


01.08.2016


Appellant with counsel and Mr. Gohar Ayub, Medical Technician alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for rejoinder and final hearing on 04.10.2016 before D.B at camp court, Swat.

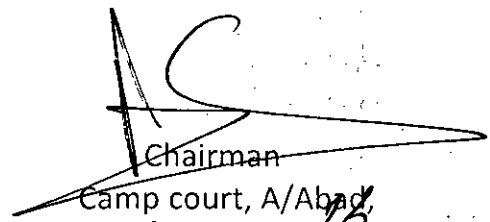

Chairman
Camp court, Swat.

04.10.2016


Counsel for the appellant and Mr. Muhammad Zubair, Sr.GP alongwith M/S Gohar Ayub, Medical Technician and Amjad Ali, Assistant for respondents present. Rejoinder submitted. Arguments heard. Record perused.

Vide our detailed judgment of to-day placed in connected service appeal No. 392/2015, titled "Muhammad Arif Versus Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar & 2 others", we accept the present appeal also as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.



Member
ANNOUNCED
04.10.2016


Chairman
Camp court, A/Abad
04.10.16

2.11.2015 Appellant in person, M/S Yar Gul, Senior Clerk and Gohar Ayub, Medical Technician alongwith Mr.Muhammad Zubair, Sr.GP for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/ comments on 13.01.2016 before S.B. Camp Court Swat.


Chairman
Camp Court Swat

13.01.2016 Counsel for the appellant and Mr.Gohar Ayub, Medical Technician alongwith Mian Amir Qadir, G.P for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 4.4.2016 at Camp Court Swat.


Chairman
Camp Court Swat

04.04.2016 Counsel for the appellant and Mr. Gohar Ayub, Medical Technician alongwith Mr. Anwarul Haq, GP for the respondents present. Rejoinder submitted. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before D.B on 01.08.2016 at Camp Court, Swat.



Chairman
Camp Court, Swat.

3 1.6.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was appointed as Junior Clerk vide order dated 2.4.2014. That the said order was cancelled on the next day i.e. 3.4.2014 regarding which the appellant preferred departmental appeal on 16.4.2014 which was rejected on 13.4.2015 where-after the instant service appeal was preferred on 5.5.2015.

That the appellant was appointed in the prescribed manners and as such the order of cancellation of his appointment is without any lawful justification.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 7.9.2015 before S.B at camp court Swat.


Chairman
Camp Court Swat

7.9.2015

Counsel for the appellant and Mr.Gohar Ayub, Legal Adviser alongwith Mr.Muhammad Zubair, Sr.G.P for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 2.11.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

Appellant Deposited
Security & Process Fee



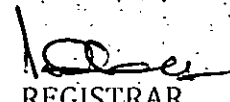

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____

396/2015

S.No.	Date of order Proceedings	Order, or other proceedings with signature of judge or Magistrate
1	2	3
1	05-05-2015	The appeal of Mr. Noor Zaman presented today by Mr. Aziz-ur-Rehman Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.  REGISTRAR
2	11-5-15	This case is entrusted to Touring Bench Swat for preliminary hearing to be put up thereon <u>1-6-2015</u>  CHAIRMAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 396 of 2015

Noor Zaman

...Appellant


Versus

Government Of Khyber Pakhtunkhwa Through Secretary Health Services,
Peshawar and others

.... Respondent

INDEX

S.No	Description of Document	Annexure	Page (S)
1	Service Appeal	--	1 to 5
2	Affidavit	--	6
3	Addresses of Parities	--	7
4	Copy of the appointment order	A	8
5	Copy of the Order	B	9
6	Copy of the Departmental Appeal	C	10-11
7	Copy of the Order	D	12
8	Wakalat Nama	---	13


Aziz-ur-Rahman
Advocate, High Court Swat.
Office, Gulshan Chowk Khan Plaza,
G.T. Road Mingora Swat.
Cell # 0333-9297746

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 396 of 2015

P.W.F. Province
Service Tribunal

Diary No. 450

Dated 05/5/2015

Noor Zaman S/o Sher Zaman R/o Dheri Julegram,
Malakand Agency.

...Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
2. The Director Health Services Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer Malakand at Batkhila.

...Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO. 3 BEARING NO. 1700-09/ DATED 03-04-2014, WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT WAS CANCELLED AGAINST THE LAW, RULES AND SHARIAH THUS LIABLE TO BE SET ASIDE. THE APPELLANT FILED A DEPARTMENTAL APPEAL AGAINST THE ORDER OF THE RESPONDENT NO. 3 WHICH ALSO REJECTED BY THE RESPONDENT NO. 2 VIDE ORDER NO. 4174-78/PERSONNEL DATED 13-04-2015 AGAINST THE LAW, RULES AND SHARIAH HENCE BOTH THE ORDERS IMPUGNED ARE LIABLE TO BE SET

Filed to-day

Registrar

5/5/15

(2)

ASIDE AND THE APPELLANT BE
REINSTATED INTO SERVICE FROM
THE DATE OF CANCELLATION.

Prayer:

*That on acceptance of this
service appeal both the orders
impugned may very kindly be set
aside and the appellant reinstated
into service with all
back/consequential benefits.*

Respectfully Sheweth:

Facts:

- i. That the appellant is a bona fide resident of Malakand Agency and qualified applied for the post of Junior Clerk, advertised by in a daily by the respondent department.
- ii. That the appellant, along with others, participated in the recruitment process and got successful.
- iii. That appellant was issued appointed order bearing No. 1630-32 dated 02-04-2014 by the respondent No. 3 after the fulfilment of all the codal formalities. Copy of the order is enclosed as Annexure "A".
- iv. That the very next day the appellant joined the service as Junior Clerk.

- (3)
- v. That to the surprise of the appellant another order was issued by the respondent No. 3 bearing No. 1700-09/ dated 03-04-2014, whereby the appellant's appointment order was cancelled, without any reasons at all. Copy of the order is enclosed as Annexure "B".
- vi. That feeling aggrieved of the said order the appellant filed a departmental appeal to the respondent No. 2, which was also rejected vide order No. 4174-78/PERSONNAL dated 13-04-2015 in mechanical way and without giving any reasons. Moreover the said order of rejection is against the law, rules and Shariah and feeling aggrieved of the same thus this appeal on the following grounds. Copy of the appeal is enclosed as Annexure "C" and that of the order of rejection is enclosed as Annexure "D", respectively.

Grounds:

- a. That every authority, whosoever he may be, is under the command of the Constitution bound to remain within its mandate given to it by law and while exercising the powers it is incumbent upon the authority concerned to save the accrued rights of a person regarding whom an order is made.
- b. That the appellant is being discriminated and is considered as a rolling stone not allowing him to gain weight. Once the appellant was duly appointed in accordance with the law and fulfillment of all the codal formalities, then cancellation of the same in

(u)

such a fanciful manner and that too without any reasons, whatsoever, on the very next day finds no precedence of its kind. Needless to mention that the appellant was never even afforded the opportunity to defend himself and is condemned as unheard.

- c. That the appellant has the right to be treated in accordance with the law and Shariah and shall not be subjected to the arbitrary orders of the respondents.
- d. That the respondents have travelled beyond their jurisdiction by exercising the powers, not vested in them, in such a fanciful manner, which act is untenable under the law.
- e. That the appellant being eligible and thus appointed in accordance with the law and fulfillment of all the codal formalities thus has got legitimate expectancy to perform his duties without any illegal and undue interference.
- f. That it is by now a settled law that and there are plethora of judgments on the issue that any lapse on the part of the department cannot be attributed to the employee.

It is, therefore, very respectfully prayed that on acceptance of this appeal both the orders impugned may very kindly be set aside and the appellant reinstated into service from the dated of cancellation of his appointment with all back/consequential benefits.

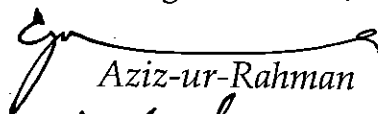
Any other relief deemed appropriate and not specifically prayed may also very kindly be granted.

5

Appellant


Noor Zaman

Through Counsels,


Aziz-ur-Rahman


Imdad Ullah

Advocates Swat

(6)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2015

Noor Zaman S/o Sher Zaman R/o Dheri Julegram,
Malakand Agency.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary Health Services, Peshawar and Others.

...Respondents

AFFIDAVIT

It is stated on Oath that all the contents of this
appeal are true and correct to the best of my knowledge and
belief and nothing has either been misstated or concealed
thereto.

Deponent



Noor Zaman

Identified by:


Imdad Ullah

Advocate Swat

ATTESTED


Sajid Ali Advocate
OATH COMMISSIONER
District Courts Swat
No. 476 Date 7/15/15

10-
DISTRICT COURT
OATH COMMISSIONER
M. M. L. 2

TESTED

(7)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2015

Noor Zaman S/o Sher Zaman R/o Dheri Julegram,
Malakand Agency.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary Health Services, Peshawar and Others.

...Respondents

ADDRESSES OF THE PARTIES

Appellant:

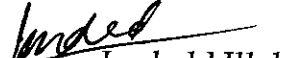
Noor Zaman S/o Sher Zaman R/o Dheri Julegram,
Malakand Agency.

Respondents:

1. The Government of Khyber Pakhtunkhwa through
Secretary Health Services, Peshawar.
2. The Director Health Services Khyber
Pakhtunkhwa, Peshawar.
3. The District Health Officer Malakand at Batkhila.

Appellant

Through Counsel,


Imdad Ullah

Advocate Swat

8

Annexure A

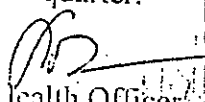


OFFICE OF THE DISTRICT HEALTH OFFICER MALAKAND AT BATKHELA

OFFICE ORDER:

Consequent upon the recommendation of the District Selection Committee Mr. Noor Zaman (Sher Zaman resident of village and post office Moh. Shah Dheri D. Julezai District Malakand) is hereby appointed as Junior Clerk in the time pay scale No.07 (5800-320-15400) plus usual allowances as admissible to him under the rules on temporary basis on the following terms and conditions against the vacant post at M.S office, District Headquarter Hospital Batkhela.

1. He shall for all intents and purposes, be Civil Servants and shall be governed by the Khyber Pakhtunkhwa Civil Servant Act 1973 and all the laws applicable to the Civil Servants and rules made there under.
2. He shall, initially, be on probation for a period of One Year extendable for further period of one year as provided under section 6 (1) of the Khyber Pakhtunkhwa Civil Servants Act 1973 read with rules 15 (1) of Khyber Pakhtunkhwa (appointment, Promotion and transfer) rules, 1989 duly amended.
3. If his work during the period of probation is not found satisfactory, he shall be terminated from services without any notice. In case he wish to resign from services he will give one month notice prior to resignation from services or one month's pay in lieu thereof will be forfeited.
4. He shall produce a Health and Age Certificate from the Medical Superintendent, DHQ Hospital Batkhela before reporting for duty.
5. He has to join duty at his own expenses.
6. He should report for duty to the office of Medical Superintendent, DHQ Hospital, Batkhela within 10 days of the issuance of this order, otherwise the order will stand cancelled.
7. His appointment is subject to medical fitness and subject to verification of his complete documents.
8. His salary will be released on receipt of verification of documents from the concerned quarter.


District Health Officer
Malakand at Batkhela

Dated 02/04/2014

1630-32

Copy to:


1. Medical Superintendent, DHQ Hospital Batkhela
2. District Accounts Officer, Malakand
3. Official concerned.

- For information and further necessary action.

ATTESTED



ADVOCATE


District Health Officer
Malakand at Batkhela

2
6

OFFICE OF THE DISTRICT HEALTH OFFICER MALAKAND AT BATKHILA

OFFICE ORDER:

Consequent upon the recommendation of the District Selection Committee Mr. Noor Zaman S/O Sher Zaman resident of village and post office Moh. Shah Dheri D. Juligram, Batkhila, District Malakand is hereby appointed as Junior Clerk in the pay scale No. 07 (5800-320-15400) plus usual allowances as admissible to him under the rules on temporary basis on the following terms and conditions against the vacant post at M.S. office, District Headquarter Hospital Batkhila.

1. He shall for all intents and purposes be Civil Servant and shall be governed by the Khyber Pakhtunkhwa Civil Servant Act 1973 and all the laws applicable to the Civil Servants and rules made there under.
2. He shall, initially, be on probation for a period of One Year extendable for further period of one year as provided under section:6 (1) of the Khyber Pakhtunkhwa Civil Servants Act 1973 read with rules 15 (1) of the Khyber Pakhtunkhwa (appointment, promotion and transfer) rules, 1989 duly amended.
3. If his work during the period of probation is not found satisfactory, he shall be terminated from services without any notice. In case he wish to resign from services he will give one month notice prior to resignation from service or one month's pay in lieu thereof will be forfeited.
4. He shall produce a Health and Age Certificate from Medical Superintendent, DHQ Hospital Batkhila before reporting for duty.
5. He has to join duty at his own expenses.
6. He should report for duty to the office of Medical Superintendent, DHQ Hospital Batkhila within 10 days of the issuance of this order, otherwise the order will stand cancelled.
7. His appointment is subject to medical fitness and subject to verification of his complete documents.
8. His salary will be released on receipt of verification of documents from the concerned quarter.

—sd—

District Health Officer

Malakand at Batkhila

Dated 02/04/2014

No. 1630-32

Copy to:

1. Medical Superintendent, DHQ Hospital Batkhila.
2. District Accounts Officer, Malakand.
3. Official concerned.

For information and further necessary action.

—sd—

District Health Officer

Malakand at Batkhila

[Handwritten signature]

ATTESTED

[Handwritten signature]

ADVOCATE



Signature *B*

(9)

OFFICE OF THE DISTRICT HEALTH OFFICER, MALAKAND
Phone # 0932-410399, Fax No. 0932-413110

OFFICE ORDER:

In light of minutes of the meeting of the District Selection Committee held on 03-04-2014 the appointment orders of the following persons issued from this office is hereby cancelled with effect from the issuing date.

S#	Name & Father's name	Office order No. & Date
1	Mr. Mohammad Arif S/O Khadim resident of Village & Post Office Julegram, District Malakand	1612-15, dated 02-04-2014
2	Mr. Asghar Ali S/O Muhammad Ismail, resident of village and post office Akhtar Ghonde, Batkhela, District Malakand	1617-20, dated 02-04-2014
3	Waqas S/O Rahman Ullah, Village and Post office Mohallah Sharif Abad, Batkhela, District Malakand	1621-25, dated 02-04-2014
4	Mr. Najib ur Rehman S/O Fazal Manan, resident of village and Post Office Dheri Julegram, District Malakand.	1626-29, dated 02-04-2014
5	Mr. Noor Zaman S/O Sher Zaman, Village and Post Office Dheri Julegram, as Junior Clerk DHQ Hospital Batkhela.	1630-32, dated 02-04-2014
6	Mr. Imran Khan S/O Mohammad Rafiq, Village and Post Office, Khar, Batkhela, as Junior Clerk DHQ Hospital Batkhela.	1633-35, dated 02-04-2014

RZ
District Health Officer
Malakand at Batkhela

Dated 3/04/14

No. 1700-09

Copy to:

1. Medical Superintendent, DHQ Hospital Batkhela
2. Additional Assistant Commissioner Malakand
3. Dr. Sabihuddin, DTO Malakand
4. District Account Officer, Malakand.
5. Mr. Mohammad Arif S/O Khadim resident of Village & Post Office Julegram, District Malakand
6. Mr. Asghar Ali S/O Muhammad Ismail, resident of village and post office Akhtar Ghonde, Batkhela, District Malakand.
7. Waqas S/O Rahman Ullah, Village and Post office Mohallah Sharif Abad, Batkhela, District Malakand.
8. Mr. Najib ur Rehman S/O Fazal Manan, resident of village and Post Office Dheri Julegram, District Malakand.
9. Mr. Noor Zaman S/O Sher Zaman, Village and Post Office Dheri Julegram.
10. Mr. Imran Khan S/O Mohammad Rafiq, Village and Post Office, Khar, Batkhela.

For information.

RZ
District Health Officer
Malakand at Batkhela

ATTESTED

Handed

ADVOCATE

To

The Director General, Health Services,

Khyber Pakhtunkhwa,

Peshawar.

Annexure

10

Subject: Appeal against the order No. 1700-09 dated 03-04-2014, whereby the appointed order (which was implemented as well) of the appellant was cancelled.

Respected Sir,

- i. That the appellant is bona fide residents of District Malakand and are qualified applied for the posts of Junior Clerk in the respondent department.
- ii. - That after the fulfillment of all the codal formalities the appellant got selected and appointed vide order No. 1630-32 dated 02-04-2014 by the respondent No. 3. The appellant has taken the charge and the orders have been implemented.
- iii. That all of a sudden without any reason the appellant services were terminated by cancelling the appointment orders of the appellant by the vide order No. 1700-09 dated 03-04-2014 against the law and rules.
- iv. That every authority, whosoever he may be, is under the command of the Constitution bound to remain within its mandate given to it by law and while exercising the powers it is incumbent upon the authority concerned to save the accrued rights of a person regarding whom an order is made.
- v. That the appellant are being discriminated and are considered as a rolling stone not allowing them to gain weight. Once the appellant were duly

ATTESTED
[Signature]

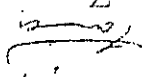
ADVOCATE

with the law and fulfillment of all the codal

formalities, then cancellation of the same in such a fangful manner and that too without any reasons, whatsoever, on the very next day finds no precedence of its kind. Needless to mention that the appellant were never even afforded the opportunity to defend themselves and have condemned unheard.

It is, therefore, very respectfully prayed that on acceptance of this appeal the order impugned i.e. order No. 1700-09 dated 03-04-2014 may very kindly be declared as void ab initio and the appellant let to continue his services.

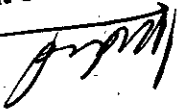
Appellant

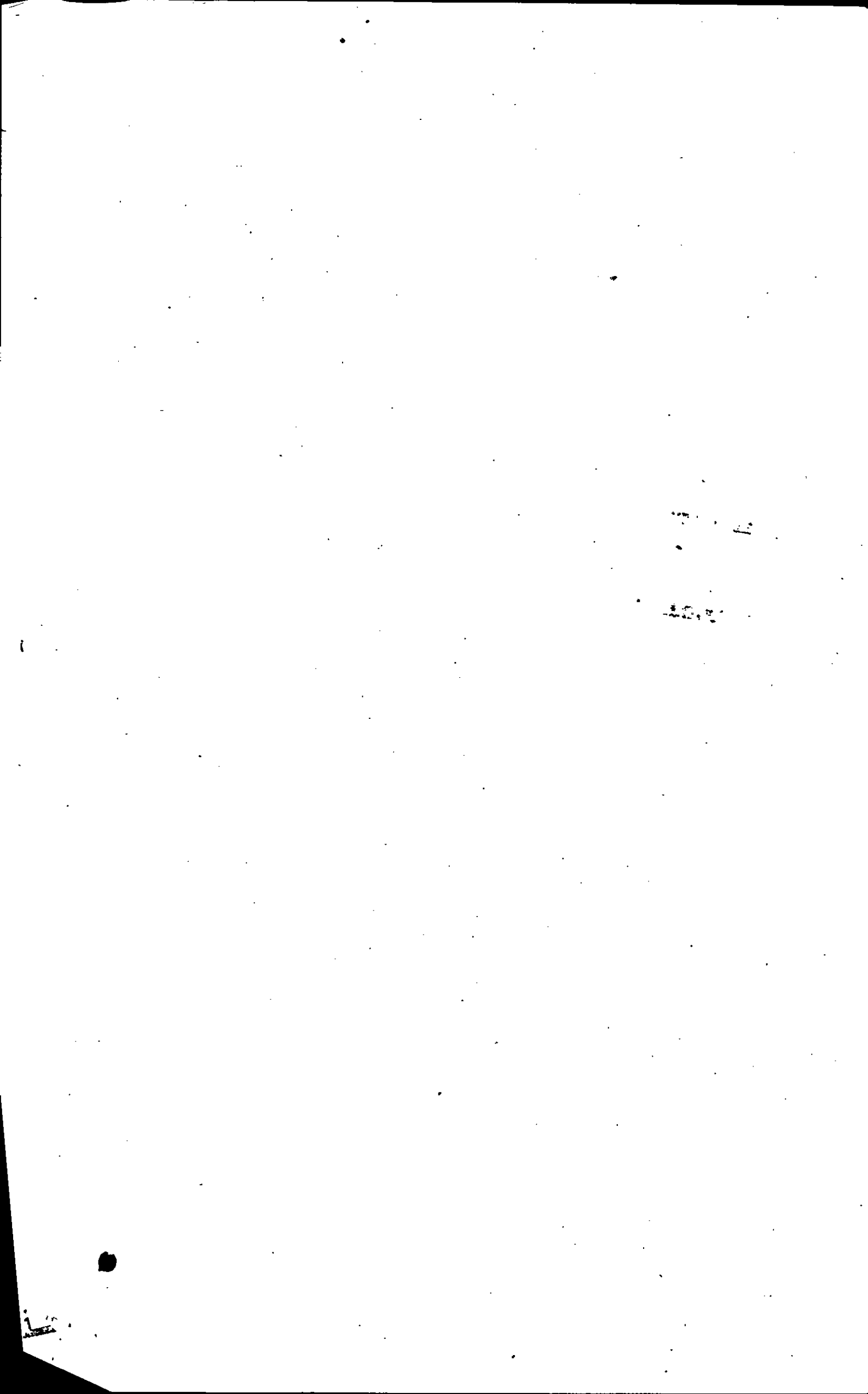

Noor-Zamian

16-04-2014

ADVOCATE

ATTESTED







DIRECTORATE GENERAL HEALTH
SERVICES, GOVT: OF KHYBER PAKHTUNKHW,
PESHAWAR.


NO. 4174-28 / PERSONNEL
DATED 13 / 09 / 2015

Annex D (12)

1. Ashar Ali S/o Muhamamd Ali R/o Akhtar Ghonde, Batkhela District Malakand.
2. Muhammad Arif S/o Khadim R/o Julegram District Malakand.
3. Waqas S/o Rahman Ullah R/o Sharif Abad Batkhela Malakand.
4. Noor Zaman S/o Sher Zaman R/o Dheri Jolegram Malakand.
5. Imran Khan S/o Muhammad Rafiq R/o Khar Batkhela Malakand.

Subject: **APPEAL**
Memo:

In compliance with the Judgment of Peshawar High Court (Mingora Bench (Arul Qaza) Swat, your case was properly enquired into and according to the Enquiry report your selection/ recruitment has been found in violation of the rules/ instruction of the Govt: on the subject, hence not entertain-able.


DIRECTOR GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR

/Personnel

Copy forwarded to the:

1. DHO Malakand.
2. M.S DHO Hospital Batkhela.
3. AD (Lit) DGHS, KPK Peshawar.

For information and necessary action.

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR


ATTESTED


ADVOCATE

Accepted and
 Accepted by
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BEFORE THE SERVICEN TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

APEAL NO 396 OF 2015

Noor Zaman S/O Sher Zaman R/O Dheri Julagram District Malaknd

-----Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
2. The Director Health services Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer Malakand at Batkhela.

-----Respondents.

AFFIDAVIT

It is stated on Oath that all the contents of this Reply/Comments are true and correct to the best of my knowledge and belief and nothing has either been misstated or concealed thereto.

Deponent


District Health officer District Malakand.

Identified by:

BEFORE THE SERVICEN TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

APEAL NO 396 OF 2015

Noor Zaman S/O Sher Zaman R/O Dheri Julagram District Malakand

-----Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
2. The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer Malakand at Batkhela.

-----Respondents.

PARA-WISE COMMENTS / REPLY OF RESPONDENTS NO.1 TO 3

PRELIMINARY OBJECTIONS

1. The appellant has got no cause of action to file the instant appeal.
2. The appellant has concealed some facts from the honorable tribunal; hence the appeal is not maintainable.

Facts Reply:

- i. Correct.
- ii. Correct.
- iii. Correct.
- iv. Correct.
- v. Para no-(v) is incorrect hence denied because all the orders were cancelled due the reason that a meeting of the selection committee held in District Health officer Malakand office at Batkhela in which the committee decided to cancel all the orders because some of the appellant put wrong marks in their documents which after verification shown forgery on their part. Copy of the minutes of meeting is attached as annexure-A.
- vi. Para no-VI is incorrect hence denied because the departmental appeal filed by the appellants was rejected by the respondent No-2, the reason given by the respondent No-2 was that the selection/recruitment has been find in violation of the rules/instructions of the government on the subject, hence not entertain-able.
Copy of the appeal rejection letter is attached here as Annexure-B.


Grounds:


- a. Correct.
- b. Para No-(b) is incorrect hence denied; details are given in the reply of facts Para No-(V).
- c. Para No-c is incorrect hence denied.
- d. -----do-----
- e. -----do-----
- f. No comments.

PRAYERS:

Keeping in view the above facts and on acceptance of this written reply/comments the appeal of the appellants may kindly be dismissed with cost.

Respondents:


1. The Secretary Health Services, Government of Khyber Pakhtunkhwa, Peshawar.


2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.



3. District Health officer District Malakand.



OFFICE OF THE DISTRICT HEALTH OFFICER, MALAKAND

Phone # 0932-410399, Fax No. 0932-413110

Ref. No. _____

Dated ___/04/2014

MINUTES OF THE MEETING HELD IN THE OFFICE OF DISTRICT HEALTH OFFICER MALAKAND AT BATKHELTA ON 03-04-2014 AT 10:00AM

A meeting under the Chairmanship of District Health Officer Malakand along with all members of the District Selection Committee was held on 03-04-2014 and discussed the issue of the appointment orders of Junior Clerks in detail. All the members were unanimously agreed to cancel the appointment orders of the Junior Clerks issued vide this office Number and date noted against each person:

S/No	Name & Father's name	Office order No. & Date
1	Mr. Mohammad Arif S/O Khadim resident of Village & Post Office Julegram, District Malakand	1612-15, dated 02-04-2014
2	Mr. Asghar Ali S/O Muhammad Ismail, resident of village and post office Akhtar Ghonde, Batkhela, District Malakand	1617-20, dated 02-04-2014
3	Waqas S/O Rahman Ullah, Village and Post office Mohallah Sharif Abad, Batkhela, District Malakand	1621-25, dated 02-04-2014
4	Mr. Najib-ur Rehman S/O Fazal Manan, resident of village and Post Office Dheri Julegram, District Malakand	1626-29, dated 02-04-2014
5	Mr. Noor Zaman S/O Sher Zaman, Village and Post Office Dheri Julegram, as Junior Clerk DHO Hospital Batkhela.	1630-32, dated 02-04-2014
6	Mr. Imran Khan S/O Mohammad Rafiq, Village and Post Office, Khar, Batkhela, as Junior Clerk DHO Hospital Batkhela.	1633-35, dated 02-04-2014

Grounds:

Some of the selected candidates put wrong marks in their documents which after verification shown forgery on their parts due to this reason some of the eligible candidates were left from selection because of disturbances in merit list.

In light of the above reason the committee agreed to cancel their appointment orders of the above named persons with effect from the issuing date. Moreover the interview held for the post of Store Keeper in Health Sector is also cancelled as decided by the District Selection Committee, Malakand. All these posts will be re-advertised in near future after getting approval from the competent authority.

District Health Officer,
Malakand at Batkhela
(Chairman)

Dr. Mohammad Ayub
M.S. DHO, Hospital Batkhela
(Member)

Mohammad Imran Khan
AAC, Batkhela
(Member)

Dr. Subhuddin
DTO Malakand
(Member)

No. 1697-99

Dated 3/04/14

Copy to:

1. Medical Superintendent, DHO Hospital Batkhela
 2. Additional Assistant Commissioner Malakand
 3. Dr. Subhuddin, DTO Malakand
- For information and further necessary action.

Attested

R.H.G.
Medical Officer I/c
R.H.G. Dheri Julegram
Malakand Agency.

District Health Officer
Malakand at Batkhela

OFFICE OF THE DISTRICT HEALTH OFFICER MALAKAND AT BATKHELA

Phone #0932410399, fax No 0932413110

Ref. No _____

Dated ___/04/2014

MINUTES OF THE MEETING HELD IN THE OFFICE OF DISTRICT HEALTH OFFICER MALAKAND AT BATKHELA ON 03/04/2014 AT 10:00 AM

A meeting under the chairmanship of the District Health Officer Malakand along with all members of the District selection committee was held on 03-04-2014 and discussed the issue of the appointments orders of junior Clerks in details. All the members were unanimously agreed to cancel the appointment orders of the junior Clerks issued vide this office Number and date noted against each person.

S#	Name And father's name	Office order No. and Date
1	Mr Muhammad Arif S/O Khadim R/O Julagram, District Malakand	No.1612-15 dated 02/04/2014
2	Mr. Asghar Ali S/o Muhammad Ismail, residence of village and post office Akhtar Ghonde, Batkhela. District Malakand.	1617-20 dated 02-04-2014
3	Waqas S/o Rahman Ullah R/o Sharif Abad Batkhela, District Malakand	1621-25 dated 02-04-2014
4	Mr. Najib ur Rehman S/o Fazal Manan resident of village and post office Dheri Julagram, District Malakand.	1626-29 dated 02-04-2014
5	Mr Noor Zaman S/O Sher Zaman R/O Dheri Julagram District Malakand,	16330-32 dated 02-04-2014
6	Mr Imran khan S/o Muhammad Rafiq residence of village and post office Khar, Tehsil Batkhela	1633-35 dated 02-04-2014

Grounds:

Some of the selected candidates put wrong marks in their documents which after verification shown forgery on their part due to this reason some of the eligible candidates were left from selection because of disturbance in merit list.

In light of the above reason the committee agreed to cancel their appointment orders of the above Persons with effect from the issuance date. Moreover the interview held for the post of store keeper in health sector is also cancelled as decided by the District selection committee, Malakand. All these post will be re-advertised in near future after getting the approval from the competent authority.

District Health Officer	Dr. Muhammad Ayoub	Muhammad Imran Khan	Dr Sabihuddin
Malakand at Batkhela	M.S DHQ. Hospital Batkhela	AAC. Batkhela	DTOMalakand
Chairman	(Member)	(Member)	(Member)

No.1697-99Copy to:

1. Medical Superintendent
2. Additional Assistant Commissioner, Malakand
3. Dr. Sabihuddin DTO Malakand.

For information and further necessary action.

District Health Officer,
Malakand at Batkhela.



DIRECTORATE GENERAL HEALTH SERVICES, GOVT. OF KHYBER PAKHTUNKHW, PESHAWAR.

NO _____ /PERSONNEL

DATED 13 /03 /2015.

To,

1. Ashar Ali S/o Muhamamd Ali R/o Akhtar Ghonde; Batkhela District Malakand.
2. Muhammad Arif S/o Khadim R/o Julegram District Malakand.
3. Waqas S/o Rahman Ullah R/o Sharif Abad Batkhela Malakand.
4. Noor Zaman S/o Sher Zaman R/o Dheri Jolegram Malakand.
5. Imran Khan S/o Muhammad Rafiq R/o Khar Batkhela Malakand.

Subject: APPEAL.
Memo:

In compliance with the Judgment of Peshawar High Court Mingora Bench (Darul Qaza) Swat, your case was properly enquired into and according to the Enquiry report your selection/ recruitment has been found in violation of the rules/ instruction of the Govt: on the subject, hence not entertain-able.

DIRECTOR GENERAL HEALTH SERVICES, K.P.K, PESHAWAR.

No 4/29-81 /Personnel

Copy forwarded to the:

1. DHO Malakand.
2. M.S DHQ Hospital Batkhela.
3. AD (Lit) DGHS, KPK Peshawar.

For information and necessary action.

DIRECTOR GENERAL HEALTH SERVICES, K.P.K, PESHAWAR

offer letter
20/4/15
Attested

Hafiz S.M Ali Shah

Medical Officer I/c
R.H.G. District Julegram
Malakand Agency.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 396 of 2015

Noor Zaman.

...Appellant

VERSUS

*The Government of Khyber Pakhtunkhwa through
Secretary Health and Others.*

...Respondents

REJOINDER BY THE APPELLANT.

Respectfully Sheweth:

Preliminary Objections:

That both the preliminary objections are incorrect and baseless hence are specifically denied. Moreover the appellant has got a prima facie case in his favour and has approached this Honourable Tribunal within time with clean hands and this Honourable Tribunal has got the jurisdiction to adjudicate upon the same.

On Facts:

- i. Para i to para iv being admissions, hence needs no comments.*
- ii. Para v of the comments as drafted is incorrect, baseless, without any proof and merits. Nothing of the alleged allegations are placed before this Honourable Tribunal nor is there any specific mention of the appellant, hence the para is denied.*

- iii. Para vi of the comments as drafted is incorrect baseless and without any meritless, vague and evasive hence is denied specifically.

On Grounds:

- a. Ground a needs no comments.
- b. Ground b is vague and evasive and amounts to admission, hence no comments.
- c. Ground c to ground f are evasive and amounts to admission hence no comments.

It is, therefore, very respectfully prayed that on acceptance of this rejoinder the appeal of the appellant may very kindly be decided as prayed for originally.

Appellant

Noor Zaman
Noor Zaman

Through Counsels,

Aziz-ur-Rahman
Aziz-ur-Rahman

Imdad Ullah
Imdad Ullah

Advocates Swat

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 396 of 2015

Noor Zaman.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary Health and Others.

...Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of
this rejoinder are true and correct to the best of my
knowledge and belief and nothing has either been
misstated or concealed thereto.

Deponent

Noor Zaman
Noor Zaman

Identified By:

Imdad
Imdad Ullah

Advocate Swat

