

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

Khyber Pakhtunkhwa
Service Tribunal

Date No. 9060
Dated 15-11-23

C.M. Application No: _____/2023

IN

Service Appeal No. 1852./2022


Sabir Shah

VS

Government of KP and Others

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APPELLANT / APPLICANT

Through


BARRISTER
MUHAMMAD HASSAAN ADIL

Dated: 10-11-2023

Khyber Pakhtunkhwa
Tribunal

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

①

_____ /2023
Dated _____

C.M. Application No: _____ /2023
IN
Service Appeal No. _____ /2022

Sabir Shah

Son of Zeban Shah,
Resident of Mohalla Bara Ghara, Akbarpura, Tehsil Pabbi,
Nowshera

....APPLICANT

Vs

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary, Civil Secretariate,
Peshawar
2. **Secretary to Government of Khyber Pakhtunkhwa,**
Health Department, Civil Secretariate,
Peshawar
3. **Director General (DG),**
Health Service, Warsak Road,
Peshawar
4. **District Health Officer (DHO),**
Grand Trunk Road,
Tehsil and District Peshawar.

....RESPONDENTS

**APPLICATION FOR INTERIM RELIEF THEREBY
RESTRAINING THE RESPONDENTS FROM MAKING
APPOINTMENTS AGAINST THE VACANCIES OF JUNIOR
CLERK IN THE DIRECTORATE GENERAL, HEALTH
SERVICES, KHYBER PAKHTUNKHWA.**

Respectfully Sheweth;

- 1) That the above-captioned appeal is pending for adjudication before this Hon'ble tribunal and is fixed for 14.12.2023.
- 2) That the brief facts necessitating the filling of instant application are that on 11.10.2023, the Departmental Promotion Committee, in its meeting, recommended the promotion of Naib Qasids to the post of Junior clerk (BPS-11) with immediate effect, which was duly followed and they were promoted to the said post on 30-10-2023 by the promoting authority.

(Copy of the impugned list of the Naib Qasids' promotion to the post of junior clerks is hereby annexed as Annexure – "A" respectively)

- 3) That the matter regarding the promotion of Class – IV to the post of junior clerk in Directorate Health department is already sub-judice before this Hon'ble tribunal, wherein on the previous date, the Hon'ble tribunal has ordered the respondents to produce the record of junior clerks posts and vacancies since 2010.
- 4) That the respondents tried to mislead this Hon'ble tribunal because in their reply / comments, submitted before this Hon'ble tribunal, they have specifically contended that not even a single vacant post of junior clerk is available in the respondent's department, in response to which the appellant submitted an application for bringing on record some documents regarding the availability of vacant posts in the department. However, the department is now, illegally, promoting junior employee / Naib Qasids to the post of Junior clerks just to fill up the vacancies, so that the department could contend regarding the non-availability of any post, which clearly transpires *mala fide* on part of the respondents.
- 5) That petitioner has prima-facie, a strong case and is very sanguine about its success, besides, balance of convenience also leans in favour of grant of interim relief.
- 6) That if the respondents were not restrained from promoting other employees and leaving the present appellant / applicant unpromoted despite his being eligible for promotion and no fault on his part, such act of the respondent's department would cause an irreparable loss to the present applicant / appellant.
- 7) Any other ground deemed appropriate would be raised at the time of arguments, with the permission of this Hon'ble tribunal.

PRAYER:

It is therefore, humbly prayed that on acceptance of this application, the impugned promotions to the post of junior clerk may kindly be suspended and the respondents be restrained from making promotions against the impugned posts till the final decision of the appeal.

APPLICANT / APPELLANT

Through

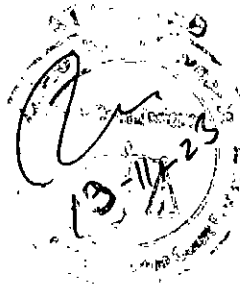
**BARRISTER
MUHAMMAD HASSAAN ADIL**

Dated: 10-11-2023

AFFIDAVIT

I, **Sabir Shah**, Son of Zeban Shah, Resident of Mohalla Bara Ghara, Akbarpura, Tehsil Pabbi, Nowshera, do hereby solemnly affirm and declare on Oath that the contents of accompanying Application are true and correct to the best to my knowledge and nothing has been concealed from this hon'ble tribunal.

DEPONENT





Annexure "A"

(4)

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name E-Mail Address: K.P.H.S.Peshawar@gmail.com
Office # 091-9210269 Exchange # 091-9210287, 9210196 Fax # 091-9210230

OFFICE ORDER

Consequent upon approval accorded by the Departmental Promotion Committee in its meeting held on 11/10/2023, under the Chairmanship of Director General Health Services Khyber Pakhtunkhwa, Peshawar, the following Matriculate Class-IV are hereby promoted to the post of Junior Clerk (BPS-11) against the vacant posts reserved under 33% quota with immediate effect:-

S. No	Name of Official	Present Place of Posting
01	Muhammad Adil	DGHS Office Peshawar
02	Gulrajud Din, Naib Qasid	DGHS Office Peshawar
03	Musarat Shah, Naib Qasid	DGHS Office Peshawar
04	Sadat Khan Naib Qasid	DGHS Office Peshawar
05	Shehzad Ali, Naib Qasid	DGHS Office Peshawar
06	Sikandar Khan, Naib Qasid	DGHS Office Peshawar
07	Abdul Aziz, Naib Qasid	DGHS Office Peshawar

On their promotion to the post of Junior Clerk (BPS-11) the following Posting/transfer are hereby ordered:-

S. No	Name of Officials	From	To
01	Muhammad Adil	Budget SNE (Merged area)	Ministerial Promotion Cell
02	Gulrajud Din, Junior Clerk	Homeo Section	Homeo Section
03	Musarat Shah, Junior Clerk	Gate No.4	HRMIS Section
04	Sadat Khan, Junior Clerk	Medical Section	Medical Section
05	Shehzad Ali, Junior Clerk	DG Staff	Personnel Section
06	Sikandar Khan, Junior Clerk	Public Health Section	Public Health Section
07	Abdul Aziz, Junior Clerk	DHO, Nowshera	DHO, Nowshera

Arrival / Departure should be submitted to this Directorate for record.

SD X X X X
Director General Health Services
Khyber Pakhtunkhwa Peshawar

No. 2784-90/Ministerial Promotion Cell

dated 30/10/2023

Copy forwarded to the.

- 1 AG Office Khyber Pakhtunkhwa, Peshawar.
- 2 Deputy Director (Accounts) DGHS, Peshawar.
- 3 District Health Officer, Nowshera.
- 4 Incharge Concerned Sections.
- 5 PA to DGHS Khyber Pakhtunkhwa, Peshawar.
- 6 Mr. Bilal Khan President Class-IV DGHS Peshawar.
- 7 Officials concerned.

For information and necessary action.


Director General Health Services
Khyber Pakhtunkhwa Peshawar

 CamScanner

ATTACHED

بعدالت

Honible Service Tribunal, Fsk.

Appellant/Applicant

2023 منجانب

مورخہ 13/11/2023

Sabir Shah بنام Govt of ICP & others

مقدمہ Stay APP

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام لپٹنٹ ماہر کیلئے لپٹنٹ محمد حسان عادل

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے کے تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ 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۔
 Accepted & Accepted
 Aman

2023ء

ماہ لڑھہ

13

المرقوم

العبد د گ واہ العبد د

کے لئے منظور ہے۔

لشاعر

مقام

صاحب شاہ علی زبیر شاہ سکریٹری امر پورہ