Copy of the notification is annexed as annexure D - D/1)

8. That vide notification dated Peshawar, the 14th October 2016, the Khyber Pakhtunkhwa faculty of Paramedical and Allied Health Service Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 26th September 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 6th October, 2016, has been published as an Act of the Provincial Legislature of the KP. **(copy of the Act is annexed is annexure E)**

9. That Respondent / department vide notification No. SOH-III/HD/3-5/2014 dated the 10th May, 2016 in supersession of all notifications issued in this behalf by the Health Department in consultation with Administrations / Establishment Department and the Finance Department has laid down the method

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Commission
Peshawar

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of recruitment specified in column 3 to 5 of the Appendix to the posts of Paramedical staff in the Health Department Specified in column 2 of the said appendix. **(Copy of the notification with appendix is Annexed as Annexure F)**

10. That Respondent / Finance Department vide Notification No. SO(FR)FD/7-3/2015/paramedics dated 11.08.2015 has up-graded all the paramedics staff with immediate effect in the terms and conditions mentioned therein the notification *ibid.* **(copy of notification dated 11.08.2015 annexed as Annexure F/1)**

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Commission
Peshawar

11. That Respondent / department had issued provisional Seniority list of the paramedics on 22.08.2017, and ignored the Appellant, so the Appellant filed their respective departmental appeals. **(Copies of the Departmental Appeals are annexed as Annex G-G4)**

12. That Respondent/Department vide minutes of the meeting held on 22.01.2018 under the chairmanship of Secretary Health Department rejected the appeals of the Appellant, copy of which was communicated to the Appellant through DG Health Services Peshawar where after the same has been served upon the Appellant on 23.02.2018. **(Copies of the minutes dated 22.01.2018 and**

(7) (17)

letter bearing no SOH-III/8-60/2017 (qualified paramedics) dated 21.02.2018. are annexed as annexure H-H1)

13. That Respondent / department through Notification No. SOH-III/8-60/2018 dated 01.02.2018 and Notification No. SOH-III/8-60/2018 dated 23.02.2018 has up-graded the posts of similarly placed paramedics and promoted them to BPS-17. (Copy of notifications annexed as annexure H2--H3)

14. That the Appellant invokes the appellate jurisdiction of this Hon'ble Tribunal for the redressal of their grievances on the following grounds, inter alia:

GROUND:

- A. That the Appellant have more than 24 years spotless services at their credit.
- B. That after advertisement and invitation of Application by the Respondent/Medical Faculty, the Appellant, on the basis of their merit position, were selected and was followed by issuance of proper NOC by the Respondent / Defendant and sanction of study leaves.

ATTESTED

EX/MAN/ER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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C. That B.Sc in Pharmacy of Medical Faculty Khyber Pakhtunkhwa is the highest qualification in the Health Department, having the same curriculum / course as that of B.Sc Pharmacy of the University even the teaching staff were the professors of the Medical colleges who taught the Appellant during the course.

D. That the Appellant have been discriminated as the post of similarly placed Paramedics, having the B.Sc degree qualification of the Medical Faculty Khyber Pakhtunkhwa, have been up-graded to BPS-17 and the Appellant having the same B.Sc degree of the Medical Faculty have been ignored.

E. That the Appellant have been deprived of their fundamental rights of education guaranteed by the constitution of Pakistan.

F. That Respondents/department have violated the golden principles of equal treatment.

G. That the acts of Respondent / department have vanished the very purpose of the rules/service structure of the paramedics.

H. That B.Sc in Pharmacy degree of the Medical Faculty has the protection of the Khyber Pakhtunkhwa faculty of Paramedical and Allied Health Services Act, 2016 as envisaged in section 17(5) in terms as:-

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service
Peshawar

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"The Degree, Certificate or diploma already granted by the Medical Faculty till the commencement day of this Act, shall deem to be void"

- I. That 20% quota of the posts of technologist pharmacy are lying vacant since 2005.
- J. That the exclusion of the names of the Appellant from the qualified paramedics seniority list is the utter violation of the law, rules and regulation and it has adversely effected the future of the Appellant .
- K. That any other ground, with leave of the Hon'ble Tribunal will be raised at the time of final hearing of the appeal.

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It is, therefore, humbly prayed that on acceptance of this appeal, the Appellant may please be up-graded to BPS-17 from the date as other similarly placed paramedical staffs have been up-graded with all back benefits, the names of the Appellant , being qualified, may also be included in the seniority list of the qualified paramedics at their due position and place.

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Any other relief, of which the Appellant are entitled to in the fact and circumstances of the case, may also awarded / granted in favour of the Appellant against Respondents.

Muhammad Ullah
Appellant

Through
Dated: 14/2018

Muhammad Anwar

MUHAMMAD ANWAR

Sheraz Khan
SHERAZ KHAN

&

USMAN ULLAH

Advocates, Peshawar

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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ایڈویکٹ:

بار کونسل / ایسوسی ایشن نمبر: 4267 - 13

رابطہ نمبر: 0300 5870500

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

سروس لٹر پیوٹیل حسرت میمنوں کوہ سجاد

بعدالت جناب:

دعویٰ نمبر:	
علت نمبر:	
مورخہ:	
جرم:	
تھانہ:	

منجانب:

لوہ علی خان
بنام
گنہ گسٹ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
آن مقام سید شہزاد علی خان کیلئے سید شہزاد علی خان کو وکیل مقرر
کرنے 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
زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائرہ کرانے 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ 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 سدر ہے

المزوم: 10 جولائی 2023
PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

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

Attested
Shumaila

Sheroz.advocate2@gmail.com