

19.5.2016

Appellant in person and Addl. AG for respondents present.
Rejoinder not submitted requested for time to file rejoinder. To come up
for rejoinder/arguments to 22.9.2016.

Member


Member

22.09.2016

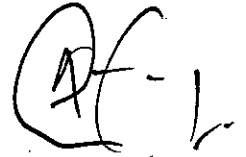
Counsel for the appellant, M/S Amjid Ali, Assistant and Yar Gul,
Senior Clerk alongwith Mr. Ziaullah, Government Pleader for
respondents present.

Vide our detailed judgment of today in connected Service Appeal
No. 970/2015 titled "Faiz Muhammad-vs-Government of Khyber
Pakhtunkhwa through Secretary Health Services Peshawar and others",
this appeal is also disposed of as per detailed judgment. Parties are,
however, left to bear their own costs. File be consigned to the record
room.

ANNOUNCED
22.09.2016



(PIR BAKHSH SHAH)
MEMBER

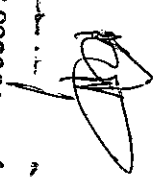


(ABDUL LATIF)
MEMBER

31.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Computer Operator in BPS-12 and entitled to treatment meted out to one Faiz-ul-Haq, a similarly placed employee, on the basis of judgment dated 30.12.2010 maintained by the august Supreme Court of Pakistan vide order dated 1.11.2012. Places reliance on case law reported as 1996 SCMR 1185 and 2009 SCMR-1. That the appellant preferred departmental appeal dated 21.5.2015 which was not responded and hence the instant service appeal on 26.8.2015.

Appellant Deposited
Security & Process Fee



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/comments for 12.11.2015 before S.B.


Chairman

12.11.2015

Counsel for the appellant, M/S Yar Gul, Senior Clerk and Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 9.2.2016 before S.B.


Chairman

09.02.2016



Counsel for the appellant, M/S Muhammad Arshed, SO and Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Para-wise comments on behalf of respondents No. 1 and 2 submitted. The learned Addl: AG relies on the same on behalf for respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 19.5.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 991 / 2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27.08.2015	<p>The appeal of Mr. Muhammad Haris resubmitted today by Mr. Nazir Ahmad, Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;">  REGISTRAR </p>
2	27-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>31-8-15</u></p> <p style="text-align: right;">  CHAIRMAN </p> <p>The appeal of Mr. Nazir Ahmad, Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p>This case is entrusted to be put up thereon</p>

The appeal of Mr. Muhammad Haris Steno Typist Directorate of Health FATA received to-day i.e. on 26.08.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexure-C of the appeal is illegible which may be replaced by legible/better one.

No. 1277 /S.T.

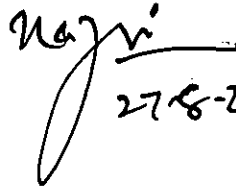
Dt. 26/8 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nazir Ahmad Adv. Peshawar

Sir,

Annexure C of the Appeal is replaced with a legible one - Re-submitted.


27/8-2015

IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. *271* 2015

Mr. Muhammad Haris Steno TypistsAppellant.

Versus

Government of KP through Secretary Health Services & others.....Respondents

INDEX

S. No	Description	Annexure	Pages
1	Appeal, affidavit & addresses of the parties.	-	1-6
2	Appointment Order	A	7
3	Office Order dated 18.12.2000	B	8
4	Future of SAP-II	C	9-11
5	Conversion of FATA SAP Cell Staff Budget from development to Current Budget	D	12-16
6	Adjustment order dated 16.6.2003	E	17
7	Departmental Appeal	F	18
8	Copy of Judgments of Service Tribunal and Supreme Court of Pakistan	G	19-21
9	Wakalatnama		22

Through

Appellant,

Nazir Ahmad
Nazir Ahmad
Advocate, Peshawar

26.8.2015

IN THE KHYBER PAKHTOONKHTWA SERVICE TRIBUNAL PESHAWAR.

①

Appeal No 977 /2015

**K.W.F. Province
Service Tribunal**
Diary No 1005
Date 26-8-2015

Mr. Muhammad Haris Steno Typists, Directorate Health Service FATA,
Peshawar.....Appellant

Versus

1. Government of the Khyber Pakhtoonkhwa through Secretary Health Services Peshawar.
2. Director General Health Services, K.P Peshawar.
3. Director of Health Services FATA.....Respondents.

Appeal under Section 4 of the KP Service Tribunal Act, 1974 for not regularizing the Appellant.

Prayer:-

- A. On acceptance of this Appeal the Appellant be considered regularized as Steno typist anti date and be included in the seniority list accordingly.
- B. Any other relief which this Honourable Court may deem fit in the instant circumstances.

Respectfully Sheweth:- The need for the instant Appeal arises due to the following facts:

1. That the Appellant was initially appointed as per prescribed manner by the Director General Health Services, K.P on recommendation of the Departmental Selection Committee on the basis of merit under the "Criteria of Selection for Promotion/Initial Recruitment" set by the

Sheweth
26/8/15

re-submitted to-day
and filed.
Registered 26/8/15

Government of Khyber Pakhtoonkhwa, services and General Administration Department (regulation Wing) vide No. SOR-I(S&GAD)4-1/75 dated 11th February, 1987 as Computer Operator BPS-11 plus usual allowances as admissible under the rules on contract basis for a period of one year i.e. 1996-97 extendable up to 1997-98 and was posted in FATA SAP CELL. These posts were prescribed by the Government of K.P for the DG Health Office and Lady Reading Hospital, Peshawar respectively and the appointment letter of the Appellant was issued on 19.8.1996..... (Annexure-A.

- 2. That the Appellant service book alongwith other formalities was issued and the Government of KP Health Department vide Officer Order No 2-2SPOII/Health (FATA)/P&D/2000-01 dated 18.12.2000, extended the period of services of the Appellant w.e.f. 01.07.1998 to 30.06.2003.(Annexure-B).
- 3. That on closer of SAP, the Governor’s Secretariat (FATA) KP Peshawar vide NO AS/FATA/FATA/P&D/GS/SAP-II/408/03/01-02 dated 27.7.2002 issued, under the directives of the Federal Government with the program of “Future of SAP” with the direction “that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit..... (Annexure-C).
- 4. That in compliance to the Social Sector Coordination Committee of the cabinet decisions the case was processed and approved by the competent authority through Secretary to Governor KP on proper file through Finance/P&D Department FATA Secretariat with the guidelines provided by the P&D Division Islamabad after approval, *the Directorate of Health Services FATA adjusted the Appellant on the sanctioned regular vacant post as per prescribed manner and annual increments and other benefits of regular employees are extended* (Annexure-D& E).
- 5. That the Appellant filed a Departmental Appeal to the Secretary Health Services of KP through proper channel but despite lapse of 90 days no response is communicated to the Appellant and the Appellant is still considered Computer Operator BPS 12..... (Annexure-F).

Being aggrieved hence this Appeal is preferred on the following grounds:

Grounds:-

- A. That the Order of Director General Health whereby the Appellant is not considered a regular employee of the Department and is not enlisted in seniority list is against the fact and law and is not sustainable in the eyes of law as the development budget was converted into current budget.
- B. That the Appellant is selected through prescribed manner and was adjusted accordingly against the regular vacant post of Steno Typist as per guidelines of the Government of Pakistan, Planning and Development Division (Federal SAP Secretariat/DERA) Islamabad hence the Appellant is employee on regular basis as per rule.
- C. That the Appellant has 19 years of continuous service in health department without any interval, during this period the Appellant performed his duties in the Planning cell of the Government of KP Health Department and FATA Health Directorate at different official capacities as steno typist and is thus to be enlisted in the seniority list of steno typist of Health Department with anti- date.
- D. That according to Section 8 of the KP Civil Servant Act, 1973 for proper administration of a service, cadre or post, the appointing authority shall cause a seniority list of the members for the time being of such services, cadre or post to be prepared.
- E. That the Appellant has worked with the full satisfaction of the competent authority and there are no adverse remarks against him.
- F. That the Appellant is getting regular pay, allowances and annual increments as admissible under the rule and is deemed to be a regular civil servant.
- G. That even contract employees were regularized under employees on contract posts (Regularization of Service Amendment Act 1990 and 2005), which provides that a person though selected for appointment in the prescribed manner to a service or post on, or after the first date of July 2001 till the commencement of the said Act, but appointment on contract basis shall with effect from the commencement of the said Act, be deemed to have been appointed on a regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed

manner after the commencement of the said Act shall for all intents and purposes be civil servant.

- H. That KP employees on contract basis (Regularization of Services) (Amendment Act), 1990 provides that anything contained in any law for the time being enforce any civil servant who is or has been appointed or deemed to have been appointed against any post in any Government Department under Section 3 of this Act shall be deemed to have been regularly appointed from the date of his continue officiation, subject to eligibility, according to the service rules applicable to the post verified by the Administrative Secretary of the Department concerned.
- I. That a similarly placed civil Servant Faiz-ul-Haq S/o Noor-ul-Haq Office Assistant Director Health Services FATA, Peshawar filed an Appeal No 881/2010 in the KP Service Tribunal which is admitted and allowed on 30.12.2010 and the Civil Petition No 342-P of 2011 filed by the Respondent in the Supreme Court of Pakistan is dismissed on 01.11.2012 consequent thereof the Respondents regularized him and gave him seniority accordingly..... (Annexure-G).
- J. That the Supreme Court of Pakistan in Hameed Akhtar Niazi case 1996 SCMR 1185 and 2009 SCMR 1, held that if a Court or a Tribunal award any relief to a civil servant then other similarly placed are entitled to the same relief without any litigation.

It is therefore humbly prayed that on acceptance of this Appeal the relief as prayed above be granted to the Appellant and be considered regular and be included in the seniority list accordingly.

Any other relief which this Honourable Court may deem fit in the instant circumstances.

Appellant

Through

Nazir Ahmad
 Advocate, Peshawar.

24/6/2011

5

IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. _____/2015

Mr. Muhammad Haris Steno TypistsPetitioner

Versus

Government of KP through Secretary Health Services & others.....Respondents

AFFIDAVIT

I Mr. Muhammad Haris Steno Typists, Directorate Health Service FATA, Peshawar do hereby affirm and declare on oath that contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

*Identified by
[Signature]*

[Signature]

Deponent

CNIC No. ~~17301-12206~~
17301-6368467-3

[Signature]
26-8-2015



6

IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. _____/2015

Mr. Muhammad Haris Steno TypistsAppellant.

Versus

Government of KP through Secretary Health Services & others.....Respondents

Memo of Addresses

Appellant:-

Mr. Muhammad Haris Steno Typists, Directorate Health Service
FATA, Peshawar.

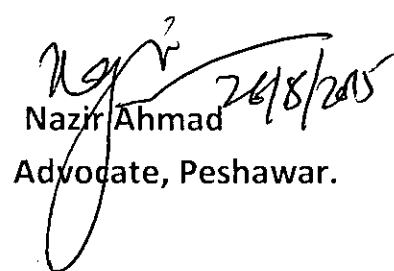
Respondents:-

1. Government of the Khyber Pakhtoonkhwa through Secretary Health Services Peshawar.
2. Director General Health Services, K.P Peshawar.
3. Director of Health Services FATA.



Appellant

Through


Nazir Ahmad
Advocate, Peshawar.

DIRECTORATE
SERVICES, NWFP PESHAWAR

Amelure
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OFFICE ORDER.

Consequent upon the approval accorded by the Departmental Selection Committee held in the office of the undersigned on 17.7.1996, Mr. Mohammad Haris S/O Inayat Ullah Jan is hereby appointed as Computer Operator (BPS-11 plus usual allowances as admissible under the rules on Contract basis for a period of one year i.e. 1996-97 extendable upto 1997-98 and posted in the Social Action Programme Cell (FATA).

If he accept the offer of appointment on Contract basis as Computer Operator, he should report to the Director Health Services, FATA, NWFP Peshawar at his own expenses within 10 days of the receipt of this letter.

If he failed to report for duty within the specified period, the offer of appointment on contract basis will be deemed to have been withdrawn and no further correspondance shall be entertained in this respect.

Sd/-----
DIRECTOR GENERAL HEALTH
SERVICES, NWFP PESHAWAR.

NO. 11789-95 /SAP Dated 19-8-96

Copy forwarded to the:-

1. Director Health Services, FATA, NWFP Peshawar.
2. AGPR, NWFP Peshawar.
3. Chief Planning Officer, Health Secretariat, Peshawar with ref. to Admn; approval No. 4-189/SPO/P&D/Health, dated 12.9.1995.
4. Section Officer (Budget), Health Secretariat, Peshawar
5. S.D.O (SAP).
6. Accounts Officer, Directorate General Health, Peshawar
7. Mr. Mohammad Haris S/O Inayatullah Jan, Village & P. Tehkal Bala, Mohallah Akzai, Teh:& Distt; Peshawar for information & necessary action.

for DIRECTOR GENERAL HEALTH
SERVICES, NWFP PESHAWAR

For information only
may file it.

FT HAN
PRESSIO

new: (ent) (T)

FATA

21/8/96

20/8/96

Handwritten signature

①
**GOVERNMENT OF NWFP
HEALTH DEPARTMENT.**

Dated the Peshawar December 18, 2000.

OFFICE ORDER.

No. 2-2/SPOII/Health (FATA) P&D/2000-01. The competent authority has been pleased to extend the period of services of the following officials for the period from July, 1998 to 30.06.2003 i.e. till project's life in the scheme "Provision for FATA SAP Cell in Health Department" with immediate effect.

- | | | |
|----|-----------------|---------------------|
| 1. | Faiz-ul-Haq. | (Office Assistant) |
| 2. | Faiz Muhammad, | (Computer Operator) |
| 3. | Muhammad Haris, | (Computer Operator) |

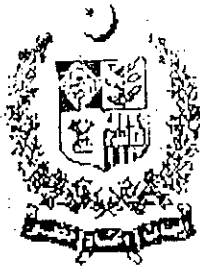
—Sd/—
Additional Secretary (Dev.)
Health Department, Peshawar.

Copy forwarded to the:-

1. Additional Accountant General PR (Sub Office), Peshawar.
2. Chief of Section FATA PE & D Department, Peshawar.
3. Chief Planning Officer, Health Department Peshawar.
4. Director Health Services, FATA.
5. P.A. to Deputy Secretary (Admn), Health Department
6. Official concerned.

(ALAM ZEB MALIK)
Section Officer (General)
Health Department, Peshawar.

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GOVERNMENT OF PAKISTAN
PLANNING & DEVELOPMENT DIVISION
(FEDERAL SAP SECRETARIAT/DERA)
"P" Block, Islamabad

JUNE 28, 2002

CHIEF FINANCE OFFICER ISLAMABAD:
(Phone: 9206492)

Subject: FUTURE OF SAPP-II

Dear Sir,

The Social Sector Coordination Committee (SSCC) of the Cabinet during its meeting held on 14-05-2002 has decided that:-

- A
- 4/7 #
- 6/9
- a. The Social Action Programme should be closed on 30-06-2002.
 - b. The trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit.
 - c. All on going programmes/projects be integrated into the Social Sector Programme e.g. ESR, Health Policy, Women Development.
 - d. The bare minimum core staff including accounting staff at the Federal and Provincial Government levels may be retained till closing/finalization of accounts of SAP-II with donors for a period of 6 months (July – December 2002) or until closure activities have been finalized and accounts are closed. Necessary provision for staff expenditure may be made in the Federal and Provincial Budgets 2002-03.
 - e. The evaluation of Social Action Programme should be carried out after its closure.

2. In compliance with the above decision, all Provincial Governments, concerned Ministries/Divisions are requested to take appropriate measures for implementation of the SSCC decisions, in letter and spirit. Core team of efficient trained personnels particularly accounting staff of SAP may be retained for closure of SAPP-II activities by extending ongoing PC-1s under their normal budget from

Attested
Muzi

(16)

own resources. Hopefully, there would be no problem in extending implementation period of these PC-1s as cost/scope of the projects of SAP Cells/Sections will remain the same, as there are sufficient savings in these projects. It does not involve any revision of PC-1. Only extension of implementation period is needed consisting of (a) one page brief addressed to Planning and Development Departments and Finance Departments in the Provinces (b) in case of Federal Government such letter be addressed to P&D Division and Finance Division with a list of staff to be retained. The expenditure during extended period however, would be met from respective PSDPs by concerned governments, as Donors may not agree to extend financing. Alternately, SAP staff can be adjusted in Provincial DERA Units with the assurance that SAP closing will be done by them without affecting DERA activities.

3. All ongoing programmes/projects and institutions developed under SAP be integrated in regular Social Sector Programmes. It will be appreciated if the list of such projects with cost, expenditure incurred by June, 2002 and balance provided in 2002-03 is intimated to this Secretariat for apprising the SSCC in its next meeting.

4. As regards the evaluation of the SAPP-II you are requested to furnish sub-sector-wise/year-wise and cumulative target achievements both of inputs and outputs with reasons of shortfalls. List of covenants separately for ADB and IDA and its status, classification of compliance with fully or partially with reasons of shortfalls may also be annexed with the report. It may also, inter alia, cover; (i) the policy design drawbacks if any, (ii) implementation problems and reasons for not attending such problems in time.

5. In addition to sectoral progress separate paragraphs be added on cross sectoral issues like; (i) gender balancing; (ii) good governance; (iii) steps taken in the light of Third Party Validation Reports/Audit position; (iv) community participation; (v) Schemes transferred to users' associations for meeting O&M

Atul
Wj

Costs etc. The reports may be brief and details be Annexed in tables or in matrix form.

6. The status of policy reforms, capacity building, its sustainability after closure of SAP may also be addressed.

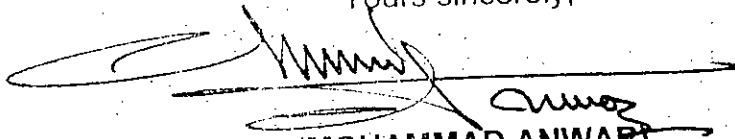
7. Financial analysis indicating year-wise/cumulative budgetary allocations, releases and expenditure for each sub-sector with separate details of development, non-development pertaining to salary and non-salary may please be provided for the programme period. All financial figures may please be reflected in millions of rupees for consistency.

8. SAPP-II is going to close on 30-06-2002 but Social Sectors will remain operational. Therefore, the philosophy of SAPP-II may please be integrated into Social Sector Programmes. At the national level, Poverty Reduction Indicators have been worked out. A set of these indicators is enclosed for your information. Kindly ensure continuity of the on-going programmes and/or initiation of new programme to improve these indicators by linking social sectors with Devolution Plan of the respective Governments.

9. A separate brief on social sectors under Devolution Plan highlighting problems/issues and recommendations may please be furnished to this Secretariat on priority basis so that policy decisions of the SSCC for streamlining the implementation under new scenario can be solicited.

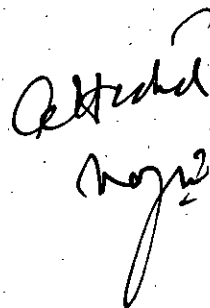
With best regards.

Yours sincerely,


(MOHAMMAD ANWAR)

(1) Mr. M. Akram Malik
Chairman
Planning & Development Board
Government of Punjab
Lahore

(2) Mr. Shahzad Shaikh,
Additional Chief Secretary (Dev)
Planning & Dev. Department
Government of Sindh,
Karachi



Mr. Mian Moazzam Shah
SAP Coordinator
M/O Population & Welfare
Government of Pakistan
Islamabad.

Mr. Imran Khan Nasir,
SAP Coordinator, ICT
Government of Pakistan
Islamabad.

(1-1)

Mr. Mehar Dad
SAP Coordinator
Government of NA
Gilgit

Mr. Asim Shafi,
SAP Coordinator (FATA)
Government of NWFP
Peshawar

Mr. Ghulam Haider Kazmi
SAP Coordinator
P & D Department
Government of AJK
Muzaffarabad

Copy for information to:-

- i) PS to Deputy Chairman
- ii) PS to Secretary
- iii) J.S. Committee Cabinet Division, Islamabad

Attached
Page

(25) Amelwar
(D)

Subject: CONVERSION OF FATA SAP CELL STAFF FROM DEVELOPMENT BUDGET TO CURRENT BUDGET.

1. FATA SAP cell was established in Health Directorate, FATA on 22/06/1995 at a total cost of Rs. 1.409 million. Under the project the following staff was approved.

S.No	Name of Post	Grade	No
1	Planning Officer	17	1
2	Assistant	11	1
3	Computer Operator	11	2
4	Naib Qasid	1	2

2. In addition to the staff some equipment and furniture were also approved. The detail of equipment/furniture etc. is as under:-

S.No	Name of Item	No
1	Computer Machines	2
2	Photo Copier	1
3	Calculator	4
4	Furniture	17
5	Air Conditioner	1

3. The objectives of the cell was to plan, coordinate, implement and monitor the schemes to be executed under the Social Action Programme and to cope with the increased work load generated by the SAP.
4. The scheme was revised during 1998-99 and was approved at a total cost of 8.393 million. The schemes was revised by the Health Department at the Secretariat level. The necessary inputs such as staff, equipment and transport were included in the PC-I for the newly established FATA section within the Health Department. The detail of staff and equipment etc. for the revised scheme is attached at Annexure-I. The revised administrative approval for the scheme was issued on 13/01/1999 Annexure - II.
5. Since 1st July 2002 Health Directorate FATA have been brought under the Administrative Control of Governor's Secretariat FATA as such the FATA section of the Health Department has no more concerned with the Health Directorate FATA. The issue of FATA SAP cell needs to be considered in the above circumstances. It is submitted for your kind information that out of approved staff presently one Office Assistant BPS-11, two Computer Operators BPS-11 and one Naib Qasid BPS-1 are working under the project. The Project will be closed on 30/06/2003.

Attested
Mepu
11/11/03

Since the FATA Directorate is already deficient of staff. The officials working under the project have rendered very good services and performed their duties with great zeal and enthusiasm. It is therefore, requested that the services of the following trained staff be converted from Development Budget to the current Budget side w.e.f. 01/07/2003.

- 1. One Office Assistant BPS-11
- 2. Two Computer Operators BPS-11
- 3. One Naib Qasid BPS-I.

11
13

7. It is added for your kind information that the P&D Department vide letter No AS/FATA/P&D/GS/SAP-II/408/03/01-02, dated 27/07/2002 has also communicated the decision regarding the future of SAP-II. It has been mentioned in the decision that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit. Annexure - III.

8. Submitted please.

[Signature]
27/11/03

(Dr. Ghulam Nabi Khan),
Deputy Director (Dev)

9. *[Signature]*
22/11/03
Director Health Services,
FATA, Peshawar.

10. Additional Secretary (P&D/Finance)

What are your recommendations?

*(268)
21/11/03*

- ions phase

11. *[Signature]* The undersigned recommended because office Asst II is part of the Development activities & the three-part operators are well trained. Their replacement will be beneficial for FATA Health Division.

Add. Secy P&D

[Signature]

11/01

12. Agreed to ...
...
...
...
...
...

11/11


Reference Para-12/N

13. The SNE for three (3) posts of Assistants in BPS-11 and Two (2) Posts of Steno typist BPS-12 are cleared. The Posts were created vide Government of Pakistani States and F.R. Division Islamabad letter No F.3-Sec.XI/EFC/93 dated 18/04/1996 for Strengthening of Directorate Health Services FATA (Annexure V). The above stated position are lying vacant upto the date:

14. The following officials who are working under the SAP cell and their performance is highly satisfactory. I recommend their adjustment against the vacant equivalent sanctioned position in Directorate Health Services FATA.

- 1. Faiz-ul-Haq: Office Assistant BPS-11 against the post of Assistant
- 2. Faiz Muhammad. Computer Operator BPS-11 against the post of steno typist
- 3. Muhammad Haris. Computer Operator BPS-11 against the post of steno typist

15. Submitted for approval please.


 Director Health Services
 FATA, Peshawar
 21/01/03

Additional Secretary (P&D)

16. Guidelines have been provided by ...
...
Secretary to Governor

As P&D

As proposed at para 16/n

Committee to be constituted

Attended

380
6/2/03

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6/2/03

to take a paper for adjustment
merit, then they are advised

15

D Director
Dhruva

for

The following Committee is
suggested

17/

1. Dr. Ghanem ...
2. Mr. ...
3. Mr. ...

Submitted for approval

[Signature]

DHS FATA

Agreed

[Signature]

The interview has conducted and found
all the three candidate fit for adjustment.

18/

Orders may please be issued. (P.O.)

(P. Dev) order may be used

[Signature]
02/06/03

19/

DHS FATA Supdt Account

Comments
[Signature]

P.O.

20/

The Selection made by the
Committee consisting under
Para - 17 - under the guideline
of the Govt. P.D. is clear.

21 As suggested in Para - 18.
submitted for order / approved of

DHS (FAATA).

22 ~~DDM/Estab~~ will they be on contract
basis or otherwise. 14/6/81.

Can they be adjusted
against the vacant posts ~~to be~~
~~in the vacant posts~~

✓ 23

(This Directorate can adjust the officers
against the vacant posts in the Directorate
Health Services Dept.)

Dy. Secy

14/6

24

✓ They are adjusted against
vacant posts purely on
temporary basis

16/6

25. ~~Spdl Est.~~

yes in, they adjusted now on
temporary basis. 15/6

Attended
19/6

Amelaw
②
⑦

GOVERNOR'S SECRETARIAT, FATA
DIRECTORATE OF HEALTH SERVICES, FATA, PESHAWAR

Ph: 091-9212109, 9212207

Fax: 091-9210212

Dated: 16 / 06 / 2003

OFFICE ORDER

No: DHS/FATA/DEV/1-26/2002-03. The Competent Authority is pleased to adjust the services of Muhammad Haris, Computer Operator, SAP Cell (BPS-11) against the vacant post of Steno Typist (BPS-12) in the Directorate of Health Services (FATA) on temporary basis in the best interest of public services with immediate effect.

Sd/xxxxxxxxxxxxxxxxxxxxxxxxxxxx
Secretary to Governor,
Governor's Secretariat, FATA
Peshawar.

Endorsement of even number and date

Copy forwarded to the:-

1. Additional Secretary, P&D, Governor's Secretariat, FATA, Peshawar.
2. Additional Accountant General PR (Sub Office) Peshawar.
3. Deputy Secretary (Finance) Governor's Secretariat, FATA Peshawar.
4. Director General Health Services, NWFP Peshawar.
5. PS to Secretary to Governor, Governor's Secretariat, FATA Peshawar.
6. Accountant, DHS FATA Peshawar.
7. Official concerned.

Director Health Services,
FATA, Peshawar.

Amelaw
rejo

Department Appeal

ڈائریکٹر جنرل ہیلتھ سروسز فیڈرل گورنمنٹ آف پاکستان

جناب
Annexure

محکمہ ایپل ایشن کے منتقلی اور سٹیٹس سنبھالی گئی ہے
سورسز میں محکمہ صحت

(P)
(P)

جناب عالی! گزرا رہنے کی جان ہے کہ ایپل کنندہ محکمہ

(SAP) سنبھالتی ہے۔ گزری کے بتاریخ 1986-7-17 گیسو سٹر

آفسر سٹر BP3-11 کے لیے آپ سال (کنٹریکٹ)

پر سٹیٹس ہوا تھا۔ اور اس پر اسی کنٹریکٹ میں

تو سب سے پہلے ہی گزری۔ اب اس میں یہ پراجیکٹ تھا۔ لیکن

اب اس میں اس کی کنٹریکٹ بھٹ میں تبدیل کر کے

منتقل کیا گیا۔ اور ایپل کنندہ کو سٹیٹس ٹائپس

پر ایپل سٹیٹس پر ایپل سٹیٹس کیا گیا۔ محکمہ صحت

سب ایپل کنندہ کو عارضی ملازم سمجھنا ہے۔ اور محکمہ

کے سنبھالنے کے لیے میں متاثر نہیں کیا گیا ہے۔ یہاں سنبھالنے

میں الحق۔ اس میں اسٹینڈرڈ سروسز ڈیپارٹمنٹ میں ایپل

ڈائریکٹر جو کہ منظور ہوئی۔ اور سیریس فورٹ آف پاکستان کے

میں بھی گزری گئی۔ اس میں سب سے پہلے ہی اس میں گزری

گیا ہے۔ اس میں سیریس فورٹ کے منتقلی کے مطابق گزری گئی

سنبھالنے کے لیے میں متاثر نہیں کیا جائے۔ اس میں سنبھالنے کے لیے

ایپل کنندہ۔ محمد طارق ولد سنبھالتی رہے۔ ان

میں سٹیٹس ڈائریکٹر سب سے پہلے گزری گئی

سب سے پہلے گزری گئی۔ 03005834616

صفحہ 213-5-24

Annexure
P

"Future of SAP" with the direction "that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit. After approval the Directorate of Health Services (FATA) adjusted the appellant as per prescribed manner before the competent authority for enlistment of

Amelw

(G), (F), (Q)

239

THE K.P.K SERVICE TRIBUNAL PESHAWAR

Appeal No. 881/2010

Date of institution - 26.04.2010
Date of decision - 30.12.2010



Assistant, Directorate of Health Services FATA Peshawar
..... (Appellant)

VERSUS

1. Government of K.P.K through Secretary Health Department Peshawar.
2. Director General Health Services, KPK Peshawar.
3. Director Health Services FATA..... (Respondents)

Appeal Under Section 4 of the K.P.K Service Tribunals Act 1974 against the order dated 3.10.2009.

Mr. Nazir Ahmad, Advocate..... For Appellant
Mr. Jahir Iqbal Khattak, AGP..... For Respondents.

SYED MANZOOR ALI SHAH..... MEMBER
MR. NOOR ALI KHAN..... MEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER: This appeal has been filed by the appellant against order dated 3.10.2009.

2. Brief facts of the case are that the appellant was initially appointed as Assistant vide order dated 11.2.1987 on contract basis for a period of one year and was posted in FATA SAP Cell. These posts were prescribed by the K.P.K Government for Health and LRH Peshawar and the appointment order of the appellant was issued on 19.8.1996. The Health Department extended the services of the appellant w.e.f. 1.7.1998 to 30.6.2003. On closer of SAP the Governor Secretariat FATA vide order dated 27.7.2002 issued under the directives of Federal Government with the programme of "Future of SAP" with the direction "that the trained staff at the Federal and Provincial level should be retained after proper test on the basis of merit. After approval the Directorate of Health Services (FATA) adjusted the appellant as per prescribed manner.

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RECEIVED
EXAMINER

241

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The appellant preferred a departmental appeal but with no response. Hence, the instant appeal.

3. Arguments heard and record perused.

4. The learned counsel for the appellant argued that the appellant was selected through prescribed manner and adjusted accordingly against the post of Assistant, hence, he is a regular employee. The appellant has in his credit 14 years spotless service in Health Department without any break. During the period the appellant performed duties in the Planning Cell of Health Department and FATA Health Directorate as office Assistant and to be enlisted in the seniority list of office Assistants. Even contract employees have been regularized under employees post (Regularization of Service Amendment Act, 1990 and 2005).

5. The A.G.P argued that he appellant was appointed particularly for SAP Cell FATA after fulfilling all codal formalities. He was adjusted on purely temporary basis on the regular sanctioned post of office Assistant after adopting all the procedures. He was working as such from 16.6.2003, having 11 years service from 1996. The Directorate Health Services KPK was requested for inclusion of his name in seniority list accordingly. The appellant is not a regular employee of Health Department but a project based employee, therefore, his name was not enlisted in the seniority list.

6. In view of the above, the appeal is accepted and the respondent department is directed to enlist the name of the appellant in the seniority list of Assistants of FATA Secretariat at proper place. No order as to costs. File be consigned to the record.

ANNOUNCED
30.12.2010

(NOOR ALI KHAN)
MEMBER.

(SYED MANZOOR ALI SHAH)
MEMBER.

AA Shah
Muz

Certified to be true copy
[Signature]
Secretary
Service Tribunal
Peshawar

Date	Application	6-1-2011
Words		200
Fee		5-00
Total		6-00
Completion of Copy		31-1-2011

34

Ⓟ
20

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE TARIQ PARVEZ

CIVIL PETITION NO. 342-P OF 2011
(on appeal from judgment of the KPK Service Tribunal, Peshawar dated 30.12.2010 passed in Appeal No. 381 of 2010)

Government of KPK through Secretary Health Department & others ...Petitioners.

VERSUS

Faizul Haq ...Respondent.

For the Petitioners: Mr. Lal Jan Khattak, Addl. AG.

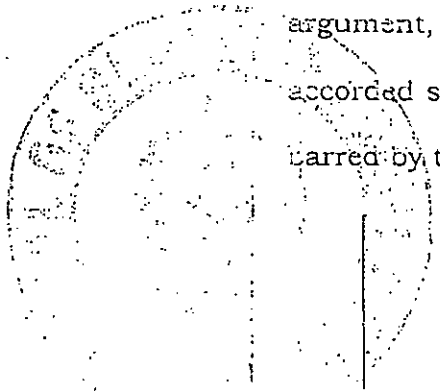
For the Respondent: N.R.

Date of Hearing: 01.11.2012.

ORDER

NASIR-UL-MULK, J.— This petition is barred by 61 days.

The learned Additional Advocate General states that the only clarification is sought that as in Para-6 of the impugned judgment, it has been directed that the respondent be given seniority in the list of Assistants of the FATA Secretariat, whereas the FATA Secretariat does not have any seniority list of its own. We would not comment upon this argument, as the petition is time barred. The respondent is to be accorded seniority in accordance with law. The petition is dismissed as barred by time.



PESHAWAR
1st November, 2012.
A. A. Ludassar

[Handwritten signature]
02/11

[Handwritten signature]

Sd/- Nasir-ul-Mulk,
Sd/- Tariq Parvez, J.

Certified to be true copy
[Signature]
Deputy Registrar
Supreme Court of Pakistan,
Peshawar.

WAKALATNAMA

(22)

In the K.P.K, Service Tribunal, Peshawar

Muhammed Haris s/o Inayat Ullah — Appellant

VS

Govt K.P.K, High Secy Health Services, Peshawar

I/we the Appellant

do hereby appoint Mr. Nazir Ahmad Advocate Peshawar High Court Peshawar my/our Counsel in subject proceedings and authorize him to appear, plead, compromise, withdraw or refer the matter for arbitration for me/us without any liability for his default and with the authority to engage/appoint any other advocate/counsel at my/our expense if necessary and receive all sums and amounts payable to me/us and to all such acts which he may deem necessary for protecting my/our interests in the matter. He is authorized to file Appeal, Revision, Review and Application for restoration or Application for setting-aside ex-parte decree proceedings on my/our behalf.

Dated: 28-8-2015

Accepted and Attested

Nazir Ahmad
Advocate, Peshawar
Cell: 0301-8571879
Office: 091-5277215

[Signature]
Appellant X

BEFORE SERVICE TRIBUNAL PESHAWAR.

Appeal No. 971/2015

Muhammad Haris.....Appellant.

Versus.

Government of Khyber Pakhtunkhwa & Others.....Respondents.

Parawise comments on behalf of respondent No.1 & 2.

Preliminary Objections:-

1. That the appellant has no cause of action.
2. That the appeal is not maintainable and also time barred.
3. That the appeal is bad for mis joinder and non joinder of necessary parties.
4. That the appellant has no locus standi and also estopped by his own conduct.
5. That the appellant has not come to the Tribunal with the clean hands.

FACTS.


1. That have been appointed as Computer Operator purely on contract basis for a period of one year and posted in Social Action Program (FATA).
2. Their Services have been extended for the period from July, 1988 to 30-06-2003 i.e, till Project life (FATA SAP CELL) by the Government of KPK Health Department Peshawar.
3. Relates to DHS (FATA).
4. Incorrect. They have been adjusted against the vacant posts of Steno Typist (BPS-12) i.e-Ex-cadre post purely on temporary basis in their own pay scale i.e BPS-11.
5. Incorrect. They have already been informed through DHS (FATA) that their name cannot be included in the seniority list of stenographer (BPS-14) as they were originally appointed as Computer Operator and adjusted against the post of stenographer in the project (FATA SAP CELL), vide letter No.8768 dated 31-10-2014.

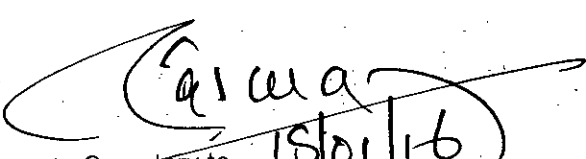
GROUNDS:

- A. Incorrect. As Explained in para-05.
- B. They have been adjusted against the vacant posts of Steno Typist and not appointed under the prescribed manner/Rule on Regular basis.
- C. Incorrect. As Explained in Para-B.
- D. Incorrect. They have not been regularly appointed as Steno Typist (BPS-12) but adjusted against the post of Steno Typist purely on temporary basis.
- E. Pertains to record.
- F. Incorrect. They are not regular employee.

- G. Incorrect. They have not been appointed on contract basis but not only adjusted on Ex-cadre post purely on temporary basis.
- H. Incorrect. As in Para (G).
- I. Pertains to record
- J. No Comments.

In view of the legal and factual position narrated above it is prayed that the appeal in hand may please be dismissed with cost.


11/1/16
Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2)


15/01/16
Secretary to
Government of Khyber Pakhtunkhwa
Health Department, Peshawar.
(Respondent No. 1).