

23.10.2017

Bench incomplete. Adjourned. To come up on 24.10.2017 before D.B at camp Court D.I.Khan.

Reader

24.10.2017

Counsel for the appellant and Mr. Farkhaj Sikandar, District Attorney alongwith Mr. Khair Muhammad, MS Tank for respondents present. Learned District Attorney seeks adjournment. Adjourned. To come up for arguments on 25.10.2017 before D.B at camp Court D.I.Khan.



Member
(Executive)



Member
(Judicial)
Camp Court D.I.Khan

Order

25.10.2017

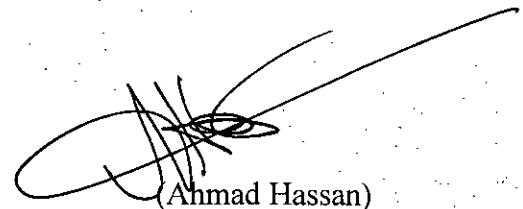
Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Khair Muhammad, MS Tank for respondents present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of today placed on file in connected service appeal No. 878/2016 entitled "Shafiq-ur-Rehman-vs-Govt: of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa Peshawar and 3 others". Parties are left to bear their own cost. File be consigned to the record room.

Announced:
25.10.2017



(Muhammad Hamid Mughal)
Member




(Ahmad Hassan)
Member
Camp court D.I.Khan

Service Appeal No. 875/2016

22.08.2017


Counsel for the appellant present. Dr. Ishaq Shah, Medical Officer alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Learned Deputy District Attorney for the respondents requested for adjournment. Adjourned. To come up for arguments on 26.09.2017 before D.B at Camp Court D.I.Khan. Appointment against the subject post shall be subject to decision of the instant service appeal.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

26.09.2017

Learned counsel for the appellant and Mr. Farhaj Sikandar, District Attorney for the respondents present. Arguments heard. To come up for order on 23.10.2017 before DB at Camp Court D.I.Khan.


Member
(Executive)


Member
(Judicial)
Camp Court D.I.Khan

25.01.2017

Appellant with counsel present. Mr. Farhaj Sikandar, Government Pleader alongwith Dr. Muhammad Hussain Ahmed Afridi, M.S DHQ (Tank) and Dr. Aziz Ullah, DHO for respondents present. They have prepared the written reply but the same could not be submitted due to deficiency of number of copies, final adjournment is granted. To come up for submission of written reply/comments positively on 22.02.2017 before S.B at Camp Court D.I.Khan. Appointment against the subject post shall be subject to decision of the instant service appeal.



ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

22.02.2017

Counsel for appellant, Dr. Muhammad Khan Afridi, M.S DHQ (Tank) and Dr. Aziz Ullah, DHO (Tank) alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Written reply by respondents submitted and copies delivered to all concerned. To come up for rejoinder on 29.03.2017 before S.B at Camp Court D.I.Khan. Appointment against the subject post shall be subject to decision of the instant service appeal.



(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

29.03.2017

Since tour is hereby cancelled, therefore, the case is adjourned for the same on 26.07.2017.



Reader

860/2016

27.09.2016

Counsel for the appellant and Dr. Muhammad Khan Afridi, Medical Superintendent (Tank) alongwith Mr. Farhaj Sikander, Government Pleader for the respondents present. Written reply as well as reply to application not submitted by the respondents. The learned Government Pleader and representative of the respondent-department requested for time to submit written reply. Request accepted. To come up for written reply/comments on main appeal as well as reply to stay application on 27.12.2016 before S.B at Camp Court D.I.Khan. Appointment against the subject post shall be subject to decision of the instant service appeal.


Member
Camp Court D.I.Khan

27.12.2016

Appellant in person and Mr. Muhammad Khan Afridi, M.S (DHQ Tank) alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Mr. Muhammad Khan Afridi, M.S (DHQ Tank) requested that they had prepared the written reply/comments and he had the copies but the same were in process of signatures by the concerned authority so requested for adjournment, granted. To come up for submission of written reply/comments positively on 25.01.2017 before S.B at Camp Court D.I.Khan. Appointment against the subject post shall be subject to decision of the instant service appeal.


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

Appeal No - 860/2016
M. Iqbal vs Govt

29.08.2016

Learned counsel for the appellant argued that the appellant was appointed in due course as Junior Clinical Technician. That he was serving in BPS-12 when vide impugned order dated 09.5.2016 was removed from service for not producing merit list etc. where-against he preferred departmental appeal on 16.05.2016 which was not responded and hence the instant service appeal on 24.08.2016.

That the appellant was appointed as civil servant in due course and subject to fulfilling all codal formalities and that the impugned order of termination of services of the appellant is against facts and law as the merit list attributed to the appellant was the obligation of the respondent department.

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 27.09.2016 before S.B at camp court, D.I.Khan as the case pertains to territorial limits of D.I.Khan Division. Counsel for the appellant also submitted application for interim relief. Appointment against the subject post shall be subject to decision of the instant service appeal.

Appellant Deposited
Security Process Fee

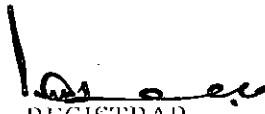
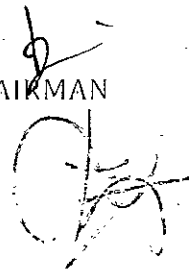

CHAIRMAN

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 860/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/08/2016	<p>The appeal of Mr. Muhammad Iqbal presented today by Mr. Ghulam Nabi Khan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-08-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>29-08-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:
Service Appeal No. 860 / of 2016

Muhammad Iqbal son of Jalil Ur Rehman ... Appellant

VERSUS

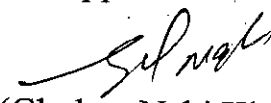
Government of Khyber Pakhtunkhwa
through Secretary Health, Peshawar and others... Respondents

I N D E X

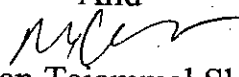
S.No	Description of documents	Annexures	Pages
1.	Service Appeal		1 - 5
2.	Affidavit		0 - 6
3.	Application for Interim Relief with Affidavit		7 - 8
4.	Copy of the Advertisement dated 24.02.2012	'A'	9
5.	Copy of Appointment letter dated 16.07.2012	'B'	10
6.	Copy of the Notification dated 11.08.2015	'C'	11
7.	Copy of Show Cause Notice dated 09.01.2016	'D'	12
8.	Reply to the Show Cause Notice dated 23.01.2016	'E'	13 - 15
9.	Copy of the Inquiry Report	'F'	16
10.	Copy of Inquiry Report dated 25.11.2015	'G'	17 - 21
11.	Copy of the impugned letter dated 09.05.2016	'H'	22
12.	Copy of Departmental Appeal dated 16.05.2016	'I'	23
13.	Copy of the Advertisement dated 19.08.2016	'J'	
14.	Vakalat Nama		

Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber Bazar, Peshawar
Cell # 0300-5845943

And


(Mian Tajammal Shah)
Barrister, Peshawar.

Dated: 08.08.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 860 / of 2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 891

Date 24-8-2016

Muhammad Iqbal son of Jalil Ur Rehman,
Ex. Junior Clinical Technician Cardiology (BPS-12)
District Headquarter Hospital, Tank... ..

Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa
through Secretary Health, Peshawar.
2. Director General Health Services
Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent
District Headquarter Hospital, Tank.
4. District Health Officer, Tank... .. Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED
09.05.2016 OF RESPONDENT NO.3, WHEREBY THE
APPELLANT HAS BEEN REMOVED FROM
SERVICE WITH EFFECT FROM 01.05.2016.

Prayer:

On acceptance of this Appeal the impugned order dated
09.05.2016, whereby the appellant has been removed
from service with effect from 01.05.2016 may be set aside
and the appellant may please be reinstated back to his
service with all his back benefits and emoluments.

Filed to-day

Alau
Registrar

Respectfully Sheweth:

1. That respondent No.4 advertised some posts with regard to the Medical
Profession, including the post of Junior Technical Cardiology (BPS-9)
on 24.02.2012. (Copy of the Advertisement is attached herewith as
annexure 'A').

24/8/16

- 2
2. That the appellant being qualified/eligible for the said post duly applied and after going through all the process and procedure as prescribed by the rules and regulations finally the appellant was appointed at the post of Junior Cardiology Technician (BPS-9) through an order dated 16.07.2012. (Copy of the appointment letter dated 16.07.2012 is attached herewith as annexure 'B').
 3. That the appellant has been serving on the said post to the utmost satisfaction of his high-ups as well as to the General Community of Patients and has never given any chance of complaint to any person.
 4. That the post of the appellant was then upgraded on 11.08.2015, whereby all the incumbents of Para Medics in BPS-9 were upgraded to BPS-12. (Copy of the said Notification dated 11.08.2015 is attached herewith as annexure 'C').
 5. That to the astonishment of the appellant he was served with a Show Cause Notice dated 09.01.2016, whereby some vague and baseless allegations were levelled against the appellant and all the process of the appointment of the appellant was disputed. (Copy of the said Show Cause Notice dated 09.01.2016 is attached herewith as annexure 'D').
 6. That the appellant replied to the above said Show Cause Notice within due time. (Copy of the Reply to the Show Cause Notice dated 23.01.2016 is attached herewith as annexure 'E').
 7. That prior to the Show Cause Notice a Fact Finding Inquiry was conducted by the competent authorities, however, the said inquiry findings were in favour of the appellant and no obligation whatsoever was fixed on the appellant with regard to the above said appointment. (Copy of the Inquiry Report is attached herewith as annexure 'F').
 8. That similarly another inquiry was conducted on 25.11.2015, whereby again these illegal and unlawful allegations were levelled by the respondents. (Copy of the Inquiry Report dated 25.11.2015 is attached herewith as annexure 'G').

- 3
9. That without adopting any procedure/process and without giving any Show Cause Notice the appellant was then served with the impugned letter dated 09.05.2016, whereby it was revealed upon the appellant that he has been removed from service with effect from 01.05.2016. (Copy of the impugned letter dated 09.05.2016 is attached herewith as annexure 'H').
 10. That the appellant duly submitted his Departmental Appeal before respondent No.2 on 16.05.2016 under the Diary No. 13849-E-2, however, no heed whatsoever has been paid to the appeal of the appellant. (Copy of the Departmental Appeal of the appellant dated 16.05.2016 is attached herewith as annexure 'I').
 11. That there being no other adequate/efficacious remedy the appellant now approaches this Honourable Service Tribunal on the following grounds amongst the others:-

GROUND:

- a. That the order of removal from service of the appellant is illegal, unlawful, without authority/jurisdiction and being based on the malafide intentions of the respondent, is liable to be set aside.
- b. That the appellant has been serving the respondent department since 2012 till the date of his removal from service and has never given any chance of complaint to his high-up or to the General Community of the patients.
- c. That no complaint whatsoever has been filed throughout the service against the appellant and he has been serving his department upto his utmost skill and ability.
- d. That both the inquiries have been conducted before the issuance of the Show Cause Notice which is a great illegality on the part of the respondent department and which alone is sufficient for the success of the appeal of the appellant.

- 4
- e. That the appellant has been served with a single Show Cause Notice without serving upon him any other process of inquiry or any statement of allegations or any Second Show Cause Notice and he has been removed from the service in a simplicity manner without adopting the process and procedure as mentioned in the E&D Rules.
 - f. That once the appellant has been appointed at the of Junior Cardiology Technician and he has resumed his charge and has served on the said post for about 4 years, nobody has got any authority to challenge his appointment process or to may any objection on the appointment of the appellant.
 - g. That the appellant has been honest in his approach, he has never given concealed any fact from the respondents at the time of his appointment and the inquiry conducted in the year 2013 also favours the appellant and it has been held by the apex Court that once an appointment is made and there is no misconduct on the part of the candidate the appointing authority cannot withdraw its appointment under the Shadow of his appointment being illegal or unlawful.
 - h. That if there is any fault on the appointment it may be attributed to the respondents and there is no fault/misconduct under which the appellant could be punished without any fault at his part.
 - i. That the appellant has missed so many chances of service advertised in the different Newspapers during the course of employment while serving in the respondent department and in the meantime when he is going to become over age he has been removed from service without mentioning any cogent and plausible reason.


- 5
- j. That the appellant has not been given any chance of defense nor he has been personally heard and his case has been decided in a summary manner.
- k. That the removal from service order of the appellant is not legal nor lawful, hence the appellant is legally eligible/entitled to be reinstated back to his service with all his back benefits/emoluments.


It is, therefore, most humbly prayed that on acceptance of this Appeal the removal from service order of the appellant dated 09.05.2016 issued by respondent No.3 may please be set aside and the appellant may very graciously be reinstated back to his service with all his service benefits/emoluments.

Any other relief deemed fit and proper under the circumstances which has not been specifically asked for may also be granted to the appellant very graciously.


Appellant

Through:



(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber Bazar, Peshawar
Cell # 0300-5845943

And

(Mian Tajammal Shah)
Barrister, Peshawar.

Dated: 24/08.2016

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

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:
Service Appeal No. _____ / of 2016

Muhammad Iqbal son of Jalil Ur Rehman Appellant

VERSUS


Government of Khyber Pakhtunkhwa
through Secretary Health, Peshawar and others... ... Respondents

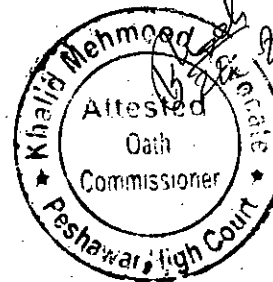
AFFIDAVIT

I, Muhammad Iqbal son of Jalil Ur Rehman, Ex. Junior Clinical Technician Cardiology (BPS-12) District Headquarter Hospital, Tank, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.


Deponent

IDENTIFIED BY:


(Ghulam Nabi Khan)
Advocate, Peshawar.



(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2016

IN RE:

Service Appeal No. _____ / of 2016

Muhammad Iqbal son of Jalil Ur Rehman ... Applicant

VERSUS

Government of Khyber Pakhtunkhwa
through Secretary Health, Peshawar and others... Respondents

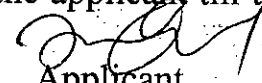
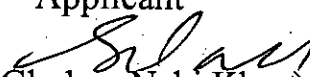
APPLICATION FOR THE GRANT OF INTERIM RELIEF.

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 got a reasonable case with every hope of its success and will be bearing irreparable losses if the Interim Relief is not granted.
3. That the grounds of the main Service Appeal form an integral part and parcel of this application and may be read as such.
3. That after the removal of the applicant from service the respondents have advertised the post of the appellant on 19.08.2016 and they are going to fill in the post of the applicant within a short space of time. (Copy of the advertisement dated 19.08.2016 is attached herewith as annexure 'J').

It is, therefore, humbly prayed that on acceptance of this application the respondents may please be directed not to fill up post of the applicant till the final disposal of the appeal.

Through:


Applicant

(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan

And


(Mian Tajamul Shah)
Barrister, Peshawar.

Dated: 24/08/2016

(8)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2016

IN RE:

Service Appeal No. _____ / of 2016

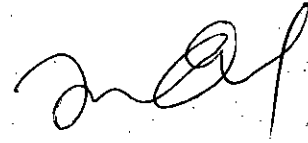
Muhammad Iqbal son of Jalil Ur Rehman Applicant

VERSUS

Government of Khyber Pakhtunkhwa
through Secretary Health, Peshawar and others... .. Respondents


AFFIDAVIT

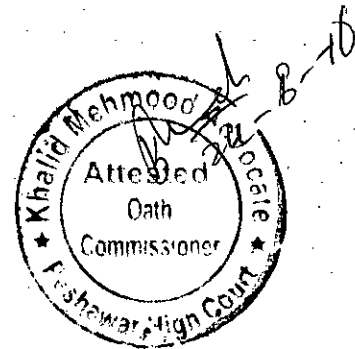
I, Muhammad Iqbal son of Jalil Ur Rehman, Ex. Junior Clinical Technician Cardiology (BPS-12) District Headquarter Hospital, Tank, do hereby solemnly affirm and declare that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.



Deponent

IDENTIFIED BY:


(Ghulam Nabi Khan)
Advocate, Peshawar.





OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH
DISTRICT TANK.

No: B

Dated: 16 / 07 / 2012.

First appointment
order
10

OFFICE ORDER.

Consequent upon the approval accorded by the District Selection Committee under the Chairmanship of the Executive District Officer Health Tank and with reference to the Interview held on 20-04-2012, and 28-05-2012 Mr. Muhammad Iqbal S/O Jalil Ur Rahman R/O Mohallah Michan Khel, District Tank is hereby appointed as JCT Cardiology against the vacant post at DHQR: Hospital Tank in BPS-09 Viz: @ Rs. 6200-380-17600 plus usual allowances as admissible under the rules and subject to revision time to time on the following terms and conditions according to the Government Policy:-

1. His appointment in the Health Department is purely on temporary Basis and his services are liable to be terminated at any time without giving notice or assigning irrespective of the facts that he may belong to a post other than one to which he is recruited.
2. He has to join duty at his own expenses in case he wishes to resign at any time one month notice will be essential or in lieu thereof one month pay shall be forfeited.
3. He will be governed by such rules and orders relating to leave, TA, Medical charges as may be issued by the Govt: from time to time for the category of Government Servant to which he may belong.
4. He will not entitle for pension or Gratuity as laid down policy of the Government of Khyber Pakhtoon Khawa Peshawar.
5. His appointment is subject to the condition that he will produce character certificate from the concerned District Police Officer as well as his Diploma Certificate shall be verified from the Khyber Pakhtunkhawa Medical Faculty Peshawar.
6. If He accepts the offer on the above conditions he is directed to report to the Medical Superintendent DHQR: Hospital Tank this office for further duty within fifteen (15) days of the receipt of this letter, failing which your services will be terminated.
7. The appointment will be subject to the production of Medical Fitness Certificate.


EXECUTIVE DISTRICT OFFICER
(HEALTH) TANK.

Cc: - 1540-44

1. Director General Health Services, Khyber Pakhtunkhawa, Peshawar
2. District Accounts Officer, Tank.
3. Medical Superintendent DHQR: Hospital Tank.
4. Account Clerk of this office.
5. Mr. Muhammad Iqbal S/O Jalil Ur Rahman R/O Mohallah Michan Khel, Tank.


EXECUTIVE DISTRICT OFFICER
(HEALTH) TANK.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 11-08-2015

Amens
C
upgradation of posts

(11)

NOTIFICATION

NO. SO(FR)FD/7-3/2015/Paramedics. The competent authority has been pleased to upgrade all the Paramedics Staff appointed under Khyber Pakhtunkhwa Civil Servants Act 1973, with immediate effect:

- I. All the incumbents Paramedics in BS-09 are upgraded to BS-12. In future the initial recruitment will be made in BS-12 instead of BS-09 and the Administrative Department shall immediately amend the service rules through SSRC accordingly.
- II. The incumbents presently serving in BS-12 & BS-14 are allowed 02 steps upgradation respectively with relaxation of condition of 10 years service in the same grade stipulated in the existing upgradation policy.
- III. The Paramedics presently serving in BS-16 and BS-17, having 05 years service in the respective pay scales, are allowed an allowance at the rate of fixation of pay in next grade.
- IV. The Administrative Department shall further streamline the service structure of BPS-16 and above through the mechanism of SSRC.
- V. Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.
- VI. This department notification bearing No. SO(FR)/FD/10-22/2015 dated 30-06-2015 will have no effect to the above employees.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

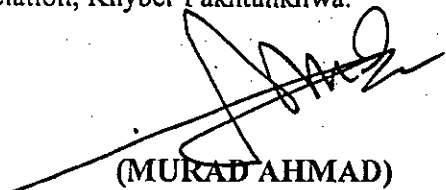
Endst No. & Date even.

Copy of the above is forwarded for information and necessary action to the: -

1. PS to Additional Chief Secretary, FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.

Handwritten signature

- 2
11. Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
 12. Registrar, Service Tribunal Khyber Pakhtunkhwa.
 13. Secretary to Govt; of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Ferozshahi and Quetta.
 14. The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I. Khan.
 15. The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir Lower.
 16. The Treasury Officer, Peshawar.
 17. All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
 18. PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
 19. PSO to Chief Secretary, Khyber Pakhtunkhwa.
 20. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
 21. PS to Finance Secretary.
 22. PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
 23. All Section Officers/Budget Officers in Finance Department.
 24. Mr. Siraj Burki, chairman, All Paramedics Association, Khyber Pakhtunkhwa, Peshawar.
 25. Mr. Johar Ali, President, Provincial Paramedical Association, Khyber Pakhtunkhwa.


(MURAD AHMAD)
SECTION OFFICER (FR)
(0919212635)

Amir
D
12
H

OFFICE OF THE MEDICAL SUPRINTENDENT DHQ HOSPITAL TANK

No 104 /

Dated 09/01/2016

SHOW CAUSE NOTICE

شوکار نوٹس

With reference to Director General Health Services, Khyber Pakhtunkhwa, Peshawar letter No. 12510-14/Per dated 14/12/15 & District Health Officer Tank Endst: letter No. 79-83 dated 7/1/2016

I, Medical Superintendent DHQH Tank, as competent authority, under the Khyber Pakhtunkhwa E&D Rules, 2011, do hereby serve you, Mr. Muhammad Iqbal JCT (Cardiology) DHQH Tank as follows:-

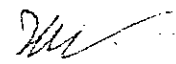
- 1) That consequent upon the completion of inquiry conducted against you by the Inquiry Committee.
- 2) That on going through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers before the said committee.

The competent authority is satisfied that:-

Proper criteria as required under the APT rules has not been fulfilled and the whole case of recruitments contains legal lacuna.

As a result thereof, you are, therefore, required to show cause as to why should not your services be terminated and also you are directed to submit your reply (in writing) within fifteen days of this show cause notice, in the normal course of circumstances, in case of non compliance, it shall be presumed that you have nothing to put in and in that case an exparte action will be taken against you.

The copies of the findings of the inquiry committee are enclosed.

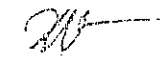

MEDICAL SUPRINTENDENT
DHQ HOSPITAL TANK

Dated 09/01/2016

No 105-106 /

Copy for information to the:-

- 1) Director General Health Services, Khyber Pakhtunkhwa, Peshawar w/r to his office letter No. 12510-14/Per dated 14/12/15
- 2) District Health Officer Tank w/r to his Endst: letter No. 79-83 dated 7/1/2016


MEDICAL SUPRINTENDENT
DHQ HOSPITAL TANK

(13)

Amm
NEK

To

The Medical Superintendent
DHQ Hospital Tank

Subject: REPLY OF SHOW CAUSE NOTICE

شو کاوز نوب

Respect Sir,

Incompliance with your show cause Notice bearing No. 77 Dated 09/01/2016, the answering official submits the following reply:-

1. That all the posts lying vacant were advertised in the news paper (Daily Mashriq Peshawar) dated 24/02/2012 for which the answering official alongwith other candidates applied where after selection committee for recruitments of various categories was constituted under the proper order of competent authority where after the Selection Committee on 12/07/2012 and finally after conducting test & Interviews of the suitable candidates, appointment order of the answering official was issued and where after the answering official submitted arrival / joining report after conducting Medical Test and other coddle formalities and the pay / salary was computerized.

2. That prior to the instant enquiry, another enquiry was conducted on the same facts and allegations in the year 2013 vide which the case of the answer official including the others were scrutinized where after report was submitted vide which all the appointments were declared as in accordance with law and rules. Copy of report is enclosed for kind perusal.

3. That it is unfortunate that pay/ salary of the answering official including other officials have been stopped by the then Medical Superintendent DHQ Tank against which the answering official including others have knocked the door of the Honourable Peshawar High Court DIKhan Bench by filling WP-No418-D/2015 and WP-No

DAIRY SUPERINTENDANT
DAIRY No. 135
Date: 23-01-2016

AMM

541-D/2015 which came up for hearing on 15/12/2015 and Honourable Division Bench of High Court has been pleased to dispose of the petitions on the commitment of MS DHQ Tank that the salaries of all the affectees will be released but it is very strange and funny that inspite of commitment before the Honourable High Court, salaries of the employees have not been released and further order of ~~show cause notice~~ ^{show cause notice} has been issued which is not only highly objectionable but is against the provisions of fundamental rights guaranteed under constitution of Islamic Republic of Pakistan and principle of Natural Justice as by now it is a settled principles of law that even the pay /salary of suspended employees/ officials can not be stopped what to talk about the employees who are performing their duties but this principle of law and fundamental rules have been violated in the case of the answering official.

4. That no doubt enquiry under the E&D Rules is conducted against the employees / officials provided such employee is at fault but in the case of the answering official, the answering official has neither committed any fault or misconduct but enquiry has been directed to be conducted against him and the enquiry officers / enquiry committee conducted the enquiry at the back and in the absence and without participation of answering official and no charge sheet and statement of allegations have been served upon the answering official and now show cause notice has been served to which reply has been sought from the answering official.
5. That it is respectfully submitted that there is no fault of the answering official being a low paid employee/ official who apprehends snatching of lost peace of morsel as a consequence of taking of adverse action of issuance of order of termination from service by the some hidden hands of the department, then such action /orders of termination from service would amount violation of law as laid down by the apex court of the country where in it has been held that if the appointment of

AW

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employees were presumed to be in violation of the Rules and Regulations and not on merits then instead of taking action against such employees, action must be taken against the appointment authority for committing a misconduct by making illegal appointment and no action is to be taken against the appointee as such appointees/ employees have / has acquired a right of serving the department and they have at no fault.

- 6. That the enquiry report submitted against the answering official is illegal, against rules and fundamental rights and against principles of natural justice and is thus liable to be ignored and to be struck down.

In view of the submissions made above, it is, therefore, humbly prayed that the show cause notice may please be withdrawn with out taking any further action in matter and further salary / pay of the answering official may please be released so as to meet the ends of justice and fair play.

The answering official may please be provided an opportunity of personal hearing also.

Dated: 23/01/2016

Your Obedient
Servant,



Muhammad Iqbal
JCT Cardiology
DHQ Hospital Tank
ID No# 80311281



OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEADQUARTERS HOSPITAL MARDAN
PH# 0937-9230145 FAX# 9230226

I, Dr. Abdul Rahim, Medical superintendent, DHQ Hospital Mardan, conducted enquiry against Dr. Muhammad Aslam Executive Health Officer, Tank vide director general Health services No.260-61/CC 2085/2013 dated 26.06.2013 (appointed as enquiry officer) After perusal of the following record and Allaying in with written statement of Dr. Aslam Baloch, I have the following observation to make:-

1. As per complaint that Dr. Muhammad Aslam Baloch, District Health Officer, Tank has made irregular purchase of medicine/1 during the year 2011-2012. After perusal of record of DHQ Office (Stock Register of medicine) that medicines purchased as per approved list of MCQs Peshawar and No.1 has been made during the year 2011-2012. Hence the complaint is _____ Annexure "A".
2. During the year 2011-2012 various post of different endres of Technical and Class-IV were created by the Finance Department Government of Khyber Pakhtunkhwa, Peshawar vide Notification No. BV-1/FD/4-46/2009-10/Vol-III dated 06.02.2012 (Copy of the sanctioned attached Annexure "B").
3. All these posts were properly advertised through Newspaper on 24th February 2012 & 9th April 2012 is Annexure "C".
4. A selection committee was constituted by the then District Co-ordination Officer, Tank for appointment of the above created posts vide No.1902/FP (Health) of 19.04.2012 (Copy attached herewith) Annexure "D".
5. In response to the advertisement many applications were received. List of the applications were prepared and submitted before the selection committee on the interview date (Copy attached) Annexure "E".
6. Minutes of the Selection Committee has already been prepared and duty signed by the all committee members for the appointment of all Technical/Class-IV posts (Copy attached annexure "F").
7. The appointments of all Technical posts were made on merit and no irregularity found. All Class-IV were parely appointed on merit although there is no such merit rules for induction of Class-IV employees. The appointment of Class-IV candidates only from the District Tank and no one selected from another District no disable persons were appointed Annexure "G").
8. After selection of Technical Staff the documents were sent to secretary medical faculty Peshawar for verification and some of the appointee were not verified by the faculty hence the appointment orders for those appointee, were withdrawn Annexure "H").
9. The appointment orders were properly issued under proper dispatch No. and issuing date from the office of the EDO (II) Tank, which is placed on file Annexure "I").
10. As regards the claiming of perks and privdges during the training period at PHSA, Peshawar his services were requisitioned by the DCO Tank vide letter No. 1678/PF (Health) dated 31.03.2012 addressed to the secretary Health K.P.K to help in the process of recruitment from my own experience (Enquiry Officer) the trainees service on the management posts retain control of their offices during the PHSA training periods Annexure "J").

In view of the above no proof of any irregularity has found against Dr.Muhammad Aslam Baloch District Health Officer, Tank, being an Enquiry officer the complaint is totally base baseless and wastage of the Government time, hence the application may be filed without further action.

(Dr.Abdur Rahim)
Medical
Superintendent
DHQ Hospital
Mardan.

Handwritten initials/signature at the top left.

Medical Superintendent
(Dr. Asim Baloch)

In view of the above, no part of any irregularity was found against Muhammad Asim Baloch, District Health Officer, Tank, being an Enquiry Officer the complaint is fully baseless and warrants of the Government may be filed without further action.

As regards the coming of perks and privileges during the tenure period at PISA, Peshawar, his services were reconditioned by the DCO, Tank vide letter No. 177/PF (Health) dated 21.03.2012 addressed to the Secretary, Health, K.P.K. to help in the process of recruitment. From my own experience (Enquiry Officer) the officers serving on number of years remain general of their officers during the PISA rejoining period. Annexure 'A'.

The appointment orders were properly issued under proper dispatch No. and issuing date from the office of the DCO (H) Tank, which is placed on file. Annexure 'B'.

After selection of technical staff, the documents were sent to Secretary, Federal Faculty Peshawar for verification and some of appointees were not verified by the Faculty, hence the appointment orders for those appointees, were withdrawn. Annexure 'C'.

one selected from another district. No disable persons were appointed. Annexure 'D'.
Class-IV were partly appointed on merit although there is no such merit rules for in favor of Class-IV appointees. The appointment of Class-IV candidates only from the District Tank and no

The appointments of all technical posts were made on merit and on irregular basis. All Class-IV were partly appointed on merit although there is no such merit rules for in favor of Class-IV appointees. The appointment of Class-IV candidates only from the District Tank and no one selected from another district. No disable persons were appointed. Annexure 'E'.

Minutes of the Selection Committee has already been prepared and duly signed by the all committee members for the appointment of all Technical/Class-IV posts (copy attached). Annexure 'F'.

In response to the advertisement, many applications were received. List of the appointments were prepared and admitted before the selection committee on the interview date (copy attached). Annexure 'G'.

A selection committee was constituted by the then District Co-ordination Officer, Tank for appointment of the above created posts vide No. 1907/PF (Health) of 19.04.2012 (copy attached here with). Annexure 'H'.

All these posts were properly advertised through Newspaper on 29th February, 2012 & on April, 2012. Annexure 'I'.

During the year 2011-2012 various posts of different grades of Technical staff (Class-IV were created by the Finance Department, Government of Khyber Pakhtoon Khwa, Peshawar vide Notification No. DVI/PF/D-4/6/2609-10/Vol-III dated 06/02/2012 (copy of the sanctioned attached). Annexure 'J'.

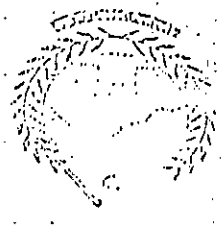
As per complaint that Dr. Muhammad Asim Baloch, District Health Officer, Tank has made irregular purchase of Medical/FP during the year, 2011-2012. After perusal of record of DHC Office (Stock Register of medicines) that medicines purchased on per approved list of DHC, Peshawar and no LRP has been made during the year, 2011-2012. Hence the complaint is baseless. Annexure 'K'.

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As per complaint that Dr. Muhammad Asim Baloch, District Health Officer, Tank has made irregular purchase of Medical/FP during the year, 2011-2012. After perusal of record of DHC Office (Stock Register of medicines) that medicines purchased on per approved list of DHC, Peshawar and no LRP has been made during the year, 2011-2012. Hence the complaint is baseless. Annexure 'M'.

Handwritten number '16' in a circle.

DISTRICT HEADQUARTERS HOSPITAL MARDAN
PH # 0937-9250145 Fax # 9230226



Handwritten signatures and dates at the bottom of the page.

ENQUIRY REPORT

2nd Enquiry Report

Today on 25/11/2015 we the under signed moved to DHQ Tank to comply with the order of DGHS No.11705-11 dated: 16-11-2015. The committee comprised of

1. Dr.Nazir Ahmad MS DHQTH Bannu.
2. Dr.Daraz Khan DDHO Bannu.

The officers/officials were already informed vide this office letter No. 5416/- Dated: 18/11/15 sitting M.S DHQ Dr.Zafar Ali Shah and Ex MS Dr.Aslam Sherani were present along with another Ex MS Dr.Umar Shah. Dr. TAHIR JAVED sitting DHO Came later on. The then DHO Dr.Aslam Baloch could not attend the proceedings however he remained on line with the enquiry committee.

Procedure Adopted:

The following procedure was adopted.

1. Going through record
2. Record statement.
3. Checking the attendance registered
4. Visit of the Hospital.

1. Recording checking.

i.	Post Sanctioned in the SNE	Anexure
ii.	NOC from the office of the District Health officer Tank.	Anx-1
iii.	Guideline regarding adjustment of surplus staff.	Anx-2
iv.	Adjustment of Surplus Staff.	Anx-3
v.	Adjustment of Surplus Staff/Explanation.	Anx-4
vi.	Guide line regarding pay of Newly appointed employee/ Paramedics.	Anx-5
vii.	Attendance sheet for the Selection Committee	Anx-6
viii.	Office order from Executive District Officer Health Tank	Anx-7
ix.	Adjustment of Staff from the Surplus Pools.	Anx-8
x.	Office Order from DCO Tank.	Anx-9
xi.	Advertisement in daily mashirq for the vacant posts	Anx-10
xii.	DHQ Tank 6 months Indoor Patient Record	Anx-11
xiii.	Guid line regarding the pay of newly appointed employees/paramedic from MS DHQ Hospital Tank	Anx-12
		Anx-13

2. Recording Statement.

1. Written statement of the record keeper

Anx-A

3. Checking of Attendance Register.

All The record showed that the staff is marking them present in the register.

4- Visit of Hospital:

After visit all the instructions were issued.


Findings regarding TORS:-

2. The Surplus pool staff was not absorbed on the cadre posts but were placed against charge nurses posts and were drawing pay till the stoppage of pay.
3. The salaries of all the staff has been stopped whether working on cadre post or ex cadre posts which was not justified..
4. The order of finance department regarding drawl of salaries against charge nurses posts may need further clarification.
5. The court decision of Peshawar High Court DI Khan Bench is attached with Enquiry file where a relief has been given to the staff whose Services are intact may be given the relief of release of pay. The committee noticed that the staff whether on cadre or ex cadre posts have marked their attendances for the period when their pays are stopped. So they are physically present and delivering their services.

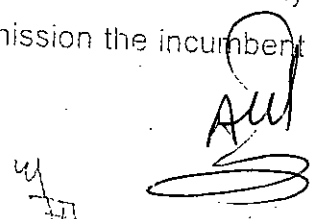
RECOMMENDATIONS:-

Since the matter is a sub judicèd case with a decision of temporary relief of release of salaries of the intact staff so the committee is of the opinion that

1. The salaries of the staff who are working on the cadre posts may be released in light of the court decision on their risk.
2. The services of the staff who are absorbed on ex cadre posts their salaries cannot be released as there are no posts for their absorption.
3. The pleading officer may defend the case in the court with the plea of non availability of posts hence no salary.
4. The employees of the surplus pool who have not been absorbed on cadre posts may either be kept on waiting list or may be returned to the pool.
5. The other staff who are not on cadre posts may be kept on a waiting list and may be absorbed on any post which falls vacant in the whole District. Their positions may be kept held in abeyance.
6. The record keeping of the DHO office may be streamlined because there is a greater complexity and ambiguity in the available record.
7. The staff on cadre posts whose salaries if released, they may be directed to fill an affidavit or stamp paper to perform their duties according to their job description and to the satisfaction of the controlling officers.
8. The monitoring team of IMU may be enquired about this situation, wether they have taken any notice of this issue or otherwise.
9. The posts of Charge Nurses may not be filled up by other cadre staff as there are guazetted posts and come under domain of the DGHS because in case any recruitment is done on adhoc policy or by Public Service Commission the incumbent sent to DHQ Tank may not suffer.


Dr. Nazir Ahmad

Medical Superintendent DHO Tank


Dr. Daraz Khan

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<p>TOR-3</p> <p>Whether the employees detailed by the DCO Tank from Surplus pool, were absorbed on Cadre posts as per surplus pool policy or otherwise.</p>	<p>I. The employees detailed by DCO were not absorbed on the cadre posts. They were absorbed against posts of charge nurses, they were 6 in number.</p> <p>II. A letter was produced which was about the absorption of surplus pool staff on the posts of Charge Nurses, Astonishing, this letter was addressed from Finance Department to DHO directly bypassing the Health Secretary which is not the usual way of communication. It may need further Probing in Finance Department.</p>
<p>TOR-4</p> <p>How many employees were recruited over and above the sanctioned strength?</p>	<p>I. NOC from DCO for recruitment of all categories/Staff not taken as per record.</p> <p>II. The initials on appointment orders were denied by the available clerical staff.</p> <p>III. No letter was found which may show the requisition for DG representative for recruitment of staff on the interview date.</p> <p>IV. The DAO office showed source proformas which were signed by MS during 2012. Another MS during 2013 and by DHO for few staff members.</p> <p>V. No staff was adjusted against any post which fell vacant from 5/2012 till date as per record.</p> <p>VI. In letter no.1968-71 dated: 22-04-2013 the than DHO has replied to a letter of MS DHQ Tank that he was a competent authority to appoint any candidate on Ex-cadre post and he is responsible for that (copy attached)</p>

The following General issues were also taken into consideration.

1. The huge no of sweepers were only marking themselves present but not working which was brought into the notice of sitting MS and he was advised to monitor their services according to job description.
2. Progress report of the hospital was taken per 6 months which was advised to be improved.

CONCLUSION:

1. As the final merit list of recruitment of all categories of staff was not available so the committee is not in a position to determine the transparency of the process of recruitment.

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TOR-1

Whether all the codal formalities viz: advertisement in press holding meeting of the Departmental Selection committee by including representative of Administration Department/DGHS Khyber Pakhtunkhwa, preparing of merit list as required under the APT Rules 1989, were completed

The codal formalities were partially completed like,

1. Advertisement in Daily Mashriq was floated.
2. The meeting of Departmental Selection Committee was deficiently followed like non inclusion of representative of DGH in Technical post selection.
3. The Final Merit list was not produced to the enquiry committee.
4. Since merit list was not available so the signatures of the members of selection committee could not be assessed.

TOR-2

Whether the vacancies were filled through Selection/recruitment of relevant categories. If not how they were allowed salaries against ex-cadre posts.

- I. Few posts were filled through selection of the relevant categories.
- II. More than half of the candidates were recruited against ex-cadre posts.
- III. Salaries were started in January, 2013 by the MS Aslam sherani along with arrears for the period from 13-05-2012 to January 2015.
- IV. DAO record showed that few of the staff had their source signed by Dr. Aslam Baloch who was not the DDO, few of them had source got signed by Dr. Umar Shah. Majority had the source signed Dr. Aslam Sherani. It was evident that the pays of staff were not drawn on the same dates but were drawn at various dates due to unknown reason.
- V. Pays started after letter of FD.No.FMIU/FD/4-1/2012/Surplus Pool dated: 27-07-2012.

Aslam

21
Amir
OFFICE OF THE MEDICAL SUPRINTENDENT DHQ HOSPITAL TANK

No:


Termination order

Dated 09/05/2016

OFFICE ORDER

- 11 HV
- (1) Whereas you, Mr. Muhammad Iqbal JCT (Cardiology) DHQ Hospital Tank were proceeded for having following gross irregularities in your appointment as proper criteria as required under the APT Rules has not been fulfilled and whole case of recruitments contains legal lacuna.
 - (2) Whereas inquiry has been conducted against your appointment on the Direction of worthy Director General Health Services vide Order No. 11705-11 dated 16-11-2015.
 - (3) Whereas Show-cause Notice served upon you through letter No. 104 dated 09-01-2016.
 - (4) Whereas you failed to produce any documentary proof (i.e. original merit list etc)
 - (5) Whereas you were given the chance of Personal Hearing on 17-02-2016 vide office order No 384 dated 29-01-2016, but the undersigned being competent authority is not satisfied from your reply.

Now therefore, the competent authority in exercise of the power conferred upon me, under Khyber Pakhtunkhwa Efficiency and Discipline rules 2011, You Mr. Muhammad Iqbal JCT (Cardiology) DHQ Hospital Tank are hereby removed from services, w.e.f. 01-05-2016.

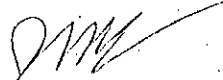

**MEDICAL SUPRINTENDENT
DHQ HOSPITAL TANK**

Dated 09/05/2016

No: 2317-21

Copy to:-

- (1) Director General Health Services, Khyber Pakhtunkhwar Peshawar, w/r to his office letter No. 3390-91/Personnel/DHO Tank dated 04-05-2016.
- (2) District Health Officer Tank
- (3) District Account Officer, Tank
- (4) Mr. Muhammad Iqbal JCT (Cardiology) DHQ Hospital Tank
- (5) Accountant DHQH Tank to stop the pay of official concerned.


**MEDICAL SUPRINTENDENT
DHQ HOSPITAL TANK**


Aul
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To

The Director General,
Health Services,
Khyber Pakhtunkhwa,
Peshawar.

Amir
22
Departmental
appeal.

D No. 13849 E/1
16/5/16
22

SUBJECT:- APPEAL AGAINST THE PENALTY OF REMOVAL FROM SERICE IMPOSED VIDE ORDER NO.2317-21 DATED 9.5.2016

Dear Sir,

With due respect it is stated that the post of JCT (Cardiology BPS-09) in DHQ Hospital Tank by the DHO Tank in the year 2012. (Copy of advertisement is enclosed). I, Muhammad Iqbal domicile of District Tank also applied for the post. Being qualified the post I was selected for appointment after due process in accordance with law. After appointment as JCT (Cardiology BPS-09), the appellant was promoted to BPS-12 in August 2015. I was performing my duties with great zeal, devotion and to the entire satisfaction of my superiors. However at one, the Medical Superintendent DHQ Hospital Tank, served me with a show cause notice that on completion of enquiry conducted against me, proper criteria as required under APT rules has not been fulfilled and the whole case of recruitment contains legal lacuna therefore tentative penalty of termination of service was suggested. (copy enclosed).


Now I have been awarded the penalty of Removal from service vide order No.2317-21 dated 9.5.2016 (copy enclosed).

It is humbly submitted that:-

- i) I was pointed as JCT Cardiology (BPS-09) in DHQ Tank after due process in accordance with law.
- ii) The JCT Cardiology has been promoted /upgraded from BPS-09 to BPS-12 in August 2015.
- iii) That no formal enquiry has been conducted against me.
- iv) No charge sheet/statement of allegations has been served upon me as required under E&E Rules 2011.
- v) No statement has been recorded by any forum/authority before imposition of penalty.
- vi) The MS DHQ tank is not competent to impose the impugned penalty upon a govt. servant having BPS-12.
- vii) The order has been issued in violation of Constitution of Islamic Republic of Pakistan and against the prevailing law.
- viii) I have been condemned unheard.
- ix) Show cause notice provide penalty of termination whereas final order provides penalty of Removal from service.

In view of the above it is requested that the penalty of removal from service imposed upon my may kindly be set aside.

Yours faithfully,


(MUHAMMAD IQBAL)

JCT (Cardiology) BPS-09

DHQ Hospital, Tank.

rel

19/6/88

Advertisement of posts

Advertisement of posts

23

آسامیاں خالی ہیں

ضلعی ہیڈ کوارٹر ہسپتال ٹانک میں درج ذیل آسامیاں خالی ہیں۔ ضلع ٹانک کے امیدواروں کو ترجیح دی جائے گی۔ ضلع میں سوزوں امیدواروں ہونے کی صورت میں دوسرے اضلاع سے امیدوار مہرتی کئے جاسکتے ہیں۔

نمبر شمار	نام آسامی	تعلیمی قابلیت	عمر کی حد
1	کلینکل ٹیکنیشن پیمالوجی B-12	میٹرک بمقام تعلیقہ فیلڈ میں میڈیکل ٹیکسی KPK سے 2 سالہ ڈپلومہ	30 سال
2	زبانہ کلینکل ٹیکنیشن پیمالوجی B-12	میٹرک بمقام تعلیقہ فیلڈ میں میڈیکل ٹیکسی KPK سے 2 سالہ ڈپلومہ	30 سال
3	زبانہ کلینکل ٹیکنیشن ریڈیالوجی B-12	میٹرک بمقام تعلیقہ فیلڈ میں میڈیکل ٹیکسی KPK سے 2 سالہ ڈپلومہ	30 سال
4	کلینکل ٹیکنیشن فزیوتھراپی B-12	میٹرک بمقام تعلیقہ فیلڈ میں میڈیکل ٹیکسی KPK سے 2 سالہ ڈپلومہ	30 سال
5	کلینکل ٹیکنیشن کارڈیالوجی B-12	میٹرک بمقام تعلیقہ فیلڈ میں میڈیکل ٹیکسی KPK سے 2 سالہ ڈپلومہ	30 سال

شرائط: درخواستیں سادہ ساڈہ کاغذ پر بمقام تمام تعلیمی ایسڈ اور تومی شناختی کارڈ کی کاپی اشتہار کی اشاعت کے 15 دن کے اندر دفتر پوزیشن جانی جائیں۔ دیر سے موصول ہونے والی درخواستیں زیر غور نہیں لائی جائیں گی۔ سرکاری ملازمین اپنے حکمانہ توسط سے درخواستیں ارسال کریں۔ صرف شارٹ لسٹ امیدواروں کو انٹرویو کیلئے بلایا جائے گا۔ ٹیسٹ رائٹرز کو کیلئے کوئی ٹی اے ڈی اے نہیں دیا جائے گا۔ آسامیوں کی تعداد میں کمی رہتی ہو سکتی ہے۔ میڈیکل ٹیکسی خیر بخونخواہ اور کے علاوہ کسی بھی ادارے سے ڈپلومہ ہونے کی صورت میں میڈیکل ٹیکسی خیر بخونخواہ اور کے ساتھ رجسٹریشن ہونا لازمی ہے۔

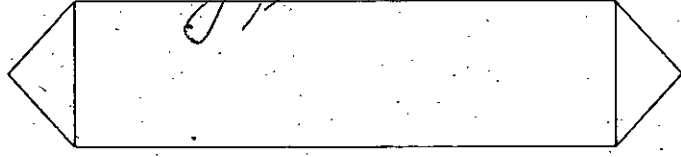
ڈاکٹر محمد خان آفریدی میڈیکل سپرنٹنڈنٹ ضلعی ہیڈ کوارٹر ہسپتال ٹانک

INF(P) 4383 Also available on www.khyberpakhtunkhwa.gov.pk

KHYBER PAKHTUNKHWA IRRIGATION DEPARTMENT

Handwritten signature

بعدالت موصوف پیروی



مورخہ
مقدمہ
دعویٰ
جرم

2015ء پنجاب
محمد افسان

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کیلئے مقررہ 2015ء میں سہ ماہی کے ساتھ اس کے
مقرر 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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرایں 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 مختار 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 ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

محمد افسان

Accept
محمد افسان

Accept
Mansoor

المرقوم 2015ء

العواہ العواہ کے لئے منظور ہے۔

Appeal No. 860/2016

MR. MUHAMMAD IQBAL

(Appellant)

Versus:-

Government of Khyber Pakhtunkhwa through Secretary, Health and others

(Respondents)

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENT NO.1, 3,4 & 6

PRELIMINARY OBJECTIONS.

- That the appeal is not maintainable and incompetent in the eyes of Law in the present form.
- That the appellant is estopped due to his own conduct to file this appeal.
- That the appellant has got no cause of action and locus standee to file instant appeal.
- That the appellant has not come to the Tribunal with clean hands and has suppressed all relevant facts.
- That the appeal is bad for misjoinder/non-joinder of necessary parties.
- That the appeal is badly time barred and the appellant has concealed the material facts from Honourable Tribunal.
- That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
- That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present form and context, and is liable for Rejection.
- That the appeal is weak having no force, fabricated, fictitious, based on ill will, mollified and having no footings in the eyes of law.
- That proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this Honourable Tribunal.

RESPECTFULLY SHEWETH

1. The Para No. 1 is correct.
2. Eligibility of the applicant need verification from the Concerned Medical Faculty.
3. Para No. 3 is correct to the extent that Govt. upgraded all the paramedics from BPS-09 to BPS-12.
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11. Para No. 11 is relates to the jurisdiction to the Hon'ble Service Tribunal KPK, which is legally correct. However detail reply on the grounds are as under:-

REPLY ON GROUNDS

- a. Para (a) is incorrect and appellant was legally terminated from his service, and he was illegally appointed by the then DHO (Dr. Aslam Baloch) now retired.
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- j. It is incorrect, all the codal formalities were fulfilled, he has been given the chance of personal hearing. (Annex-1) is attached as a proof.
- k. It is incorrect and appellant was legally terminated.

PRAYER:

It is therefore, most humbly prayed that on acceptance of this para-wise comments, the appeal of the appellant may kindly be dismissed with cost.


MEDICAL SUPERINTENDENT

DHQ HOSPITAL TANK

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL TANK

No. 1705/1

Dated 30/2/2014

To

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar

Subject: EXCESS DRAWAL OF POSTS BEYOND SANCTION STRENGTH

R/Sir,

It is submitted for your kind information that District Accounts officer Tank issued the subject captioned above letter address to MS DHQ Hospital Tank and copy of which is forwarded to your good honour vide his office letter No. DAO/TK/Admn/2685-86 dated 24/09/2014. (Copy attached for ready reference).

In this regard it is stated that total 32 employees are working over and above the strength, out of which 5 numbers employees of surplus pool were adjusted without availability of sanctioned posts, while remaining 27 appointments were made by the Ex-EDO (Health), beyond the sanctioned posts.

It is therefore, requested to initiate a fact finding enquiry, so as to proceed further into the matter.


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

No. 1706-09/

Dated 30/2/2014

Copy to the:-

- I. PS to Secretary Health for information and correct solvency of matter to avoid the future complications.
- II. Commissioner D.I.Khan Division D.I.Khan for information please.
- III. Deputy Commissioner Tank for information please.
- IV. District Health Officer Tank


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK



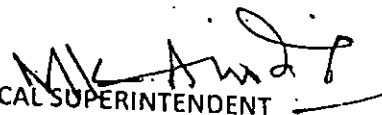
OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL TANK

No _____

Dated ____/____/2016

CORIGENDUM

In partial modification of this office orders bearing No. 2237 to 2446, para-6 & 4 (Whereas, you failed to produce any documentary proof i.e. original merit list etc) of these orders, may please be considered as "omitted" because it was mentioned due to clerical mistake.



MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

No 2512-TS/

Dated 23/05/2016

Copy to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Health Officer Tank
3. District Accounts Officer Tank
4. All Concerned


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

[Handwritten signature]

*Mr. Khan
Khan account # 2 on 1st part
of the account
immediately
The Khan account # 2 on 1st part
of the account
immediately*

*20.08.19
District Accounts Officer
Tank*

Copy forwarded for information to:
The D.O Health Rhyber Pakhtunkhwa Peshawar

You are requested to depute a well-competent representative of your office for registration
purpose with this office.

S.No.	NAME OF OFFICE	OF COST CENTRE	TR-7006	SANCTIONED STRENGTH	17	DRAWAL OF POSTS	119
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It is brought to your kind notice that following excess drawal of Non Gazetted posts reported
and strength has been made during 8/2014

SUBJECT-EXCESS DRAWAL OF POSTS BY (T.M. SANCTION STRENGTH)

The Relief Superintendent
Tank

Date 20/8/19
20/8/19

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 860 /2016

Mohammad Iqbal **VERSUS** Govt; of K.P.K etc

REJOINDER ON BEHALF OF APPELLANT
AGAINST THE COMMENTS / REPLY OF
THE RESPONDENTS NO. 1, 3, 4 TO 6.

Respectfully Sheweth:-

Appellant submits rejoinder as under:-

On Preliminary Objections:-

- A.** That the answering respondents have not explained that how the appeal is not maintainable and how is incompetent. Moreover the appellant being aggrieved from the illegal order of removal from services. Hence, para is misconceived and denied.
- B.** That the answering respondents have not explained that how the appellant has been stopped by his own conduct. Hence, this para is mis-formulated over.
- C.** That the appellant is being civil servant and aggrieved from the removal order. Hence having cause of action and locus standi para is denied.
- D.** This para is incorrect. Hence denied.

- E.** The answering respondents have not give any other, which have omitted or added. Hence their para is denied.
- F.** The appeal is well within time. Hence this Para is denied.
- G.** The answering respondents have not explained that how this Honourable Tribunal has not got jurisdiction. Hence, this para is denied.
- H.** That this Para is misconceived and denied. Actually the removal order of appellant is mis-oriented, mis-constructed and mistakenly drawn by the answering respondents which is liable to set aside.
- I.** That Para No. 9 is denied. Actually the impugned order is weak having no force, fabricated, factitious, based on ill will, malafide and having no footings in the eyes of law.
- J.** Para No. 10 is misconceived and denied. Actually no proceeding whatsoever has been done by the respondents authority while passing the impugned illegal order and thus through futile exercise of action the appellant has been harassed and made scapegoat without any justification and reasons.

ON FACTS:

- 1.** Para No. 1 needs no reply as declared correct.
- 2.** That the respondent authority already verified the eligibility of the appellant from the concerned medical faculty, where in the appellant has been declared eligible, successful and fit during initial stages of appointment.
- 3.** Para No. 3 needs no reply.
- 4.** Para No. 4 is denied. Moreover, the appellant never involved in strike. Hence this para mis-formulated.

5. Para No. 5 of the reply of the answering respondent is incorrect. The appellant cannot be made scapegoat through double jeopardy by inquiry again and again through same subject mater. As in the light of judgments of superior Court and prevailing service laws and Esta Code one cannot be involved in a dual inquiry / trial as envisaged in fair trial and warranted in 10(A) of Constitution of Islamic Republic of Pakistan, 1973. Hence, this para is mis-formulated.
6. Para No. 6 needs no reply.
7. Para No. 7 of the answering respondent is incorrect and denied. The appellant has been appointed against the vacant sanctioned post and performed their duties with full satisfaction of superiors since from 16/07/2012. Hence this para is misconceived.
8. Para No. 8 of the answering respondent needs no reply. Actually the show cause notice on behalf of respondents authority was baseless and manipulated. Thus the question of non-satisfaction not arises. Hence this Para is denied in above terms.
9. Para No. 9 is denied. The appellant was illegally terminated without adopting the procedure and service rules.
10. That the respondent authority has not shown the rejection order of Departmental appeal. Hence this Para is denied in above terms.
11. Needs no reply.

ON GROUNDS:-

- A. Para No. 1 is misconceived. The appellant has been appointed after all codal formalities. Moreover, as per verdict of superior Courts the

beneficiary of illegal appointment (not admitted in the instant case because the appointment order of the appellant is accordance to law and as per service rules after adopting all codal formalities) cannot be blamed alone because primarily the authority who had actually wrongfully exercised its powers for the reasons known to it, was bound to be held responsible for the same. Instead of penalizing such employees like Junior Clerk etc. who had to earn livelihood to support their families and if after having served for a long period they were removed from service discriminately, such action would give rise to a number of problems.

B. Para No. 2 is misconceived. Moreover, as per verdict of superior Courts the beneficiary of illegal appointment (not admitted in the instant case because the appointment order of the appellant is accordance to law and as per service rules after adopting all codal formalities) cannot be blamed alone because primarily the authority who had actually wrongfully exercised its powers for the reasons known to it, was bound to be held responsible for the same. Instead of penalizing such employees like Junior Clerk etc. who had to earn livelihood to support their families and if after having served for a long period they were removed from service discriminately, such action would give rise to a number of problems.

C. The appellant has never involved in any illegal activities and strikes etc. Thus this Para is squarely denied.

D. The para of the answering respondents is denied. However, appellant retrieve his para of appeal.

E. The Para E of the answering respondents is wrong and denied. No codal formalities have been done fulfilled by the respondent authorities before issuing the illegal

termination order. However appellant retrieve his para of appeal.

F. Para No. F of the answering respondent is denied. The appellant has been legally appointed after all codal formalities against the vacant sanctioned post as the appellant being eligible, fit and successful for the said post. Hence this Para is mis-formulated.

G. The Para G of the answering respondents is squarely denied. Moreover the answering respondents has not explained that what illegality has been done by on behalf of the appellant.

H. Para No. H is denied. However appellant retrieve his para of appeal.


I. Para No. I is wrong.

J. Para No. J is wrong not admitted. No codal formalities has been initiated while passing the impugned order. Moreover the appellant has been discriminated as their colleagues namely Zohaib Shah S/o Pir Liaqat Ali Shah (Appointed as Radiology Technician BPS-9 vide Office order 159-94 dated 16/07/2012) and Siraj Khan S/o Wali Mohammad Junior Clinical Technician (JCT) Pharmacy BPS-12 is presently serving in the Health Department. This sole ground is sufficient for reinstatement of appellant.


K. Para No. K is incorrect. The appellant retrieve his of appeal.

It is therefore, humbly prayed that the Appeal may kindly be accepted as prayed for.

Your Humble Appellant

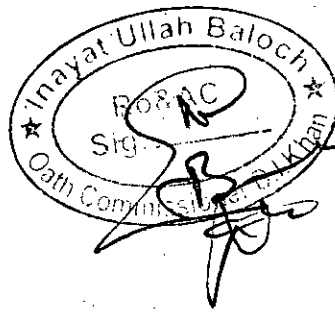

Mohammad Iqbal
(JCT, Cardiology
DHQ, Tank)
S/o Jalil Ur Rehman

Dated: 26/07/2017


Sheikh Iftikhar Ul Haq
Advocate High Court
Dera Ismail Khan

AFFIDAVIT

I, **Mohammad Iqbal**, the appellant, do hereby solemnly affirm declared on oath that contents of the above rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal Court.




DEPONENT

وکالت نامہ

قیمت ایک روپیہ

کورٹ فیس

Before K.P.K S. T Pan, D.I. Khan Court
بعدالت جناب

Appellant

منجانب

M. Jermal

کام انتہائی

Services Appeal

دعویٰ یا جرم

تفصیل دعویٰ یا جرم

D.I. Khan

باعث تحریر آنکہ

TANK. مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام

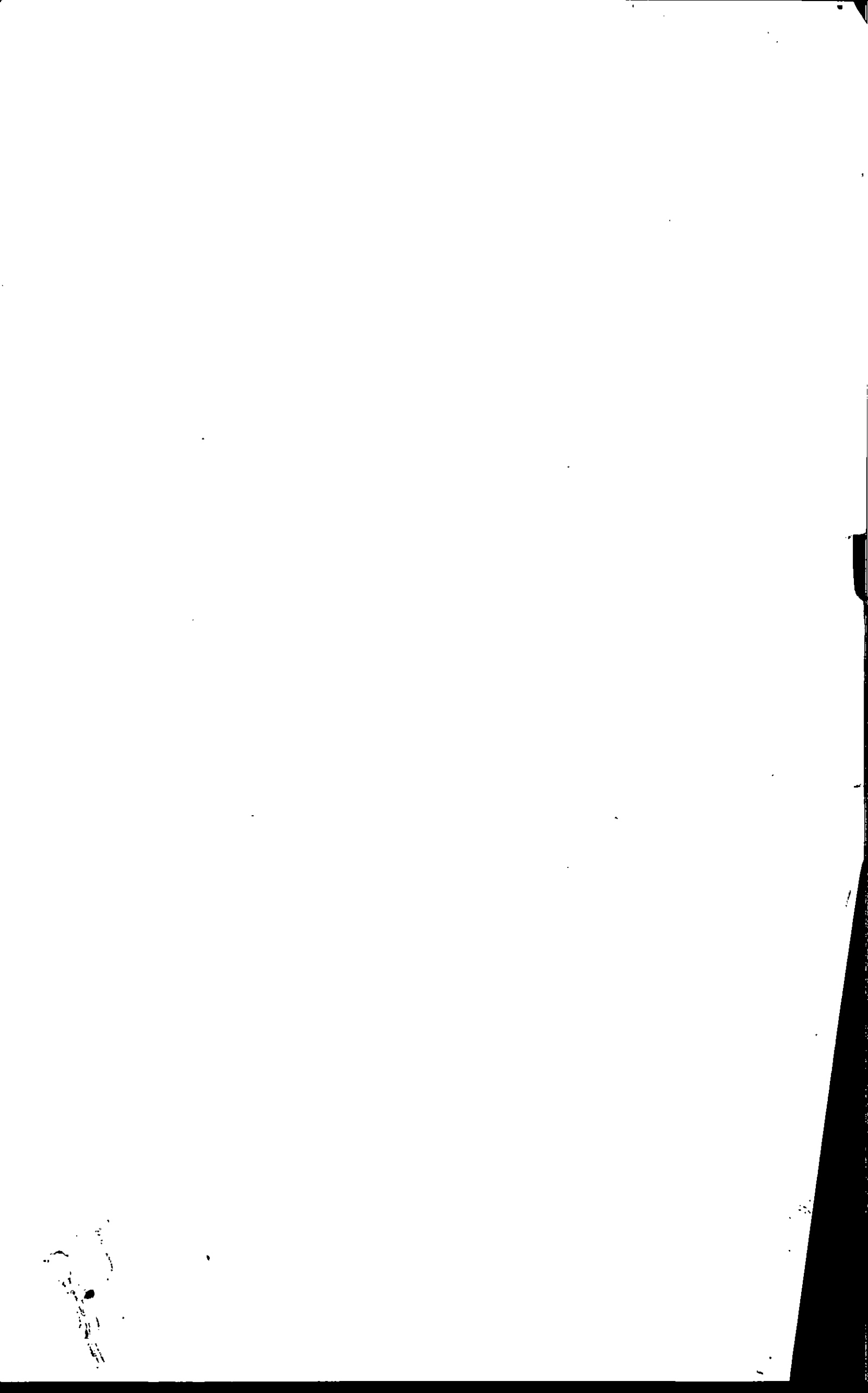
Sh: Jhalan ulley Advocate High Court

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے۔ کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوں۔ اور مقدمہ بیروی غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا کھتانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، یا جواب دعویٰ یا درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کا روپیہ وصول کرے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا، اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پکھری صدر بیروی مقدمہ مذکورہ نظر ثانی و اپیل و نگرانی و برآمدگی مقدمہ یا منسوخی ڈگری یکطرف یا درخواست حکم اتحالی یا ترقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادا بھی علیحدہ کھتانہ بیروی کا اختیار ہوگا۔ اور تمام ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا۔ کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا بیروٹ کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے۔ جیسے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التوا پڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیروی نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سندر ہے۔
مورخہ 20 ماہ 3 2017ء

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted
Acceptor
Sh: Jhalan ulley
25
محمد اقبال وکیل حاضری
0300-9696336



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 860/2016

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MEDICAL SUPERINTENDENT

DHQ HOSPITAL TANK

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL TANK

No 1705

Dated 30/2/2014

To

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar

Subject: EXCESS DRAWAL OF POSTS BEYOND SANCTION STRENGTH

R/Sir,

It is submitted for your kind information that District Accounts officer Tank issued the subject captioned above letter address to MS DHQ Hospital Tank and copy of which is forwarded to your good honour vide his office letter No. DAO/TK/Admn/2685-86 dated 24/09/2014. (Copy attached for ready reference).

In this regard it is stated that total 32 employees are working over and above the strength, out of which 5 numbers employees of surplus pool were adjusted without availability of sanctioned posts, while remaining 27 appointments were made by the Ex+EDO (Health), beyond the sanctioned posts.

It is therefore, requested to initiate a fact finding enquiry, so as to proceed further into the matter.


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

No 1706-09

Dated 30/2/2014

Copy to the:-

- I. PS to Secretary Health for information and correct solvency of matter to avoid the future complications.
- II. Commissioner D.I.Khan Division D.I.Khan for information please.
- III. Deputy Commissioner Tank for information please.
- IV. District Health Officer Tank.


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK



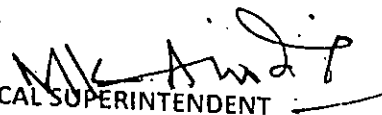
OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL TANK

No _____

Dated ___/___/2016

CORIGENDUM

In partial modification of this office orders bearing No. 2237 to 2446, para-6 & 4 (Whereas, you failed to produce any documentary proof i.e. original merit list etc) of these orders, may please be considered as "omitted" because it was mentioned due to clerical mistake.

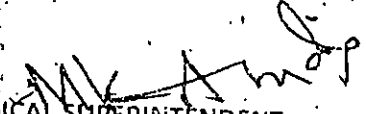

MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

Dated 23/05/2016

No 2512-151

Copy to the:-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
2. District Health Officer Tank
3. District Accounts Officer Tank
4. All Concerned


MEDICAL SUPERINTENDENT
DHQ HOSPITAL TANK

[Handwritten signature]

*Mr. Nandan K. Bhowmik
District Accounts Officer
Tank*

*Mr. A. Tank
District Accounts Officer
Tank*

*Copies forwarded for information for
The D.G. Health & Family Welfare
Peshawar*

*You are requested to depute a well-qualified representative of your office for estimation
purpose with this office.*

S.No.	Name of Office	Cost	Centre	TR-7006	SAVED/STRENGTH	DRAWAL OF POSTS	OF ENCL.
1					17	118	33

*It is brought to your kind notice that following excess drawal of Non Gazetted posts reported
amounted strength has been made during 8/2014*

SUBJECT-EXCESS DRAWAL OF POSTS BEYOND SANCTION STRENGTH

*The Medical Superintendent
Tank*

Date 20/11/91

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

Service Appeal No. 860 /2016

Mohammad Iqbal **VERSUS** Govt; of K.P.K etc

**REJOINDER ON BEHALF OF APPELLANT
AGAINST THE COMMENTS / REPLY OF
THE RESPONDENTS NO. 1, 3, 4 TO 6.**

Respectfully Sheweth:-

Appellant submits rejoinder as under:-

On Preliminary Objections:-

- A.** That the answering respondents have not explained that how the appeal is not maintainable and how is incompetent. Moreover the appellant being aggrieved from the illegal order of removal from services. Hence, para is misconceived and denied.
- B.** That the answering respondents have not explained that how the appellant has been stopped by his own conduct. Hence, this para is mis-formulated over.
- C.** That the appellant is being civil servant and aggrieved from the removal order. Hence having cause of action and locus standi para is denied.
- D.** This para is incorrect. Hence denied.

- E. The answering respondents have not give any other, which have omitted or added. Hence their para is denied.
- F. The appeal is well within time. Hence this Para is denied.
- G. The answering respondents have not explained that how this Honourable Tribunal has not got jurisdiction. Hence, this para is denied.
- H. That this Para is misconceived and denied. Actually the removal order of appellant is mis-oriented, mis-constructed and mistakenly drawn by the answering respondents which is liable to set aside.
- I. That Para No. 9 is denied. Actually the impugned order is weak having no force, fabricated, factitious, based on ill will, malafide and having no footings in the eyes of law.
- J. Para No. 10 is misconceived and denied. Actually no proceeding whatsoever has been done by the respondents authority while passing the impugned illegal order and thus through futile exercise of action the appellant has been harassed and made scapegoat without any justification and reasons.

ON FACTS:

1. Para No. 1 needs no reply as declared correct.
2. That the respondent authority already verified the eligibility of the appellant from the concerned medical faculty, where in the appellant has been declared eligible, successful and fit during initial stages of appointment.
3. Para No. 3 needs no reply:
4. Para No. 4 is denied. Moreover, the appellant never involved in strike. Hence this para mis-formulated.

5.

Para No. 5 of the reply of the answering respondent is incorrect. The appellant cannot be made scapegoat through double jeopardy by inquiry again and again through same subject mater. As in the light of judgments of superior Court and prevailing service laws and Esta Code one cannot be involved in a dual inquiry / trial as envisaged in fair trial and warranted in 10(A) of Constitution of Islamic Republic of Pakistan, 1973. Hence, this para is mis-formulated.

6.

Para No. 6 needs no reply.

7.

Para No. 7 of the answering respondent is incorrect and denied. The appellant has been appointed against the vacant sanctioned post and performed their duties with full satisfaction of superiors since from 16/07/2012. Hence this para is misconceived.

8.

Para No. 8 of the answering respondent needs no reply. Actually the show cause notice on behalf of respondents authority was baseless and manipulated. Thus the question of non-satisfaction not arises. Hence this Para is denied in above terms.

9.

Para No. 9 is denied. The appellant was illegally terminated without adopting the procedure and service rules.

10.

That the respondent authority has not shown the rejection order of Departmental appeal. Hence this Para is denied in above terms.

11.

Needs no reply.

ON GROUNDS:-

A.

Para No. 1 is misconceived. The appellant has been appointed after all codal formalities. Moreover, as per verdict of superior Courts the

beneficiary of illegal appointment (not admitted in the instant case because the appointment order of the appellant is accordance to law and as per service rules after adopting all codal formalities) cannot be blamed alone because primarily the authority who had actually wrongfully exercised its powers for the reasons known to it, was bound to be held responsible for the same. Instead of penalizing such employees like Junior Clerk etc. who had to earn livelihood to support their families and if after having served for a long period they were removed from service discriminately, such action would give rise to a number of problems.

B. Para No. 2 is misconceived. Moreover, as per verdict of superior Courts the beneficiary of illegal appointment (not admitted in the instant case because the appointment order of the appellant is accordance to law and as per service rules after adopting all codal formalities) cannot be blamed alone because primarily the authority who had actually wrongfully exercised its powers for the reasons known to it, was bound to be held responsible for the same. Instead of penalizing such employees like Junior Clerk etc. who had to earn livelihood to support their families and if after having served for a long period they were removed from service discriminately, such action would give rise to a number of problems.

C. The appellant has never involved in any illegal activities and strikes etc. Thus this Para is squarely denied.

D. The para of the answering respondents is denied. However, appellant retrieve his para of appeal.

E. The Para E of the answering respondents is wrong and denied. No codal formalities have been done fulfilled by the respondent authorities before issuing the illegal

termination order. However appellant retrieve his para of appeal.

F.

Para No. F of the answering respondent is denied. The appellant has been legally appointed after all codal formalities against the vacant sanctioned post as the appellant being eligible, fit and successful for the said post. Hence this Para is mis-formulated.

G.

The Para G of the answering respondents is squarely denied. Moreover the answering respondents has not explained that what illegality has been done by on behalf of the appellant.

H.

Para No. H is denied. However appellant retrieve his para of appeal.

I.

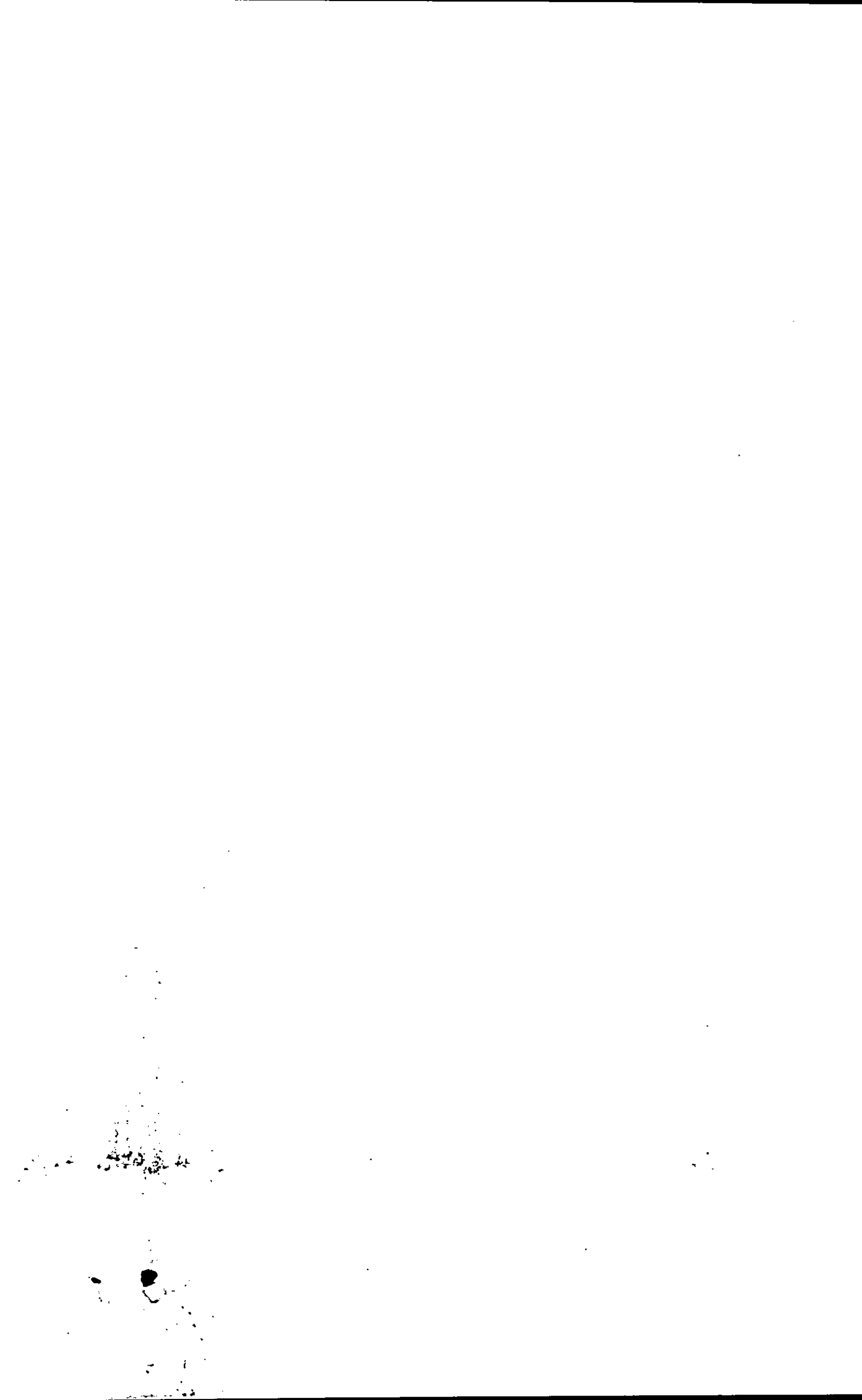
Para No. I is wrong.

J.

Para No. J is wrong not admitted. No codal formalities has been initiated while passing the impugned order. Moreover the appellant has been discriminated as their colleagues namely Zohaib Shah S/o Pir Liaqat Ali Shah (Appointed as Radiology Technician BPS-9 vide Office order 159-94 dated 16/07/2012) and Siraj Khan S/o Wali Mohammad Junior Clinical Technician (JCT) Pharmacy BPS-12 is presently serving in the Health Department. This sole ground is sufficient for reinstatement of appellant.


K.

Para No. K is incorrect. The appellant retrieve his of appeal.



It is therefore, humbly prayed that the Appeal may kindly be accepted as prayed for.

Your Humble Appellant

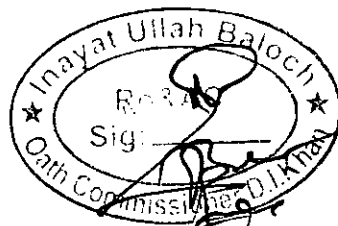

Mohammad Iqbal
(JCT, Cardiology
DHQ, Tank)
S/o Jalil Ur Rehman

Dated: 26/07/2017

Sheikh Iftikhar Ul Haq
Advocate High Court
Dera Ismail Khan

AFFIDAVIT

I, **Mohammad Iqbal**, the appellant, do hereby solemnly affirm declared on oath that contents of the above **rejoinder** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal Court.




DEPONENT

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

Service Appeal No. 060 /2016

Mohammad Iqbal **VERSUS** Govt; of K.P.K etc

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- B.** That the answering respondents have not explained that how the appellant has been stopped by his own conduct. Hence, this para is mis-formulated over.
- C.** That the appellant is being civil servant and aggrieved from the removal order. Hence having cause of action and locus standi para is denied.
- D.** This para is incorrect. Hence denied.

- E. The answering respondents have not give any other, which have omitted or added. Hence their para is denied.
- F. The appeal is well within time. Hence this Para is denied.
- G. The answering respondents have not explained that how this Honourable Tribunal has not got jurisdiction. Hence, this para is denied.
- H. That this Para is misconceived and denied. Actually the removal order of appellant is mis-oriented, mis-constructed and mistakenly drawn by the answering respondents which is liable to set aside.
- I. That Para No. 9 is denied. Actually the impugned order is weak having no force, fabricated, factitious, based on ill will, malafide and having no footings in the eyes of law.
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6. Para No. 6 needs no reply.
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8. Para No. 8 of the answering respondent needs no reply. Actually the show cause notice on behalf of respondents authority was baseless and manipulated. Thus the question of non-satisfaction not arises. Hence this Para is denied in above terms.
9. Para No. 9 is denied. The appellant was illegally terminated without adopting the procedure and service rules.
10. That the respondent authority has not shown the rejection order of Departmental appeal. Hence this Para is denied in above terms.
11. Needs no reply.

ON GROUNDS:-

- A. Para No. 1 is misconceived. The appellant has been appointed after all codal formalities. Moreover, as per verdict of superior Courts the

beneficiary of illegal appointment (not admitted in the instant case because the appointment order of the appellant is accordance to law and as per service rules after adopting all codal formalities) cannot be blamed alone because primarily the authority who had actually wrongfully exercised its powers for the reasons known to it, was bound to be held responsible for the same. Instead of penalizing such employees like Junior Clerk etc. who had to earn livelihood to support their families and if after having served for a long period they were removed from service discriminately, such action would give rise to a number of problems.

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G. The Para G of the answering respondents is squarely denied. Moreover the answering respondents has not explained that what illegality has been done by on behalf of the appellant.

H. Para No. H is denied. However appellant retrieve his para of appeal.


I. Para No. I is wrong.

J. Para No. J is wrong not admitted. No codal formalities has been initiated while passing the impugned order. Moreover the appellant has been discriminated as their colleagues namely Zohaib Shah S/o Pir Liaqat Ali Shah (Appointed as Radiology Technician BPS-9 vide Office order 159-94 dated 16/07/2012) and Siraj Khan S/o Wali Mohammad Junior Clinical Technician (JCT) Pharmacy BPS-12 is presently serving in the Health Department. This sole ground is sufficient for reinstatement of appellant.

K. Para No. K is incorrect. The appellant retrieve his of appeal.

It is therefore, humbly prayed that the Appeal may kindly be accepted as prayed for.

Your Humble Appellant

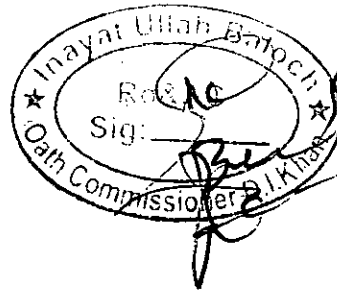

Mohammad Iqbal
(JCT, Cardiology
DHQ, Tank)
S/o Jalil Ur Rehman

Dated: 26/07/2017

Sheikh Iftikhar Ul Haq
Advocate High Court
Dera Ismail Khan

AFFIDAVIT

I, **Mohammad Iqbal**, the appellant, do hereby solemnly affirm declared on oath that contents of the above rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal Court.



DEPONENT