


29.05.2023

Appellant alongwith junior of his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

File to come up alongwith connected Service Appeal No. 492/2019 titled "Mani Gul Versus Government of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat Khyber Pakhtunkhwa, Peshawar and 06 others," on 11.07.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin

Service Appeal No.493/2019


11th July, 2023

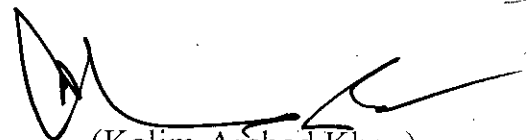
SCANNED
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Peshawar

1. Learned counsel for the appellant and Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

2. Learned counsel for the appellant requested for withdrawal of the instant application. As a token of admission of his submission he signed the margin of order sheet. Dismissed as withdrawn. Consign.

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


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

11-7-23

05.01.2023

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

As contended by the learned counsel for the appellant, similar natural cases have already been decided by a bench headed by Rozina Rehman, learned Member Judicial. Learned counsel for the appellant is directed to make a written application in this regard so that the said bench is constituted. To come up for arguments on 03.04.2023 before D.B.

(Mian Muhammad)
Member (E)

(Kalim Arshad Khan)
Chairman

03.04.2023

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

File to come up alongwith connected Service Appeal No.492/2019 titled "Mani Gul Vs. Government of Khyber Pakhtunkhwa" on 29.05.2023 before D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Rozina Rehman)
Member (J)


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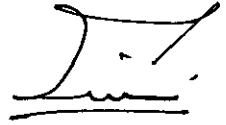
01.07.2022

Learned counsel for the appellant present. Mr. Riaz Ahmad Painsdakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment in order to prepare the brief of the instant appeal. Adjourned. To come up for arguments on 14.09.2022 before the D.B.



(Rozina Rehman)
Member (J)

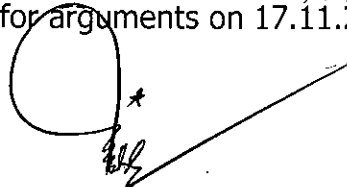


(Salah-ud-Din)
Member (J)

14.09.2022

Learned counsel for the appellant present. Mr. Sajid Khan, Section Officer, alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 17.11.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

17th Nov. 2022

Clerk of counsel for the appellant present. .

Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

Lawyers are on general strike. To come up for arguments on 05.01.2023 before the D.B.



(Fareeha Paul)
Member(E)




(Rozina Rehman)
Member(J)

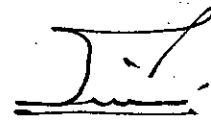
SCANNED
KPST
Peshawar

09.11.2021

Mr. Muhammad Maaz Madni, junior of learned counsel for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not feeling well today. Adjourned. To come up for arguments before the D.B on 10.02.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)


(Salah-Ud-Din)
Member (J)

10-2-2022

Due to retirement of Honorable
Chairman the case is adjourned to come
up for the same as before on 6/6/2022

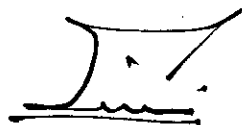

Reza Khan

06.06.2022

Appellant in person present. Mr. Naseeb Khan, Section Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments on 01.07.2022 before the D.B.

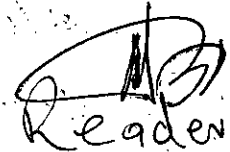

(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

11.01.2021 Counsel for the appellant present. Asst: AG for respondents present. Due to pandemic of Covid-19, the case is adjourned to 31.03.2021 for the same.


Reader


31.3.2021 Due to non-availability of concerned D.B, the ~~case~~^{case} is adjourned to 1/7/2021 for the same as before.

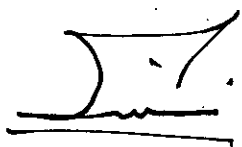

Reader

01.07.2021

Learned counsel for the appellant present. Mr. Jaffar Ali, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 09.11.2021


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

09.01.2020 Due to general strike of the Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 02.05.2020 before D.B.


Member


Member

2. 4. 2020 Due to public holiday on account of (COVID-19) the case is adjourned to come up for same on 29.6.2020



29.06.2020 Due to COVID-19, the case is adjourned to 24.08.2020 for the same.

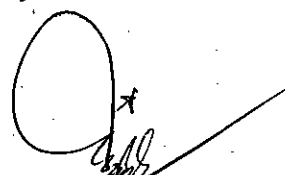

Reader

24.08.2020 Due to summer vacation case to come up for the same on 03.11.2020 before D.B.


Reader

03.11.2020 Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 11.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

30.09.2019

Nemo for the petitioner. Addl. AG alongwith Shah Nawaz, Junior Clerk for the respondents No. 1, 4 to 7 and Sajid Superintendent for respondent No. 3 present.

Representative of respondent No. 1, 4 to 7 has submitted reply/comments on behalf of the said respondents. Representative of respondent No, 3 relies on the reply of respondents No. 1, 4 to 7. Fresh notice be issued to respondent No. 2.

To come up for written reply/comments of respondents No. 2 by way of last chance on 24.10.2019 before S.B.


Chairman

24.10.2019

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl: AG alongwith Sajid Superintendent and Shah Nawaz Junior Clerk for the respondents present.

Respondent No.2 has not furnished the requisite reply/comments despite last opportunity. The appeal is posted to D.B for arguments on 09.01.2020.


Chairman

24.06.2019

Counsel for the appellant and Addl: AG for respondents present. Written reply/comments on behalf of respondents not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 08.08.2019 before S.B.



(Ahmad Hassan)

Member

08.08.2019

Mr. Mir Zaman Safi, Advocate on behalf of learned counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Danyal, Store Keeper and Muhammad Shafique, Senior Clerk for the respondents present.

The representative of respondents states that the reply has been prepared but is yet to be signed by the concerned respondents. He, therefore, requests for adjournment.

Adjourned to 30.09.2019 on which date the requisite reply shall positively be furnished.



Chairman

24.04.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that the he was appointed as Ward Orderly (BPS-2) vide order dated 20.08.2003. During the course of his service, he acquired Diploma in Health Technology. Having the requisite educational qualification, he made a request for adjustment/promotion to the post of Clinical Technician (BPS-12) but to no avail. In the meanwhile, impugned service rules notified on 10.05.2016 had not earmarked quota for promotion of Class-IV employees including the appellant. The colleagues of the appellant filed writ petition in Peshawar High Court, Dar-ul-Qaza Bench, Swat and vide order dated 13.10.2011 respondent no.3 directed to redress the grievances of the petitioners within a period of one month. Subsequently, they were promoted as Clinical Technician (BPS-12) vide notification dated 28.02.2012. Appellant being similarly placed person was ignored by the respondents. Feeling aggrieved, he filed departmental appeal on 02.01.2019, which remained unanswered, hence, the instant service appeal. Treatment received by the appellant from the respondents appears to be discriminatory. Reliance was also placed on 2009 SCMR 1. A separate application for restraining the respondents from appointment against the post of clinical technician (BPS-12) till the disposal of this appeal has also been submitted.

Points urged need consideration. Admit, subject to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 24.06.2019 before S.B. Notice of the stay application be also issued for the date fixed.

Appellate Court
Security & Process Fee


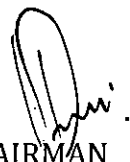
(AHMAD HASSAN)
MEMBER

175

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 493/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/04/2019	<p style="text-align: center;">The appeal of Mr. Tai⁶ Akbar presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/04/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	22/04/19	

SCANNED
KPST
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 493 /2019

TAIB AKBAR

VS

HEALTH DEPTT:

INDEX

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6	Judgment	D	17- 21.
7	COC	E	22- 25.
8	Notification	F	26- 27.
9	Departmental appeal	G	28.
10	Vakalat nama	29.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 493 /2019

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 612

Dated 12/4/2019

Mr. TAIB AKBAR, Ward Orderly (BPS-2),
District Headquarter Hospital, District Bajaur at Khar

..... **APPELLANT**

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Secretary Health Department, Civil Secretariat Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
5. The Director Health Services Merged Isas, Warsak Road, Peshawar.
6. The District Surgeon/Health officer, District Bajaur at Khar.
7. The Medical Superintendent, District Headquarter Hospital, Bajaur.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ADJUSTING THE APPELLANT AGAINST THE POST OF CLINICAL TECHNICIAN (BPS-12) AND AGAINST THE IMPUGNED PARAMEDICS SERVICE RULES OF THE RESPONDENT DEPARTMENT NOTIFIED VIDE DATED 10.5.2016 WHEREBY NO PROMOTION QUOTA HAS BEEN ALLOCATED FOR THE IN SERVICE CLASS-IV EMPLOYEES/APPELLANT OF THE RESPONDENT DEPARTMENT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

Filed to-day
Saima
24/1/19
Registrar

PRAYER:

That on acceptance of this Service appeal the respondents may kindly be directed to amend the paramedics service structure Notified on 10.5.2016 to the extent of allocation of proper promotion quota for those class-iv employees including appellant who have the requisite qualifications for the post of Clinical Technician (BPS-12) **OR** the respondents may kindly be directed to adjusted the appellant against the post of Clinical Technician (BPS-12) in light of the Judgment of Honorable Peshawar High Court passed in W.P No.102/2011 and in light of the Notification dated 28.2.2012 issued by the respondent Department with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

FACTS:

Brief facts which give rise to the instant appeal is as under:-

1. That appellant is the employee of the Health Department and was appointed as Ward Orderly (BPS-2) vide order dated 20.08.2003. Copy of the appointment order is attached as annexure **A.**
2. That the appellant is serving the respondents Department since 2003 as per their job description and during the course of his service the appellant acquired the diploma in Health Technology and bachelor Degree in Arts from University of Malakand. Copy of Educational Testimonials is attached as annexure **B.**
3. That appellant inspite of having higher educational qualification as well as professional qualification of Diploma in Health Technician from medical faculty of Khyber Pakhtunkhwa have no prospects of promotion in the field of paramedics. That for the purpose of promotion the appellant and other colleagues of the appellant who have diploma in the relevant fields time and again requested for their promotion/adjustment against the post of Clinical Technician (BPS-12) but of no avail.
4. That according to the impugned paramedics service Notified on 10.5.2016 no promotion quota has been allocated for those class-iv employees including the appellant who have acquired the requisite diploma from medical faculty of Khyber Pakhtunkhwa and that is why the appellant and other class-iv employees have continuously been deprived from promotion. Copy of the impugned service Rules are attached as annexure **C.**
5. That colleagues of the appellant finally knocked the door of august Peshawar High Court Dar Ul Qaza Bench in writ petition No.102/2011 titled Aziz Ur Rehman VS Govt: of Khyber Pakhtunkhwa. That vide judgment dated 13.10.2011 the august High Court Dar Ul Qaza Bench directed the respondents to redress the grievance within a period of one month. That where after those employees filed COC petition and during the pendency of the said COC petition the respondents adjusted the class-IV employees against the posts of Clinical Technician (BPS-12) vide Notification dated 28.2.2012. Copies of the judgment and memo of COC petition and Notification/letter are attached as annexure **D, E and F.**
6. That appellant being similarly placed person/employee of the respondent Department also requested the respondents for his adjustment/promotion but no reply has been received so far. That feeling aggrieved the appellant filed Departmental against the Rules notified vide dated 10.5.2016 and against the inaction of the respondents by not adjusting the appellant against the post of

Clinical Technician (BPS-12) in light of the august Peshawar High Court judgment and Notification of the respondent department.

Copy of the Departmental appeal is attached as annexure **G**

7. That the appellant having no other efficacious, adequate and alternate remedy, approach this Honourable Tribunal on the following grounds amongst others.

GROUND:-

- A. That by not adjusting the appellant on the relevant post of clinical Technician (BPS-12) in light of the notification dated 28.2.2012 is against the Law, Facts, norms of natural justice and materials available.
- B. That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents are clearly violating Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C. That the respondents have not acted in accordance with law and the rules governing on the subject by not adjusting/promoting the appellant to his respective paramedic post for which he is fully eligible and entitle.
- D. That according to the notification dated 28.2.2012 already issued by the respondents the appellant is fully eligible and entitled to be adjusted/ promoted on the post of Clinical Technician (BPS-12).
- E. That, the petitioner is fully entitled to be benefited from the Notification dated 28.2.2012 in the light of various judgments passed by the Apex Supreme Court of Pakistan especially reported in **2009 SCMR page 01**.
- F. That the appellant has served the Department for a long period with unblemished service record, therefore, they have the right to be adjusted according to his qualification.
- G.** That the inaction of the respondent by not adjusting the appellant according to his qualification and not allocating proper promotion quota in the impugned service Rules dated 10.5.2016 is against Article-38 (e) of the constitution of Pakistan which enshrines **" that the state shall reduce disparity in the income and earnings of the individual including persons in the service of Pakistan"**.
- H. That any other grounds will be raised at the time of arguments with prior permission of this Honourable Tribunal.

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

Dated: 5.4.2019

Appellant


TAIB AKBAR

Through


NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI

&

SHAH ZULLAH KHAN
Advocates High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

C.M. NO. _____/2019

IN

APPEAL NO. _____/2019

TAYAB AKBAR

VS

HEALTH DEPTT:

APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM APPOINTMENT ON THE
POSTS OF CLINICAL TECHNICIAN (BPS-12) TILL
THE DISPOSAL OF THIS APPEAL

R/SHEWETH:

- 1- That the appellant filed above mentioned appeal before this august service Tribunal in which no date is fixed till now.
- 2- That appellant has filed the above mentioned appeal for adjustment against the post of Clinical Technician (BPS-12).
- 3- That the respondent Department advertised the said post in daily newspaper "Aaj" vide dated 09.04.2019 in violation of law and rules.
- 4- That all the three ingredients necessary for the stay is in favor of the petitioner.
- 5- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore, humbly prayed that on acceptance of this application the respondents may very kindly be restrained from appointment against the post of Clinical Technician (BPS-12) till the disposal of this appeal.

APPELLANT


TAYAB AKBAR

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

A-6

**OFFICE OF THE AGENCY SURGEON BAJAUR
AT KHAR**

(27)

Appointment letter

Consequent upon the approval of Departmental Selection Committee held on 7/7/2003 and 8/7/2003.

Mr./Miss. **Taib Akbar** S/O **Faqir Mohammad**

Resident of: **Village. Sheikh Baba Tehsil: Khar Bajaur Agency**

Is hereby appointed as **Ward Orderly BPS No. 02** plus usual allowances as admissible under the rules.

His/ Her appointment will be subject to the following terms and conditions:-

1. That your appointment is on contract basis for period of three years and your services are liable to be terminated at any time with out any notice or resign being assigned.
2. That you are declared medically fit for Govt: service.
3. The post is not transferable, and you must serve for three years on the said post.
4. That you will be governed by such and orders as may be issued by the government of NWFP, from time to time for the category of the Government servant to which he/she belong.
5. That if you wish to resign, at any time, your will resign in written within 30 days notice or you will be forfeit one month pay in lieu thereof and will continue to serve the government till the acceptance of your resignation by the competent authority.
6. That you will be posted any where in Bajaur agency.
7. That you will not be entitled to any TA/DA for Medical examination and joining the first appointment.
8. The offer is subject to the availability of vacant post.
9. If you accept the post the post on above terms and conditions you should report to the Office of Agency Surgeon Bajaur at Khar Within 15 days. The offer will be cancelled if you fail to report for duty.

Sd/-----
AGENCY SURGEON
BAJAUR AT KHAR

No. 2937-41 /C-5/BJR

Dated: 20 /8/2003

Copy forwarded to the:-

1. Political Agent Bajaur Chairman Departmental Selection Committee.
2. Deputy Director (Admn) Directorate Health Services FATA NWFP Peshawar
3. DMS AHQ: Hospital Khar.
4. Agency Account Officer Bajaur at Khar
5. Official Concerned.

For information please

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AGENCY SURGEON
BAJAUR AT KHAR

DIRECTOR SPORTS
Govt Post Graduate College
Khar Bajaur Agency

AT KHAR

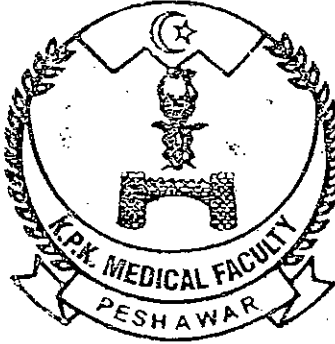
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B- (7)

Serial No: 1492

Roll No: 5136

KHYBER PAKHTOONKHA MEDICAL FACULTY PESHAWAR PAKISTAN



Diploma In Medical Technology

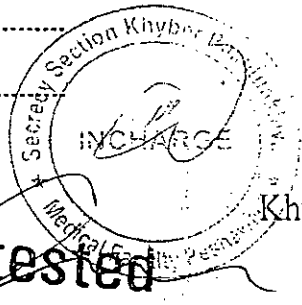
HEALTH TECHNOLOGY

SESSION 2009-2010

This is to certify that Mr. Miss. Mrs. TAYYEB ALBAR son / Daughter of
Mr. FAQIR MUHAMMAD of bearing Registration No
..... Has passed the examination of diploma in Medical Technology
In the year 07-2011 He / She Obtained 754 Marks out of 1400
He / She has been Placed in C Grade.

Prepared by: [Signature]

Checked By: [Signature]



Attested

Secretary,
Khyber pakhtoonkhwa Medical Faculty
Peshawar Pakistan.

[Signature]



UNIVERSITY OF MALAKAND

101201

PAKISTAN

S.No A

DETAILED MARKS CERTIFICATE

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8

Name: TAYYAB AKBAR

Private Candidate Bajaur Agency

Father's Name: FAQIR MUHAMMAD



Registration No. 2009670237

Roll No. 23549

B.A PART-II ANNUAL EXAMINATION 2011

Subject Name	Total Marks	Marks Obtained	Remarks
ISLAMIC STUDIES(E)	75	52	PASSED
URDU	75	35	PASSED
ENGLISH(C)	75	24	PASSED
PAK. STUDY	40	19	PASSED
BA PART-I MARKS	285	152	PASSED
Subject Passing Percentage: 33 (Theory & Practical Separately), Aggregate Percentage: 36		550	282

Examination Held From Jun 14 to Jul 07, 2011

Result Declared on 25-Aug-2011



Errors and Omissions are subject to subsequent rectification

Examination was taken as a whole/in parts

Date of Issue: 25-Aug-2011

Prepared by: Amjad Shahzad

[Handwritten signature]

[Handwritten signature]
Controller of Examinations
University of Malakand

DIRECTOR SPORTS
Govt Post Graduate College
Khar Bajaur Agency

[Handwritten signature]

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

C-9

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 10TH MAY, 2016

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

NOTIFICATION
Peshawar dated the 10th May 2016.

No. SOII-III/HD/3-5/2014 - In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all Notifications issued in this behalf by the Health Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions 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.

APPENDIX

S. No.	Nomenclature of the post.	Qualification for appointment by initial recruitment.	Age limits.	Method of recruitment.
	2	3	4	5
1	<u>Principal Technologist</u> (BS-20) (i) Principal Clinical Technologist Dental; (ii) Principal Clinical Technologist Pharmacy; (iii) Principal Clinical Technologist Radiology; (iv) Principal Clinical Technologist Pathology;			By promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technologists and Chief PHC Technologists with five years service in BS-19 or seventeen years service in BS-17 and above as such in the relevant technology.



	<p>(v) Principal Clinical Technologist Anesthesia; (vi) Principal Clinical Technologist Cardiology; (vii) Principal Clinical Technologist Surgical; (viii) Principal Clinical Technologist Dialysis; (ix) Principal Clinical Technologist Physiotherapy; (x) Principal Clinical Technologist Pulmonology; (xi) Principal Clinical Technologist Gastroenterology; and (xii) Principal Clinical Technologist Ophthalmology / otorhinolaryngology; and</p> <p><u>Principle PHC Technologist</u></p> <p>(i) Principal PHC Technologist (Multi Purpose); and (ii) Principal PHC Technologist (MCH).</p>			
<p>2</p>	<p><u>Chief Technologist</u> <i>CS-195</i></p> <p>(i) Chief Clinical Technologist Dental; (ii) Chief Clinical Technologist Pharmacy; (iii) Chief Clinical Technologist Radiology; (iv) Chief Clinical Technologist Pathology; (v) Chief Clinical Technologist Anesthesia; (vi) Chief Clinical Technologist Cardiology; (vii) Chief Clinical Technologist Surgical; (viii) Chief Clinical Technologist Dialysis; (ix) Chief Clinical Technologist Physiotherapy; (x) Chief Clinical Technologist Pulmonology; (xi) Chief Clinical Technologist Gastroenterology; and (xii) Chief Clinical Technologist Ophthalmology/ Otorhinolaryngology; and</p>			<p>By promotion, on the basis of seniority-cum-fitness, from amongst Senior Technologists and Senior PHC Technologists with seven years service in BPS-18 or twelve years service in BPS-17 and above as such in the relevant technology.</p>

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11

	Chief PHC Technologist			
	(i) Chief PHC Technologist (Multi-Purpose); and (ii) Chief PHC Technologist (MCH).			
3	<p>Senior Technologist (BS-18)</p> <p>(i) Senior Clinical Technologist Dental; (ii) Senior Clinical Technologist Pharmacy; (iii) Senior Clinical Technologist Radiology; (iv) Senior Clinical Technologist Pathology; (v) Senior Clinical Technologist Anesthesia; (vi) SCT Senior Clinical Technologist Cardiology; (vii) Senior Clinical Technologist Surgical; (viii) Senior Clinical Technologist Dialysis; (ix) Senior Clinical Technologist Physiotherapy; (x) Senior Clinical Technologist Pulmonology; (xi) Senior Clinical Technologist Gastroenterology; and (xii) Senior Clinical Technologist Ophthalmology/Otorhinolaryngology; and</p> <p>Senior PHC Technologist</p> <p>(i) Senior PHC Technologist (Multi-Purpose); and (ii) Senior PHC Technologist (MCH).</p>	At least Second Class Master's Degree or B.SC Honours/ BS (04-years) in the relevant technology or equivalent qualification from a recognized University/ Institution.	20-35 years	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Technologists and PHC Technologists with five years service as such in the relevant technology; and (b) fifty percent by initial recruitment.</p>
4	<p>Technologist (BS-17)</p> <p>(i) Clinical Technologist Dental; (ii) Clinical Technologist Pharmacy; (iii) Clinical Technologist Radiology; (iv) Clinical Technologist Pathology; (v) Clinical Technologist Anesthesia;</p>	At least Second Class Bachelor's Degree in the relevant Technology from a recognized University/ Institution.	18-32 years	(a) Forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians and Chief PHC Technicians with three years service as such in the relevant technology;

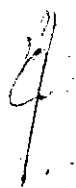
<ul style="list-style-type: none"> (vi) Clinical Technologist Cardiology; (vii) Clinical Technologist Surgical; (viii) Clinical Technologist Dialysis; (ix) Clinical Technologist Physiotherapy; (x) Clinical Technologist Pulmonology; (xi) Clinical Technologist Gastroenterology; and (xii) Clinical Technologist Ophthalmology / Otorhinolaryngology); and <p><u>PHC Technologist</u></p> <ul style="list-style-type: none"> (i) PHC Technologist (Multi-Purpose), and (ii) PHC Technologist (MCH). 		<p>(b) twenty percent by promotion, on the basis of <u>seniority-cum-fitness, from amongst the Chief Technicians, Senior Technicians and Technicians</u> having qualification prescribed for initial recruitment with three years service as such in the relevant technology.</p> <p><u>Note:</u> For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column No. 3:</p> <p>Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials; and</p> <p>(c) forty percent by initial recruitment.</p>
<p>5 <u>Chief Technician (BS-16)</u></p> <ul style="list-style-type: none"> (i) Chief Clinical Technician Dental; (ii) Chief Clinical Technician Pharmacy; (iii) Chief Clinical Technician Radiology; (iv) Chief Clinical Technician Pathology; (v) Chief Clinical Technician Anesthesia; (vi) Chief Clinical Technician Cardiology; (vii) Chief Clinical Technician Surgical; (viii) Chief Clinical Technician Dialysis; (ix) Chief Clinical Technician Physiotherapy; (x) Chief Clinical Technician Pulmonology; (xi) Chief Clinical Technician Gastroenterology; and 		<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Technicians and Senior PHC Technicians with at least two years service as such in the relevant technology.</p> <div style="text-align: right;">  </div>

	(xii) Chief Clinical Technician Ophthalmology, (Otorhinolaryngology); and Chief PHC Technician			
	(i) Chief PHC Technician (Multi-Purpose); and (ii) Chief PHC Technician (MCH)			
6	Senior Technician (BS-14) (i) Senior Clinical Technician Dental; (ii) Senior Clinical Technician Pharmacy; (iii) Senior Clinical Technician Radiology; (iv) Senior Clinical Technician Pathology; (v) Senior Clinical Technician Anesthesia; (vi) Senior Clinical Technician Cardiology; (vii) Senior Clinical Technician Surgical; (viii) Senior Clinical Technician Dialysis; (ix) Senior Clinical Technician Physiotherapy; (x) Senior Clinical Technician Pulmonology; (xi) Senior Clinical Technician Gastroenterology; and (xii) Senior Clinical Technician Ophthalmology/Otorhinolaryngology); and Senior PHC Technician (i) Senior PHC Technician (Multi-Purpose); and (ii) Senior PHC Technician (MCH).			By promotion, on the basis of seniority-cum-fitness, from amongst the Technicians and PHC Technicians with at least two years service as such in the relevant technology.
7	Technician (BS-12) (i) Clinical Technician Dental; (ii) Clinical Technician Pharmacy; (iii) Clinical Technician Radiology; (iv) Clinical Technician Pathology; (v) Clinical Technician Anesthesia; (vi) Clinical Technician Cardiology; (vii) Clinical Technician Surgical; (viii) Clinical Technician Dialysis; (ix) Clinical Technician Physiotherapy; (x) Clinical Technician Pulmonology; (xi) Clinical Technician Gastroenterology; and	(i) Technician/PHC Technician : At least Second Division Secondary School Certificate with Science from a recognized Board with Diploma in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical Faculty or Diploma in the relevant Paramedical technology from any recognized institution; provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar; and	18-30 years	By initial recruitment

952 - KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 10th MAY, 2016

<p><u>PHC Technician</u></p> <p>(i) PHC Technician(Multi-Purpose); and (ii) PHC Technician (MCH).</p>	<p>(ii) PHC Technician (MCH) Secondary School Certificate with at least Second Division in Science from a recognized board and Diplomas of LHV and Midwifery from recognized Nursing Examination Board.</p>		
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SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
HEALTH DEPARTMENT.



15

OFFICE OF THE SECRETARY TO GOVT. OF PAKHTUNKHWA DEPARTMENT HEALTH DEPARTMENT

Order No. & Date even

Order No: 504-III/E-60/2016 (Paramedics/Nurses/Service Rules)

Dated Peshawar, 14-05-2016

Copy forwarded for information and necessary action to:

1. The Director General Health Services Khyber Pakhtunkhwa.
2. The Director, Provincial Health Services Academy, Khyber Pakhtunkhwa
3. All District Health Officers, Khyber Pakhtunkhwa.
4. The Registrar Khyber Medical University, Peshawar.
5. The Director Health Services FATA.
6. All Hospital Directors/Medical Directors of Autonomous Institutions in Khyber Pakhtunkhwa.
7. All Medical Superintendents CHO/THQ Hospitals of Khyber Pakhtunkhwa
8. All the Principals of Medical Colleges in Khyber Pakhtunkhwa.
9. The Dean PMU Peshawar.
10. The Chief HSRU Health Department Khyber Pakhtunkhwa
11. The Director Information Khyber Pakhtunkhwa.
12. The Deputy Director (I.T) Health, Khyber Pakhtunkhwa.
13. The Secretary, Medical Faculty, Khyber Pakhtunkhwa, Peshawar.
14. The Principal, Post Graduate Paramedical Institute, Peshawar.
15. The Principal, Post Graduate College of Nursing, Hayatabad Peshawar.
16. The Controller, Nursing Examination Board, Peshawar.
17. PSO to Chief Secretary Khyber Pakhtunkhwa.
18. PS to Additional Chief Secretary (FATA) Peshawar.
19. PS to Secretary to Governor Khyber Pakhtunkhwa
20. PS to Secretary to Chief Minister Khyber Pakhtunkhwa.
21. PS to Secretary to Government of Establishment Department.
22. PS to Secretary to Government of Finance Department
23. PS to Secretary to Government of Law Department.
24. PS to Secretary, Public Service Commission, Khyber Pakhtunkhwa.
25. PS to Senior Minister for Health Department
26. The Manager, Government Printing Press, Peshawar.

(Asfandyar Khattak)
Deputy Secretary-II

ATTACHED

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RECEIVED

FILED
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the
Secy
Health
Deptt
Peshawar



NOTIFICATION

**GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated the Peshawar 15th May, 2018

No. 204-III-8-60/2018. The competent authority has been pleased to approve the proposal to enhance the ratio/structuring of Paramedics staff of Health Department in the higher grades for availing promotion due to anomalous allocation in different scales as per following tables.

Sl. No.	Grade	Percentage	Number of Posts
1.	Posts in BP2-15	80%	2818
2.	Posts in BP2-14	15%	4365
3.	Posts in BP2-16	3.2%	5908
4.	Posts in BP2-17	5.2%	1164
5.	Posts in BP2-18	1.82%	584
6.	Posts in BP2-19	0.03%	02
7.	Posts in BP2-20	0.04%	01
Total:		100%	14242

127001
127002
127003
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- The expenditure involved shall be debitable to function cum object classification '07-Health-076-Health-Administration-0761-Administration-076101-Administration current; financial year 2017-18.
- The Administrative Department will amend service rules through SSC accordingly.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Dated: 11-05-2018

Encls: No. 2018(FD/7-3/2018/17401/H

Copy forwarded to Accountant General, Khyber Pakhtunkhwa Peshawar for information & necessary action.

Section Officer (FR)
Finance Department

Dated: 12-05-2018

No. 204-III-8-60/2018

Copy forwarded to:

- The Secretary FATA, Governor's Secretariat Peshawar.
- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
- The Secretary to Governor, Khyber Pakhtunkhwa
- The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.

**BEFORE THE PESHAWAR HIGH COURT, BENCH
AT MINGORA/DARUL QAZA SWAT**

D-17

W.P.No. 109 2011

- 1) Aziz Ur Rahman Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 2) Muhammad Khan Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 3) Bakht Munir Sweeper D.H.Q-Hospital Timergara, Dir Lower.
- 4) Taj Muhammad Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 5) Bakht Said Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 6) Anjad Ali Khan Mali D.H.Q Hospital Timergara, Dir Lower.
- 7) Javed Khan Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 8) Umar Sadq Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 9) Munawar Said Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 10) Noor Khitab Ward Attendant D.H.Q Hospital Timergara, Dir Lower.

...Petitioners

VERSUS

- 1) The Govt. of Khyber Pukhtoonkhwa through Secretary Health Civil Secretariat, Peshawar.
- 2) Director General Health Services, Khyber Pukhtoonkhwa, Peshawar.
- 3) Executive District Officer (Health) Dir Lower.
- 4) District Account Officer Dir Lower.
- 5) Medical Superintendent DHQ Hospital Timergara Dir Lower.
- 6) Nasir Ali S/o Nadar Khan R/o Village Bajawro, P.O Tehsil Timergara, District Dir Lower.
- 7) Zubair Ali S/o Muhammad Rasool Khan R/o Village Danwa, Tehsil Timergara, District Dir Lower.

.....Respondents

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ATTESTED

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TODAY

Final Register

2011

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Judgment Sheet

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA),
SWAT.

JUDICIAL DEPARTMENT

W.P. No. 102 Of 2011

JUDGMENT

Date of hearing 13.10.2011

Appellant/Petitioner: (A272 vs. Rahman & others.) by Mr. Sultan Muhammad Ishaq
Respondent: (Govt of KPK) by Mr. Ghulamullah Khan Advocate
NAI

YAHYA AFRIDI, J.: Azizur Rehman

alongwith his nine other petitioners have sought the constitutional jurisdiction of this Court seeking that;

"for the aforementioned reasons, it is, therefore, respectfully prayed that on acceptance of this writ petition this august may graciously be pleased to declare the acts and actions of the respondents and the impugned appointment order dated 28.7.2011 and 9.7.2011 as without lawful authority and hence of no legal effect and this august Court may further pleased to set aside the same and direct respondents No.1 to 5 to act in the matter in accordance with law and to adjust petitioners against posts announced."

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2. The petitioners may be categorized in two groups; petitioner No.1 to petitioner No.6, who are presently serving as sweepers (BPS-1) at DHQ Hospital Timergara, Dir Lower ("Group-1") and petitioner No.7 to petitioner No.10, who are serving as

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Word Attendance (BP2-2) at (BP2-1) at DHO

Hospital Timor, Timor-Leste ("Group-2").

3. The provision of the petitioners in Group-2 is that the policy decision determined by the Government in its high powered meeting dated 12.7.2006 to resolve the problems of paramedic employees of the province have not been complied with and thus adversely affected the petitioners prospects of promotion to 'Word Orders', 'Chokidar', 'Wala' and other class-IV posts. It is further asserted that eight persons had been appointed on the said posts without even fulfilling the essential formalities provided under the law. Thus they have a two fold grievance;

Firstly, the petitioners be appointed to the upgraded post on seniority basis and
Secondly, the illegal appointments made to the said posts be set aside.

4. Now moving on to the petitioners in Group-2; their grievance is that they have not been promoted to the post of Junior Clerk (BP2-7) on seniority basis on the 33% quota determined under Rule 3 of the N.W.F.P. Civil Servants (Appointment, Promotion

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and Transfer) Rules, 1989 ("Rules") as amended vide notification dated 4.2.2009. These petitioners further urged that other Naib Qasids and Sweepers, similarly placed as the petitioners, have been promoted to the post of Junior Clerk (BPS-7), while the petitioners have been discriminated against. In addition there to, they further urged that the government has recently advertised fresh appointments to the post of Junior Clerks in complete violation of the Rules.

5. Lest this Court passes any findings on the merits of the present case so as to prejudice the case of the parties, suffice to it to state that the petitioners are aggrieved of being not considered for promotion to the higher grade and their grievance needs to be first considered, addressed and resolved by the government.

6. As far as the jurisdiction of this constitutional Court to entertain matters seeking to be considered for promotion of a civil servant, we are afraid Article 212 of the Constitution bars our jurisdiction to entertain the said matter and the same exclusively falls within the domain of the Services Tribunal. Guidance is

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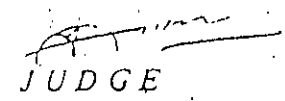
sought from the judgment of the Apex Court in

Muhammad Anees's case (PLD 2006 SC 539).

6. In the peculiar circumstances of the present case where the grave grievances of the petitioners require urgent redressal, we instead of dismissing the present petition, treat the same as a representation before the departmental authority and direct the office to send this case to the Secretary Health, Government of Khyber Pukhtoon Khwa for decision in writing rendering valid reasons thereof to be made within a period of one month, if not earlier, from the receipt of this judgment. It is further directed that the decision so made should be sent to the Additional Registrar PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT.

7. This petition is disposed of in the above terms.

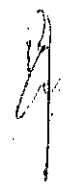

JUDGE


JUDGE

Announced.
Dt. 13/10/2011.

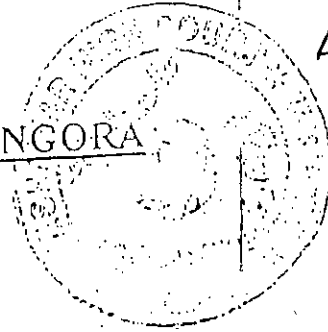






Office
1/10/11

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH AT MINGORA SWAT



- 1) Aziz-Ur-Rehman Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 2) Muhammad Khan Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 3) Bakht Munir Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 4) Taj Muhammad Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 5) Bakht Said Sweeper D.H.Q Hospital Timergara, Dir Lower.
- 6) Anjad Ali Khan Mali D.H.Q Hospital Timergara, Dir Lower.
- 7) Javed Khan Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 8) Umar Sadiq Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 9) Munawar Said Ward Attendant D.H.Q Hospital Timergara, Dir Lower.
- 10) Noor.Khitab Ward Attendant D.H.Q Hospital Timergara, Dir Lower.

ATTESTED
M
Peshawar High Court Bench

..... Petitioners

VERSUS

1. Secretary Health, Govt of Khyber-Pukhtoonkhwa, Civil Secretariat, Peshawar.
2. Director General Health services Khyber Pukhtoonkhwa.
3. District Coordination Officer Dir Lower at Timargara.
4. Executive District Officer (Health) Dir Lower.
5. Medical Superintendent D.H.Q Hospital Timergara, Dir Lower.

..... Respondents

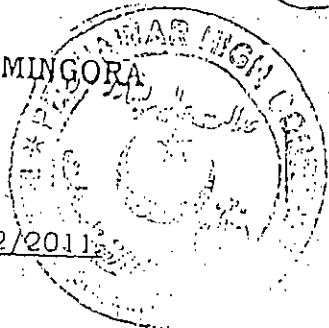
Application Under Article 204 Constitution
Of the Islamic Republic of Pakistan, 1973

Respectfully Sheweth!

- 1) That a Writ Petition No. 102 of 2011 was decided by this Honorable Court vide order dated 13-10-2011 wherein it was held "in the peculiar

23

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, MINGORA
BENCH
(DAR-UL-QAZA), SWAT
(Judicial Department)



C.O.C. No.01/2012 in W.P. No.102/2011

JUDGMENT

Date of hearing: 11.01.2012.

Appellant-Petitioner (Azziz Rehman
and others) by Mr. Asghar Ali Advocate
Respondent (Secretary Health and
others) by Mr. Javedullah Khan A.A.G.

MAZHAR ALAM KHAN MIANKHEL, J.- The
petitioners through instant petition seek
implementation of the judgment dated
13.10.2011 of this Court by initiating contempt
proceedings against the respondents.

ATTESTED
M
Secretary
Court

2. The learned counsel for the
petitioners was heard and record of the case was
perused.

ATTESTED

J

3. The learned A.A.G, present in the
Court in some other case, accepted the notice of
this petition and thereafter sought some time to
inquire about the matter involved in this petition
from the concerned authorities. Later on, the
learned A.A.G. informed the court that the
appeal of the present petitioner is under
consideration before the competent authority

J

Accepted

24

and within a short span of time, the same would be decided. He also produced Photostat copy of a letter dated 29.12.2011. When this, being the situation, we once again would direct the respondents to do the needful at their earliest, but not later than one month.

This C.O.C. is thus disposed of in above terms.

Announced
DT: 11.01.2012.

sd/
Judge

S.No. 207
Name of Katim Baidya
Date of 14.1.12
Date of 19.1.12
No. of 3 P
Page No. 6/1
Date of Birth 19.1.12

office
16.1.12

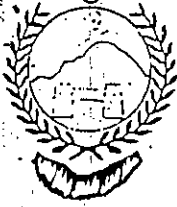
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19/01/12
19/01/12

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MOST IMMEDIATE
COURT MATTER.

GOVERNMENT OF KHYBER PAKHTUNKHWA.

HEALTH DEPARTMENT.

No. SOH(LIT.I)12(1)-47/2011

Dated Peshawar the 29th December, 2011

25

To

1. The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.
2. The Executive District Officer-Health,
Dir. Lower.

Subject: ORDER/JUDGMENT DATED 13/10/2011 PASSED BY THE PESHAWAR HIGH COURT MINGORA BENCH(DARUL QAZA) SWAT IN WRIT PETITION NO. 102/201 MR. AZIZ UR REHMAN ETC VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.

I am directed to refer to this Department letter of even number dated 28/11/2011 and your letter 10788, dated 22/12/2011 and letter No. 10521/EDO-Health Dir Lower, dated 01/12/2011, on the subject noted above and to state that your comments/report do not cover the requirements as per promotion, posting/transfer rules, 1989, therefore you are once again requested to prepare report as per rules/policy so that the issue could be placed before the Hon' able Secretary Health Khyber Pakhtunkhwa for necessary decision. Meanwhile no action be taken/initiate and do not disturb the petitioners till the final decision of the Secretary Health in the matter/final decision of the Peshawar High Court Mingora Bench Swat, otherwise, any adverse orders passed by the Peshawar High Court Mingora Bench Swat your office will be held responsible.

SECTION OFFICER (LIT.I)

Endst. No. and date a.a.

Copy forwarded to:-

1. The Section Officer-III, Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar with the request to direct the Executive District Officer-Health, Dir Lower to submit report as per rules /policy and placed before the Hon' able Secretary Health to decide the case on merit.
2. The Addl. Advocate General, Peshawar High Court Mingora Bench Swat.
3. The P.S to Secretary Health, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (LIT.I) 24/12-



Government of Khyber Pakhtunkhwa
Health Department

F-26

No.SOH(Lit.I)12(1)-47/2011.
Dated Peshawar, the 25th February, 2012.

To

1. The Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar
2. The Executive District Officer-Health,
Dir Lower

*SOH
Compliance of Country
Order in 2*

Subject:- COMPLIANCE OF PESHAWAR HIGH COURT'S ORDER IN WP NO.102/11 & PROCEEDINGS IN CONTEMPT PETITION NO. 01/2012

I am directed to refer to the Peshawar High Court's orders passed in WP No.102/11 titled Azizur Rehman etc. Versus Government of Khyber Pakhtunkhwa Health Secretary and others dated 13/10/11 and subsequent orders of the apex court in contempt petition No. 01/2012 dated 11/01/2012 wherein the apex court has directed the Provincial Government, Health Department to resolve the issue within a period of one month positively. Copies of the aforesaid orders are enclosed.

13/3

To comply the superior court's orders in letter and spirit, the competent authority has been pleased to approve the adjustment of petitioners as under:-

S.No.	S.No., name & designation of petitioners in WP No.102/11.	Required adjustment against the posts	Remarks/Justification
1.	Petitioners at S.No.1 to 5 (excluding S.No.2) are Muslim Sweepers in BPS-01	Ward Attendant (BPS-02)	Adjustment/appointment to be made on the basis of Establishment & Admn:Deptt. Notification No.SOIV/4(4)89/Vol.II dated 13/5/90. Copy enclosed for ready reference.
2.	Petitioner at S.No.2 also a Muslim Sweeper in BPS-01.	Driver (BPS-01)	Petitioner is in possession of a valid driving licence plus experience/ commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Driver for the last one year.
3.	Petitioner at S.No.6 Anjid Ali Khan Mali(BPS-01)	Junior Clerk (BPS-07)	Petitioner is in possession of PA certificate plus experience certificate awarded by MS DHQ Hospital Dir Lower and also working as Junior Clerk for the last one year.
4.	Petitioner at S.No.7(Javed Khan) is Ward Attendant (BPS-02)	Dental Technician (BPS-09)	Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Dental Technician for the last 03 years.
5.	Petitioner at S.No.8 Umar Sadiq Ward Attendant (BPS-02)	Laboratory Technician (BPS-09)	Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as such for the last one year.
6.	Petitioner at S.No.9 Munawar Saeed Ward Attendant (BPS-02).	Anesthesia Technician (BPS-09)	Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Anesthesia Technician for the last two years.
7.	Petitioner at S.No.10 Noor Khitab Ward Attendant (BPS-02)	Health Technician (BPS-09)	Petitioner is in possession of diploma in the relevant field awarded by the KPK Medical Faculty plus experience/commendation certificate awarded by MS DHQ Hospital Dir Lower and also working as Health Technician for the last one year.

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The competent authority desires to adjust/appoint the aforesaid petitioners against the posts mentioned in Col. 05 of the table above under intimation to this department enabling us to apprise the Hon'ble Peshawar High Court Mingora Bench (Darul Quza), Swat without further loss of time.

[Signature]
SECTION OFFICER (LIT.) - 9/02/012

Encl. No. & Date: N/A

- 1. Copy forwarded to the:-
- 2. Additional Registrar, Peshawar High Court, Mingora Bench Swat with reference to his letter No. 910/Judl
- 3. Additional Advocate General, Peshawar High Court Mingora Bench, Swat.
- 4. PS to Secretary Health, Khyber Pakhtunkhwa Peshawar.
- 5. Deputy Secretary-II, Health Department, Peshawar.

SECTION OFFICER (LIT. I)

ATTACHED

[Signature]

[Signature]

پشاور ایڈیٹ آباد اور اسلام آباد سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشن کل کی نمائندگی، آج کا تین

روزنامہ

پشاور
پاکستان

ایڈیٹر
عبدالواحد ریونی

صفحات 12

جلد 30، منگل 9 اپریل 2019ء، 3-20 شعبان المعظم 1440ھ، قریب 20 پلوے بولے ایڈیٹر، شماره 92

27/A

آسامیاں خالی ہیں

حکومت باجوڑ کے مختلف ہسپتالوں میں ذیل آسامیاں خالی ہیں جن کو پُر کرنے کیلئے خواہشمند حضرات سے درخواستیں مطلوب ہیں درخواست سادہ کاغذ پر بمقام تصدیق شدہ اسٹاڈنٹس ہذا کو 25 اپریل 2019 تک پہنچ جانی چاہئیں۔

نمبر شار	نام آسامی	سکیل	تعلیمی قابلیت	عمر
1	اسٹور یا انٹینشن	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
2	سرجیکل انٹینشن	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
3	پتھالوجی انٹینشن	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
4	ریڈیالوجی انٹینشن	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
5	(بی ایچ سی) ای پی آئی انٹینشن	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
6	سٹور کیپر	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
7	لیڈی ہیلتھ ڈسٹریکٹ	12	میڈیکل فیکلٹی خیبر پختونخوا سے متعلقہ شعبہ میں 2 سال ڈپلومہ	18 سال سے 33 سال
8	دانی	04	دانی کورس	18 سال سے 40 سال

۱- شارٹ لسٹ امیدواروں کو انٹرویو کیلئے بلایا جائیگا۔

۲- لوکل امیدواروں کو ترجیح دی جائیگی۔

۳- ہر امیدوار کو اپنا موہاں نمبر یا ضروری ہوگا۔

ڈاکٹر وزیر صافی ڈسٹرکٹ ہیلتھ آفیسر (باجوڑ ٹرائیبل ڈسٹرکٹ)

AT 100

Handwritten signature

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

No. _____/2019

Tayab Akbar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt.

(RESPONDENT)
(DEFENDANT)

I/We *Tayab Akbar*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019

Tayab Akbar

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

Sh. _____
SHAHZULLAH KHAN YOUSAFZAI

&

Mir Zaman Safi
MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391

BEFORE THE SERVICES TRIBUNAL

KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 493 / 2019

Mr. Taib Akbar Ward Orderly (BPS-2)
DHQ Hospital, Bajaur at Khar----- Appellant

VERSES

Govt of Khyber Pakhtunkhawa, and others----- Respondents

Reply / comments on behalf of the Respondents No. 1, 4, 5, 6, 7

Respected Sheweth

Preliminary objections

1. That the appellant has not yet submitted his appeal in the department.
2. That the appellant has concealed the facts that he has no experience in the field of Health Technology.
3. That the appellant has concealed the fact that he has applied for two posts (i) EPI Technician (ii) Store Keeper, advertised in the daily newspaper.
4. That inspite of the above facts, the appellant has got no locus standi to file the instant appeal.
5. That the appellant has not come to this Honorable Court with clean hands.
6. That the appellant has got no cause of action to file the instant appeal.
7. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.

FACTS


1. Correct.
2. Correct to the extent of appointment as Ward Orderly (BPS-2) in DHQ Hospital Khar Bajaur. As far as acquiring of diploma in Health Technology is concerned, so it is stated that the Department does not know that how the appellant got a diploma as a regular student despite of regular duties in the District Headquarter Hospital Khar as per job description.


3. Incorrect, the Govt: has promulgated the rules of promotion of Class-IV employees to the post of Junior Clerk on seniority basis but there are no such rules of promotion of Class-IV employees in the field of Health Technology having pay scale BPS-12. Any one will apply and contest when the post is advertised. As far as acquiring of Diploma in Health Technology is concerned, so it is stated that the appellant has got it without NOC of the Department. Furthermore, the appellant has not yet submitted departmental appeal in this regards.
4. Correct. But it is stated that the impugned service structure dated 10.05.2016 was approved and notified by the higher authorities wherein, qualification and appointment in BPS-12 on initial basis, has been mentioned very clearly. As far as acquiring of diploma is concerned, so it is stated that the petitioner has got diploma without NOC of the department.
Furthermore, despite of the instant appeal, the appellant has applied for two positions (i) EPI Technician (ii) Store Keeper, already advertised by the Agency Surgeon District Bajaur.
5. Correct to the extent of court order dated 13.10.2011 and adjustment of some Ward Attendants upon the posts of Technicians BPS-12 by the Health Department Khyber Pakhtunkhwa vide Notification dated 28.02.2012. But as per remarks of the said Notification, the concerned Ward Attendants had got diplomas and they were already working on the posts of Technicians for the last one or two years and due to the said experience, the petitioners were adjusted against the posts of Technicians, As far as the plea of the appellant to be adjusted against the post of BPS-12 being a Ward Orderly is not justified because he has no experience in the field of Health Technology, therefore, the appeal of the appellant is not maintainable. Furthermore, it is pertinent to mention here that the Service Structure of Paramedics dated 10.05.2016 has superseded the Notification of Health Department dated 28.02.2012.
6. Incorrect, the appellant has not yet submitted his departmental appeal.
7. Incorrect, the appellant before submission of his departmental appeal preferred to file the instant appeal, hence, the appeal is not maintainable.

GROUNDS

- A- Incorrect. The demand of the appellant to be adjusted against the post of BPS-12 is not justified because he has no experience in the field of Health Technology. Furthermore, the appellant has already applied for two posts (i) EPI Technician (ii) Store Keeper, already advertised by the Agency Surgeon Bajaur in the daily newspapers. Hence, the appellant is not coming in the ambit of Notification dated 28.02.2012.
- B- Incorrect as stated above.
- C- Incorrect, as stated in Para 1 to 7 above.
- D- Incorrect, as stated in Para –A above.
- E- Incorrect, as stated in Para-A, above.
- F- Correct to the extent of serving as Ward Orderly in the Health department since 2003 but there are no such rules / regulation regarding promotion of a Ward Orderly of BPS-2 / Class-IV to the post of Technicians BPS-12 without clinical experience.
- G- Correct to the extent of Article-38 (e) of the constitution of Pakistan but there are no such rules / regulation regarding promotion of a Ward Orderly of BPS-2 / Class-IV to the post of Technicians BPS-12 without clinical experience.
- H- The Department will also raise other grounds at the time of arguments.

In light of the above, it is humbly prayed that the appeal has no legal footing; therefore, it may please be dismissed.


Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department
Respondent No. 1


Director Health Services,
Merged Areas Peshawar.

Respondent No. 5


Medical Superintendent,
DHQ Hospital Khar,
District Bajaur

For Respondent No. 6 & 7.


Director General Health Services,
Khyber Pakhtunkhwa Peshawar

Respondents No. 4