

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1209/2015

Date of Institution ... 09.10.2015

Date of Decision ... 11.12.2018

Dr. Tanveer Ahmad, Medical Officer, Bacha Khan Medical Complex Swabi at Shah Mansoor. ... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Govt of Khyber Pakhtunkhwa Peshawar and four others. ... (Respondents)

MR. ABDULLAH QAZI,
Advocate

--- For appellant.

MR. ZIAULLAH
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER(Executive)
--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. Brief facts of the case are that the appellant was appointed as Medical Officer at Bacha Khan Medical Complex, Swabi in November 1995. He is aggrieved of notification dated 24.04.2015 against which he filed departmental appeal on 1.06.2015 but was not decided within the stipulated period, hence, the instant service appeal on 09.10.2015.

ARGUMENTS

3. Learned counsel for the appellant argued that upon selection for diploma in Anesthesia 730 days Extra Ordinary Leave was granted to the appellant w.e.f 06.02.2015. That he submitted an appeal that study/earned leave may be granted to save him from recurring financial but to no avail. Order of the respondents was against the law and rules and appeared to be highly discriminatory. Sufficient leave was available in his leave account. To accommodate his request for earned/study leave.

4. On the other hand learned Deputy District Attorney argued that as per Section-7(2) of Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011, the appellant was not entitled for study leave. Resultantly, two years EOL without pay was granted to him. He was treated in accordance with law and rules.

CONCLUSION

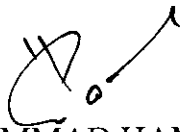
5. Impugned order dated 24.04.2015 was insync with Sub-Sec-2 of Section-7 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 which is reproduced below:

“Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.”

Attention is also invited to office order dated 02.02.2015 wherein the aforementioned condition was specifically highlighted. If these terms and conditions of training were not acceptable to the appellant, he should have refused

the offer. After acceptance of offer the present service appeal amounts to frivolous litigation. Moreover, departmental appeal filed against the impugned order was also time barred.

6. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER




(AHMAD HASSAN)
MEMBER

ANNOUNCED
11.12.2018

07.09.2018

Counsel for the appellant and Mr. Riaz Ahmad Painsdakhel, Assistant AG alongwith Mr. Abdur Raheem, Assistant for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 26.10.2018 before D.B.


(Shah Hussain)
Member


(Muhammad Amin Khan Kundi)
Member

26.10.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 11.12.2018 before D.B..

Order



Reader


11.12.2018

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents and present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is dismissed. Parties are left to bear their own cost. File be consigned to the record room.


Announced:
11.12.2018



(Muhammad Hamid Mughal)
Member


(Ahmad Hassan)
Member

06.03.2018

None present on behalf of appellant. Mr. Riaz Pinda Kheil, learned Assistant Advocate General along with Hazrat Shah, superintendent, for the respondents present. adjourned. To come up for arguments on 09.05.2018 before D.B


(Muhammad Amin Kundi)
Member



(Muhammad Hamid Mughal)
Member

09.05.2018 The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 19.07.2018


READER

19.07.2018

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.09.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

Annex - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh: 29th December, 2011

ORDER

No.SO(Estt)Envt/1-2/2k10: The Competent Authority in consultation with the Provincial Selection Board is pleased to promote the following Deputy Conservator of Forest/Divisional Forest Officers (BPS-18) as Conservator of Forest/Director Integrated Specialized Units (BPS-19) on regular basis, with immediate effect :-

S.No.	Name of Deputy Conservator of Forest/Divisional Forest Officers.
1-	Mr. Ali Asghar.
2-	Mr. Alamgir Khan Gandapur
3-	Mr. Zia-Ur-Rehman
4-	Dr. Ayaz Khan Khattak
5-	Mr. Abdul Jamil
6-	Mr. Hashim Ali Khan
7-	Mr. Muhammad Ikram
8-	Mr. Muhammad Younis
9-	Dr. Naseem Javed
10-	Mr. Shah Wazir

2. The promotion as well as assumption of charge in (BPS-19) in respect of officer at S.No.3 above, shall be on notional basis against the vacant post of Conservator of Forest/Director Integrated Specialized Units w.e.f. 23/11/2011, in terms of Establishment Department's Circular letter dated 2nd September 2004, as the officer has been retired from service on 21/12/2011, on superannuation.

3. The officers at S.No. 1,2,5,6,8,9 & 10 will remain on probation for a period of one year; while officers at S.No.4 & 7 will be on probation till their retirement, in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

4. Consequent upon their promotion, the officers will remain posted on their present places of posting.

SECRETARY TO GOVT: OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

Endst: No. SO(Estt)Envt/1-2/2k10

3863-84

Dated Pesh: 29th Dec: 2011


Copy is forwarded to:-

- 1) PSO to Chief Secretary Khyber Pakhtunkhwa.
- 2) PS to Secretary Establishment Department.
- 3) PS to Minister for Environment Khyber Pakhtunkhwa
- 4) PS to Secretary Environment Department.
- 5) Chief Conservator of Forests-I, Khyber Pakhtunkhwa.
- 6) Chief Conservator of Forests-II, Khyber Pakhtunkhwa.
- 7) Director Budget and Accounts Environment Department.
- 8) All Conservator of Forests/Director ISUs in Khyber Pakhtunkhwa Forest Department.
- 9) Officers concerned.
- 10) Personal file of the officers.
- 11) Master file.
- 12) Officer order file.


(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

21.07.2017

Counsel for the appellant present. Mr. Abdur Rahim, Office Assistant alongwith Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 02.11.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

02.10.2017


None present on behalf of the appellant. Mr. Usman I Ghani, District Attorney Yar Gul, Senior Clerk for the respondents present. To come up for rejoinder and arguments on 03.01.2018 before the D.B.

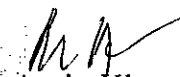

Member


Chairman

03.01.2018

Counsel for the appellant present. Asst: AG for respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 06.03.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Amin Khan Kundi)
Member (J)

18.08.2016

Counsel for the appellant and Adll: AG for respondents present. Rejoinder not submitted. Requested for adjournment. To come up for rejoinder and final hearing on 25.11.2016.



Member

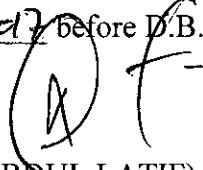


Member

25.11.2016

Clerk to counsel for the appellant, M/S Abdur Rahim, Office Assistant and Zakiullah, Senior Auditor alongwith Assistant AG for the respondents present. Clerk to counsel for the appellant requested for adjournment due to non-availability of learned counsel for the appellant. Request accepted. To come up for filing of rejoinder and arguments on

5.4.2017 before D.B.



(ABDUL LATIF)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

05.04.2017

Counsel for the appellant and Mr. Zakiullah, Senior Auditor alongwith Mr. Adeel Butt, Adll: AG for the respondents present. Rejoinder not submitted and requested for time to file rejoinder. To come up for rejoinder and final hearing on 21.07.2017 before D.B.



Chairman

03.12.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant applied for study leave which was sanctioned vide impugned order dated 24.4.2015 in the shape of extra-ordinary leave without pay despite entitlement of the appellant to study leave with pay where against he preferred departmental appeal on 16.6.2015 which was not responded and hence the instant service appeal on 28.10.2015.

That the appellant is entitled to study leave as reported by the District Accounts Officer (page-11).

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 23.2.2016 before S.B.

Appellant Deposited
Security & Process Fee

23.02.2016

None present for appellant. M/S Muhammad Arshed, SO, Yar Gul, Senior Clerk and Ansar Ahmed, AAO alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 27.4.2016 before S.B.


Chairman

27.4.2016

Appellant in person and M/S. Ansar Ahmad, AAO, Misri Khan, S/Auditor and Yar Gul, Assistant alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.08.2016.




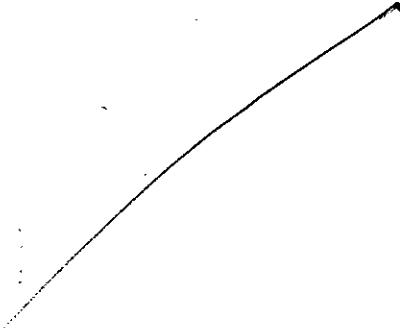

Chairman


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1209 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28.10.2015	<p>The appeal of Dr. Tanver Ahmad resubmitted today by Mr. Abdullah Qazi 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>10-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	10.11.2015	<p>Agent of counsel for the appellant present. Seeks adjournment. Adjourned to 3.12.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p> 

The appeal of Dr. Tanveer Ahmad, Medical Officer, Bacha Khen Medical Complex, Swabi received to-day i.e. on 09.10.2015 is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

1. Annexures of the appeal may be attested by the appellant or his counsel.
2. The appeal may be got signed from the appellant,

No. 1585 /ST,

Dated 9/10 /2015

[Signature]
REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. Abdullah Qazi, Advocate, Peshawar.

Sr.

The appellant want extension in time for ^{removing} fulfilling the request by him. Therefore time may please be extended.

[Signature]
26/10/2015.

Three days time extended.

Sr.

[Signature]
27/10/15.

Re-submitted after doing the needful.

[Signature]
28/10/2015.

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

Appeal No. 1209 of 2015

Dr. Tanveer Ahmed, Appellant

~~K. P. PROVINCE
Service Tribunal
Diary No.
Dated~~

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Health
Govt of Khyber Pakhtunkhwa Peshawar and others

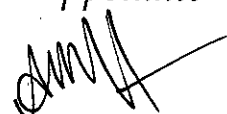
... .. Respondents

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S.No.	Description of documents	Annexure	Pages
1.	Memo of appeal		1-6
2.	Affidavit		7
3.	Copy of order dated 02/02/15	"A"	8-9
4.	Copy of application and leave form with covering letter	"B"	9-11
5.	Copy of impugned order dated 24/04/2015 Endst: vide order dated 29/05/2015	"C"	12
6.	Copy of departure report and transfer of charge	"D"	13-14
7.	Copy of departmental appeal covering letter	"E"	15-17
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Dated 07/10/2015

Appellant
Through


Abdullah Qazi

Jan Muhammad
Advocates, Peshawar.



①

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

Appeal No. 1209 of 2015

Khyber Pakhtunkhwa
Service Tribunal
Duty No. 1209
dated 9-10-15

Dr. Tanveer Ahmed, Medical Officer, Bacha Khan
Medical Complex Swabi at Shah Mansoor.

..... Appellant

VERSUS

- 1) Govt of Khyber Pakhtunkhwa through Secretary
Health Govt of Khyber Pakhtunkhwa Peshawar.
- 2) Director General, Health Services Khyber
Pakhtunkhwa Peshawar.
- 3) Medical Superintendent (MS) Bacha Khan Medical
Complex, BKMC Swabi.
- 4) District Accounts Officer, Swabi.
- 5) Accountant General, Khyber Pakhtunkhwa
Peshawar

..... Respondents

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974, AGAINST THE
IMPUGNED ORDER DATED 24/04/2015
ISSUED BY RESPONDENT NO.1 AND
ENDORSEMENT NO.9355-64/EI DATED
29/05/2015 ISSUED BY THE RESPONDENT
NO.1.**

Filed to-day
Registrar
9/10/2015

re-submitted to-day
and filed:

Registrar
28/10/15

Prayer in Appeal:

On acceptance of the instant appeal, the
impugned orders may be set aside/cancelled /

varied and the respondents may be directed to accord sanction of (730 days) Extra ordinary leave with full pay with all consequential benefits. Any other relief as deemed proper in the circumstances of the case may also be allowed to the appellant to meet the ends of justice.

Respectfully Sheweth:

Brief facts leading to the instant appeal are as under: -

- 1) That the appellant is working as Medical Officer at Bacha Khan Medical Complex BKMC, Swabi at Shah Mansoor since November 1995.*
- 2) That the appellant, throughout his 19 years long service, has performed his duties with utmost of his capabilities and to the entire satisfaction of his superiors.*
- 3) That the appellant was selected / inducted as Trainee for Diploma in Anesthesia Unit LRH, Peshawar vide order bearing No.5650/PGMI/TMO dated 02/02/2015 on the recommendation of selection committee. (Copy of the order is attached as Annexure "A").*

- 4) That the appellant applied for grant of (730 Days) of earned leave / study leave and the District Accounts Officer Swabi has given a certificate vide endst order dated 23/02/2014 that sufficient leave is available to the credit of appellant. (Copy of application is attached as Annexure "B").
- 5) That the respondent No.1 accorded sanction to the grant of 730 Days EOL but without pay vide impugned order dated 24/04/2015 endorsed vide order dated 29/05/2015 by the respondent No.2. (Copy is attached as Annexure "C").
- 6) That aggrieved from the order mentioned as Annexure "C" the appellant filed departmental appeal before the respondent No.1 but that was not replied and now as the statutory period has passed the appellant is filing the instant service appeal before this Hon'ble Tribunal on the following grounds amongst others: - (Copy of Departmental is attached).

Grounds:

- A) That the impugned orders are illegal, unjust, discriminatory and based on malafide against

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the rules and regulations, pertaining to the matter, hence liable to be cancelled/set aside/ varied and interfered.

B) That as sufficient leave is available at the credit of the appellant the sanction of 730 days EOL (without pay) in favour of the appellant is unjust.

C) That the impugned order of is the result of malafide.

D) That the appellant has 19 years of unblemished and transparent service record at his credit and the respondent No.1 should have accorded sanction of leave with full pay in favor of the appellant.

E) That as sufficient leave is available at the credit of the appellant to cover 730 days of study leave / earned leave, the sanction of EOL (without pay) is unjust and based on malafide and the same is liable to be cancelled/set aside / varied on this score alone.

F) That the impugned orders of sanctioning of leave without pay will effect the future of the appellant.

5

G) That the impugned amount to break in the service record of the appellant which is against the law, rules and regulations and detrimental to the interest of the appellant.

H) That the impugned order will effect the pensionary benefits of the appellant besides the last of two annual increments to the credit of the appellant, and his service career and pensionary benefits, therefore, are liable to be set aside/cancelled /varied.

I) That the appellant is entitled for leave with full pay and therefore, the impugned orders need to be interfered with by this Hon'ble Tribunal.

J) That the appellant has started his training at Post Graduate Medical Institute, LRH Peshawar and has deposited the requisite fee/charges for the diploma in Anesthesia.

K) That the appellant seeks to raised any other ground with the permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned orders may be set aside/ cancelled/ varied and the respondents may be directed to accord sanction of (730 days) Extra ordinary leave/earned leave/study leave with full pay with all consequential benefits.

Any other relief as deemed proper in the circumstances of the case may also be allowed to the appellant to meet the ends of justice.

Dated 07/10/2015

Appellant
Through
Abdullah Qazi
Jan Muhammad
Advocates, Peshawar.

9

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

Appeal No. _____ of 2015

Dr. Tanveer Ahmed, Appellant

VERSUS

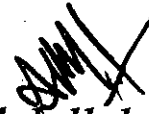
Govt of Khyber Pakhtunkhwa through Secretary Health
Govt of Khyber Pakhtunkhwa Peshawar and others
... .. Respondents

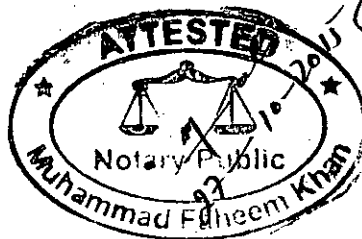
Affidavit

I, Dr. Tanveer Ahmed, Medical Officer,
Bacha Khan Medical Complex Swabi at Shah
Mansoor do hereby solemnly affirm and declare
on oath 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

Identified by


Abdullah Qazi
Advocate Peshawar



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

Appeal No. _____ of 2015

Dr. Tanveer Ahmed, Appellant

VERSUS

*Govt of Khyber Pakhtunkhwa through Secretary Health
Govt of Khyber Pakhtunkhwa Peshawar and others
... .. Respondents*

ADDRESSES OF THE PARTIES

Appellant

*Dr. Tanveer Ahmed, Medical Officer, Bacha Khan
Medical Complex Swabi at Shah Mansoor.*

Respondents

- 1- Govt of Khyber Pakhtunkhwa through Secretary
Health Govt of Khyber Pakhtunkhwa Peshawar.*
- 2- Director General, Health Services Khyber
Pakhtunkhwa Peshawar.*
- 3- Medical Superintendent (MS) Bacha Khan
Medical Complex, BKMC Swabi.*
- 4- District Accounts Officer, Swabi.*
- 5- Accountant General, Khyber Pakhtunkhwa
Peshawar*

Dated 07/10/2015

Through *Appellant*

Abdullah Qazi

Jan Muhammad

Advocates, Peshawar.



Amr A Ra
Postgraduate Medical Institute

No. 5650 /PGMI/TMO,

Dated 02/02/2015

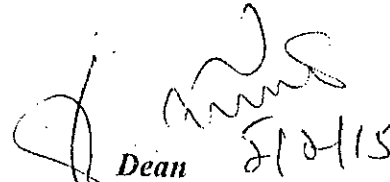
OFFICE ORDER

On the recommendation of the Selection Committee **Dr. Tanveer Ahmad S/O Gul Badshah** is hereby inducted as trainee in **Diploma in Anesthesia Unit LRH, Peshawar** with immediate effect,

He has deposited Rs. **20,000/=** vide receipt No: **3274** dated: **02.02.2015**. He is directed to submit his arrival report to this institute through the supervisor within a week.

All the Govt: employees as per Act of 2011 passed by Provincial Assembly Khyber Pakhtunkhwa have to apply for getting extra ordinary leave for the duration of Diploma training within three months time after induction, incase of failure, their training will be automatically terminated.

All candidates must show their status of service, whether Govt: employee or not.



Dean
Postgraduate Medical Institute
Hayatabad Peshawar

No. _____ /PGMI.

Copy forwarded to:-

1. The Secretary Health Govt. of Khyber Pakhtunkhwa Peshawar.
2. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
3. The Chief Executive LRH, Peshawar
4. The Audit Officer PGMI, Hayatabad, Peshawar
5. The Accounts Officer PGMI, Hayatabad, Peshawar
6. I/C DA Course LRH, Peshawar
7. The concerned doctors.

for information and necessary action please.

attested
K.M. Mir G.M.


Dean
Postgraduate Medical Institute
Hayatabad Peshawar

Dr - (B) 9

MEDICAL SUPERINTENDENT BACHA KHAN MEDICAL COMPLEX SWABI

Office Ph / 0938 - 280214 Fax # 0938 - 280214 Email: bmc.swabi@yahoo.com



No. 647/PF-18 / BKMC Swabi

Date: 27/02/2015

To,
Director General Health Services
Khyber Pakhtunkhwa Peshawar

SUBJECT: TWO YEARS LEAVE FOR DIPLOMA TRAINING IN ANESTHESIA

Sir,
Enclosed please find herewith self-explanatory application along with leave application profarma duly verified by DAO Swabi i/r of Dr. Tanveer Ahmad MO BKMC Swabi for further necessary action.

This office has got no objection if leave applied for is sanctioned in favour of the said MO.

abto to be in copy
[Handwritten signature]

[Handwritten signature]
MEDICAL SUPERINTENDENT
BKMC SWABI

The Secretary Health
Khyber Pakhtunkhwa, Peshawar

(10)

Through: PROPER CHANNEL

Subject: 2 YEARS LEAVE FOR DIPLOMA TRAINING IN ANESTHESIA
R/Sir,


I have the honour to state that I have been selected for two years Diploma course in Anesthesia vide Dean Post Graduate Medical Institute Hayat Abad Peshawar order No 5650/PGMI/TMO dated 2-2-2015 (Photocopy attached) & assumed my training with effect from 6-2-2015.

According to the terms & conditions of PGMI, I have to get Extra Ordinary leave for duration of Diploma training within three months time, & am serving as Medical Officer in Health Department since November 1995 on contract which was regularized / appointed since 2005 through Public Service Commission. Sufficient leave is available in my credit.

It is, therefore, requested that I may kindly be granted 2 years Earned/ study leave with full pay for the purpose of Diploma Course with effect from 6-2-2015, in this regard my leave application duly verified by District Accounts Officer Swabi is attached herewith & ensuring sir, that I will not draw any stipend from the Medical Institute.

Thanking you in anticipation.

Yours Obediently


DR. TANVEER AHMAD
MEDICAL OFFICER
BACHA KHAN MEDICAL
COMPLEX AND GROUP
TEACHING HCSP: SWABI

*forwarded to
D.A.H.S. for further info
26/2/15*

*allotted
b/sr tanveer
SHAM*

LEAVE APPLICATION FORM

(11)

Notes: - Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of BPS 16 and above.

1	Name of Applicant	Dr. Tanveer Ahmad
2	Leave rules applicable	revised leave Rules 1981
3	Post held	Medical Officer BPS-17 (Regular)
4	Department or office	Health Deptt./Bacha Khan Medical Complex & Group of teaching Hospital Swabi
5	Pay	Rs. 31,600/- PM.
6	House rent allowance / conveyance allowance or other compensatory allowance drawn in the present post.	Yes
7	a Nature of leave applied for:	Earned / Study leave
	b Period of leave in days	730 days
8	Date of commencement	6-2-2015
9	Particular Rule/Rules under which leave is admissible	1981
	a Date of return from last leave.	May 2013
	b Nature of leave	Earned leave
	c Period of leave in days	120 days

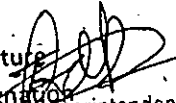
Dated: 24-2-2015


Signature of Applicant

10 Remarks recommendation of the Controlling Officer:

11- Certified that leave applied for is admissible under Rule 1981 and necessary conditions are fulfilled.

Dated: _____/02/2015

Signature: 
Designation: Medical Superintendent
Bacha Khan Medical Complex Swabi

12- Report of Audit Officer

Dated: _____/02/2015

Signature
Designation

*attached
1 for this
copy*

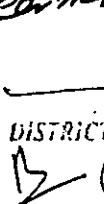
13- Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to the same post carrying the compensatory being drawn by him.

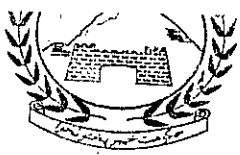
Dated:

Signature
Designation

No: _____ / DPO/Swabi/PR Dt: 27-2-2014

Certified that sufficient leave is available at the credit of the officer concerned to cover 730 days Study leave.

DISTRICT ACCOUNTS OFFICER
SWABI 27/2/2015




GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

13
C

Dated Peshawar the 24th April 2015

NOTIFICATION

DD/P

4805
20/05/15

No.SO(E)H-II/1-5/2014: The Competent Authority is pleased to accord sanction to the grant of two years (730-days) EOL (without pay) in respect of Dr. Tanveer Ahmad Medical Officer (BPS-17), attached to BKMC Swabi w.e.f. 06.02.2015 for the purpose of Diploma training.

**SECRETARY HEALTH
KHYBER PAKHTUNKHWA**

Endst. No. & date even.

Copy to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar w/r to his letter No. 4403-4 dated 05.03.2015.
3. Dean, PGMI, Hayatabad Peshawar.
4. Medical Superintendent, BKMC Swabi.
5. DHO Swabi
6. DAO Swabi.
7. Deputy Director (IT), Health Department Peshawar.
8. PS to Secretary Health, Peshawar.
9. PA to Special Secretary Health, Peshawar.
10. Officer concerned.

Dear
Tanveer Ahmad
concerned
P

[Signature]
(Daulat Khan)
Section Officer (E-II)

attached to
be transferred
[Signature]

OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

No. 9355-64/E.I

Dated:- 29/5/2015

Copy of the above is forwarded to:-

1. AG Khyber Pakhtunkhwa Peshawar.
2. M.S BKMC Swabi.
3. Dean PGMI Hayatabad Peshawar.
4. DHO Swabi.
5. DAO Swabi.
6. Doctor concerned.
- 7-9. I/C ACR Section/AE-II/AE-IV Section DGHS.
10. DHIS Cell DGHS KPK Peshawar.

For information & necessary action.

[Signature]
Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR
28/5/15
27/5

Anex - D

(139)

MEDICAL SUPERINTENDENT BACHA KHAN MEDICAL COMPLEX SWABI

Office Ph: 0938 - 280214

Fax: 0938 - 280214

Email: bmc.swabi@yahoo.com



No. 1267/PF-18/BKMC Swabi

Date: - 18/04/2015

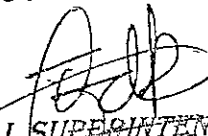
To
Director General Health Services
Khyber Pakhtunkhwa Peshawar

SUBJECT: DEPARTURE REPORT

Sir,

Reference Govt: of KPK Health Deptt: Peshawar Notification No. SO (E) H-II /1-5/2014 dated 13-04-2015.

Enclosed please find herewith charge certificate in r/o Dr. Tanveer Ahmad MO (BPS-17) BKMC Swabi for further necessary action. He has reported his departure on 16-04-2015 (AN).



MEDICAL SUPERINTENDENT
BKMC SWABI

No. 1268.70/copy/BKMC Swabi

Copy along with a copy of charge certificates is forwarded to:-

1. Distt Accounts Officer Swabi
 2. Abdul Rahim OA, Accounts Section + Younas Khan C/O BKMC Swabi
 3. Dr. Concerned BKMC Swabi
- For information & necessary action

*attached
to be there
copy. AMM*


MEDICAL SUPERINTENDENT
BKMC SWABI

ABDUL HADI S/C

o/c

(14)

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the fore/afternoon of this day respectively made over and receive charge of this office of the MO BKMC Swabi Wide Coll. of BKMC
Health Deptt. Notification # SO (E) H-IZ/1-5/2014 dated 13-4-2015

2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse.

Station BKMC Swabi

Signature of relieved Government Servant [Signature]
Dry Tanveer Ahmed
Designation Medical Officer BPS-17

Signature of relieving Government Servant [Signature]
Designation 1/1

Dated 16-04-2015 (AM)

attested to be true
copy
[Signature]

Khyber Pakhtunkhwa, Peshawar

Annex - E

15

Through: PROPER CHANNEL

Subject: 2 YEARS LEAVE FOR DIPLOMA TRAINING IN ANESTHESIA

R/Sir,

I have the honour to submit that I have been selected for two years Diploma course in Anesthesia vide Dean Post Graduate Medical Institute Hayat Abad Peshawar order No 5650/PGMI/TMO dated 2-2-2015 & assumed my training with effect from 6-2-2015.

I applied for the grant of 2 years (730) days for study / earned leave but my leave is sanctioned by competent authority without pay (Extra Ordinary Leave) instead of study/earned leave with the reasons that the Provincial Assembly passed the Act that no study / earned leave will be allowed to a Government servant who is selected for PGMI training course.

So, my pay is stopped and no annual increment will be allowed as well as my service will not be counted for the purpose of pension during these 02 years leave period with effect from 6-2-2015 which I will be financially suffered.

Sir, my service more than 19 years, sufficient leave is available in my credit. It is, therefore, requested to kindly take up my case as an exceptional case for the grant of study /earned leave for consideration with higher ups.

In addition to the above it is added that some of my colleague of Punjab Province have been selected for training at PGMI Peshawar (Khyber Pakhtunkhwa) & they have granted study leave for the training course.

Thanking you in anticipation.

Yours Obediently

[Signature]

DR. Janveer Ahmad
Medical Officer
Bacha Khan Medical
Complex & Group of
Teaching Hosp: Swabi

*Forwarded to DGH
Remarks & consid.
with Sympathetic*

*alluded
to be him
CPT.*

[Signature]

وکالت نامہ

PRESIDENT
District Bar Association
Swabi

بعدالت خطاب سروس ٹیم ہونٹل ضلع سوئی اور

ڈاکٹر منور احمد نام حکومت
مخائب ایڈووکیٹ دعویٰ یا جرم

تھانہ باعث تحریر آئیکہ ایف آئی آر تاریخ
مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیرونی وجوہات ہی بمقام (کے) کیلئے

عبداللہ حامی دھان محمد ایڈووکیٹ سوات

کو بدین شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت
پکارے جانے مقدمہ جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من
مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس
کے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پکھری سے کسی اور جگہ یا پکھری کے
مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار ہوں گے، اگر مقدمہ علاوہ صدر پکھری
کے کسی اور جگہ ساعت ہونے یا بروز تعطیل سے پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی
نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی
صاحب موصوف ذمہ دار ہوں گے، مجھ کو کل ساختہ پروا ذمہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا
اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و مگرانی ہر قسم کی
درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ
وصول کرنے اور رسید دینے اور داخل اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ پر خلاف
کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ
درخواست حکم امتناعی یا قرتی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادا ہوگی علیحدہ مختار نامہ بیرونی کا
اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزو کی
کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا پانے ہمراہ
مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وفاق اور ویسے ہی اختیارات حاصل ہوں گے جیسے کہ صاحب
موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کو پورا اختیار ہوگا
کہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا،
لہذا یہ مختار نامہ لکھ دیا تاکہ سند رہے۔

مورثہ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

Handwritten signature

Handwritten signature and text

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

APPEAL NO. 1209/2015

Dr. Tanveer Ahmad

.....

Appellant

VERSUS

Government of Khyber Pakhtunkhwa through

Secretary Health & Others

.....

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1, 2 & 3

PRELIMINARY OBJECTIONS:-

1. That the appellant has neither cause of action nor locus standi.
2. That the appeal is not maintainable in its present forum.
3. That the appellant has not come to this Hon'ble Tribunal with clean hands.
4. That the appeal is bad due to mis-joinder and non-joinder of the necessary parties.
5. That the appeal is time barred.

FACTS:-

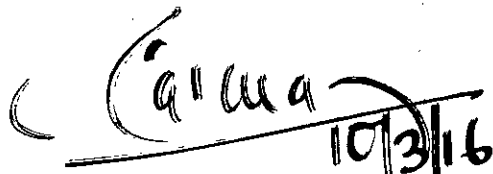
1. Correct.
2. Pertains to record.
3. Correct.
4. Incorrect, that the appellant is not entitled for study leave as per Section-7 (2) of Khyber Pakhtunkhwa (Appointment, Deputation, Posting Transfer of Teachers Lecturers, & Doctors) Regulatory Act 2011 (Annex-A)
5. That the appellant was granted two years EOL (without pay) as per Act mentioned in para-04 above.
6. That leave Notification was issued on 24.04.2015 and the appellant moved as appeal on 10.06.2015 which is badly time barred.

GROUNDS:-

- A. Incorrect, the impugned leave notification was issued as per rules/law on the subject.
- B. Pertains to record, however, the department has issued the Notification purely in accordance with law. It is pertinent to mention that the appellant has never challenged the vires of the concerned rule.
- C. No malafide, whatsoever, has been committed by respondents. The impugned notification is issued in accordance with law, rules on the subject.
- D. Pertains to record as explained in the foregoing paras.

- E. As already stated above.
- F. Incorrect, as explained above.
- G. Incorrect, as explained above.
- H. Incorrect, as explained above.
- I. Irrelevant.
- J. Pertains to record.
- K. That the respondents seek leave to raise additional grounds at the time of arguments.

It is, therefore, requested that the Service Appeal may kindly be dismissed with cost.


10/3/16

Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department Respondent No. 1



Director General Health Services,
Khyber Pakhtunkhwa Respondent No. 2

10/3/16



Medical Superintendent
Bacha Khan Medical Complex
BKMC Swabi Respondent No. 3

THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION, POSTING
AND TRANSFER OF TEACHERS, LECTURERS, INSTRUCTORS AND DOCTORS)
REGULATORY ACT, 2011

AN
ACT

to regulate by law appointments, postings and transfers of teachers
serving in primary, middle, secondary and higher secondary
schools, lecturers in colleges and instructors in technical institutions
and doctors in health facilities.

Preamble.---WHEREAS it is expedient to regulate by law appointments, postings and transfers at local level, of teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges and instructors in technical institutions and doctors in health facilities and to ensure the availability of teachers in schools, lecturers in colleges and instructors in technical institutions and the doctors in health facilities, and to regulate deputation of doctors abroad, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.

(2) It shall apply to teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges as well as commerce colleges and instructors serving in technical institutions and doctors serving in the health facilities in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

(a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(aa) "college" means a degree college;

(b) "doctor" means a doctor serving in the health facility;

(c) "Government" means the Government of the Khyber Pakhtunkhwa;

(d) "health facilities" mean all health facilities established and managed by Government to provide medical facilities to general public;

(e) "lecturer" and "instructor" respectively means a lecturer or an instructor serving in a Technical Institution as well as in a college, as the case may be;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "rules" mean the rules made under this Act;

(h) "school" means school in the public sector including primary, middle, secondary school, higher secondary school or an institution of equivalent level imparting education through any system or medium of instruction in the public sector;

(i) "teacher" means a teacher of primary, middle, secondary or higher secondary school; and

(j) "technical institution" means and includes a Commerce College or Government College of Management Sciences or Technical Institute or Technical and Vocational

Training Center or Skill Development Center in the public sector imparting technical education to students leading to the award of a degree or a diploma or a certificate.

(2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant federal law or provincial law or any other statutory order or rules for the time being in force.

3. Appointment, posting and transfer of primary school teachers.---(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils:

Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

(2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.

(3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed or before completion of tenure, subject to the policy of rationalization for maintaining certain students teachers ratio, if any.

(4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Union Councils or adjacent Union Councils, as the case may be.

4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.---(1) Government may, through the competent authorities make adhoc appointment on merit against the vacant posts of doctors, lecturers, instructors, subject specialists and teachers, falling within the purview of Commission, in a district concerned from the domicile holders of that district for a period of one year or till the arrival of recommendees of Commission, whichever is earlier after fulfilling the pre-requisites of giving wide publicity in the press. On assumption of charge of post by recommendee of the Commission, the services of such ad hoc appointee shall stand automatically terminated:

Provided that if no suitable and eligible candidate is available in the district concerned for appointment, then the candidates belonging to the neighbouring districts shall be considered for appointment in the order of their merit.

(2) Save as the appointment made under proviso of this section, "ad hoc appointee" shall serve in the district of his domicile.

(3) The post of a doctor, lecturer, instructor, subject specialist or teacher who proceeds on training or long leave may be treated as vacant post for the purpose of contract or contingent appointment till the return of such employee from training or long leave and assumption of charge of the post:

Provided that the period of such training or long leave shall not be less than one year and no appointment on contract or contingent shall be made on the post which may fall vacant for a period less than one year.

5. Initial posting. --- (1) The doctors, lecturers, instructors subject specialist or teachers, upon their appointment shall be first posted in the periphery of the zone against

whose quota they have been recruited, and they shall not be transferred for a period of at least three years.

(2) Upon expiry of the tenure as referred to in sub-section (1), transfer shall be made only upon the availability of substitute.

6. Deputation of Doctors.---(1) Government may allow deputation abroad for all categories of doctors only once in their entire service, for a period not exceeding three years.

(2) Deputation to "Foreign Service" within Pakistan shall be permissible only in respect of medical officers for a period not exceeding three years:

Provided that no further extension, on expiry of agreed tenure shall be given to the doctors who are already on deputation abroad or within Pakistan.

7. Postgraduate Medical Education.---(1) The Health Department, on the basis of objective need assessment and analysis, shall determine the intake number of Trainee Medical Officers (TMOs) in Postgraduate Medical Institute (PGMI) and Junior Registrars in Tertiary Care Hospitals every year. This stipulated number shall not exceed in any case.

(2) Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.

(3) A doctor selected or permitted for postgraduate medical training shall provide surety bond prescribed by Government ensuring that upon completion of his studies for which he was initially selected, shall compulsorily serve for three years in the district of his domicile and in case of non-availability of a post in the district of domicile, he shall serve for three years in the rural area.

(4) For the purpose of sub-section (3), the doctor shall also provide guarantee of two government officers.

(5) In case of violation of sub-section (3), Government shall serve one month notice upon the doctor for resumption of duty, failing which the amount shall be recovered from him or from the guarantor, as the case may be.

8. Provisions relating to doctors apply to lecturers and instructors. ---The provisions relating to doctors in section 7 of this Act shall mutatis mutandis apply to lecturers and instructors.

9. Act to over-ride other laws.---The provisions of this Act shall have effect notwithstanding any thing contained in any other law for the time being in force.

10. Jurisdiction barred.---Save as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings undertaken under this Act, or the rules made there under or any officer authorized by it shall be called into question in any Court, and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance or by any power conferred by or under this Act or the rules.

11. Removal of difficulties.---Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.

12. Power to make rules.---Government may make rules for carrying out the purposes of this Act.

BEFORE THE KHYBER PAKHTUN KHWA SERVICES

TRIBUNAL, PESHAWAR

Appeal No: 1209/2015

Dr. Tanveer Ahmad, Medical Officer, Bacha Khan

Medical Complex Swabi at Shah Mansoor.

Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary Health Govt of Khyber Pakhtunkhwa Peshawar.
2. Director General, Health Services Khyber Pakhtunkhwa Peshawar.
3. Medical Superintendent (MS) Bacha Khan Medical Complex BKMC Swabi.
4. District Accounts officer Swabi.
5. Accountant General Khyber PakhtunKhwa.

Written Reply on behalf of respondent No.04 & 05

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- i. That the appellant has got no cause of action/locus standi to bring the present appeal.
- ii. That the instant appeal is badly time barred.
- iii. That the appellant concealed material facts from the Hon'able Tribunal hence, liable to be dismissed.
- iv. That the appellant has not approached to the Hon'ble Tribunal with clean hands.

- v. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- vi. That the present appeal is against the prevailing law and rules.
- vii. That the Hon'able Tribunal has got no jurisdiction to entertain the present appeal.
- viii. That the instant appeal is liable to be dismissed under Order-VII Rule-11 CPC.
- ix. That the appeal is bad in its present form hence, not maintainable and liable to be dismissed with cost.

REPLY ON FACTS:

I correct as actually the appellant has been working in Bacha Khan Medical Complex Swabi.

II it relates to the respondent No.02 & 03.

iii it relates to the respondent No.02 & 03.

IV Correct to the extent that this office has issued leave availability certificate to cover 730 days study leave.

V correct as EOL is also a sort of leave. Furthermore grant of leave ^{depends} ~~depends~~ on the discretion of the competent authority.

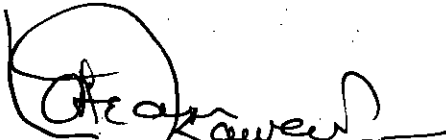
VI Relates to respondent No. 01, 02 & 03.

Reply on Grounds:

It is submitted that as per existing leave rules, study leave can be granted to a govt servant to study scientific, technical or similar problems are to undergo special courses under F.R 84 & appendix 9 of vol -II.

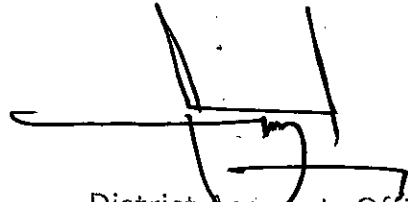
It is further submitted that as per FR 66 leave cannot be claimed as a matter of right and the nature of leave cannot be changed. As the appellant has already accepted the grant of 730 days EOL in consequence of which he has participated in the course/ training.

His selection order for the training in question reveals that he has been granted extra ordinary leave for 730 days in the conformity ^{LSR} of act 2011 passed by provincial assembly Khyber Pakhtun Khwa. Since the order regarding grant of leave does not lead to any sort of departure from the present rules and regulation, It is therefore prayed that the instant appeal may kindly be dismissed.



Accountant General, KPK, 26.4.16.

Peshawar Respondent No: 05



District Accounts Officer
Swabi

Respondent No: 04.

Ministry's Office Memorandum No. CB/12/63-Imp (1), dated the 18th August 1966, might apply for retirement after completing 25 years qualifying service, but before attaining the age of superannuation. It has been held, in consultation with the Establishment Division, that such a Government servant may be granted leave as is due and admissible under the rules applicable to him, provided :

- (i) that the leave is applied for sufficiently in advance of the date from which the retirement is sought to be effective ;
- (ii) that the leave does not exceed the leave which could be granted under the relevant rules, as leave preparatory to retirement ; and
- (iii) that the grant of leave will be subject to provision of F.R. 67.

[Finance Division U. O. Note No. 1094-R-1/67, dated 2-8-1967].

7.167 If any Government servant seeks employment during leave preparatory to retirement under the Central or a Provincial Government or in an autonomous or semi-autonomous corporation or body set up by, or under the Control of the Central or a Provincial Government or in a local body or a local fund, his leave salary shall be restricted to the amount of anticipated pension in accordance with Government decision below F.R. 69.

[Finance Division No. F. 4(3)-RS/66, dated 17-11-1966].

LEAVE RULES

Title (F. Rs. 66 to 68) :

7.168 Leave is earned by a Government servant by the period of duty only. The leave cannot be claimed as a matter of right. In the exigencies of public service a competent authority has every right to refuse or revoke the leave of any kind. This discretion, however, does not entitle an authority to alter the nature of leave applied for. The grant of leave can be refused but the nature of leave, applied for, cannot be altered under any circumstances.

7.169 During the period of foreign service, a Government servant will not earn any leave under the Government. His leave terms during the period of foreign services will be regulated by the leave rules of the foreign employer.

7.170 If a Government servant, who quits the public service on compensation or invalid pension or gratuity, is re-employed and if his gratuity is thereupon refunded or his pension held wholly in abeyance, his past service thereby becoming pensionable on ultimate retirement, he may, at the discretion of the

authority sanctioning the re-employment and to such extent as that authority may decide, count his former service towards leave.

7.171 A Government servant who is dismissed or removed from the public service, but is reinstated on appeal or revision, is entitled to count his former service for leave.

7.172 Resignation of the public service, even though it is followed immediately by re-employment, should entail forfeiture of past service for the purpose of leave under the Fundamental Rules and should, therefore, constitute an 'interruption of duty' for the purpose of 'Supplementary Rules 286'.

Employment during leave (F.R. 69) :

7.173 A Government servant is not permitted to accept any employment during the period of leave. A competent authority may, however, permit him to do so.

7.174 If any Government servant seeks employment during leave preparatory to retirement under the Central or a Provincial Government or in an autonomous or semi-autonomous corporation or body set up by, or under the control of the Central or a Provincial Government or in a local body or a local fund, his leave salary should be restricted to the amount of pension to which the Government servants will be entitled on retirement.

Return from leave on Medical Certificate (F.R. 71) :

7.175 If a Government servant is granted leave on medical certificate, he cannot be permitted to return to duty without first producing a medical certificate of fitness in such form as may be prescribed by the competent authority. A Government servant who is granted leave for reasons of health may also be required to produce a medical certificate of fitness irrespective of the fact whether leave was granted to him with or without a medical certificate.

Lapse of leave (F.R. 86) :

7.176 The leave at the credit of a Government servant in his leave account shall lapse on the date of compulsory retirement.

Alixation of holidays (S. Rs. 209 to 211) :

7.177 Leave ordinarily commences from the day following that on which transfer of charge is effected and ends on the day preceding that on which charge is resumed.

lay on which the consequence of due performance of his official duties, or in consequence of his official position or by illness incurred in the performance of any particular duties which has the effect of increasing his liability to illness or injury beyond the ordinary risk attaching to the civil post which he holds. The disability due to disease should, however, be certified by medical board to be directly due to the performance of the particular duty and the President should be convinced that the disability was so exceptional in character or that the circumstances of its occurrence were such as to justify such unusual treatment as the grant of disability leave.

Study Leave (F. R. 84 & Appendix 9 of Vol-II) :

7.184 Study leave may be granted to Government servants to enable them to study scientific, technical, or similar problems or to undergo special courses of instructions, such leave is not debited against leave account.

7.185 Study leave is granted on half pay and the maximum period should not exceed 2 years. Extraordinary leave may also be combined with the study leave and in that case the condition of the maximum period will not apply.

7.186 During the study leave a study allowance at the prescribed rates is granted for the period spent in prosecuting a definite course of study at a recognised institute.

Casual Leave :

7.187 The casual leave is not treated as absence from duty and the pay of the Government servant is not intermitted. The grant of casual leave is always subject to the condition that it does not cause evasion of the rules regarding date of reckoning pay and allowance, charge of office, commencement and end of leave and return to duty.

7.188 The maximum period of casual leave admissible during a calendar year is 20 days. Any balance of casual leave not availed of lapses with the end of a year. The casual leave cannot be combined with any other type of leave or joining time.

Quarantine Leave (App. 3 F.R. & S.R. Vol-II) :

7.189 Quarantine leave is in the nature of extra casual leave and is granted on account of absence from duty necessitated by order not to attend office in consequence of infectious disease in the family, or household of a Government servant. Infectious diseases are; cholera; smallpox; plague; typhus fever; cerebrospinal meningitis or any other disease declared as infectious by the