

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

Service Appeal No. 728/2023

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 7905

Dated 26-09-23

**Dr. Muahmmad Javid**

**Versus**

**Government of Khyber Pakhtunkhwa & Others**

**COMMENTS / REPLY ON BEHALF OF RESPONDENT NO. 03.**

**PRELIMINARY OBJECTIONS**

- A. **That**, the Appellant has got neither cause of action nor any locus standi to institute the present Service Appeal.
- B. **That**, under Section, 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, every Civil Servant is liable to serve anywhere within or outside the province, against any post under the Government / Authority.
- C. **That**, transfer is the right and prerogative of the employer.
- D. **That**, Appellant has not come to this Honourable Tribunal with clean hands and has suppressed material facts from this Tribunal.

**ON FACTS.**

- 1. Para No. 1 & 2 needs no reply.
- 2. Para No. 3 is a matter of record.
- 3. **In respect of para No. 4**, it is submitted that the Appellant was granted 180 days leave (with full pay) on medical grounds vide letter no. SOH-I/1-538/07 dated 09.07.2010. Moreover, on expiry of the above mentioned leave, the appellant was given an extension of leave by the Health Department for another 180 days w.e.f. 20<sup>th</sup> January, 2011 vide notification no. SOH-I/1-538/07 dated 31.01.2011. the appellant latter on applied for grant of 730 days leave on 12.05.2011 on half pay which was not processed in Health Department and never materialized.

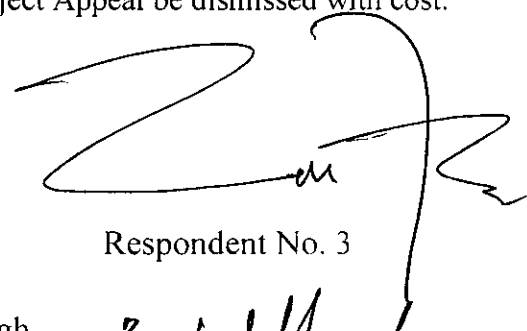
4. **In respect of Para No. 5**, it needs to be clarified that the Appellant was asked to appear before the Standing Medical Board of Service/Police Hospital Peshawar for the verification of his illness and the Board after examination had submitted vide its report dated 07.04.2011 that the Appellant is fit to resume his duty. Consequently vide letter No. 2377/Esst./KGMC dated 19.04.2011 the Respondent No. 3 administration had requested to the Health Department to cancel the remaining period of Earned Leaves on medical grounds in respect of the Appellant.
  
5. **In respect of Para No. 6**, it needs to be clarified that the case of Appellant was taken up on agenda in the 32<sup>nd</sup> meeting of Management Council of HMC Hayatabad dated 07-06-2011 and reference to the Minutes of this meeting, the college administration had surrendered the services of the Appellant to the Health Department vide letter No. 4183/Esst./KGMC, dated 30-06-2011.
  
6. **Para No. 7** needs no comment. The stance of the Appellant is a matter of record and does not pertain to the answering Respondent.
  
7. **Para No. 8** pertains to record. It needs to be clarified that the Appellant is no more an employee of the answering Respondent and his services have already been handed over to Health Department on 30-06-2011 and the answering Respondent has no record of his service onwards.
  
8. **Para No. 9, 10, 11 & 12** needs no comment as it does not relate to the answering Respondent and pertains to other Respondent.
  
9. **Para No. 13** needs no comment.

**On Grounds**

A. **That** all the grounds asserted in the Appeal are incorrect and flimsy in nature. The Appellant was treated in accordance with law and has not been discriminated in any manner. There is no violation of any rules by the answering Respondent and his services were handed back to the Health Department 30-06-2011 which does not establish any liabilities or irregularities upon the answering Respondent. None of the rights of the Appellant was violated by the Answering Respondents therefore, cannot approach this Honourable Tribunal. Moreover, the stance taken in the preceding paragraphs is reiterated

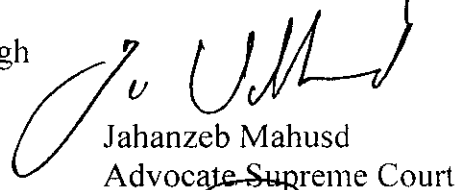
In view of the above, It is requested that subject Appeal be dismissed with cost.

Dated: \_\_\_/\_\_\_/2023




Respondent No. 3

Through

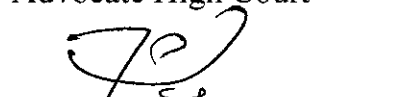


Jahanzeb Mahusd  
Advocate Supreme Court

Waqar Khalil



Waqar Khalil  
Advocate High Court



Mian Junaid Sardar Ahmad  
Advocate High Court

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4

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AFFIDAVIT

I, RESHMAN RAZA, MANAGER HR, Respondent No. 03, do hereby on oath affirm and declare that the contents of the Reply / Written Statement are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

*JQ*

Identified by:-  
Mian Junaid Sardar Ahmad  
Advocate High Court

Deponent

*[Signature]*  
14202-1305476-1  
0334-9092065.





**OFFICE OF THE DEAN**  
**KHYBER GIRLS MEDICAL COLLEGE, PAKISTAN**  
**GOVT. OF KHYBER PAKHTUNKHWA, HEALTH DEPARTMENT**



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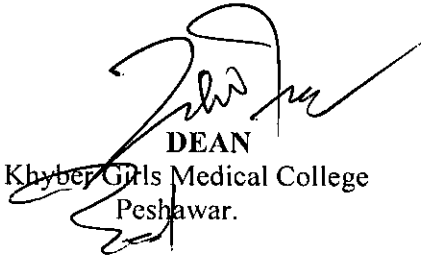
No. 599 /Estt/KGMC

Dated 03/02 2021

**AUTHORITY LETTER**

The Competent Authority is pleased to designate Mr. Redwan Raza, HR Manager (Incharge Establishment Section) as Focal Person for officiating the procedural mechanisms relating to the litigations regarding the Establishment Section/Office of the Dean KGMC Peshawar in the court of law.

He will sign the concerning affidavits and will be responsible for liaison with the Legal Advisor of KGMC Peshawar in this regard.

  
**DEAN**  
Khyber Girls Medical College  
Peshawar.

No. \_\_\_\_\_ /Estt./KGMC

Copy forwarded for information to the all Members of the Committee, KGMC, Peshawar.

1. The Legal Advisor, KGMC, Peshawar.
- ~~2. The Officer Concerned.~~

**DEAN**  
Khyber Girls Medical College  
Peshawar

**OFFICE ORDER**

**P.D.A Building, Block # IV, Phase-V, Hayatabad Peshawar**

(6)

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

Service Appeal No. 728/2023

**WAKALATNAMA**

**Dr. Muhammad Javid**

V/S

**Government of Khyber Pakhtunkhwa & Others**

I Respondent no 3 do hereby appoint, **Jahanzeb Mahsud & Waqar Khalil** Advocates, in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same maybe tried or heard and any other proceedings arising out of or connected therewith.
2. To sign and verify and file or withdraw all proceedings, cases, appeals, affidavits and applications for compromise or withdraw, or for submission to arbitration of the said case or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
3. To receive payment of and issue receipts for all moneys that may be or become due and payable to us during the course of the proceedings.

**AND**

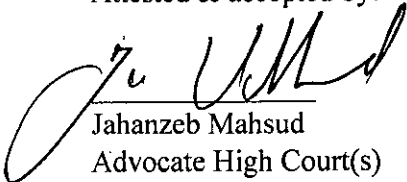
Hereby agree:-

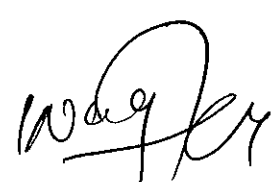
- a. That the advocate shall be entitled to withdraw from prosecution of the said case if the whole or any part of the agreed fee remain unpaid.


In witness whereof I/We have signed this wakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this \_\_\_\_\_ day of \_\_\_\_\_

**DEAN**  
**MTI, KGMC / HMC**  
Signature of Executant **Peshawar**

Attested & accepted by:

  
Jahanzeb Mahsud  
Advocate High Court(s)

  
Waqar Khalil  
Advocate High Court(s)

  
Mian Junaid Sardar Akhund  
Adv