

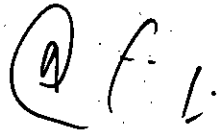
S. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
	20.08.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 402/2015,</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant</p> <p>with his counsel (M/S Noor Muhammad Khattak & Amanullah Marwat, Advocates), Govt. Pleader (Mr. Ziaullah) with Kibaz Khan, SO and Yar Gul, Assistant for the official respondents and private respondent No. 4 with counsel (Mr. Muhammad Asif Yousafzai, Advocate) present.</p> <p>2. Arguments heard and record perused.</p> <p>3. During the course of arguments, it transpired that the appellant, according to opinion of the Standing Medical Board dated 08.04.2015, is Ischemic Heart patient since 2004 according to which he has been advised to avoid long frequent journey, cold & high attitude/exposure (hypoxia) and to avoid excessive exertion and hard work. Further that his tenure on the disputed vacancy has not yet completed. It was also revealed by private respondent (Dr. Abdur Rauf) that Secretary, Health Department after giving audience to the appellant, had sent his case to the Director General, Health Services to be accommodated in Peshawar and that</p>

his case was accordingly forwarded to the competent authority, outcome of which is yet awaited.

4. In the stated situation, the Tribunal instead of direct interference in the matter of transfer would like to remit the case to the respondent-department to decide case of the appellant at the earliest. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

20.08.2015



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

14.07.2015

Mr. Noor Muhammad Khattak, Advocate Filed Wakalat Nama as well as rejoinder on behalf of the appellant which is placed on file. Mr. Yar Gul Assistant alongwith Mr. Usman Ghani, Sr.GP for official respondents and counsel for private respondent present. This was observed that despite being allowed to contest the appeal vide order of this Tribunal dated 08.06.2015, name of private respondent (Dr. Abdul RAuf) has not been reflected in the appeal. The offices directed to do the same. Learned counsel for the appellant being freshly engaged he has not been prepared arguments ^{to} which he may granted time, ~~has~~ requested for adjournment, hence the appeal is adjourned. To come up for arguments on 03-08-2015. The restrain order shall remain intact till the date fixed.



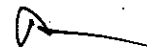
Member



Member

3.8.2015

Appellant with counsel, Sr.GP with Yar Gul, Asstt. and Qibas Khan, SO for official respondents and private respondent No. 4 in person. The learned Member (Judicial) is on leave, therefore, case to come up for arguments on 20-08-2015. The restrain order shall remain intact till the date fixed.



MEMBER

29.05.2015

Appellant with counsel, M/S Sabir Khan, SO and Yar Gul, Senior Clerk alongwith Assistant A.G for respondents present. Requested for adjournment as written reply has not be prepared.

One Dr. Abdur Rauf petitioner has submitted application for his impleadment as respondents. He has also submitted another application for suspending the order dated 15.5.2015. To come up for replies and arguments on applications on 8.6.2015 before S.B. Till the next date of hearing the impugned order shall remain under suspension.


Chairman

08.06.2015

Appellant with counsel (Mian Muhibullah Kakakhel, Advocate), M/S Sabir Khan, S.O and Yar Gul, Senior Clerk alongwith Mr.Usman Ghani, Sr.G.P for respondents and counsel for applicant present. At the very outset, learned counsel for the appellant requested for withdrawal of his Wakalat Nama. In view of the request of the learned counsel for the appellant, his Wakalat Nama stands withdrawn. Para-wise comments on behalf of respondents No.1 to 3 submitted.

Learned counsel for the applicant Dr. Abdur Rauf argued that he is a necessary party as he is posted against the position impugned by the appellant. In view of the submission of learned counsel for the applicant, the applicant is allowed to contest the appeal. The same is assigned to D.B for rejoinder and final hearing for 22.6.2015. Till the next of hearing, the impugned order stands suspended to the extent of appellant.


Chairman

22.06.2015

Appellant in person and Asstt. A.G with Sabir Khan, SO and Yar Gul, Assistant for the official respondents and Dr, Abdur Rauf in person present. Due to general strike of the bar, counsel for the parties are not available. To come up for rejoinder and arguments on 14.7.2015. The restrain order shall remain intact till the date fixed.


Member


13.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Deputy Director (Admn) in Provincial Health Department and vide impugned order dated 29.01.2015 he was pre-maturely transferred from the post of Deputy Director (Admn) DGHS Office and posted as Deputy DHO Abbottabad. That the appellant preferred departmental appeal against the said order on 29.01.2015 which remained un-responded and hence the present service appeal on 05.05.2015.

That the services of the appellant are that of Management Cadre and his posting to General Cadre is violative of the rules. That the pre-mature transfer is also violative of the posting/transfer policy of the Provincial Government, more particularly Rule-4 of the said rules which guarantees normal tenure of 3 years. That the impugned order is passed due to political intervention and that the appellant is seriously ill and not even in a position to travel having 13 stunts.

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 29.05.2015 before S.B.

Notice of stay application be issued for the date fixed. Till then status-quo be maintained.


Chairman

Appellant Deposited
Security & Process Fee



2015

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____

402/2015


S.No.	Date of Order Proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	05.05.2015	<p>The appeal of Dr. Shamsul Haq resubmitted today by Mr. Mian Mohibullah Kakakhel Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	11-5-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-5-2015</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

This is an appeal filed by Dr. Shamsul Haq today on 28/04/2015 against the order dated 29.01.2015 against which he preferred/made a departmental appeal on 29.01.2015 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 644 /ST,

Dt. 29-4/2015


REGISTRAR 29/4/15
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mian Muhibullah Kakakhel Adv. Pesh.

2/5/2015

Resubmitted.



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. 402 / of 2015

Dr. Shamsul Haq son of Habib ul Haq Appellant

VERSUS

Secretary Health Govt of KPK and others Respondents

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Through:

Appellant

Mian Muhibullah Kakakhel
Mian Muhibullah Kakakhel
Senior Advocate,
Supreme Court of Pakistan

And

Saifullah Muhib
Saifullah Muhib
Advocate, Peshawar

Dated: .04.2015

Kakakhel Law Associates
(Advocates & Legal Consultants)
36-C, 2nd Floor Cantonment Plaza,
Saddar Road, Peshawar Cantt
Cell # 0333-9167424

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 402 / of 2015

**K.P. Provincial
Service Tribunal**

Diary No. 429

Dated 28/4/15

Dr. Shamsul Haq son of Habib ul Haq,
resident of NC Flats # 106, Khyber Road,
Peshawar Cantt...

Appellant

VERSUS

1. Secretary Health Government of
Khyber Pakhtunkhwa Civil Secretariat,
Peshawar.

2. Government of Khyber Pakhtunkhwa
through Chief Secretary Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.

3. Director General Health, Khyber Pakhtunkhwa
Peshawar...

Respondents

Dr. Abdul Rauf

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER OF RESPONDENT No.1
DATED 29.1.2015 TRANSFERRING THE
APPELLANT FROM THE POST OF DEPUTY
DIRECTOR (ADMN) DGHS OFFICE TO THE POST
OF DEPUTY DHO ABBOTTABAD.

Respectfully Sheweth:

1. That the appellant is serving in the Health Department since 1.10.1987
and has remained at various posts since then. (Copy of his Service
Experience Certificate is attached as annexure 'A').

2. That the appellant was transferred as Deputy Director (Admn) DGHS
Khyber Pakhtunkhwa Peshawar on 30.09.2013. (Copy of transfer letter
dated 30.09.2013 is attached as annexure 'B').

*Ampleaded
vide order
sheet dated
08-06-2015
R. d. a.*

*Filed to-Dep
Registrar
28/4/15*

*re-submitted to-Dep
and filed.*

Registrar 5/5/2015

3. That the appellant was transferred to Abbottabad against the post of Deputy DHO Abbottabad on 29.1.2015. (Copy of the transfer order dated 29.1.2015 is attached as annexure 'C').
4. That the appellant filed a Departmental Representation against the impugned transfer order dated 29.1.2015 which has not yet been decided and the statutory period having expired the appellant files the present appeal. (Copy of the representation is attached as annexure 'D').
5. That the appellant is suffering from coronary heart disease and was admitted in Post Graduate Medical Institute for treatment, investigation and analysis. The appellant was advised to remain within the station limits and neither to travel nor to expose himself to extreme heat or cool. The appellant was allowed 2 weeks leave on medical grounds by respondent No.3. On 6.2.2015, subsequently he was allowed similar leave upto 15.4.2015 in line with the decision of Standing Medical Board by respondent No.3. (Copies of the Medical documents are attached as annexure 'E').
6. That during pendency of the sick leave the Health Minister Khyber Pakhtunkhwa took a benefit of his absence and got the appellant transferred vide the impugned order to bring in a person of his own choice. (Copy of the Summary sent to the Chief Minister Khyber Pakhtunkhwa dated 30.12.2014 having the wish of the Health Minister Khyber Pakhtunkhwa dated 30.12.2014 is attached as annexure 'F').
7. That salary of the appellant was stopped on the orders of the Health Minister mentioned above. (Copy of the letter stopping salary of the appellant is attached as annexure 'G').

8. That the appellant is a Management Cadre Doctor and the General and Management Cadre of the doctors was statutorily separated vide relevant law. The Doctors of General Cadre cannot be appointed against the Executive and Management posts under the rules. The incumbent Doctor Rauf Khattak who is being brought in place of the appellant is a General Cadre Doctor who has served at Karak for only 3 months, hence the tenure of both the appellant and the incumbent were not complete.
9. That the impugned transfer order dated 29.1.2015 is illegal, without jurisdiction and without lawful authority.
10. That the law relating to the tenure of Civil Servants and policy thereon has been violated just to satisfy the whims of the Health Minister and Chief Minister.
11. That the appellant is a chronic Heart patient and was advised to stay at the station of his appointment and is under extreme medical care of his physicians.
12. That the law laid down by the superior Courts is that no transfer can be made on the behest of the Minister and also the tenure of both the transferred officials shall be ordinarily complete unless strong public exigencies are involved. In this case there is neither strong public exigency involved nor the incumbent holds requisite managerial degree to occupy the post, thus the law laid down by the superior Courts in this respect has been violated.
13. That the appellant has not been treated in accordance with law and has been discriminated against.
14. That the rules of Audi alteram partem have utterly been violated as the malafides and political influence is so apparent that the appellant's representation was also not even decided in negative.

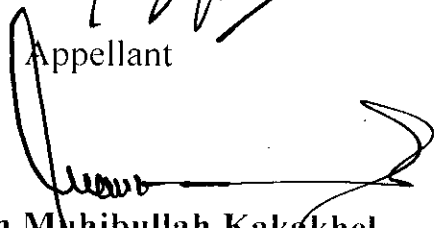
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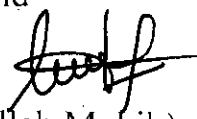
It is, therefore, humbly prayed that on acceptance of this Service Appeal the impugned order of transfer dated 29.1.2015 qua the appellant may be set aside and the appellant may be allowed to continue his remaining period of tenure at the present post under the rules.

Any other order deemed appropriate in the circumstances of the case may also be passed. The appellant may be allowed to put forward any other argument/document at the time of hearing of this Service Appeal.


Appellant

Through:


Mian Muhibullah Kakakhel
Senior Advocate,
Supreme Court of Pakistan
And

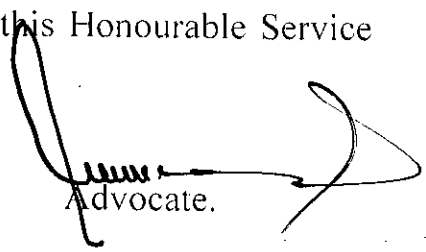

(Saifullah Muhib)
Advocate,

Kakakhel Law Associates
(Advocates & Legal Consultants)
36-C, 2nd Floor Cantonment Plaza,
Saddar Road, Peshawar Cantt
Cell # 0333-9167424

Dated: 28.04.2015

CERTIFICATE:

Certified that as per instructions of my client no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Service Tribunal on the subject matter.


Advocate.

5

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No: _____ / of 2015

Dr. Shamsul Haq son of Habib ul Haq Appellant

VERSUS

Secretary Health Govt of KPK and others Respondents

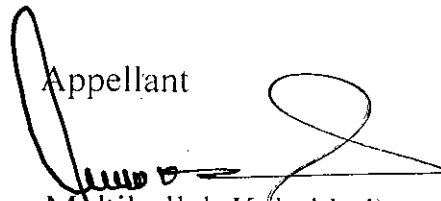
MEMO OF ADDRESSES

Dr. Shamsul Haq son of Habib ul Haq,
resident of NC Flats # 106, Khyber Road,
Peshawar Cantt... .. Appellant

VERSUS

1. Secretary Health Government of
Khyber Pakhtunkhwa Civil Secretariat,
Peshawar.
2. Government of Khyber Pakhtunkhwa
through Chief Secretary Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.
3. Director General Health, Khyber Pakhtunkhwa
Peshawar... .. Respondents

Through:

Appellant

(Mian Muhibullah Kakakhel)
Advocate, Peshawar.

6

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2015

IN RE:

Service Appeal No. _____ / of 2015

Dr. Shamsul Haq son of Habib ul Haq ... Applicant

VERSUS

Secretary Health Govt of KPK and others ... Respondents

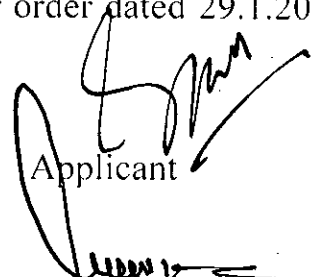
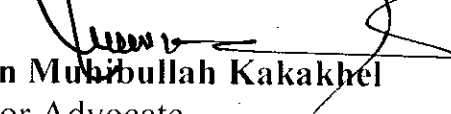
APPLICATION FOR INTERIM RELIEF

Respectfully Sheweth:

1. That the applicant has filed the accompanying Service Appeal before this Honourable Service Tribunal today in which no date of hearing has yet been fixed.
2. That the applicant has a good prima facie case and is hopeful of its success.
3. That balance of convenience is also in favour of the applicant and in case the interim relief prayed for is not granted the applicant will suffer irreparable loss.
4. That grounds of the Service Appeal may be read as integral part and parcel of this application.

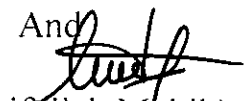
It is, therefore, respectfully prayed that pending disposal of the service appeal operation of the impugned transfer order dated 29.1.2015 may please be suspended.

Through:


Applicant


Mian Muhibullah Kakakhel
Senior Advocate,
Supreme Court of Pakistan

And


(Saifullah Muhib)
Advocate, Peshawar

Dated: .04.2015

7

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2015

IN RE:
Service Appeal No. _____ / of 2015

Dr. Shamsul Haq son of Habib ul Haq ... Applicant

VERSUS

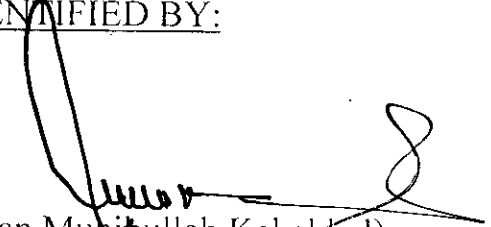
Secretary Health Govt of KPK and others ... Respondents

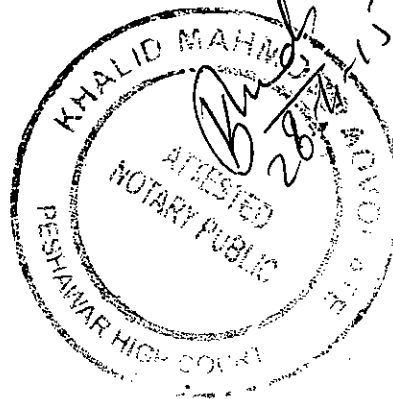
AFFIDAVIT

I, Dr. Shamsul Haq son of Habib ul Haq, resident of NC Flats # 106 Khyber Road Peshawar Cantt, do hereby solemnly affirm and declare that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent: 

IDENTIFIED BY:


(Mian Munebullah Kakakhel)
Advocate, Peshawar.





**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications Should be Addressed to The Director General Health Services
Peshawar and not to any official by name

Office Ph: 091-9210269 Exchange 091-9210187, 091-9210196 Fax: 091-9210230

No. 19222 /E-I

Dated the Pesh: 7 / 11 / 2014

(8) A
Annex A

SERVICE EXPERIENCE CERTIFICATE

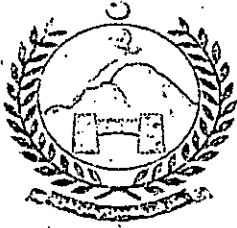
It is certified that Dr. Shams-ul-Haq s/o Habib-ul-Haq has joined the Provincial Health Department as Medical Officer (BS-17) on 01/10/1987 on regular basis.

His history of service is as under:

S.No	APPOINTMENT HELD	FROM	TO
1.	AD HO Dir.	01/10/1987	31/12/1990
2.	FSMO Dir.	01/01/1191	07/08/1992
3.	DMS Govt: LRH Peshawar.	08/09/1992	31/07/1993
4.	MO Govt: LRH Peshawar.	01/08/1993	31/03/1994
5.	AD SH Rehabilitation.	01/04/1994	31/12/1994
6.	Deputation.	01/01/1995	31/03/1997
7.	MO Health Directorate attached Provincial PIU.	01/04/1997	10/12/1997
8.	F.P.O P.M.	11/12/1997	01/09/1998
9.	AD Health Education.	01/09/1998	26/02/1999
10.	Proceed abroad.	27/02/1999	08/06/1999
11.	Vice Principal PM School LRH Peshawar.	15/07/1999	15/11/2001
12.	Epidemiologist (BS-18) PHSA Peshawar.	16/11/2001	25/11/2002
13.	Course Director PHSA.	26/11/2002	21/07/2009
14.	Project Director Rescue 1122.	21/07/2009	31/12/2009
15.	Director (Admn/operation) Rescue 1122.	01/01/2010	30/06/2011
16.	DG. Rescue 1122 (Additional Charge).	01/07/2011	21/03/2013
17.	M.S DHQ: Hospital Dir Upper.	01/04/2013	30.09.2013
18.	Deputy Director (Admn) DGHS KPK Peshawar.	01.10.2013	Till date


Deputy DIRECTOR (P)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

27/11



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 30th September, 2013.

Amnet B

9

NOTIFICATION

NO.SOH(E-V)1-65/2007 The Competent Authority is pleased to order the following postings/transfers of doctors with immediate effect in the public interest:-

S#	Name of Doctor	From	To
1.	Dr.Abdur Rehman (BS-19) Management Cadre	Deputy Director(Admn) DGHS Office Peshawar.	Deputy Director(Personnel) DGHS Office Peshawar Against the vacant post.
2.	Dr Shams-ul-Haq (BS-19) Management Cadre	MS DHQ Hospital Dir (Upper)	Deputy Director(Admn) DGHS Office Peshawar Vise S.No.1.
3.	Dr.Laiq Zada (BS-19) General Cadre	PMO DHQ Hospital,Dir (Upper)	MS DHQ Hospital Dir (Upper) Vise S.No.2

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa.

Endst. No. & Date even.

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director General Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Dir Upper
4. Medical Superintendent, DHQ Hospital Dir Upper.
5. District Accounts Officer Dir Upper
6. PS to Minister Health Khyber Pakhtunkhwa Peshawar.
7. PS to Secretary Health.
8. Computer Programmer Health Department
9. Doctors concerned.

(HINA HAFEEZ)
SECTION OFFICER (E-V)



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar, the 29th January, 2015

NOTIFICATION.

NO.SOH(EV)2-320/2007 The competent authority is pleased to order the postings/transfers of the following doctors with immediate effect in the public interest:-

S.#	Name of doctor/officer	FROM	TO	Remarks
1.	Dr.Muhammad Khan (BS-19)	DHO Battagram	DHO Charsadda	Against the post of (BS-19) vice S.No.2.
2.	Dr.Muhammad Nawaz (BS-19)	DHO Charsadda	PMO DHQ Hospital Charsadda.	Against the vacant post of PMO (BS-19).
3.	Dr.Muhammad Ali (BS-19)	DHO Malakand	MS DHQ Hospital Charsadda.	Against the post of (BS-19) vice S.No 5.
4.	Dr.Muhammad Daud (BS-19)	Waiting for posting	MS DHQ Hospital, Battagram	Against the vacant post of (BS-19)
5.	Dr.Saifullah Khalid (BS-19)	MS DHQ Hospital Charsadda	DHO Battagram	Against the post of (BS-19) vice S.No.1.
6.	Dr.Shamsul Haq (BS-19)	Deputy Director (Admn) DGHS Office	Deputy DHO Abbottabad	Against the post of (BS-19) vice S.No.8.
7.	Dr.Abdur Rauf (BS-19)	Attached to DHO Karak.	Deputy Director (Admn) DGHS Office, Peshawar	Against the post of (BS-19) vice S.No.6.
8.	Dr.Minhaj-ul-Haq (BS-19)	Deputy DHO Abbottabad	MS BBS Teaching Hospital Abbottabad.	Against the post of (BS-20) in his ov. pay and scale.
9.	Dr.Shah Jehan (BS-19)	MS Teaching Hospital DIKhan.	Services placed at the disposal of Chief Executive Group of Teaching Hospital, Bannu	Against the vacant post of (BS-19).
10.	Dr.Wakeel Muhammad (BS-19)	PMO DHQ Hospital Batkhela.	DHO Malakand	Against the post of (BS-19) vice S.No.3.

Section Officer (EV)

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

11

-2-

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Peshawar.
3. District Health Officer Abbottabad/DIKhan/Charsadda/Battagram/Karak/Malakand.
4. Deputy District Health Officer Abbottabad.
5. MS DHQ Hospital Abbottabad/Batkheela/Charsadda/Battagram
6. MS Mufti Mehmood Memorial Hospital DIKhan.
7. District Accounts Officer Abbottabad/DIKhan/Charsadda/Battagram/Karak/Malakand
8. PS to Minister for Health Khyber Pakhtunkhwa.
9. PS to Secretary Health Department.
10. Computer Programmer Health Deptt
11. Doctors/officers concerned.



(HINA HAFEEZ)
SECTION OFFICER (E-V)

OFFICE OF THE DG HEALTH SERVICES, KHYBER PAKHTUNKHWA PESHAWAR.
No. 2444-69 /E.I, Dated Peshawar the 10/2 /2015.

Copy forwarded to the:

1. Chief Executive Group of Teaching Hospital Bannu.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. District Health Officer, Battagram, Charsadda, Malakand, Abbottabad, Karak, D.I.Khan,
4. Bannu.
5. MS BBS Teaching Hospital Abbottabad.
6. MS MMM Teaching Hospital D.I.Khan.
7. MS DHQ Hospital Charsadda, Battagram, Batkhela.
8. Assistant Director (Acctt:) DGHS Office Peshawar.
9. PA to DGHS Office Peshawar.
10. DAOs, Battagram, Charsadda, Malakand, Abbottabad, Karak, D.I.Khan, Bannu and Karak
11. Doctors concerned.
12. AE-IV, DGHS Office Peshawar.

For information and necessary action.


ASSISTANT DIRECTOR (P-I)
DGHS KPK, PESHAWAR
10/2/15

Application to,

Secretary Health
Govt: of Khyber Pakhtunkhwa,
Peshawar.

Through: Director General Health Services, KPK, Peshawar.

Subject: **TRANSFER AND POSTING.**

Dir sir,

With due respect it is submitted that:-

1. I am a member of management cadre in (BPS-19) and have undergone 4 months promotional training for (BPS-20) in 2014, and will hopefully promoted to (BPS-20) during the current year.
2. I have been working in Health Department since 1st October 1987. I started my services as ADHO Dir and have performed duty mostly on managerial positions, including Director General Rescue 1122 /Director Civil Defense. At present working in DGHS office as Deputy Director (Admn) since 01.10.2013, and have not yet completed tenure in Peshawar, as before this, I was transferred and posted as Medical Superintendent, DHQ Hospital Upper Dir w.e.f. 01.04.2013, but retransferred, prematurely against the existing post after 06 months.
3. I have successfully performed up to the satisfaction of seniors with a very good tract. My all ACRs are almost of very good / excellent performance as evident from my Service certificate (attached herewith) and ACRs reports/ synopsis and there is nothing adverse against me. (Synopsis of PERs)
vide NOSOH (EV) 2-320/2007 dated 29-1-15
4. I have been transferred for posting as Deputy District Health Officer (DDHO) Abbot Abad for no obvious reasons while Dr. Rauf Khattak of General Cadre is, being posted as Deputy Director (Admn) in my place whose transfer is also premature. He is not a member of management cadre. (Transfer order attached)
5. I have the honor to request that my transfer may please be reviewed on the following grounds:-
 - a. I am a chronic Patient of Coronary Artery Disease (CAD) in addition to Hypertension and Diabetes Mellitus and have undergone for thirteen (13) angioplasties i.e. 13 stents have been passed in my Cardiac Arteries. Out of these, seven (7) have been passed during last year, 2014,
 - b. I have a stable angina and hospitalized time and again for the same disease. Last hospitalization is during the current month in CCU HMC from 19th to 24th January 2015, and still on bed rest. Despite I am performing my office file work at home with the approval of DGHS, being resident in NC Flats located, across the road to DGHS Office.
 - c. That I have, been advised by my Cardiologist to avoid frequent travelling and exposure to sever cold and exertion. (MC is attached herewith).
 - d. That my substitute is not a member of Management Cadre. Moreover, his transfer is also premature.
6. In view of the above, it is very respectfully requested that my transfer as DDHO Abbottabad may please be withdrawn/reviewed and I may be allowed to continue my duty at the present post as Deputy Director DGHS office,

Your's faithfully,

Dr. Shamsul Haq
Deputy Director (Admn)
DGHS KPK Peshawar



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to The Director General
Health Services Peshawar and not to any official by name.

Office Ph (091-9210269 Exchange Ph 091-9210187, 091-9210196 Fax (091-9210230

13

Amr

E

OFFICE ORDER

Sanction is hereby accorded to the grant of 2-Weeks leave on Medical grounds in respect of Dr. Shamsul Haq Deputy Director (Admn) BS-19 DGHS KPK Peshawar w.e.f. 25.01.2015, as admissible to him under the revised leave rules 1981.

Certified that after expiry of leave, he will resume duty against his original post.

Sd/xxxxxx

DIRECTOR GENERAL HEALTH,
Services Khyber Pakhtunkhwa.

No. 2214-15 /E.I

Peshawar the Dated: 06 / 02 / 2015

Copy forwarded to the: -

1. AD (Account) DGHS KPK Peshawar.
2. DD (Admn) DGHS KPK Peshawar.

For information & necessary action.

6/2/15
ASSISTANT DIRECTOR (Personnel)
DIRECTORATE GENERAL HEALTH
SERVICES, KHYBER PAKHTUNKHWA.

Q 4/2



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

All communications Should be Addressed to The Director General
Health Services Peshawar and not to any official by name.

Office Ph (091 - 9210269 Exchange (091 - 9210187, 091 - 9210196 Fax (091 - 9210230

14

OFFICE ORDER

Consequent upon the decision of Standing Medical Board dated 08.04.2015, Ex-post facto Sanction is hereby accorded to the grant of leave on medical grounds in respect of Dr. Shamsul Haq Deputy Director (Admn) BS-19 DGHS KPK Peshawar (under transfer to DDHO Abbottabad) for the period as per detail below:-

1. 2-weeks leave w.e.f. 03.03.2015 to 15.03.2015.
2. 2-weeks leave w.e.f. 16.03.2015 to 31.03.2015.
3. 2-weeks leave w.e.f. 01.04.2015 to 15.04.2015.

Furthermore as per decision of the standing medical board, he has been hospitalized in Govt: LRH Peshawar/HMC Peshawar cardiology units during December, 2014 and January 2015, so the hospitalization period alongwith advised medical leave is also genuine and sanctioned.

Sd/xxxxxx
DIRECTOR GENERAL HEALTH,
Services Khyber Pakhtunkhwa.

No. 7270-72/E.I

Peshawar the Dated 17/4/2015

Copy forwarded to the:-

1. AG KP, Peshawar.
2. AD (Account) DGHS KPK Peshawar.
3. DD (Admn) DGHS KPK Peshawar.

For information & necessary action.

17/4/15
ASSISTANT DIRECTOR (Personnel)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA.

17/4



15

**DIRECTORATE GENERAL HEALTH SERVICES,
KHYBER PAKHTUNKHWA, PESHAWAR**

All communications should be addressed to the Beor General Health Services Peshawar and not to any official by name.
Exchange # 091-9210187, ☎ Tele # 9210196 Fax # 091-9210230

No. 4194 / Medical,
To

dated 01/4 /2015

✓
Dr. Shams-ul-Haq
Ex-Deputy Director (Admn)
Directorate General Health
Services, KPK, Peshawar.

Subject: MEDICAL BOARD IN RESEPECT OF DR. SHAMS-UL-HAQ EX-DD (ADMN)

I am directed to refer to your application dated 17/03/2015 on the subject noted above and to request to appear before the Medical Superintendent Police / Services Hospital, Peshawar for Medical examination to be carried by the Standing Medical Board / Standing Invalidating Committee on 08/04/2015 At 9:00 A.M along with National I/Card / relevant documents.

DEPUTY DIRECTOR (ADMN)
DIRECTORATE GENERAL HEALTH
SERVICES, KHYBER PAKHTUNKWA,
PESHAWAR.

No. 4195 / Medical

Copy alongwith copies of its enclosures is forwarded to the Medical-Supdt: Police / Services, Hospital Peshawar for information and necessary action.

On arrival of **above-named Officer** should be examined by the Standing Medical Board / Standing Invalidating Committee and the proceedings of the Standing Medical Board be sent to this Directorate.

DEPUTY DIRECTOR (ADMN)
DIRECTORATE GENERAL HEALTH
SERVICES, KHYBER PAKHTUNKWA,
PESHAWAR.



(16)

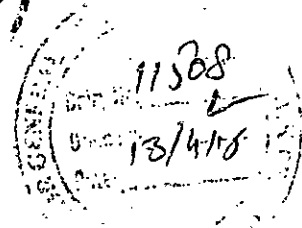
**OFFICE OF THE
MEDICAL SUPERINTENDANT
SERVICES HOSPITAL, PESHAWAR**

Phone: (Off) 091 9210509 (Exch) 091 9223472 Fax: 091 9210543

No. 1764 /MS/SMB/2014-15

Dated 13 /04/2015.

Director General Health
Services Khyber Pakhtunkhwa
Peshawar



Subject: - STANDING MEDICAL BOARD.

Memo: -

With reference to your office letter No. 4195/Medical dated 04-01-2015 on the subject noted above.

Dr. Shams-UI-Haq EX Deputy Director (ADMN) was examined by a Standing Medical Board held in this office on 08-04-2015. The proceedings of the Standing Medical Board are sent herewith for further necessary action

Shams-UI-Haq
13/4/2015

Chairman
Standing Medical Board
Medical Superintendent
Police/Service Hospital
Peshawar

OFFICE OF THE CHAIRMAN STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT POLICE/SERVICES, HOSPITAL PESHAWAR.

The Standing Medical Board comprising the following members assembled in the office of the Medical Superintendent Police/Services, Hospital Peshawar to examine Dr. Shamsh-ul-Haq.

The Standing Medical Board is of the opinion that he is an established case of Ischemic heart Disease since 2004. He has multiple admissions in cardiac units and has undergone multiple coronary intervention stents (total=13, latest in April 2014). He has insulin dependent diabetes Mellitus. He still has symptoms of unstable angina despite maximum medical and surgical treatment. He has been hospitalized in LRH, HMC cardiology units during December 2014 and January 2015, and given sick leave including from Services Hospital in March and April 2015, which is genuine. He should avoid long frequent journey, cold and high altitude/Exposure (hypoxia). Continue current medicine treatment and avoid excessive exertion and hard work.

STATION PESHAWAR
DATED: 08/04/2015



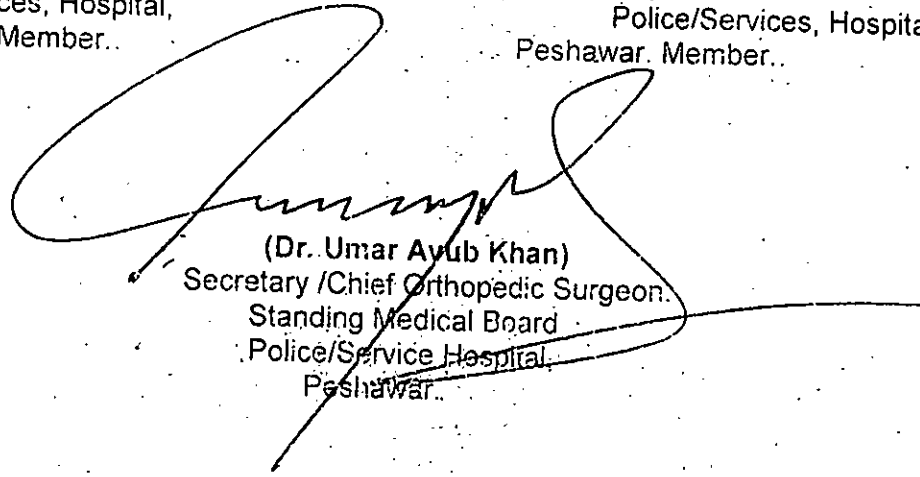
(Dr. Ashoor Khan)
Chairman
Standing Medical Board
Medical Superintendent
Police/Services, Hospital,
Peshawar.



(Dr. Aman Ullah)
Ophthalmologist
Police/Services, Hospital,
Peshawar...Member..



(Dr. Gul Hassan)
Physician
Police/Services, Hospital
Peshawar. Member..



(Dr. Umar Ayub Khan)
Secretary /Chief Orthopedic Surgeon.
Standing Medical Board
Police/Service Hospital,
Peshawar..

26.1.15

Dr. Sharmad HJ
DHA DCHS

In continuation of previous application dated 19.1.15, it is further submitted that I have been admitted in the cardiology from 19.1.15 to 24.1.15 for management of my cardiac disease. I was discharged on 24.1.15. In addition to medication, I have been advised further rest for two weeks upto 8.2.15. It is further requested that I may be allowed rest for the said period please. (Discharge Slip is attached herewith)

It is further stated that my residence is opposite to DCHS, therefore I can perform the work of my take at home if agreed.

SUBJECT: MEDICAL LEAVE
Dean Sir

The DCHS
Kamlesh Kulkarni Khna
Pune

2533/2
26775

(18)

To

POST GRADUATE MEDICAL INSTITUTE

Hangahad Medical Complex, Islamabad
Hospital Exchange No: 9217140 46 Ward No: 2107

19

Discharge Report

Name: Dr. Shams ul Haq
 Address: Peshawar
 Admission No: 150113675
 Age: 58 Years
 Sex: Male
 DOA: 19-Jan-15
 DOD: 24-Jan-15
 Medical Follow up

Diagnosis: Stable Angina, Hypertension
 Symptoms: Diabetic Mellitus, eventional chest pain
 Past History: CAD Past History, HT Past History, DM Past History, CAD Family History
 ECG: Sinus Bradycardia
 Chest X-Ray: Normal
 Biochemistry: S-Na (130), S-K (4.3), HBSA₂ (Neg), HbA_{1c} (5.9), Hb (14.4), TC (160), LDL (20), Sugar (181), S-Creatinine (0.9)

Indoor Medication(s):
 S-Na (130), S-K (4.3), HBSA₂ (Neg), HbA_{1c} (5.9), Hb (14.4), TC (160), LDL (20), Sugar (181), S-Creatinine (0.9)
 TAB PLAVIN 75 MG, TAB DISPIRX 300MG, INJ CLANAF 60 MG, TAB CRESTOR 20 MG, TAB ASC ARD 150 MG, TAB NITROHNT 6.5MG, TAB VASTERAL HR, TAB AMARYL 4 MG, TAB NICORIL 10 MG.

Outdoor Medications

- 1 TAB CONCOR 20 MG
- 2 TAB CRESTOR 20 MG
- 3 TAB APPROVAL 150MG
- 4 TAB VASTERAL HR
- 5 TAB ASC ARD 150 MG
- 6 TAB PLAVIN 75 MG
- 7 TAB NITROHNT 6.5MG
- 8 TAB AMARYL 4 MG
- 9 INJ HEALIN 70/30
- 10 TAB NICORIL 10 MG

Associate Professor
DR. S. FAHAT ABBAS
 Department of Cardiology
 HMC Peshawar

Resident Medical Officer
 Hangahad Medical Complex
 Peshawar

4 Avoid Spicant & long Travelling
 12 Rest for two weeks
 13 Avoid cold exposure



SUMMARY FOR CHIEF MINISTER

Subject: POSTING/TRANSFER OF DOCTORS IN HEALTH

DEPARTMENT

The Minister for Health Khyber Pakhtunkhwa has desired posting/transfer

of the following doctors/officers in the Health Department in the public interest.

S.No.	Name of doctor/officer	Present Posting	Proposed Posting	Remarks
1.	Dr. Habibullah Khan (BS-20) Management Cadre	DHO Kohat (under transfer to MS KTH Peshawar)	DHO Mardan	Agreed the post of (BS-20) in the Management Cadre vice S.No.2
2.	Dr. Abdul Kadir (BS-20) Management Cadre	DHO Mardan	DHO Kohat	Agreed the post of (BS-20) in the Management Cadre vice S.No.1
3.	Dr. Mahmood Ahmad (BS-20) Management Cadre	MS BGG Teaching Hospital, Abbottabad	DHO, Peshawar	Agreed the vacant post of (BS-20) in the Management Cadre
4.	Dr. Muhammad Iqbal (BS-20) Management Cadre	Waiting for posting	MS Khaiba (all Nayar Teaching Hospital, Gornu	Agreed the vacant post of (BS-20) in the Management Cadre
5.	Dr. Muhammad Khan (BS-19) Management Cadre	DHO Mardan	DHO Usmaroda	Agreed the post of (BS-19) in the Management Cadre vice S.No.3
6.	Dr. Muhammad Nayan (BS-19) General Cadre	DHO Usmaroda	DHO Hospital Charada	Agreed the vacant post of (BS-19) in the Management Cadre
7.	Dr. Muhammad Ali (BS-19) Management Cadre	DHO Peshawar	MS Hospital Charada	Agreed the post of (BS-19) in the Management Cadre vice S.No.1
8.	Dr. Muhammad Iqbal (BS-19) Management Cadre	Waiting for posting	MS Hospital Bategram	Agreed the vacant post of (BS-19) in the Management Cadre

Amir

20

Secretary Health
 Muhammad Muhsen Jadoon
 30/12/14

Chief Secretary
 Khyber Pakhtunkhwa

Minister for Health
 Khyber Pakhtunkhwa

2. According to Schedule III of the Khyber Pakhtunkhwa Govt. Rules of Business, 1965, the presentmenters of Heads of attached Departments and other officers in (BS-19) and above in all Departments would be made with the approval of the Chief Minister (Annex-1).
 3. The Proposal contained in Para-1 of the summary is submitted for approval of the Chief Minister, Khyber Pakhtunkhwa, please.

9.	Dr. Saifullah Khalid (BS-19) Management Cadre.	MS DHO Hospital Cheraadda	DHO Balingram	Against the post of (BS-19) vice S.No.5
10.	Dr. Shamsul Haq (BS-19) Management Cadre.	Deputy Director (Admin) DGHs Office	Deputy DHO Abbotabad	Against the post of (BS-19) vice S.No.13
11.	Dr. Azeem Rana (BS-19) General Cadre.	PMO DHO Hospital Karak	Deputy Director (Admin) GCHS Office, Peshawar	Against the post of (BS-19) in the Management Cadre vice S.No.10
12.	Dr. Jahangir (BS-20) Management Cadre	Waiting for posting	MS MAM Teaching Hospital Dikhan	Against the post of (BS-20) in the Management Cadre vice S.No.14
13.	Dr. Munir-ud-Din (BS-19) Management Cadre.	Deputy DHO Abbotabad	MS Teaching Hospital Abbotabad	Against the post of (BS-20) in the Management Cadre in the own pay and scale vice S.No.5
14.	Dr. Saad Jahan (BS-19) Management Cadre.	MS MAM Teaching Hospital Dikhan	Services placed at the disposal of Chief Executive of Group of Hospital, Bannu	Against the vacant post of (BS-19)
15.	Dr. Waqar Muhammad (BS-19) General Cadre.	PMO DHO Hospital Balkhela.	DHO Malesand	Against the post of (BS-19) Management Cadre vice S.No.1

Secretary Health

Secretary Establishment
05th January, 2015
Dr. Albert M...

The Summary is returned to respond to the above observations.

- (i) Tenure of the doctors in their present place of posting has not been mentioned.
- (ii) The doctors at S.No.7 and S.No.12 both have been proposed vice S.No.14, which needed clarification/connection.

The Summary for posting/transfer of 15 doctors of Management/General Cadre in Health Department has been examined and following observations are made:-

22

PAY ROLL SYSTEM
 AMENDMENT FORM
 SINGLE EMPLOYEE ENTRY

23

Annex G

FORM : PAY 02

OFFICE OF THE **DIRECTORATE GENERAL HEALTH SERVICES, K.P.K. PESHAWAR.**

Date **03/2015.**

DDO CODE (COST CENTER) **P R 4 3 0 9** **DIRECTOR (ADMINISTRATION) HEALTH.**

Page No.

PERSONNEL NUMBER **0 0 0 4 1 2 1 3** **DR. SHAMS UL-HAQ.**

National ID Card No.

GRADE (PAY SCALE GROUP) **1 9** **DEPUTY DIRECTOR.**

Salary Status. Start. Stop.

Info Type	Field ID	GENERAL DATA CHANGE.	CHANGE IN PAYMENTS / DEDUCTIONS.			Effective Date.	Remarks.
		New Contents.	Wage Type.	Rupees.	Paisa.		
		PAY STOP.					TRANSFER TO DHO, ABBOTTABAD VIDE GOVERNMENT OF KHYBER PAKHTUNKHWA, HEALTH DEPARTMENT NOTIFICATION NO: SOH / (EV) 2-230 / 270, DATED-29.01.2015.

Prepared By

[Signature]
 DIRECTOR (ADMINISTRATION)
 HEALTH SERVICES, K.P.K.
 PESHAWAR (D.O.)

Entered / Verified By.



DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.
Office Ph (091 - 9210269 Exchange 091 - 9210187, 091 - 9210196 Fax 091 - 9210230

OFFICE ORDER

Dr. Shamsul-Haq (BPS-19) Deputy Director (Admn) DG Health Office Peshawar transferred as Deputy DHO Abbottabad vide Health Department Notification No. SOH (EV) 2-320/2007 dated: 29.01.2015, is hereby relieved / directed to report to his new place of posting.

24
Annex 9/1

SD/x.x.x.x.x.x.x.
DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No. 3549-59 /E-I

Dated Peshawar: 20 .02 .2015

Copy forwarded to the:

1. PS to Minister of Health Government of Khyber Pakhtunkhwa Peshawar,
 2. PS to Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar.
 3. District Health Officer Abbottabad.
 4. Accountant General Khyber Pakhtunkhwa Peshawar.
 5. Officer, concerned.
 6. Assistant Director (Account) DG Health Office Peshawar.
 7. DAO Abbottabad.
 8. PA to Director General Health Services Khyber Pakhtunkhwa Peshawar.
- } For Information

For information and necessary action.

For DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR
20/2

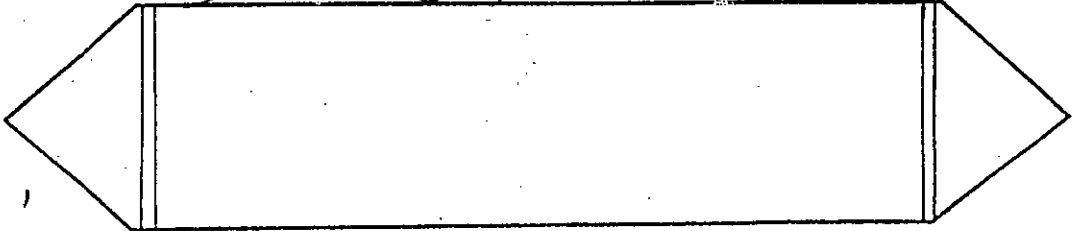
PADGHS

TOP

10-24



بعدالت سدروس فریوم ۱۴۲۸ھ کیس نامہ



موزخہ ۲۸ اپریل ۲۰۱۵ء بمطابق سال
مقدمہ

دعویٰ - سدروس فریوم
جرم - ڈاکٹر شمس الحق سلیمنی صاحبی
ومبندہ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کیلئے صالح محمد المشرقیہ کا محکمہ و صفی المشرقیہ صاحبہ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم ۲۸ ماہ اپریل ۲۰۱۵ء

بمقام
SAIFULLAH MUMTIB
KAKAKI
SAIFULLAH MUMTIB
ADV: / ESA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR
APPEAL NO.402 OF 2015

Dr. Shamsul
Haq.....Petitioner.

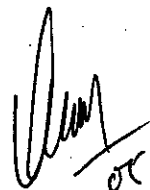
Versus

Secretary Health Government of KPK and others
Respondent.

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 AGAINST THE ORDER OF RESPONDENT No.1 DATED
29.1.2015 TRANSFERRING THE APPELLANT FROM THE POST OF DEPUTY
DIRECTOR (ADMN) DGHS OFFICE TO THE POST OF DEPUTY DHO
ABBOTTABAD.

NO OBJECTION CERTIFICATE

This Directorate has got No Objection, if Dr. Abdul Rauf Khan
Deputy Director (Admn) of this Directorate becomes party in the instant case.


05/06/15

Director General Health Services,
Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR
APPEAL NO.402 OF 2015

Dr. Shams-ul-Haq..... Petitioner.

Versus

Secretary Health Government of KPK and others..... Respondent.

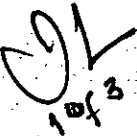
PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS No.1, 2& 3.

Preliminary Objections:-

1. That the appellant has neither cause of action nor locus standi.
2. That the appellant is not maintainable in its present form.
3. That the appellant has not come to the Tribunal with clean hands and hit by laches.
4. That the appeal is bad due to miss-joinder and non-joinder of necessary parties.

FACTS:-

1. Para No.1 is correct to the extent of service/ experience.
2. Correct.
3. Correct.
4. The departmental representation of the appellant has been considered and proposed for posting in Peshawar which is under consideration of the competent authority and will be decided in due course of time.
5. Although the appellant was supposed to report at his new place of posting and apply for Medical Leave through proper channel, yet taking a lenient view his Medical leave was sanctioned; albeit it was not routed through his controlling Officer.
6. Incorrect. The Minister for Health always submit summary to the competent authority viz; Chief Minister of different officers in the interest of public and following recommendations of the Health Department. Since his performance as Deputy Director Administration in the Directorate General Health Services was not up to the mark and Respondent No.3 was not satisfied with his work and conduct, therefore, the appellant was proposed for transfer as Deputy DHO Abbottabad(management cadre post) having less responsibilities. This is pertinent to mention here that a full-fledged teaching hospital like LRH/ KTH/


1 of 3

HMC having expert Cardiologist exists in Abbottabad wherefrom he could get necessary treatment with regard to his cardiac problem.

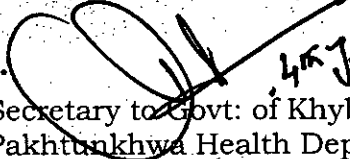
7. Incorrect. The statement of the appellant is devoid of facts. As a matter of routine salary of every officer is stopped on his transfer and subsequent relieving from the post.
8. The appellant has been transferred on the post of Deputy DHO Abbottabad (management cadre post). As regards posting of Dr. Abdur Rauf Khattak as Deputy Director Administration, he was posted as such keeping in view his vast managerial/ administrative skills during his tenure in the FATA Directorate as Deputy Director Administration as well as big tertiary care teaching hospitals like LRH, HMC & Khyber Girls Medical College Peshawar. More so every Civil Servant can be posted anywhere on any post even, outside his service or cadre in accordance with section 10 of Civil Servant Act 1973 in the interest of public.
9. Incorrect. The transfer order is very much legal and covered under Section (10) of Khyber Pakhtunkhwa Civil Servants Act 1973.
10. Incorrect. The Competent Authority can notify posting/transfer of Civil Servants in the interest of public service at any time especially for administrative posts. Moreover, no civil servant can claim posting of his choice as per Article 22 (2) of the Civil Servants Act 1973.
11. Keeping in view his ailment, the appellant has been transferred to such a station where tertiary hospital having full-fledged cardiology department like HMC/LRH/KTH is available. Moreover, the post of Deputy DHO is relatively less cumbersome than Deputy Director Administration.
12. Incorrect. After promulgation of 18th Constitutional Amendment, the Minister for Health is fully competent to decide upon and refer transfer cases of the officers posting/transfer to the competent authority viz Chief Minister in the public interest. On previous occasions, the appellant has been transferred without completing the normal tenure which was never agitated by him. More so, respondent No.3 being his controlling officer was not satisfied with his work and conduct and therefore, he was proposed for posting out from the Directorate.
13. Incorrect. The appellant has correctly been treated with law and instructions of the government.


DL
20/3


14. Incorrect. The transfer of the appellant is not the result of political influence as alleged by him rather he has been transferred owing to his poor performance and negative attitude.

Prayer:

Keeping in view the facts narrated above, it is humbly prayed that the instant appeal may please be dismissed with cost.

for.  4th June 2015.
Secretary to Govt: of Khyber
Pakhtunkhwa Health Department,
Peshawar (Respondent No. 1&2)


Director General Health Services,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)


18
15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR
APPEAL NO.402 OF 2015

Dr. Shamsul

Haq.....Petitioner,

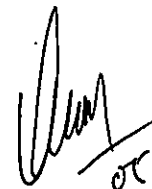
Versus

Secretary Health Government of KPK and others
Respondent.

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE ORDER OF RESPONDENT No.1 DATED 29.1.2015 TRANSFERRING THE APPELLANT FROM THE POST OF DEPUTY DIRECTOR (ADMN) DGHS OFFICE TO THE POST OF DEPUTY DHO ABBOTTABAD.

NO OBJECTION CERTIFICATE

This Directorate has got No Objection, if Dr. Abdul Rauf Khan Deputy Director (Admn) of this Directorate becomes party in the instant case.


05/6/15

Director General Health Services,
Khyber Pakhtunkhwa Peshawar

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

Service Appeal No.402/2015

Dr. Shamsul Haq V/S Health Department,

.....

**REPLY ON BEHALF OF RESPONDENT NO.4
(DR. ABDUR RAUF).**

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS.

- 1- That the appellant has no cause of action.
- 2- That the appellant has no locus standi.
- 3- That the appellant is legally bound to serve where posted by competent authority under section 10 of the Civil Servant Act, 1973.
- 4- That the appeal is not maintainable under section 4(b)(i) of the S T Act, 1974, because the appellant cannot ask for choice posting.
- 5- That the appellant has never been posted against a tenure post, therefore, he is liable to be transferred to another station.
- 6- That the appellant is bad for on joinder of necessary parties.
- 7- That the appellant is estopped to object on his present transfer due to his own conduct and keeping in view previously got premature transfers by him.

FACTS:

- 1- No comments. However it is added that the replying respondent has also performed his duty at various stations on

different administrative posts and there is nothing adverse against the replying respondents. It is also added that if Annexure-A is perused it reveals that appellant has not completed his tenure at Dir Upper and got himself transferred just after 5 months. This shows the conduct of appellant about his choice postings.

- 2- Not related to replying respondent. However it is added that the appellant has almost completed his tenure and he is liable to be transferred under section 10 of the C S Act, 1973.
- 3- Not related to replying respondent, more over as explained in para-2 above.
- 4- Denied for want of knowledge because the said appeal was shown to be submitted through D.G HS but there is neither his covering letter nor endorsement of forwarding. This means that the appellant has never submitted an appeal to the competent authority. More over the appeal is also not addressed to competent appellate authority nor submitted before such competent authority.
- 5- Denied and baseless. The said leave grant is a total fake attempt of manipulation of appellant because the appellant is a BPS-19 officer and for his an Asstt: Director who is BPS-18 officer can never be a competent authority for granting leave to B-19 officer. More over the D.G HS has never granted any leave.
- 6- Incorrect and misconception. The admin: post can never be left unattended due to someone illness. Therefore the appellant was transferred to Abbottabad keeping in view his health conditions and also to provide him a pollution free area.
- 7- Incorrect. The appellant was not complying with the orders therefore he has been relieved by DG HS on 20.02.2015, then how could be he given pay of DD(Admin) post.
- 8- Incorrect and misconceived. The Govt; is competent to utilize the abilities of an employee and as such also competent to pass transfer order under section 10 of the C S Act,1973.
- 9- Incorrect hence denied.
- 10- Incorrect hence denied. The order dated. 29.1.2015 is a general order issued by the competent authority of the Govt:



- 11- Denied. If the appellant is so seriously ill, then he should get bed rest rather to indulge himself in litigations.
- 12- Incorrect, misconceived, therefore denied.
- 13- Incorrect, misconceived, therefore denied.
- 14- Incorrect, misconceived, therefore denied.

It is therefore most humbly prayed that the appeal in hand may very graciously be dismissed with costs being meritless and not maintainable.

RESPONDENT NO.4

(DR. ABDUR RAUF)

THROUGH:


M.ASIF YOUSAFZAI
ADVOCATE.
& 
TAIMUR ALI KHAN
ADVOCATE.