

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Service Appeal No 50/22

Muhammad Tahir

VERSUS

D G Health Peshawar & others

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Dated: 07/08/2023

Through

Respondents No. 4 & 5


Kabir Ullah Khattak

& 
Roeda Khan

Advocates, High Court
Peshawar.

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Service Appeal No 50/22

Khyber Pakhtunkhwa
Service Tribunal

Muhammad Tahir

Diary No. 6918

Dated 07/08/23

VERSUS

D G Health Peshawar & others

WRITTEN REPLY / COMMENTS ON BEHALF OF
PRIVATE RESPONDENTS NO. 4 & 5.

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 answering 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 Hon'ble Tribunal with clean hands.

7. That the appeal is badly time barred.
8. That the Hon'ble 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. Para No.1 is correct.
2. In response of Para No.2 it is stated that the appellant has been appointed on 28/09/2007 on contract basis for a period of 3 years whos contract has already been terminated after 3 years. After that the appellant has been appointed on 05/01/2017 on regular basis with respondents departments which has been clarified from the Service Book of the appellant. **(Copy of Service Book is attached as 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 2016 provides that the employees whos service are

regularized under this act shall rank juniors to all those employees belonging to same service or cadre as the case may be, who are in service on regular basis, on the recommendation of this Act. The appellant was regularized in 2017 whereas respondent No.4 was appointed in 1994 and respondent No.5 was appointed in the year 2008 and they are continuously performed their duties with respondent departments therefore, respondents No.4 & 5 are rightly promoted being seniors 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 provision of the Act has overriding effect on any other laws or rules. **(Copy of appointment order & pay slip are attached as annexure "B" & "C")**

- 4. Para No. 4 is incorrect already explain in Para No. 3.
- 5. Para No.5 is incorrect no wasted right of the appellant has been violated therefore the appellant was not an aggrieved person.
- 6. Para No.6 is incorrect however, reply on the grounds are as under.

GROUND:

- A. Incorrect already explain in above paras.
- B. Incorrect the respondents department acted according to law and rules.

(41)

C. Incorrect the promotion order has been passed according to law and rules.

D. Incorrect now discrimination has been made by the respondents department.

E. Incorrect the action orders and decision are made according to law and rules that's why having legal effect.

F. Incorrect already explain in ground "C".

G. Incorrect no violation of law and rules has been made by the respondents.

H. Incorrect already explain.

It is, therefore, respectfully prayed that on acceptance of instant written reply, the appeal of the appellant may very graciously be dismissed with heavy cost.

Dated: 07/08/2023

Through


Respondents No. 4 & 5

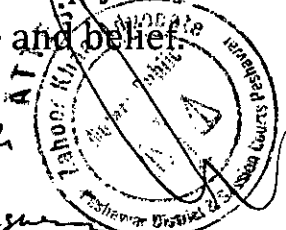

Kabir Ullah Khattak

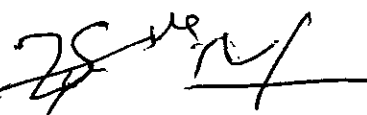
& 
Roeeda Khan

Advocates, High Court
Peshawar.


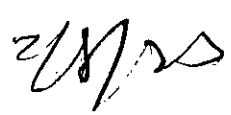
Affidavit:

It is hereby solemnly affirmed and declared on oath that all contents of this reply are true and correct to the best of my knowledge and belief.




Deponents

It is further stated on oath that in this appeal the respondents have neither been defence has been struck off.

True capacity no false
 

The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

Name: MR. Muhammad Tahir

Rank: Afghani

Residence: Mohallah Sheikhan P/O Ghindori
Tehsil of Distt Nowshera



Father's name and residence: Syed Badshah



Date of birth by Christian era as early as can be ascertained: 23-08-1977


Exact height by measurement: 5-10

Personal marks for identification:

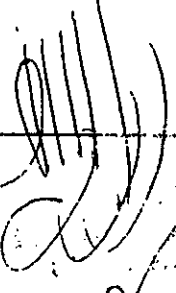
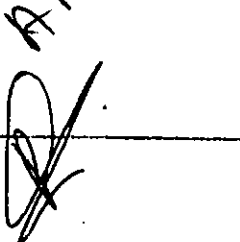
Left hand thumb and Finger impression (Non-Casualty) officer:

Little Finger:  Ring Finger: 

Middle Finger:  Fore Finger: 

Thumb: 

Nature of Government Servant: M. Tahir


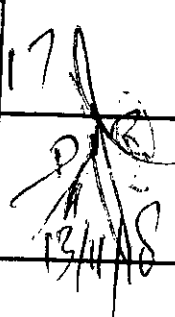
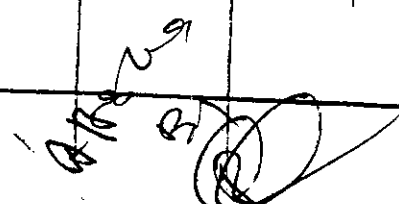
Nature and designation of the holder of the office, or other Attesting Officer:  

(6)

1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature Government s
BPS-04						07-01-2017	M. J. J.
W/Code 6							

ALLS
B3

(Signature)

11	12	13		14	15	
		Leave				
		Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government			
Period	Government to Which debitable					
Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer			Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servent
<p>Appointed as <i>Mr. [illegible]</i> B-6 at <i>Dir Hospital Newsham</i> <i>vide order no 90 / 101 / Personal</i> <i>dt - 05 / 01 / 1917</i></p>						
						
<p><i>TRA 907 dt 13/6/17</i> <i>Annou of [illegible] wof 3/1/12</i> <i>to 5/1/12 [illegible]</i> <i>19/6 .</i> <i>13/6/17</i></p>						
<p><i>TRA 747 dt [illegible]</i> <i>Drawn 872 [illegible]</i> <i>Net 4675 [illegible]</i> <i>Pay [illegible] 14/12/16</i> <i>25/12/17</i></p>						
						
						

Zulfiqar Appointment order on Resubmission

Annexure B
P. 8

EXECUTIVE DISTRICT OFFICER
HEALTH NOWSHERA.

APPOINTMENT ORDER

As desired by the District Coordination Officer Nowshera, Mr. Zulfiqar Khan S/O Sattar Khan hereby appointed as Ward Orderly plus usual allowances as admissible under the Rules.

His appointment in the Health Department Govt. of NWFP will be subject to the following terms and conditions:-

1. He will be on probation initially for a period of two years extendable for a further period that exceed.
2. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
3. His appointment will be subject to medical fitness and verification of character and antecedents.
4. He will not be entitled to any TADA for medical examination and joining the first appointment.
5. He will be governed by such Rules and Orders as may be issued by the Govt for the category of Govt Servants to which he belongs.
6. As laid down vide Govt NWFP E&AD Notification No. E&A(1-3)/2005 dated 10/3/2005, he will not be entitled to pension or gratuity however in lieu thereof, will be entitled to receive such amount contributed by him towards the contributory provident fund alongwith the contributions made by the Government to his account in the said fund.
7. If he wishes to resign from service, he will have to submit resignation in writing one month in advance or deposit one month's salary in the Govt treasury. However he will continue to serve the Govt, till his resignation is accepted by the competent authority.

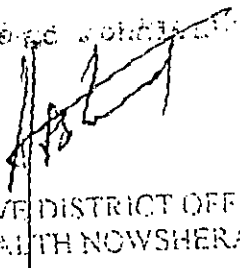
If the above terms and conditions are acceptable to him he should report to the under signed for duty within 14 days of the receipt of this order.

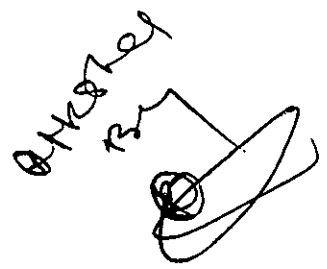
Sd-/XXXXXXXXXX
EXECUTIVE DISTRICT OFFICER
HEALTH NOWSHERA.

No. 268-72 EDO(H) Dated Nowshera the. 15/2/2008.
Copy forwarded to the:

1. P.S. to District Nazim District Nowshera.
2. District Coordination Officer Nowshera.
3. District Account Officer Nowshera.
4. Accounts Section of EDO(H) Office Nowshera.
5. Mr. Zulfiqar Khan S/O Sattar Khan of Village Kohli B. B. Khan Nowshera, Kalan.

For information and necessary action.


EXECUTIVE DISTRICT OFFICER
HEALTH NOWSHERA.



Better Copy

(B) (9)

EXECUTIVE DISTRICT OFFICER
HEALTH NOWSHERA

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3. His appointment will be subject to medical fitness and verification or character and antecedents.
4. He will not be entitled to any TA/DA for medical examination and joining the first appointment.
5. He will be governed by such Rules and Orders as may be issued by the Govt. for the category of ovt Servants of which he belongs.
6. As laid down vide Govt. NWFP E&AD Notification No. E&A(13-)/2005 dated 10/8/2005, he will not be entitled to pension or gradually however in lieu therefore, will be entitled to receive such amount contributed by him towards the contributory provident fund alongwith the contributions made by Government to his account in the said fund.
7. If he wishes to resign from service, he will have to submit resignation in writing one month in advance or deposit one month's salary in the Govt treasury. However he will continue to serve the Govt, till his resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to him he should report to the under signed for duty within 14 days of the receipt of this order.

Give under my hand and seal of the office this 21st day of December /2022

Sd-/xxxxxxxxxx
EXECUTIVE DISTRICT OFFICER
HELAHT NOWSHERA

No.268-72/E.D.O (H)

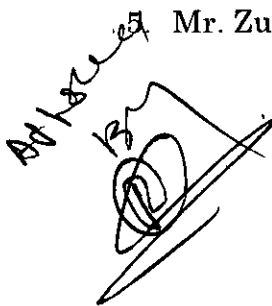
Dated Peshawar 15/02/2008.

Copy forwarded to the:-

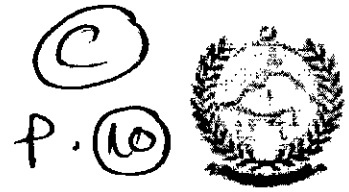
1. P.S to District Nazim District Nowshera.
2. District Coordination Officer Nowshera.
3. District Account Officer Nowshera.
4. Accounts Section of EDO(H) Office Nowshera.
5. Mr. Zulfiqar Khan S/o Sattar Khan of village Mohallah B Khel Nowshera Kalan.

For information and necessary action.

EXECUTIVE DISTRICT OFFICER
HELAHT NOWSHERA

ANNA
13


Government of Khyber Pakhtunkhwa
District Accounts Office Nowshera
Monthly Salary Statement (January-2023)



Personal Information of Mr HAZARAT HUSSAIN d/w/s of mr

Personnel Number: 00140416 CNIC: 1720119365057 NTN:
 Date of Birth: 15.04.1966 Entry into Govt. Service: 01.10.1994 Length of Service: 28 Years 04 Months 001 Days

Employment Category: Active Permanent

Designation: JUNIOR CLERK 80814324-GOVERNMENT OF KHYBER PAKH
 DDO Code: NR4306-District Headquarter Hospital Nowshera
 Payroll Section: 001 GPF Section: 001 Cash Center:
 GPF A/C No: JM 006000 Interest Applied: Yes **GPF Balance:** 381,963.00
 Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 11 Pay Stage: 13

Wage type		Amount	Wage type		Amount
0001	Basic Pay	35,680.00	1001	House Rent Allowance 45%	2,778.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1551	Spl Conveyance to Disable	3,000.00	2148	15% Adhoc Relief All-2013	452.00
2199	Adhoc Relief Allow @10%	311.00	2315	Special Allowance 2021	3,500.00
2341	Dispr. Red All 15% 2022KP	3,470.00	2347	Adhoc Rel AI 15% 22(PS17)	3,470.00

Deductions - General

Wage type		Amount	Wage type		Amount
3011	GPF Subscription	-1,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-176.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 1,941.33 Recovered till January-2023: 1,067.00 Exempted: 0.97- Recoverable: 875.30

Gross Pay (Rs.): 57,017.00 Deductions: (Rs.): -3,266.00 Net Pay: (Rs.): 53,751.00

Payee Name: HAZARAT HUSSAIN
 Account Number: 9370010005854
 Bank Details: NRSP BANK LIMITED, 720937 NOWSHERA BRANCH NOWSHERA BRANCH, NOWSHERA

Leaves: Opening Balance: Aailed: Earned: Balance:

Handwritten signature and initials: ATD/Net, BS, [Signature]

Permanent Address: