

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

SERVICE APPEAL NO. 50/2022

Muhammad Tahir.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

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Laeeq Ahmad (FD)
DGHS
[Signature]

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

SERVICE APPEAL NO. 50 OF 2022

Diary No. 6752

Muhammad Tahir.....Appellant 21/07/23

Versus

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 03

Respectfully Sheweth:

Preliminary Objections:-

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

ON FACTS:

1. Correct to the extent that the appellant was appointed on contract basis vide order dated 28-09-2007 as ward orderly.
2. Correct to the extent that contract service of the appellant was regularized vide order dated 05-01-2017 under the Khyber Pakhtunkhwa Tibb and Homeopathic Employees (Appointment) Act 2016 w.e.f 14-10-2016. It is worth to mention that according to the regularization order dated 05-01-2017 the seniority of the so regularized staff shall be determined under the said Act 2016. (Copy of the Regularization order dated 05-01-2017 is Annexure-A)

3. Pertains to record. However, the appellant was regularized under the Khyber Pakhtunkhwa Tibb and Homeopathic Employees (Appointment) Act 2016 whereas under sub section 1 of section 4 of the ibid Act 2016 provides that the employees who's services are regularized under this Act shall rank junior to all those employees belonging to same service or cadre as the case may be, who are in service on regular basis, on the commencement of this Act. The appellant was regularized in 2017 whereas respondent No. 05 was appointed in the year 2008 therefore, respondent No. 05 was rightly promoted being senior within the meaning of section 4 of the ibid Act 2016. It is further to clarify that under section 5 of the ibid Act 2016 provisions of the Act has overriding effect on any other law or rules.

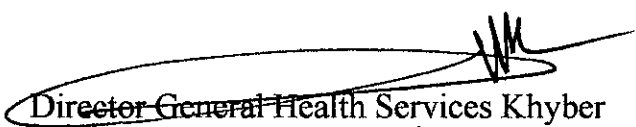
4. Incorrect. Already replied in para 03 above.
5. Incorrect. No vested right of the appellant has been violated by the replying respondents therefore the appellant is not an aggrieved person. The so called Departmental appeal of the appellant has not been received by the respondents.
6. Incorrect. However, reply on the grounds is as under:

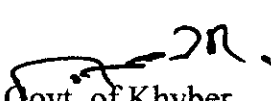
ON GROUNDS:


- a. Incorrect. Already replied in the preceding paras.
- b. Incorrect. The replying respondents acted as per law, rules and principles of natural justice.
- c. Incorrect. As per para "b" above.
- d. Incorrect. As per para "b" above.
- e. Incorrect. As per para "b" above.
- f. Incorrect. Already replied in para 03 of the Facts.
- g. Incorrect. As per para "b" above.
- h. Incorrect. As per para "b" above.

PRAYER:

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


 Director General Health Services Khyber
 Pakhtunkhwa Peshawar
Respondent No. 01


 Secretary to Govt. of Khyber
 Pakhtunkhwa Health Department
Respondent No. 02


 Medical Superintendent
 DHQ Hospital Nowshera
Respondent No. 03



(9) A

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.
Office Ph: 091 - 9210262 Exchange Ph: 091 - 9210187, 091 - 9210196 Fax Ph: 091 - 9210230

OFFICE ORDER

The Competent Authority is pleased to regularize the services of the following officials Homoeo Ward Orderly and Tibb Ward Orderly working on Contract basis in this Directorate General Health Services Khyber Pakhtunkhwa Peshawar, under the Khyber Pakhtunkhwa Tibb and Homoeopathic Employees (Appointment) Act, 2016 vide Notification No.PA/Khyber Pakhtunkhwa/Bills/2016/10343 dated 14-10-2016, with effect from 14-10-2016.

S.NO	NAME AND FATHER'S NAME	DESIGNATION &BPS	PLACE OF POSTING
1	Gul Nawaz S/O Gul Zaman	Ward Orderly (Homoeo) BPS -04	BBST, Hospital Abbottabad.
2	Amirzada S/O Rahim Dad	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Buner
3	Javed Hussain S/O Noor Muhammad Khan	Ward Orderly (Tibb) BPS -04	DHQ Hospital Chitral
4	Rehmat Aziz S/O Abdul Hafeez	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Chitral
5	Inamullah S/O Faizur Rehman	Ward Orderly (Tibb) BPS -04	DHQ Hospital Timergara Dir Lower
6	Zaheerud Din S/O Naqibullah	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Timergara Dir Lower
7	Amjad Islam S/O Sahib Zada Khwaja Saeed	Ward Orderly (Tibb) BPS -04	DHQ, Hospital Dir Upper
8	Imran Raees S/O Mutabar Khan	Ward Orderly (Homoeo) BPS -04	DHQ, Hospital Dir Upper
9	Shaheen Mahmood S/O Allah Dad	Ward Orderly (Tibb) BPS -04	DHQ Hospital Haripur
10	Rahimdad S/O Shah Zamin Khan	Ward Orderly (Tibb) BPS -04	DHQ Hospital Batkhela
11	Muhammad Ayaz S/O Abdul Razaq	Ward Orderly (Homoeo) BPS -04	King Abdullah Teaching Hospital Mansehra.
12	Muhammad Sajad S/O Ajmal Khan	Ward Orderly (Tibb) BPS -04	DHQ Hospital Mardan
13	Mushtaq Ahmad S/O Salahud Din	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Mardan
14	Syed Yasir Shah S/O Syed Hussain Ahmad	Ward Orderly (Tibb) BPS -04	DHQ, Hospital Charsadda
15	Naeem Jan S/O Mumtaz	Ward Orderly (Homoeo) BPS -04	DHQ, Hospital Charsadda.
16	Muhammad Tahir S/O Said Badshah	Ward Orderly (Tibb) BPS -04	DHQ Hospital Nowshera
17	Imran S/O Mir Ahmad Khan	Ward Orderly (Homoeo) (BPS -04)	DHQ Hospital Nowshera
18	Said Karim Shah S/O Hazrat Umar	Ward Orderly (Homoeo) BPS -04	SGTH Swat.
19	Amir Akbar S/O Abdul Hadi	Ward Orderly (Tibb) BPS -04	SGTH Swat.
20	Muhammad Saeed S/O Mir Qalam Khan	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Lakki Marwat.
21	Qasim Khan S/O Awal Khan	Ward Orderly (Tibb) BPS -04	DHQ Hospital Lakki Marwat.
22	Mehboob Ali Khan S/O Sir Jehan Khan	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Ajpur Shangla.
23	Saleem Ullah Khan S/O Muhammad Yaqoob	Ward Orderly (Homoeo) BPS -04	DHQ Hospital Tank.

Attested

Attested

24	Liaqat Aziz S/O Abdul Aziz	Ward Orderly (Tibb) BPS -04	DHQ Hospital Tank
25	Javed Ahmad S/O Asai Khan	Ward Orderly (Homoeo) BPS -04	DHQ Teaching Hospital Kohat
25	Malik Noor Ahmad S/O Malik Jahangir Khan	Ward Orderly (Tibb) BPS -04	DHQ Teaching Hospital Kohat
27	Mazhar Shah S/O Zahir Shah	Ward Orderly (Homoeo) BPS -04	GNBMH Peshawar
28	Noor Ali S/O Muhammad Ali	Ward Orderly (Tibb) BPS -04	GNBM Hospital Kohat Road Peshawar
29	Dayum Ullah S/O Gul Rauf	Ward Orderly (Homoeo) (BPS -04)	DHQ Hospital Karak
30	Atiq Ur Rehman S/O Mohammad Sadiq	Ward Orderly (Tibb) (BPS-04)	DHQ Hospital Karak

Note:-The above staff shall strictly be governed under the Khyber PAKHTUNKHWA Tibb and Homoeopathic Employees (Appointment) Act, 2016. The seniority of so regularized staff shall be determined under the said Act. Moreover, in case of any fake information provided to this Directorate with regard to their qualification, absence, training or any misconduct before the regularization, their services shall be automatically terminated, without any assigning any reasons.

Sd/xxxxxxx
DIRECTOR GENERAL HEALTH SERVICES, KPK, PESHAWAR

No. 90-101 Personnel

Dated 05 01-2017

Copy forwarded to the:-

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar for information w/r. to his letter No: SOH-III/10-4/2005/Homoeo
2. P.S to Minister for Health Khyber Pakhtunkhwa
3. Accountant General Khyber-Pakhtunkhwa
4. Medical Superintendent Govt. Naseerullah Khan Baber Memorial Hospital, Peshawar
5. Medical Suptt: BBST Hospital, Abbottabad, Charsadda, Battagram, Buner, Haripur, Malakand, Mansehra, Mardan, Alpuri Shangla, Bannu, Dir Lower, Dir Upper, Lakki Marwat, Nowshera, Tank, Chitral, Swat, Tank & Kohat, and Karak.
6. DHO, Kohistan at Dassu.
7. DAO Distt; Accounts officer, Abbottabad, Charsadda, Battagram, Buner, Haripur, Malakand, Mansehra, Mardan, Alpuri Shangla, Bannu, Dir Lower, Dir Upper, Lakki Marwat, Nowshera, Tank, Chitral, Swat, Tank, Kohat, and Karak
8. Assistant Director (Tibb/Homoeo) DGHS, Khyber-Pakhtunkhwa.
9. PA to DGHS, Khyber Pakhtunkhwa Peshawar.
10. PA to Additional DG Health Services, Khyber Pakhtunkhwa Peshawar.
11. Officials Concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR

203/11/2017

Attested
[Signature]



10/11/2017

5

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

SERVICE APPEAL NO. 50/2022

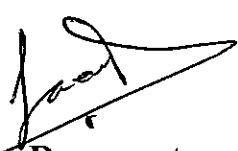
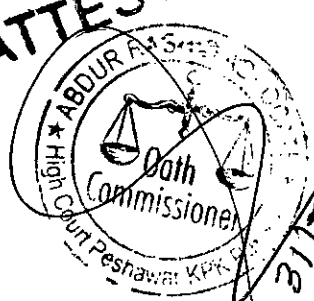
Muhammad Tahir.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents.

Affidavit

I, Laeeq Ahmad, Focal Person (Litigation) office of the Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondent are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off / costs.

ATTESTED 
Deponent

21/11/23



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

*All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name
Office # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Mr. Laeeq Ahmad Focal Person (Litigation) Directorate General Health Services, Khyber Pakhtunkhwa, is hereby authorized to submit parawise comments in case Service Appeal No. 50/2022 titled Muhammad Tahir VS Govt. of Khyber Pakhtunkhwa & others on behalf of the undersigned.

**Director General Health Services
Khyber Pakhtunkhwa, Peshawar.**