

13.11.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG alongwith Faiz Muhammad, Assistant for the respondents present. Arguments heard and record perused.

This appeal is disposed of as per our detailed judgment in connected service appeal No. 678/2013, entitled "Sher Zada Versus the Director Health (FATA) Department, Peshawar and another". Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
Member

[Signature]
Chairman

ANNOUNCED

13.11.2017

AA

187/2013

13.12.2016

Counsel for the appellant and Mr. Said Muhammad, Head Clerk alongwith Additional AG for the respondents present. Representative of the respondents submitted before the court that record of the appellant is available with the Agency Surgeon Officer and he will produce the same before the next date. Representative of the respondents is directed to produce the appointment order of the appellant alongwith salary issued to him and other related documents. To come up for record and arguments on 20-4-17 before D.B.



(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

20.04.2017

Counsel for the appellant present. Mr. Said Muhammad, Head Clerk alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Representative of the respondent-department submitted record which is placed on file. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 12.07.2017 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

12.07.2017

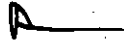
Counsel for the appellant and Asstt. AG ~~for~~ the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 13.11.2017 before the D.B.


(Gul Zeb Khan)
Member(E)


(M. Amin Khan Kundi)
Member(J)

09.07.2015

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Rejoinder submitted. Learned counsel for the appellant requested for adjournment that due to rush of work he could not be prepared the arguments. File to come up for arguments on 01-01-2016.



Member



Member

01.01.2016

Clerk to counsel for the appellant and Mr. Maaz Madni, Assistant Litigation Officer alongwith Assistant AG for respondents present. Arguments could not be heard due to incomplete Bench. To come up for arguments on 27.5.2016 before D.B.



Member

27.05.2016

Counsel for the appellant and Mr. Maaz Madni, Assistant Litigation Officer alongwith Addl: AG for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to 28.9.2016 before D.B.



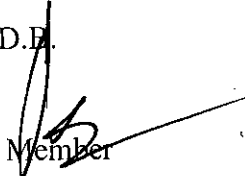
Member



Member

28.09.2016

Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 08.02.2017 before D.B.



Member



Chairman

687/13

W 13.01.2015

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with Addl: A.G present. Another request for submission of written reply/comments was made despite the fact that last chance was extended to the respondents on the previous date.

It is noted with concern that the government functionaries do not pay due attention towards direction of the court despite the fact that they are public servants and obliged to adhere to the orders of the Court including defending the interest of the government. Let the respondents be informed that in future, concerned authorities are to be dealt with strictly in accordance with law.

Last chance is extended with the direction to the respondents to submit written reply/comments on 16.01.2015.


Chairman

12. 16.01.2015

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Comments submitted. To come up for rejoinder as well as final hearing/arguments before D.B on 9.7.2015 alongwith connected appeals No. 678, 679, 680, 681, 682, 683, 684, 685, 686 and 688 to 703 of 2013.


Chairman

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 687/2013

Mr. Shahan Zeb EPI Technician

..... Appellant

Versus

Director Health (FATA) & Anothers..... **Respondents**

Para wise joints comments on behalf of respondent No. 1.


Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honorable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for mis joinder & non-joinder of necessary parties.
5. That the present appeal is barred by law.
6. That the appeal is not maintainable in its present form.
7. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed

Respectfully Sheweth;

ON FACTS

1. Incorrect, neither any posts were advertised nor the appellant was selected by the Departmental Selection Committee. Moreover, the appellant have not attached appointment order or NIC with the appeal. Furthermore appointment of para-medics against other post is not admissible under the rules. Further the appellant claims to be appointed as EPI Technician (BPS-9). However, the so called forged documents annexed by the appellant shows him to be posted as against the vacant post of Lady Health Visitor (LHV) on contract basis.

0-12

 16-1-15

(2)

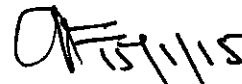
2. Incorrect, the appellant has not been appointed nor did he perform any duty.
3. Incorrect, the official concerned has never been paid any salary as he has not been appointed.
4. Incorrect, no Departmental Appeal has been made.

ON GROUNDS

- A. Incorrect, the appellant has not been appointed so he is not entitled for salary.
- B. Incorrect, as per Paras mentioned in the facts of the reply.
- C. Incorrect, the appellant has not been appointed nor did perform any duty therefore, not entitle for salary.
- D. Incorrect, as per paras mentioned above.
- E. Incorrect, as per paras mentioned above.
- F. Incorrect.
- G. No comments.

It is therefore most humbly prayed that the appeal of the appellant may kindly be dismissed with cost.

Respondent No. 01



Director Health Services (FATA)
FATA Secretariat, Peshawar

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

Service Appeal No. 687 /2013

Shahzeb

VS

Director Health (FATA) & others:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Incorrect. The appellant was appointed as Pharmacy Technician (Dispenser) in BPS-9 vide order dated 27-3-2012 on the proper recommendation of the Departmental selection Committee. Moreover, the appellant attached Service Book with the appeal, wherein page 4 A it is clearly mentioned that the appellant was appointed on dated 27-3-2012
- 2 Incorrect. The appellant was appointed as Pharmacy Technician (Dispenser) in BPS-9 vide order dated 27-3-2012 on the proper recommendation of the Departmental selection Committee and he continuously performed his duty as a civil servant, which is evident from performance certificate which is attached with the appeal.
- 3 Incorrect. The appellant has paid salary up to August 2012 by the concerned official. (Copy of salary slip of August 2012 is attached as Annexure- R3)

4

Incorrect. The appellant has filed departmental appeal which is attached as D on page 6 with main appeal. Besides that the appellant and other colleagues had also filed a joint application / appeal which was properly endorsed and reported back by the concerned office. The denial of the respondents is thus not tenable mere by denying that fact. *(Copy of joint appeal and report back by the concerned office are attached as R1 & R2).*

GROUND:

- A- Incorrect. The appellant was appointed as Pharmacy Technician (Dispenser) in BPS-9 vide order dated 27-3-2012 on the proper recommendation of the Departmental selection Committee and he continuously performed his duty as a civil servant and has paid salary up to August 2012 by the concerned official and after September 2012 stoppage of monthly salaries of the appellant and not taking action on the departmental appeal of the appellant is against the law, rules, norms of justice and material on record. Therefore not tenable and liable to be set aside.
- B- Incorrect. While para B of the appeal is correct.
- C- Incorrect. The appellant was appointed as Pharmacy Technician (Dispenser) in BPS-9 vide order dated 27-3-2012 on the proper recommendation of the Departmental selection Committee and he continuously performed his duty as a civil servant and has paid salary up to August 2012 by the concerned official. Therefore the appellant is entitled for salaries after September 2012 till date as the appellant is still in service and has not been terminated so for.
- D- Incorrect. While para D of the appeal is correct.
- E- Incorrect. While para E of the appeal is correct.
- F- Not replied according to para F of the appeal. Moreover para F of the appeal is correct.
- G- No comments.

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

gobbi
APPELLANT

Through:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.
&

(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

Taimur Ali Khan
DEPONENT

R1 (9)

OFFICE OF THE AGENCY SURGOEN NORTH WAZIRISTAN MIRANSHAH.

PHONE & FAX: 0928-300788.

NO 2801 / DATED: MIRANSHAH THE 30/9 2011.

To The Director Health Services.
FATA Warsak Road Peshawar.

SUBJECT: APPOINTMENT DURING THE LAST THREE(3) YEARS.

Memo: Reference your Telephonic Message to day on 30-09-2011..

I have the honour to submit herewith the detail list of
appointment during the last three years as follows.

S.NO	NAME	F:/NAME	Domicile	Designation	Date of Arrival
1	Mr. Khaista Rehman	Fateh Sajid	Bajaur	Medical Tech	3-11-2009
2	Mr. Shaheed Ullah Jan	Jan Behader	NWA	Medical Tech	03-11-2009
3	Mr. Zahid Iqbal	Banat Khan	NWA	Medical Tech	3-11-2009
4	Mr. Akhtar Ayub	Janabat Khan	NWA	Medical Tech	3-11-2009
5	Mr. Safder Elahi	Noor Elahi	NWA	Medical Tech	3-11-2009
6	Mr. Arifullah	Khushal Khan	NWA	Medical Tech	06-12-2009
7	Mr. Naveed Iqbal	Khan Behader	NWA	Medical Tech	12-11-2009
8	Mr. Wadood Ali Shah	Muhammad Nawaz Shah	Bannu	Medical Tech	10-01-2010
9	Mr. Farhad Ullah	Made Jan	NWA	Medical Tech	18-06-2010
10	Mr. Shahid ullah	Muhammad Nawaz	NWA	Dispenser	3-11-2009
11	Mr. Abdul Hanan	Gul Faraz Khan	Bajuar	Dispenser	
12	Mr. Zaheer ud Din	Noor Adil Shah	NWA	Diepsenser	3-11-2009
13	Mr. Inam Ullah	Shahadat Khan	NWA	Dispenser	22-11-2009
14	Namat Rasool	Azad Khan	NWA	Dispenser	25-03-2010
15	Mr. Nazeer Ahmad	Muhammad Younas	Bajaur	Dispenser	20-12-2009
16	Mr. Muhammad Qasim (ADP)	Muhammad Zuman	NWA	Dispenser	22-11-2009
17	Mr. Sayed Nawaz (ADP)	Sahed Nawaz	NWA	Dispenser	18-11-2009
18	Mr. Habib ullah (ADP)	Ber Mullah Khan	NWA	Dispenser	22-11-2009
19	Mr. Imran Ullah (ADP)	Muhammad Niaz	NWA	Diepenser	24-11-2009
20	Mr. Muhammad Zunir (ADP)	Noor Madat Khan	NWA	Dispenser	06-11-2009
21	Mr. Muhammad Akram (ADP)	Muhammad Saleem Shah	NWA	Dispenser Adjusted Against LHV in ADP	06-11-2009
22	Mr. Rafi Ullah (ADP)	Mir Sahab Khan	NWA	Dispenser Adjusted Against LHV in ADP	15-11-2009

(5)

23	Mustafa Khan (ADP)	Rashid Khan	NWA	Dispenser, Adjusted Against LHV in ADP	25-12-20
24	Hafiz Noor (ADP)	Sayed Manoor	NWA	Dispenser Adjusted Against LHV in ADP	1-1-2010
25	Miss. Basnoor Bibi	Samin Ullah	Bnnu	LHV	12-11-20
26	Miss. Tabsuam	Gul Naib Khan	Bannu	LHV	15-11-20
27	Miss Husai	Adil Khan	NWA	LHV	15-11-20
28	Miss. Zubida Khanam	Kari mud Din	D.I. KHAN	LHV	19-12-20
29	Miss. Komal Saba	Palol Khan	NWA	LHV	23-12-20
30	Miss: Romana Akram	Muhammad Akram	D.I.Khan	LHV	23-12-20
31	Faiqa	Habib Ullah	Bannu	LHV	31-12-20
32	Zar Taj	Hukam Zada	Bannu	LHV	6-1-2010
33	Miss Permeen Gul	Gul Shah Zada	BANNU	LHV	30-1-20
34	Miss. Nasima Bibi	Noor Bad Shah	Bannu	LHV	20-02-20
35	Miss Zakishah	Din Bad Shah	NWA	LHV	18-06-20
36	Miss. Waheeda LHV	Aman ullah	NWA	LHV	2-6-2010
37	Mr. Attaur Rehman	Wali Muhammad	NWA	Assistant Superintendent Malaria	25-06- 2010.
38	Mr. Sajid Khan	Murad Ali	NWA	Dental Tech	18-11-20
39	Mr. Feroz Shah	Hakim Shah	NWA	Lab Asstt Against Dispense	18-11-20
40	Sayel Khan	Zarbab Khan	NWA	EPL Tech Against LHV	12-11-20
41	Mr. Asif Mehmood	Taj Muhammad	NWA	X-Ray Against LHV	3-12-20
42	Mr. Sabghat ullah	Zaffar Ali	NWA	Lab Tech Against LHV	3-12-20
43	Sardar Ayub	Ayub Khan	NWA	EPL Tech Against LHV	6-12-20
44	Mr. Khatib Ullah	Saeed Khan	NWA	EPL Tech Against LHV	3-12-20
45	Mr. Gul Rehman	Inayat Khan	NWA	Dispenser Against LHV	10-12-20
46	Mr. Salim ullah	Hanif ullah	NWA	Lab Asstt Against ECG	17-12-20
47	Mr. Shahid Ullah	Muhammad Noor Gul	NWA	Lab Asstt Against LHV	25-12-20
48	Mr. Noor Hayat	Salim Muhammad	NWA	Dispenser Against LHV	15-01-20
49	Mr. Ajab Noor	Shamaraz	NWA	Lab Asstt Against LHV	2-4-20
50	Mr. Niazam ud Din	Fazal Ghani	NWA	MT Against LHV	2-4-20
52	Sher Ali BAZ	Niaz Khan	NWA	BR TECH	8-4-20
53	Zia ullah	Abdul Hamid	NWA	Lab Asstt Against Physiotherapist	21-03- 2010.
54	Asif	Yqoob	NWA	Lab Asstt Against	22-11-20

57	Safdar Ali	Dilawar Khan	NWA	Junior Clerk	06-0
58	Mansoor Ahmad	Qamar Ali	NWA	Junior Clerk	03-0
59	Jamil Ahmad	Nasib Akhtar	NWA	Junior Clerk	01-0
60	Muhammad Niaz	Nawshar Khan	NWA	Junior Clerk	03-0
61	Abdur Rehman	Zainullah	NWA	Malaria Inspector	23-0
62	Noor Ayub		NWA	EPI Tech	
63	Muhammad Tariq	Gul Zarooof	NWA	EPI Tech	
64	Zainullah	Madaraz	NWA	EPI Tech	29-0
65	Azmat ullah	Lair Jan	NWA	EPI Tech	
66	Abdullah	Aslam Khan	NWA	Sweeper	28-0
67	Nazullah Khan	Mather Khan	NWA	Behishty	10-0
68	Manoor Khan	Hajji Adil Mir	NWA	Sweeper	12-0
69	Asmad ud Din	Abdul Hakim	NWA	Mali	2-01
70	Din Faraz	Juma Gul	NWA	Cook	31-0


 AGENCY SURGEON
 NORTH WAZIRISTAN MIRANSHA

R-2 T-13
29/12/14

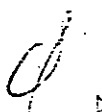
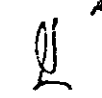

OFFICE OF THE AGENCY SURGEON NORTH WAZIRISTAN MIRANSHAH.
 Health : Hospitals And Services: 0731-G.H.S. :073101-G.H.S. Demand:No.111
 AREA BILL FOR LESS DRAWAL OF AD-HOC RELIEF ALLOWANCE W.E.FROM 01/07/2013 TO 31/10/2014=16-MONTHS).

MW:G031

Dental Tech & Driver Working Against M/Tech:		and Lab: Tech:EPS-9 & BPS-4		Drawn	Diff:	Total	1/12/2013 to 31/10/2014 11-Months= Due	Drawn	Diff:	Total	Grand Total	
S. No	Name	CATA GARY	AO1151 Pay	1/7/2013 to 30/11/2013 5-Months= Due								
✓ 1	Mir Ali Shah Dental Tech:THQ Mir Ali	A	17600	2533	1722	851x5=4305/-	4305/-	2640	1760	880x11=9680	9680/-	13985/- ✓
✓ 2	Sahib Noor Driver: BPS-4	A	9870	1446	964	482x5=2410	2410/-	1481	967	494x11=5434	5434/-	7844/- ✓
✓ 3	Abdul Nasir Lab: Tech:	B	8860	1272	848	424x5=2120/-	2120/-	1329	866	443x11=4873	4873/-	6993/- ✓
✓ 4	Muhammad Zubair MT	A	8860	1272	848	424x5=2120/-	2120/-	1329	848	424x11=4664	4664/-	6684/- ✓
✓ 5	Yamal Hussain Agaist MT	B	8480	1215	810	405x5=2025/-	2025/-	1272	732	367x11=4037	4037/-	5777/- ✓
✓ 6	Wadood Ali Shah MT	A	7340	1044	666	348x5=1740/-	1740/-	1101	1732	689x11=9559	9559/-	11377/- ✓
✓	XXXXXXXXXX	B	17320	2532	1688	844x5=4220/-	4220/-	2607			43120/-	62050/- ✓
	Total		78390				13940/-					

CLASSIFICATION	Amount
AR-15% NEW	62050
(01000) G.Total	62050
Deduction:	0
Net Total:	62050

01/12/2014
 29/12/2014


 AGENCY SURGEON,
 NORTH WAZIRISTAN MIRANSHAH


 AGENCY SURGEON,
 NORTH WAZIRISTAN MIRANSHAH

TEMPORARY BILL FOR LESS DRAWAL OF AD-HOC RELIEF ALLOWANCE V.E.FROM 01/07 2013 TO 31/10 2014=16-MONTHS).

TEMPORARY BILL
MW:0031

Handwritten initials and date
9/1/2014

AGAINS PAY BILL		TEMPORARY BILL									
Name	CATA GARY	AO:151 Pay	1/7/2013 to 30/11/2013 5-Months= Due	Drawn	Diff:	Total	1/12/2013 to 31/10/2014 11-Months= Due	Drawn	Diff:	Total	Grand Total
Farooq Sharif Lab Tech. Against D.Sr. R-D Scientist	B	7720	1100	734	367x5=1835	1835	1158	772	385x11=4245	4245	6080
Muhammad Usman Lab Technician Against LHV CH Boys	A	7720	1100	734	367x5=1835	1835	1158	772	385x11=4245	4245	6080
Sulphat Usman Lab Technician Against LHV CH Hassan Khel	A	7720	1100	734	367x5=1835	1835	1158	772	385x11=4245	4245	6080
Sarfar Azmat SPT Technician Against LHV	A	7720	1100	734	367x5=1835	1835	1158	772	385x11=4245	4245	6080
Aliq Noor Lab Technician Against LHV	A	7720	1100	734	367x5=1835	1835	1158	772	385x11=4245	4245	6080
Nizamud Din MT Against LHV	A	7720	1100	734	367x5=1835	1835	1158	772	385x11=4245	4245	6080
Shauqullah Malaria supervisor against LHV	B	7340	1044	695	348x5=1740	1740	1101	734	367x11=4037	4037	5777
Wahed ulfar Malaria Supervisor against LHV	B	7340	1044	695	348x5=1740	1740	1101	734	367x11=4037	4037	5777
Total		61350				14490				33550	48040

CLASSIFICATION.	Amount.
AO-15% NEW	48040
(00000) G.Total	48040
Defection:-	0
Net Total:-	48040

Large circular stamp with handwritten text:
25
2014

Signature
AGENCY SURGEON,
NORTH WAZIRISTAN MIRANSHAH

Signature
AGENCY SURGEON,
NORTH WAZIRISTAN MIRANSHAH

Acquittance Roll for the month of August paid in Sept: 2

No.	Name	Net pay	Signature
1-	Ashraf Ali Khan.	14171	[Signature]
2-	Lal Mar Khan.	14171	[Signature]
3-	Saeed Noor.	14171	[Signature]
4-	Tanaz Mir.	14171	[Signature]
5-	Sher Muhammad.	14171	[Signature]
6-	Malang Jan.	14171	[Signature]
7-	Haji Akbar	14171	[Signature]
8-	Gul Rahman.	14191	[Signature]
9-	Dawad Khan.	13502	[Signature]
10-	Wahedullah	12926	[Signature]
11-	Mohd. Mohd.	13501	[Signature]
12-	Urm Shahraz.	15370	[Signature]
13-	Nasirullah	15370	[Signature]
14-	Mohd. Zahidullah.	14790	[Signature]
15-	Noorullah.	1459	[Signature]
16-	Sherin Taj.	14795	[Signature]
17-	Kalboom Bibi.	14286	[Signature]
18-	Amin Afghani.	14986	[Signature]
19-	Zabirullah.	14286	[Signature]
20-	Shah Zada.	14966	[Signature]
21-	Tarique Rih.	14966	[Signature]
22-	Azizullah.	14968	[Signature]
23-	Mohd. Sohail Khan.	15780	[Signature]
24-	Muhammad Yusuf	15780	[Signature]
25-	Saleemullah.	15780	[Signature]
26-	Naimaullah	16809	[Signature]
27-	Shah Nawaz Khan.	15450	[Signature]
28-	Ahmadullah.	15450	[Signature]
29-	Shabnam Siroob.	17688	[Signature]
30-	Said Anwar.	17688	[Signature]
31-	Parhadullah.	13288	[Signature]
32-	Azizullah.	14688	[Signature]
33-	Saima Gul.	14939	[Signature]

Agamithana roll. For the month of August. (10)
 Paid in Sept. 20

S.No.	Name.	Net pay.	Signature.
35	Patullah.	14845.	[Signature]
36	Zahidullah.	14845.	[Signature]
37	Mahd. Aslam.	16339.	[Signature]
38	Inayatullah.	10339.	[Signature]
39	Shafiqullah.	16339.	[Signature]
40	Noor-ul-Islam.	15780.	[Signature]
41	Mohd. Rahn.	16334.	[Signature]
42	Icham Afzal.	15803.	[Signature]
43	Mohd Noor.	15280.	[Signature]
44	Pir Mohd Jan.	15152.	[Signature]
45	Mohd Yousof.	15780.	[Signature]
46	Saleemullah.	15780.	[Signature]
47	Ashad Afzal.	15280.	[Signature]
48	Wazim Mohd.	16339.	[Signature]
49	Taskeenullah.	16339.	[Signature]
50	Noor pasham.	16339.	[Signature]
51	Aman Yaqoob.	16339.	[Signature]
52	Noor Halim.	15780.	[Signature]
53	Abdul Hanan.	14191.	[Signature]
54	Razal wadood.	15280.	[Signature]
55	Nuzrat Jahan.	15280.	[Signature]
56	Zafarullah.	14750.	[Signature]
57	Fari dullah.	14750.	[Signature]
58	Sham sulwahab.	15250.	[Signature]
59	Rhti shan.	15450.	[Signature]
60	Jahanqir.	14750.	[Signature]
	Sajjadullah.	14236.	[Signature]
61	Hashim paray.	15722.	[Signature]
62	Rizwan Noor.	14236.	[Signature]
63	Safiqulbor.	13736.	[Signature]
		1827.	
		1827.	477539.

AGENCY SURGOEN-NWA MOHMAND

FAX NO. : 0928-300788

Mar. 18 2014 01:49PM P1

R-5 (12)

**OFFICE OF THE AGENCY SURGOEN
NORTH WAZIRISTAN AGENCY MIRANSHAH,
PHONE & FAX: 0928-300788.**

NO **574** Date Miranshah the **18** : 03 2014

To The Director Health Services,
FATA Warsak Road Peshawar

13.03.14
No 2588


Subject: **COMPLAINT.**
Memo ..

Reference your office letter bearing endst. No.4213/DHS/FATA dated 12/03/2014 on the subject noted above. I have the honour to state that as per checking the record of this office there is no such record available of the officials individual concerned like their appointment orders, service books, health & age, even the dispatch register of that time.

However photo copies of their service books along with service appeals lodged them in Khyber Pakhtunkhwa Service Tribunal Peshawar against your good office as well as the of the undersigned, received through Mr. Akhtar Nawaz elder brother of Dr. Rahim Nawaz the then Agency Surgeon. This office has checked all the service books with the pay bills for the month of May, 2012. It has pointed out that there is a huge different between the pay fixed in their service books and pay / allowances drawn in the pay bills.

Keeping in view of the above it has also pointed out that their appointment orders were issued as a Malana Supervisor BPS-09 against the vacant post of LHV's and Dispensers during ban period with out advertisement / conducting of proper interview. It is a main cause for withdrawal their names from monthly pay bills by Dr. Azam Wazir, Ex-Agency Surgeon w.e.f from 01/09/2012.

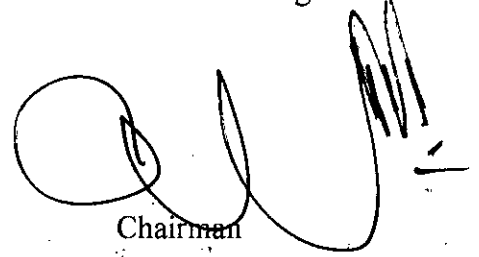
Report is submitted for further necessary action as desired please.


Agency Surgeon
North Waziristan Miranshah.

8-

6.3.2014

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments on 5.6.2014.

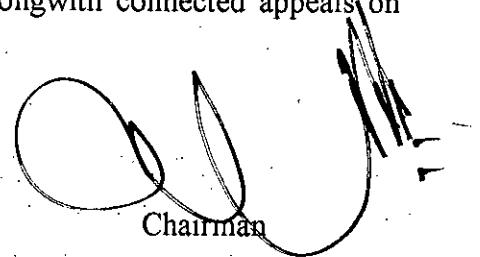


Chairman

9-

5.6.2014

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with AAG present. Request for further time made on behalf of the respondents due to security situation prevailing in the area. Yet another chance is given for written reply/comments alongwith connected appeals on 11.9.2014.

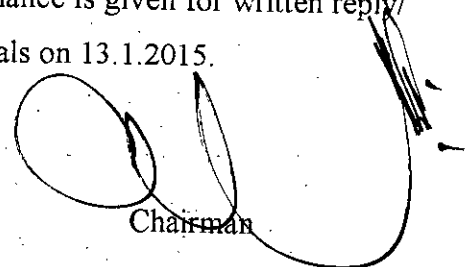


Chairman

10-

11.9.2014

Counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Neither representative of the respondents is present nor written reply has been furnished despite yet another chance given for the purpose on the previous date. On the request of learned AAG, a last chance is given for written reply/comments alongwith connected appeals on 13.1.2015.




Chairman

5- 04.10.2013

Counsel for the appellant present and heard on preliminary.

Contended that the appellant has not been treated in accordance with law/rules. The appellant took over charge w.e.f 04.12.2011 since he performed his duty as verified by respondent No.2 vide page No.6 of the instant appeal but he has not paid monthly salary. He filed departmental appeal on 02.01.2013 which has not been responded with statutory period of 90 days, hence the present appeal on 18.04.21013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 05.12.2013 for submission of written reply.


Member.

6- 04.10.2013

This case be put before the Final Bench T for further proceedings.


Chairman

7- 05.12.2013

Clerk of counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with AAG present. To come up for written reply/comments on 6.3.2014


Chairman

3 - 18.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 20.8.2013.


Reader

4 - 20.08.2013

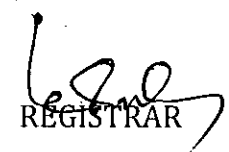

No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 04.10.2013..


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 687/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/04/2013	<p>The appeal of Mr. Shahan Zeb presented today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>18-6-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No 687 2013

Shahmzeb

V/S

Agency Surgeon (NWA) & Others

INDEX

S.No	Documents	Annexure	Page
1	Memo of Appeal		1-3
2	Appointment Order / <i>Services Book</i>	A	04-4-A
3	Arrival Report	B	05
4	Performance Certificate	C	06
5	Departmental Appeal	D	07
6	Wakalat Nama		

Shahmzeb
Appellant

Shahmzeb

Through:

M. Asif Yousafzai
M. ASIF YOUSAFZAI
ADVOCATE

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

Appeal No. 687 /2013

G.W.F. Peshawar
Case No. 785
Date 18/4/13

Mr. Shahan Zeb EPI Technician,
North Waziristan Agency,

APPELLANT

VERSUS

1. The Director Health (FATA), Department, Warsak Road,
Peshawar.
2. The Agency Surgeon, North Waziristan Agency,
Miranshah.

RESPONDENTS

.....

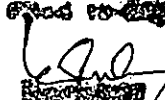
APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
FOR GRANTING MONTHLY PAY WITH EFFECT
FROM SEPTEMBER, 2012 TILL DATE AND
ONWARD AND AGAINST NOT TAKING ANY
ACTION ON THE DEPARTMENTAL APPEAL OF THE
APPELLANT WITHIN STATUTORY PERIOD OF
NINETY DAYS.

.....

PRAYER:

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE
RESPONDENTS MAY BE DIRECTED TO PAY
MONTHLY SALARIES TO THE APPELLANT WITH
EFFECT FROM SEPTEMBER, 2012 TILL DATE AND
ONWARD BEING STILL IN SERVICE AND
PERFORMING DUTY. ANY OTHER REMEDY, WHICH
THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER
THAT MAY ALSO BE AWARDED IN FAVOUR OF
APPELLANT.

Recd to-2013

18/4/13

RESPECTFULLY SHEWETH:

1. That the appellant was appointed as EPI Technician in BPS-9 vide order dated 27-03-2012 on the proper recommendation of the Departmental Selection Committee. The appellant took over charge on 28-03-2012 (F.N) in pursuance his appointment order. It is worth to mention here that after joining duties proper service book of the appellant has also been maintained till-date being civil servant and employee of the Health Department on FATA side at N.W.A. The Appointment order recorded/mentioned in the Service Book, the copy of which is attached as Annexure-A and Arrival Report is attached as Annexure-B.
2. That the appellant has been continuously performing his duty as civil servant of the Health Directorate FATA in N.W.A. upto the entire satisfaction of his superior and there are no complaints against the appellant so far.
3. That all of sudden that without passing any proper order, the pay of the appellant has been stopped since September, 2012 and when the appellant asked from the concerned office about the salaries he was orally told that his pay has been stopped by the Agency Surgeon. *Performance Certificate at Ann '2'*
4. That then the appellant forthwith filed an appeal on 20.12.2012 and waited for 90 days but no action has been taken on *depar*tmental appeal of the appellant so far, hence the present appeal on the following grounds amongst the others: Copy of Appeal is attached as Annexure-D.

GROUND:

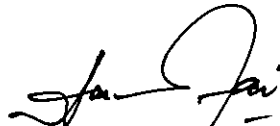
- A) That not paying the monthly salaries to the appellant and not taking any action on the departmental appeal of the appellant, is against the law, facts, norms of justice, therefore, not tenable.

- B) That the appellant is still in service performing his duty and has not been terminated so far, therefore, the appellant is entitled for his claim of the monthly salaries illegally.
- C) That not paying the monthly salaries to the appellant and stoppage of pay without any proper order, actually amounts to an arbitrary act on the part of the respondents which is not tenable in the eyes of law.
- D) That the appellant has not been treated according to law and rules and has been deprived from the monthly salaries despite proper performance of duty, thus the action of the respondents is totally illegal and without lawful authority.
- E) That being a civil servant, the appellant is entitled to the salaries of the post in accordance with Section-17 of the Civil Servant Act, 1973.
- F) That the appellant has been condemned unheard and no prior chance of defense or hearing was provided to the appellant while stopping his monthly salaries.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


Appellant
Shahan Zeb

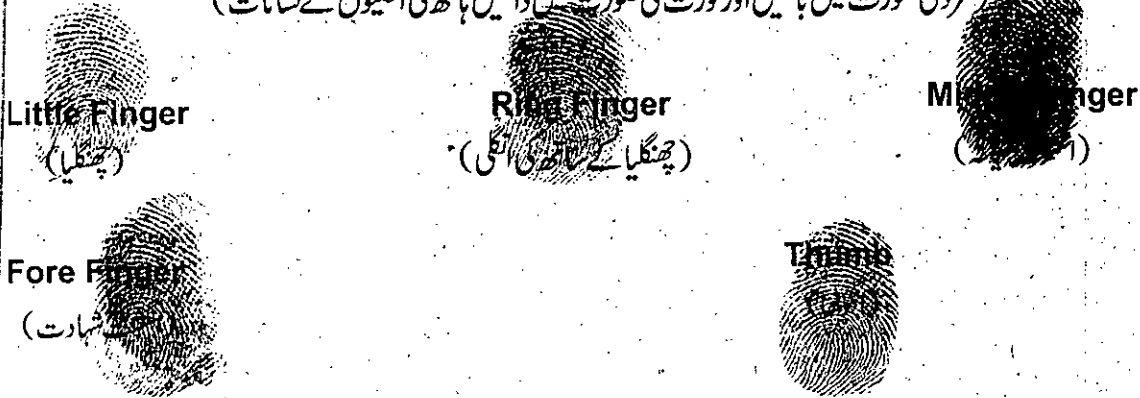
THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

- 1- Name (نام) Muhammad Iqbal
- 2- Nationality and Religion Muslim / Islam
(قومیت اور مذہب)
- 3- Residence New A
(مستقل رہائش)
- 4- Father's name and residence Azizullahi
(والد کا نام اور پتہ)
- 5- Date of birth by christian era as nearly as can be ascertained 13-2-1978
(تاریخ پیدائش مطابق سن عیسوی)
- 6- Exact height by measurement 5-3
(قد و قامت)
- 7- Personal mark of identificator Nil
(نشان شناخت)

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)

(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)



9. Signature of Govt. Servent

(سرکاری ملازم کے دستخط)

10. Signature and designation of the Head of the Office or other Attesting officer

(تصدیق کنندہ افسر کے دستخط اور مہر)

Handwritten signature

Official stamp

Note: The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need no be taken after every 5 years under this rule.

اس صفحہ کے مندرجہ کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر 9 اور 10 میں دستخطوں کے نیچے تاریخ لکھنی چاہیے۔

انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں

The Agency Surgeon

N.W.A

Milanshak

Subject


Allival report

Incompliance with your
office order bearing nos NO: 886-89
date: 27-3-2012

I have the honor to
forward my allival report for
to day on dated 28-3-2012

Date
28-3-2012

H/c
Keep on
record


28-3-12

Yours Obediently
Mr. Shaham Zeb
Epi Technician
N.W.A.





PERFORMANCE CERTIFICATE

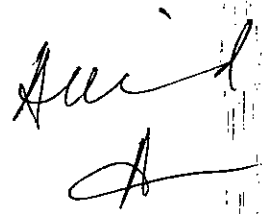
①

Certified that Mr. Mst Shahan Zeb S/O D/O Azizullah.

is performing his/her/ Govt duty regularly from the date of appointment till date.

There is no Complaint agst him/her. He/she has a good moral character.


Agency Surgeon
North Waziristan Agency
Miranshah



VAKALAT NAMA

NO. _____/2013.

IN THE COURT OF S-5 KPC.

Shahar Zeb.

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Agmy Sengui and others

(Respondent)
(Defendant)

I/We Shahar Zeb.

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

[Signature]

(CLIENT)

ACCEPTED

[Signature]

M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240