


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

2292/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/11/2023	<p>The appeal of Mr. Sami Ullah resubmitted today by Mr. Amaad Nasir Kundi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Sami Ullah Mali District Health office Nowshera received today i.e on 27.10.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is blank be filled up.
- 2- Memorandum of appeal is not signed by the appellant.
- 3- Appeal has not been flagged/marked with annexures marks.
- 4- Annexures of the appeal is unattested.
- 5- Copy of service Appeal mentioned in para-3 of the memo of appeal is not attached with the appeal.
- 6- Annexures of the appeal are not in sequence be annexed serial wise as mentioned in the memo of appeal.
- 7- Copy of order dated 20.10.2023 attached with the appeal is illegible which may be replaced by legible/better one.

No. 3471 /S.T.

Dt. 30/10 /2023.




REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Amaad Nasir Kundi Adv.
High Court Peshawar.

Sir,

Re-submitted objection removal.



02/11/2023

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

2292/2023

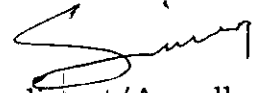
Sami Ullah..... Appellant

Versus

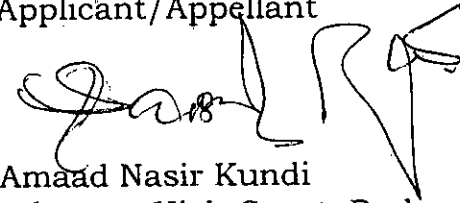
The Govt. of KPthr. Its Secretary Healthy and
another..... Respondents

I N D E X

S.No	Description of documents	Annexure	Pages
1.	Grounds of Appeal		1-4
2.	Application for Interim Relief		5-6
3.	Departmental Appeal dated 13.7.2022	A	7
4.	Appointment order dated 07.07.2017	B	8
5.	Posting order 07.07.2017	C	9
6.	Salary slip December, 2017	D	10-
7.	Termination order dated 15.02.2021	E	11
8.	Reinstatement order dated 21.09.2022	F	12-14
9.	Service Appeal & Tribunal order dated 31.10.2022	G	15-23
10.	Wakalat Nama		24


Applicant/Appellant

Through


Amaad Nasir Kundi
Advocate High Court, Peshawar

Email. amaadkundi786@gmail.com

BC-09-0795

0346-7865039

0312-2656644

1

BEFORE THE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. 2293 /2023

Sami Ullah Mali BPS-03, District Health Office Nowshera.

Address for the purpose of service:

Son of Abdul Ghaffar R/o Mohallah Maghrabi, Village Mughlaki
District Nowshera.

..... Appellant

Versus

1. The Govt. of KPthr. its Secretary **Health**, Peshawar.
2. District Health Officer (DHO)Nowshera.

..... Respondents

Appeal under Section 4 of the KP Service Tribunal Act against the inaction / omission of Respondent department whereby his **monthly salary has been Stopped w.e.f 21/09/2022** and being aggrieved with this inaction / omission, the appellant has been duly filed Departmental Appeal / Representation dated 13/07/2022 (**Annex-A**) and the Respondent Authority is reluctant to pass any appropriate order, thus, the same has not been decided despite of expiry of statutory period, hence, this appeal inter alia, on the following facts and circumstantial grounds:-

=====

Respectfully Sheweth:

1. That the appellant has been appointed to the post of Mali (BPS-03) w.e.f. 07/07/2017 under the **employees sons quota** accordingly. Since inception in service, he has been performing his duties regularly with utmost devotion to the entire satisfaction of superiors.

(Copy of Appointment order dated 07/07/2017 is **Annex-B**).

2. That thereafter, the appellant has duly submitted arrival report, and in consequence whereof, he was directed to report to the Incharge BHUMughalki District Nowshera for official duty which was complied with henceforth and in this respect, Monthly Salary Statement for the month of December, 2017 accordingly.

(Copy of posting Office Order dated 07/07/2017 is **Annex- C** & Monthly Salary Statement for the month of December, 2017 is **Annex- D**).

3. That appellant along with other employees working under the different projects were approached to the Peshawar High Court for different prayers such as regularization and others by means of filing WP which was allowed and the Respondent Department was assailed the judgment of PHC by means of filing CPLA wherein leave was granted and the impugned judgment was set aside through common judgment. In the light of aforesaid judgment of Apex Court, the appellant was faced by unwelcome incident, he was terminated by the Office order dated 15/02/2021 which was assailed by the appellant by means of filing WP being different question of law and facts involved therein and due to oust jurisdiction the case was referred to the Service Tribunal KP and during the pendency of appeal, the matter was resolved in favor of appellant in the like circumstances of redressal of grievance and thus he was reinstated by the Respondent Department accordingly. The appeal of appellant was dismissed as withdrawn as grievances have been redressed.

(Copy of Termination office Order dated 15/02/2021 & Reinstatement order dated 21/09/2022 & Order of KP Service Tribunal dated 31/10/2022 are **Annex-E, F & G** respectively).

4. That in pursuance of the aforesaid Reinstatement order, the appellant has been duly performing his duties regularly without any break but it is very strange, that the department has not been paying any salary since his reinstatement ibid which is very unlawful and unconstitutional thus liable to be set aside.
5. That the appellant prepared representation / departmental appeal to the respondent No. 2 on 13.07.2023 mentioning therein regarding the Release of Salary which was duly received by the incharge / Medical Officer BHU, and recommended for appropriate order to the Respondent No. 2 herein "DHO" but the same was undecided despite of expiry of Statutory period and the authority is reluctant to pass any appropriate order under the law hence this appeal on the following grounds:

GROUNDS:

- A. That impugned action / inaction / omission of the respondents is apparent from the record and they are bent to deprive the appellant from his salary in an illegal manner which is liable to be set aside.
- B. That the impugned action / inaction of the Respondent Department amount to forced labour and it is prohibited under the constitution. Reliance is placed on the Art. 4, 11, 25, 27, 37 of the Constitution.
- C. That the appellant will rely upon the reported judgment of PHC as 2017 PLC(CS)N 14 PESHAWAR-HIGH-COURT titled as "Mst.Shumaila Latif Vs.Govt. of KP" wherein holds that in the terms as
 "Non-payment OF SALARY to the employee---Scope--- SALARY OF employee had been stopped without showing any cause or issuing any notice---Illegality and mala fide OF department was palpable on record---If employee had acted in violation OF disciplinary rules then she was

liable to be dealt with under the relevant service rules---
 Act OF Department was without lawful authority and was
 liable to be set aside---Pay OF employee could not be
 stopped in presence OF appointment order and
 performance OF duties---If appointment order was made
 against procedure then appointing authority would be
 responsible for committing irregular appointment---State
 was bound to eliminate all forms OF exploitation---
 Impugned act OF departmentwith regard
 to STOPPAGE OF pay OF employee was void ab initio---
 Department was directed to release
 the SALARY OF employee forthwith from the
 date OF STOPPAGE OF her pay---Constitutional petition
 was allowed in circumstances".

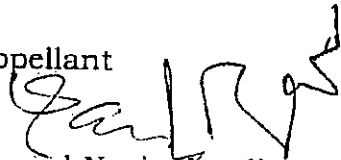
D. That the given facts and grounds being precise and
 specific are the least but not the last. There is a room for
 more grounds in support of the case advanced herein
 before. Therefore, the appellant reserves his right to seek
 permission to raise further grounds during arguments, if
 needed.

It is respectfully, prayed that on acceptance
 of this service appeal, the impugned inaction /
 omission of the Respondent Department is respect of
 Stoppage of Salary w.e.f. 21/09/2022 is illegal, forced
 labour and without lawful authority thus liable to be
 set aside.

It is therefore, further humbly prayed that the
 Department may kindly be issued strict direction to
 release the salary immediately with all back benefits
 and arrears of pay in the interest of justice.

Through

Appellant



Amaal Nasir Kundi
 Advocate High Court,
 Peshawar.

5

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Sami Ullah..... Appellant

Versus

The Govt. of KPthr. ItsSecretary Healthy and
another..... Respondents

APPLICATION FOR INTERIM RELIEF

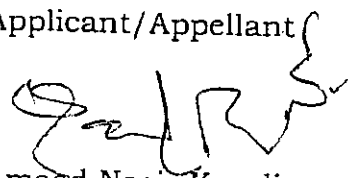
Respectfully Sheweth:

1. That the appellant has filed the instant appeal in which no date of hearing is fixed yet.
2. That the appellant has got a prima facie case and is hopeful about its success.
3. That the balance of convenience also lies in favour of the appellant.
4. That if the application is not allowed the applicant will suffer irreparable loss.
5. That the applicant is a poor person and only bread owner of the whole family and the education of his children is also dependent upon the salaries of the applicant.

It is, therefore, most humbly prayed that on acceptance of this application, the Department may kindly be directed to release the salary from the date of discontinuation since 21/09/2022 with all arrears of pay and back benefits in the interest of justice.

Applicant/Appellant

Through



Amaad Nasir Kundi
Advocate High Court, Peshawar

AFFIDAVIT

I, Sami Ullah Mali BPS-03, District Health Office Nowshera, do hereby solemnly affirm and declare that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

فردی جناب ڈسٹرکٹ صحت آفیسر ڈسٹرکٹ نوشہرہ

صناب عالی! موریاہم نزار شامی جاتی ہے کہ جنرہ کو 21/9/2022

کو آفیس آڈر نمبر 1628/2018 کے تحت 10 مہینوں کے لیے

کے لیے لکھا گیا ہے۔ اور جنرہ اس دن Arrival کے بعد ڈیوٹی

سے انجام دے رہی ہے۔ جبکہ جنرہ کو پچھلے 10 مہینوں سے

تعمیراتی ادا نہیں کی گئی ہے۔

لہذا جنرہ آج موریاہم نزار شامی کے ساتھ ساتھ

پچھلے 10 مہینوں کی تعمیراتی ادا کرنے کا حکم صادر فرمائیے

جنرہ کو لکھا گیا ہے اور اس کے مطابق عمل کیا جائے گا۔

عین نزار شامی سے ہے۔

اپنی نواز

صحت

صافی

کی ایک کاپی

Date = 13/7/2023

MEDICAL OFFICER
THE HIGHER
DISTRICT NOWSHERA

Recommended &

Forwarded to DHO.

Nowshera.

13/7/23

810
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8 "B"



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA
Phone & Fax: 0923-580759 E-Mail: nowshera.edoh@gmail.com

OFFICE ORDER

On recommendation / approval of departmental selection committee, Mr. Sami Ullah S/O Abdul Ghaffar Resident of Mohallah Magharabi, Village Mughalki District Nowshera is hereby appointed as Mali, BPS-03 against the vacant post under employee son's quota under the control of DoH District Nowshera with the following terms and conditions.

1. The appointment shall be subject to the Medical fitness and initially on probation for a period of 01-years.
2. The services can be dispensed with during the probation period on unsatisfactory performance.
3. The appointment will be governed by such rules and order issued by the Government from time to time.
4. In case of acceptance, he should submit his arrival report within 07-days.

Sd _____
District Health Officer
Nowshera

8541-44
No. _____ / DHO NSR

Date: 07/07/2017.

Copy forwarded to the:

1. Senior District Accounts Officer Nowshera.
2. Mr. Sami Ullah S/O Abdul Ghaffar Resident of Mohallah Magharabi, Village Mughalki District Nowshera.
3. Incharge Accounts Section DHO Office Nowshera.
4. Office record.

District Health Officer
Nowshera

S/C
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9 ~ c ~

OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

OFFICE ORDER

On arrival to this office on 07-07-2017, Mr. Sami Ullah (Mali) newly appointee is hereby directed to report to Incharge BHU Mughalki District Nowshera for official duty in the interest of public.

8559-62

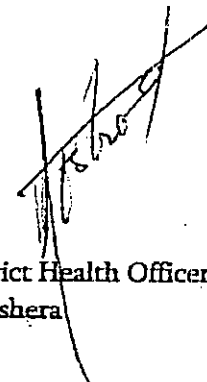
No. _____ / DHO NSR

Copy forwarded to the:

1. Incharge BHU Mughalki Nowshera.
2. Incharge Accounts Section DHO office Nowshera.
3. Official concerned.
4. Office record.

Sd _____
District Health Officer
Nowshera

Date: 07/07/2017


District Health Officer
Nowshera

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T-c

Dist. Govt. NWFP-Provincial
District Accounts Office Nowshera
Monthly Salary Statement (December-2017)

10²D³



Personal Information of Mr SAMI ULLAH d/w/s of ABDUL GHAFOR

Personnel Number: 00866901

CNIC: 1720182917511

Date of Birth: 01.01.1991

Entry into Govt. Service: 07.07.2017

NTN:

Length of Service: 00 Years 05 Months 026 Days

Employment Category: Active Temporary

Designation: MALI

80003807-DISTRICT GOVERNMENT KHYBE

DDO Code: NR6114-EXECUTIVE DISTT OFFICER (HEALTH) NSR:(PREVINTIVE

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

600.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 03

Pay Stage: 1

Wage type		Amount	Wage type		Amount
0001	Basic Pay	10,000.00	1000	House Rent Allowance	942.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
2211	Adhoc Relief All 2016 10%	804.00	2224	Adhoc Relief All 2017 10%	1,000.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription - Rs 770	-770.00	3201	R. Ben & Death Comp Fresh	-300.00
3501	Benevolent Fund	-300.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till December-2017: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 16,031.00 Deductions: (Rs.): -1,370.00 Net Pay: (Rs.): 14,661.00

Payee Name: SAMI ULLAH

Account Number:

Bank Details:

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

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11 "E"

OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

No. _____ / DHO NSR

Date: _____ / _____ / 2021

Office Order

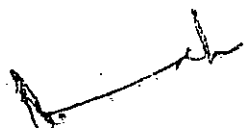
In the light of Honorable supreme Court judgment dated 21/10/2020 and Secretary Health Khyber Pakhtunkhwa letter No.SOH(Lit-1)12(1)1-1/2020 dated 03/11/2020 , Mr.Sami Ullah S/O Abdul Ghaffar Mali working under the control of the undersigned are hereby terminated from their service with immediate effect.

Sd _____
District Health Officer
Nowshera

No. 6438-42 /DHO NSR Dated 15 /02 /2021

Cc

- 1 PS to Secretary Health Khyber Pakhtunkhwa Peshawar.
- 2 PA to Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 3 DAO Nowshera
- 4 Account Section DHO Office Nowshera.
- 5 Official concerned.


District Health Officer
Nowshera

M
T L

12

"F"



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

No. 2785-99 DHO NSR

Date: 21/09/2022

OFFICE ORDER

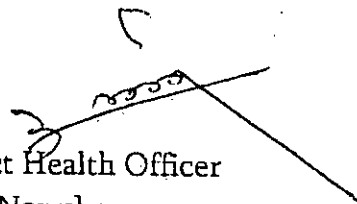
In pursuance to notification issued by worthy Section Officer (Lit-1), Health Department vide Letter No. SOH(Lit-1)12(1)1628/2018 Dated: 25-06-2021, on subject "APPLICATION FOR RECTIFICATION IN APPOINTMENT AGAINST EMPLOYEES SON QUOTA", Mr. Samiullah S/O Abdul Ghaffar is hereby reinstated as Maali BPS-03 w.e.f 15-02-2021.

Sd _____

District Health Officer
Nowshera

Copy Forwarded to:

1. PS to Secretary Health Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. District Account Office Nowshera.
4. Account Office DHO Nowshera.
5. Mr. Samiullah S/O Abdul Ghaffar Resident of Mohallah Maghrabai, Village Mughalkae, District Nowshera.
6. Office Record.


District Health Officer
Nowshera

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T-c

خدمت جناب الیوم السیاحات سولہ ہسپتال، الورڈہ ٹرسٹ

جناب عالی،

میرا پانہ لیزا ریش ہے کہ فوری 13 اگست

حقیقت مالی سولہ ہسپتال الورڈہ ٹرسٹ میں ہو چکی ہے۔

حوالہ آرڈر پر DHONSIP-90-2785 - آپ صاحبان سے لیزا ریش

ہے کہ میرا Annual رپورٹ قبول فرمائیں۔

عملی لیزا ریش ہوگی

آپ کا نا اعداد
نام: سید محمد
مالی

تاریخ 23-09-2022

محمد علی صاحب

23/09/2022

Medical Superintendent
Civil Hospital
Akora Khattar, Nowshera

8/1



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

14

OFFICE ORDER

Mr. Samiullah (Mali) BPS-03 is hereby directed to report to Medical Superintendent Cat-D Hospital Akora Khattak for official duty in the public interest with immediate effect.

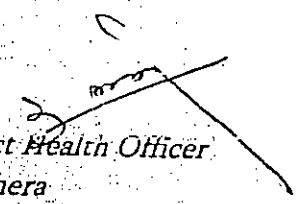
Sd _____
District Health Officer
Nowshera

No 2800-03 /DHO NSR

Dated 21/09/2022

Copy forwarded to the:

1. Medical Superintendent Cat-D Hospital Akora Khattak, Nowshera.
2. Incharge Litigation Cell, DHO Office Nowshera.
3. Incharge Accounts Section DHO office Nowshera.
4. Official concerned.


District Health Officer
Nowshera

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T-C

15

'G'

IN THE HONORABLE PESHAWAR HIGH COURT,
PESHAWAR

Writ Petition No _____/2021

Sami Ullah S/O Abdul Ghaffar
R/o Mohallah Maghrabi, Village Mughalki,
District Nowshera..... Petitioner.

Versus.

1. The Government of Khyber Pakhtunkhwa,
Through Secretary Health, Civil Secretariat, Peshawar,
2. District Health Officer, District Nowshera.
3. The Director General, Health Services,
Attached Department Complex, Khyber Road, Peshawar..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth: -

Having no alterhate and efficacious remedy available, the petitioner knocks the door of this honorable court on inter alia the following amongst other facts and grounds;

FACTS LEADING TO WRIT PETITION

1. That the petitioner is permanent resident of District Nowshera having all the rights guaranteed under the law and Constitution of The Islamic Republic of Pakistan, 1973.

Copies of CNIC and Domicile Certificate are attached herewith and marked as Annexure A & B respectively.

2. That the petitioner was appointed against the vacant post as per list under Employee Son's Quota vide his appointment order No. 8541-44/DHO NSR dated 07.07.2017 issued by the respondent No. 2.

Copies of list & office order dated 07.07.2017 are attached herewith and marked as annexure C & D respectively.

3. That after the above-mentioned appointment order vide office order No. 8559-62 / DHO NSR of even date (07.07.2021) the petitioner was directed to give arrival report to Incharge BHU Mughalki of District Nowshera and as such he reported to the concerned BHU vide his arrival report dated 08.07.2017.

Copies of office order in respect of arrival and arrival report dated 08.07.2017 are attached herewith and marked as annexure E & F respectively.

4. That the petitioner was performing his duties to the entire satisfaction of his high ups when the respondent No. 2 vide his Office Order No. 6438-42 /DHO NSR dated 15.02.2021 he (petitioner) was terminated from service purportedly in light of the judgment of Honorable supreme court of Pakistan dated 21.10.2020 and in compliance of the directions of respondent No. 1 letter dated 03.11.2020 as such.

Copy of termination order dated 15.02.2021 is attached herewith and marked as annexure G.

5. Since the case of the petitioner was entirely different because he was appointed on the basis of quota reserved for retired employee son's which has categorically been mentioned in his appointment order dated 07.07.2017 (Annexure-D above) while the termination order has been issued on the basis of the judgment of the honorable Supreme Court of Pakistan dated 21.10.2020 as such the petitioner moved an application to the respondent No. 1 regarding clarification / rectification in a respect of his appointment against employee son's quota which was duly forwarded by the respondent No. 1 to the respondent No. 2 vide letter No. SOH(Lit-1)12(1)1628/2018/2265 dated 19.03.2021.

Copy of letter dated 19.03.2021 is attached herewith and marked as annexure H.

6. In response to the letter of the respondent No. 1 mentioned above, the respondent No. 2 vide his reply No. 8116/DHO NSR dated 03.06.2021 clarified that the petitioner was appointed on the basis of employee son's quota but due to his earlier litigation before this honorable court he was terminated by the respondent No. 2 as such it has become abundantly clear that his termination was issued on wrong premises.

Copy of letter dated 03.06.2021 is attached herewith and marked as annexure-I.

7. That in reply to letter dated 03.06.2021 of the respondent No. 2 (Annexure-I) the respondent No. 1 vide his letter No. SOH(Lit-I)12(1)1628/2018 dated 25.06.2021 wherein the issue of rectification in appointment against employee son's quota has further been clarified in unequivocal terms i.e., the judgment dated 21.10.2020 of the honorable Supreme Court of Pakistan in C.A. No. 265/2020 has no effect on appointment as Mali/Class-IV against Employee Son's Quota made under Policy of Provincial Government Circulated vide Notification No. SOR-1(S&GAD)4-1/80(Vol-III) dated 23.05.2000 governing the recruitment under quota reserved for appointment of children of retiring Class-IV Government Servants on superannuation, hence the termination order is bases on misconception and wrong premises and liable to set-aside.

Copy of letter dated 25.06.2021 is attached herewith and marked as annexure J.

8. That it is very pertinent to mentioned here that earlier the petitioner was appointed in the Peoples Primary Health Initiative in short PPHI and when he along with number of other employees got terminated the petitioner and others have invoked the constitutional jurisdiction of this honorable court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 by filing a Writ Petition which was allowed

vide judgment dated 14.03.2018 passed in WP No. 1008-P/2017.

Copy of judgment dated 14.03.2018 is attached herewith and marked as annexure K.

9. That during pendency of the above mentioned Writ petition the petitioner was appointed as Mali (BPS-03) against the Employee Son's Quota vide *Annexure-D* above but inadvertently this fact could not be brought on record as such when the judgment of this honorable was set-aside by the honorable apex court of Pakistan, the present petitioner was also subjected to compliance of the judgment of the honorable Apex Court of Pakistan i.e. termination from service vide *Annexure-G* above, hence this Writ petition for appropriate Writ directions.

Copy of judgment of Apex Court dated 21.10.2020 is attached herewith and marked as annexure- L.

10. That the petitioner having no alternate, efficacious, adequate remedy, knocks the door of this honorable court by invoking extraordinary writ jurisdiction of this honorable court on inter alia the following grounds;

GRUNDS :-

- a. That the respondents have not treated the petitioner in accordance with law, rules and policy on the subject and acted in violation of Article 4, 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973 which is unjust, unfair and against the principle of natural justice.
- b. That the petitioner is permanent resident of District Nowshera having all the rights guaranteed under the law and constitution of The Islamic Republic of Pakistan, 1973 and was appointed against the vacant post as per list under Employee Son's Quota vide appointment order No. 8541-

44/DHO NSR date 07.07.2017 issued by the respondent No. 2 and he was directed to give arrival report to Incharge BHU Mughalki District Nowshera as such he reported to the concerned BHU, hence the entire process has been carried out in accordance.

- c. That the petitioner was performing his duties to the entire satisfaction of his high ups when the respondent No. 2 has issued his termination order in light of the judgment of Honorable supreme court of Pakistan irrespective of the fact that case of the present petitioner is entirely different because he was appointed on the basis of quota reserved for retired employee son's which has categorically been mentioned in his appointment order dated 07.07.2017 (Annexure-D above) while termination order has been issued on the basis of the judgment of the honorable Apex Court dated 21.10.2020 as such the petitioner moved an application to the respondent No. 1 regarding rectification in respect of his appointment against employee son's quota which was duly forwarded by the respondent No. 1 to the respondent No. 2 and in response thereof the respondent No. 2 vide has clarified that the petitioner was appointed through reserved quota but the petitioner has earlier filed a writ petition as by that particular time he performing his duties PPHI and like other employees of PPHI he has also impugned his termination order by the PPHI authorities.
- d. It is very pertinent that in reply to letter dated 03.06.2021 of the respondent No. 2 (Annexure-I) the respondent No. 1 vide his letter dated 25.06.2021 in respect of rectification in appointment against employee son's quota has further been clarified in unequivocal terms i.e., the judgment dated 21.10.2020 of the honorable Supreme Court of Pakistan in C.A. No. 265/2020 has no effect on appointment as

Mali/Class-IV against Employee Son's Quota made under Policy of Provincial Government Circulated vide Notification No. SOR-1(S&GAD)4-1/80(Vol-III) dated 23.05.2000 governing the recruitment under quota reserved for appointment of children of retiring Class-IV Government Servants on superannuation, hence the termination order is based on misconception and issued on wrong premises as such liable to set-aside.

- e. Because earlier the petitioner was appointed in the project of Peoples Primary Health Initiative in short PPHI and when he along with number of other employees of the project were then terminated the petitioner along with other employees have invoked the constitutional jurisdiction of this honorable court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 by filing a Writ Petition against their termination which was allowed vide judgment dated 14.03.2018 passed in WP No. 1008-P/2017 and that during the pendency of his writ petition the petitioner was appointed as Mali (BPS-03) against the Employee Son's Quota vide Annexure-D above but inadvertently this fact could not be brought on record as such when the judgment of this honorable was set-aside by the honorable apex court of Pakistan, the present petitioner was also subjected to compliance of the judgment of the honorable apex court of Pakistan i.e. terminated from service vide Annexure-G above, hence this Writ petition for appropriate Writ directions.
- f. As urged in the preceding paras, the petitioner was appointed on the basis of Retired Employees' Son Quota reserved but astonishingly the respondents on the one hand admitted that the judgment of the apex court has got nothing to do with the 25% quota duly reserved and guaranteed under Khyber Pakhtunkhwa Civil Servants (Appointment Promotion &

Transfer) Rules, 1989 as such his termination has wrongly been issued by the respondents, hence they committed gross illegality and irregularity liable to be set aside by this honorable court.

g. That the petitioner urges other grounds at the time of hearing this writ petition with the kind permission of this Honorable Court, hence this writ petition with the following prayers;

RPAYER;

It is, therefore, respectfully prayed that on acceptance of the instant writ petition, this honorable court may be pleased to;

- i. Declare the impugned termination order No. 6438-42 /DHO NSR dated 15.02.2021 issued by the respondent No.2 as illegal, against the law, rules, policy.
- ii. Direct the respondents to reinstate the petitioner in service with all back and consequential benefits in light of the peculiar facts and circumstances of the case.
- iii. Restrain the respondents to disturb the petitioner anymore.
- iv. Any other relief/s which has not been specifically prayed for but is more conducive and appropriate, may also be granted to the petitioner as deem fit and proper in the circumstances of the case.

INTERIM RELIEF:

That in the meanwhile this honorable court may be pleased to suspend the operation of the impugned termination order No. 6438-42 /DHO NSR dated 15.02.2021 issued by the respondent No.2 till the

decision of this writ petition in the best interest of justice, equity and law.

Peshawar.

Dated: 09-08-2021

Through

Petitioner



Mukhtar Ahmad Maneri

Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health KPK, Warsak Road,
Peshawar. Tel: 091-5200710. Mob: 0333-215-6006
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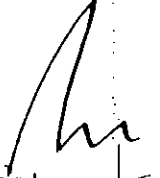
&



Aamad Nasir Kundi,
Advocate High Court, Peshawar.

CERTIFICATE.

Certified as per the instructions of the petitioner; that this is the first writ petition between the parties on the subject and no such like other writ petition has earlier been filed by the him against the respondents in this Honorable Court or any other bench of this honorable court in respect of subject matter.



Advocate.

BOOKS:

1. Constitution of the Islamic Republic of Pakistan 1973.
2. KP Civil Service (Appointment Promotion & Transfer) Rules 1989.
3. ESTA CODE.
4. Case law if any.

A. No. 760/2022
Samiullah vs Govt



31.10.2022

Appellant present through counsel.

At the very outset learned counsel for appellant submitted order dated 21.09.2022 and requested for withdrawal of the instant appeal as grievance of the appellant has been redressed. In this respect, his statement was recorded on the margin of order sheet and signature was obtained thereon.

In view of the above, instant service appeal stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

Announced
31.10.2022

(Rozina Rehman)
Member (J)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22/5/23
Number of Words 17
Copying Fee 5/-
Urgent 5/-
Total 10/-
Name of
Date of Copying 22/5/23
Date of Delivery 22/5/23

Opinion of the Examiner/Appellant has been redressed as the respondents issued order dated 21.09.2022. Hence the case be disposed of accordingly.

8/7-c

NIC No - 12201-3992195-7

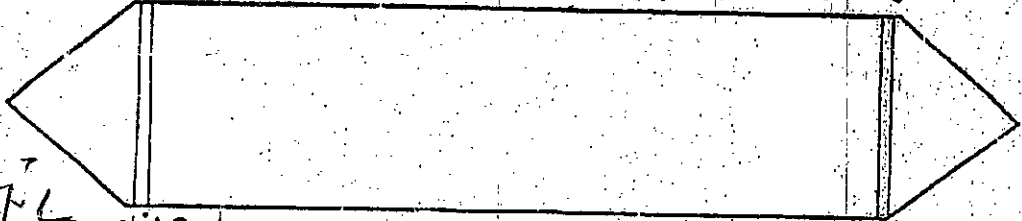
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بجدرالت حاکم - KP سروس ٹریڈینگ کمپنی



2 منجانب سہیل
KP بنام عدالت

محلہ

مورخہ
مقدمہ
دعویٰ
پریم

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آج کے مقام پر محمد ناصر کیلئے

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے کے وقت رجسٹری ہ فیصلہ برحلف دینے کے جواب دہی اور اقبال دعویٰ اور
بہر وقت ڈگری کرنے کے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے کے اپیل گمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی 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 سہل
و آسان منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشگی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 27 ہا اکتوبر 2023

لئے منظور ہے۔

Accepted of Attorney
محمد ناصر