

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 877/2023

Dr. Syed Jamal Akbar(Appellant)

Versus

Government of Khyber Pakhtunkhwa Through Secretary Health
.....Respondents

INDEX.

S.No.	Description of documents	Annexure	Page
01	Parawise Comments		01 to 02
02	Affidavit		03

Punji 19/9/23

Section officer (Lit-II) a Officer (Lit-II)
Govt: of Khyber Pakhtunkhwa Department
Health Department Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 877 OF 2023

Dr. Syed Jamal Akbar.....Appellant

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 or locus standi to file the instant appeal
2. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
3. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appeal is barred by law and limitation.
6. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
7. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
8. That there is no final order (original or appellate) against which the instant appeal has been filed. Hence the instant appeal is not maintainable under section-4 of the KP Service Tribunal Act, 1974. Reliance is placed on 2006 SCMR 1630.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Incorrect. 28 doctors were promoted to the post of management cadre BS-20 against the available vacant post in the PSB meeting held on 07/04/2022, while the appellant was at serial No. 41 in the final seniority list of the management cadre BPS-19. The retirement date of the appellant was 18/07/2022 as his date of birth is 19/07/1962, though the working paper for promotion to the post of management cadre BS-20 was sent to the PSB and name of the appellant was also reflected in the working paper on circulation basis but the PSB didn't consider him for promotion as only at serial No. 28, the officers were promoted.
4. Incorrect and misleading. No creation/up-gradation of the posts were made by Finance Department during the service tenure of the appellant. Furthermore the letter dated: 05/07/2022 annexed at (Annex-C) of the appeal reveals that the finance department was only

agreed for the creation of some posts but these posts were not reflected in schedule-1 as well as in the budget book of 2022-23, therefore the promotion case on the newly agreed posts could not be processed at the time of provincial selection board (PSB) held on 06/07/2022.

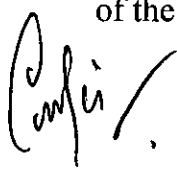
5. Incorrect. As explain in above para-03.
6. The doctor concerned was approached to the PSB and submitted his working paper for promotion to the post of management cadre BS-20 on circulation basis. The PSB in its meeting held on 07.04.2022 did not consider the appellant for promotion to the post of Management cadre BS-20, because the doctor concerned was at S.No. 41 in the final Seniority list and 28-vacant posts were available therein.
7. Pertains to record.
8. No Comments


ON GROUNDS:

- A. Incorrect, The replying respondents acted as per law rules and Principle of Natural justice.
- B. Incorrect. The appellant has been treated in accordance with law/rules.
- C. Incorrect. Already explained in para No.4 of the facts.
- D. Incorrect. Already explained as per para No.4 of the facts.
- E. Incorrect. Already replied in para-5 of the facts.
- F. Incorrect. The appellant was at very lower position in the seniority list i.e. S. No. 41, while 28 posts were available for promotion against which the officers senior to the appellant were promoted to BPS-20 as per seniority list.
- G. Incorrect. There was no delay as negligence on the part of the department. Detail reply has been given in para-F of the grounds.
- H. Incorrect. No discrimination has been committed by the replying respondent.
- I. Incorrect. No violation of Article 4 of the constitution of Islamic Republic of Pakistan, 1973 has been committed by replying respondent.
- J. Incorrect. As in proceeding para.

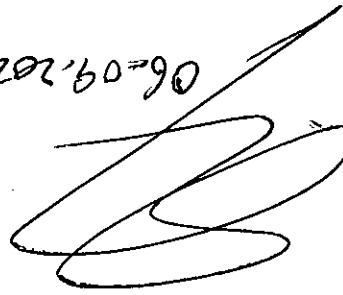
PRAYER: 1

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


Secretary to Govt. of Khyber
Pakhtunkhwa Health Department
Respondent No. 01 & 02


Director General Health Services
Khyber Pakhtunkhwa Peshawar
Respondent No. 03

06-09-2023

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke.

5.200

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 877/2023

Dr. Syed Jamal AkbarAppellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health
.....Respondents

AFFIDAVIT

I Muhammad Tufail Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No.877/2023 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.

It is further stated on oath that in this instated appeal the answering respondent have not been placed ex-parte nor their defence struck off

19/9/23

Section officer (Lit-II) Govt: of Khyber Pakhtunkhwa Health Department

Identified by:-

**Add: Advocate General,
Khyber Pakhtunkhwa**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

AUTHORITY LITTEr

Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.

(MAHMOOD ASLAM)

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Secretary
Khyber Pakhtunkhwa
Health Department

9/15/23
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa