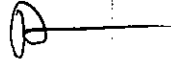


18.11.2016

Counsel for the appellant and Additional AG for respondents present. Learned counsel of the appellant requested for adjournment. Request accepted. To come up for arguments on 29.3.17 before D.B.



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

09.12.2016

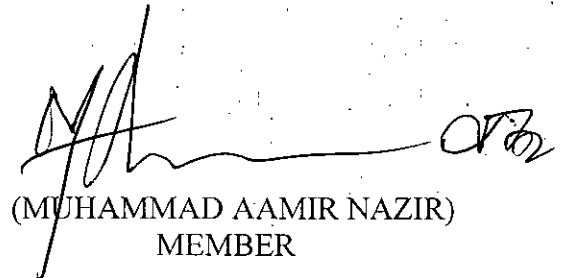
Counsel for the appellant present and submitted an application for withdrawal of the instant appeal which is fixed for arguments on 29.03.2017 before D.B. Case file requisitioned for today.

Learned counsel for the appellant submitted before the court that the appellant and respondents resolved the matter amicably and intends to withdraw the instant appeal. Application is allowed and the instant appeal in hand is hereby dismissed as withdrawn. File be consigned to the record room.

Announced:  
09.12.2016



(ASHFAQUE TAJ)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

NIC No - 21202 - 0299253-1



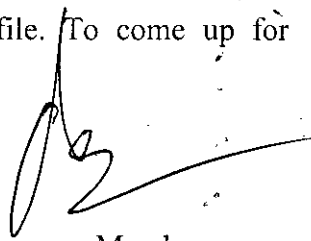
25.1.2016

Counsel for the appellant and Mr. Maaz Madni, Assistant litigation Officer alongwith Addl: A.G for respondents present. Para-wise comments on behalf of respondent No. 2 submitted. The learned Addl: AG relies on the same on behalf of respondents No. 1, 3 and 4. The appeal is assigned to D.B for rejoinder and final hearing for 4.5.2016.

  
Chairman

04.05.2016

Counsel for the appellant and ~~alongwith~~ Addl: AG for respondents present. Rejoinder on behalf of the appellant submitted, copy of which is placed on file. To come up for arguments on 10.08.2016

  
Member

10.08.2016

Appellant in person and Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to general strike of the bar. To come up for arguments on 18-11-16.

  
Member

  
Member

28.9.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Malaria Supervisor (BPS-9) in the prescribed manners and on basis of his F.A qualification in 15/12/2014. That he was performing as civil servant when his services were terminated vide impugned order dated 2/7/2015 on the allegations of illegal appointment regarding which he preferred departmental appeal on 14/7/2015 which was rejected on 14.9.2015 and hence the instant service appeal on 18.9.2015.

That no inquiry whatsoever was conducted nor any opportunity of hearing was extended to the appellant.

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 25.11.2015 before S.B.

  
Chairman

25.11.2015

Counsel for the appellant and Mr. Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 29.2.2016 before S.B.

  
Chairman

11.12.2015

Counsel for the appellant present and submitted application for early fixation of the appeal. Allowed. To come up for written reply/comments on 25.1.2016 instead of 29.2.2016 before S.B. Respondents be informed accordingly.

  
Chairman

Security & Process Fee



2021

71 - D - 8.5

## FORM-A

## FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 1034/2015


|    | Date of order/<br>proceedings | Order or other proceedings with signature of Judge/<br>Magistrate   |
|----|-------------------------------|---|
| 1  | 2                             | 3   |
| 1. | 18.09.2015                    | <p>The appeal of Mr. Sharafat resubmitted to-day by Mr. Saadullah Khan Marwat, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i><br/>REGISTRAR</p> |
| 2  | 21-9-15                       | <p>This case be put up before the S.Bench for preliminary hearing on <u>28-9-15</u></p> <p style="text-align: right;"><i>[Signature]</i><br/>CHAIRMAN</p>   |

This is an appeal filed by Mr. Sharafat today on 30/07/2015 against the order dated 02.07.2015 against which he preferred/made departmental appeal/ representation on 14.07.2015. The period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

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

No. 1133 /ST,

Dt. 30/7 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir,

The rep; of appellant was  
Pending disposal before the authority  
which was now rejected on the face  
of rep;.

Resubmitted by



The rejection order on the departmental appeal is not proper. The appeal is once again returned to learned counsel for the appellant for resubmission after proper rejection order or elapse of ninety days statutory period.

No. 1432 /ST,

Dated 16/9 /2015.

  
REGISTRAR  
KPK SERVICE TRIBUNAL,  
PESHAWAR.

MR. SAADULLAH KHAN MARWAT, ADV.

As you are not authority to take  
the rejection order proper or improper.

The Tribunal will decide such matter  
the case be laid before the Tribunal for  
view.

signed at.

by

was laid

CSM  
11-12

1. The Tribunal will decide such matter  
the case be laid before the Tribunal for  
view.

signed at.

CSM  
1/11

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1034/2015

Sharafat

Versus

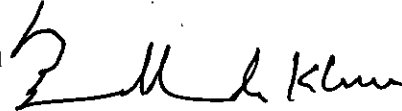
Agency Surgeon & Others

**I N D E X**

| S.# | Description of Documents         | Annex | Page |
|-----|----------------------------------|-------|------|
| 1.  | Memo of Appeal                   |       | 1-3  |
| 2.  | Appointment Order, 15.12.2014    | "A"   | 4    |
| 3.  | Service Book/Medical Examination | "B"   | 5-6  |
| 4.  | Pay Slips,                       | "C"   | 7    |
| 5.  | Termination Order, 02.07.2015    | "D"   | 8    |
| 6.  | Representation, 14.07.2015       | "E"   | 9    |
| 7.  | Rejection, 14-09-2015            | "F"   | 10   |

Appellant

Through



(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: ~~30~~ 07.2015

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1034 /2015

Sharafat S/o Haji Muhammad, R/o Koki Khel,  
Khyber Agency, Peshawar, Ex-Supervisor Malaria,  
Khyber Agency, Peshawar. . . . . Appellant

Versus

**A.W.P. Previous  
Service Tribunal**

Diary No. 908

dated 30/7/2015

1. Agency Surgeon Khyber at Jamrud.
2. Director Health Services, FATA, KP, Peshawar.
3. Secretary, Social Sector FATA, FATA Secretariat,  
Warsak Road, Peshawar.
4. Additional Chief Secretary FATA, FATA Secretariat,  
Warsak Road, Peshawar . . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT  
1974, AGAINST OFFICE ORDER NO. 2344-48 DATED  
02.07.2015 OF R. NO. 1 WHEREBY ORDER OF  
APPOINTMENT OF APPELLANT WAS WITHDRAWN  
REGARDING OBSERVING OF CODAL FORMALITIES  
FOR NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Respectfully Sheweth:**

1. That on 15.12.2014, appellant was appointed as Malaria Supervisor BPS-09 against a vacant post on some terms and conditions, mentioned in the order of appointment. (Copy as annex "A")
2. That Service Book, Medical Examinations were carried out and monthly salaries were released to the appellant till June 2015, since the date of appointment. (Copies as annex "B" & "C")
3. That without any notice or any justification, order of appointment of appellant was withdrawn regarding codal

*[Handwritten signature]*  
30/7/2015



formalities and his services were terminated vide order dated 02.07.2015. (Copy as annex "D")

4. That on 14.07.2015, appellant submitted representation before R. No. 2 for reinstatement in service which was now rejected on the face of representation on 14.09.2015. (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

**GROUND S:**

- a. That order of appointment of appellant was issued by the competent authority which was acted upon and got finalization.
- b. That Service Book of appellant was maintained, Medical Examination was carried out and thereafter, he was paid monthly salaries since the date of appointment till June, 2015.
- c. That neither appellant was served with any charge sheet nor any inquiry was conducted in the matter what to speak of recording of evidence of witness(s) and providing him opportunity of cross examination, being mandatory.
- d. That order of appointment was acted upon, finalized and was issued by the competent authority, so cannot be rescinded at a single stock of pen as is done in the matter.
- e. That vested rights were accrued on acting upon the order of appointment. Observance of codal formalities was not the task of appellant but was of the authority and lapses, if any, cannot be attributed to him.
- f. That as neither any charge sheet was served upon appellant nor any enquiry was conducted in the matter regarding the allegations nor appellant was afforded opportunity of cross

examination what to speak of service of final show cause notice and personal hearing, being mandatory, so the impugned order is ab-initio-void and based on malafide.

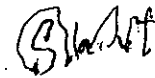
It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 02.07.2015 of R. No. 1 be set aside and appellants be reinstated in service with all back benefits, with such other relief as may be deemed, proper and just in circumstances of the case.

**INTERIM RELIEF:**

By keeping in view, the aforesaid facts and circumstances of the case, operation of the impugned order dated 02.07.2015 be suspended.

Or

In the alternate, respondents be directed to not fill up the post till the decision of the case.



Appellant

Through



Saadullah Khan Marwat



Arbab Saif-ul-Kamal

&



Miss Rubina Naz  
Advocates

Dated: 30.07.2015

A

4

15-12-14

**OFFICE OF THE AGENCY SURGEON KHYBER**  
**AT JAMRUD**

**OFFICE ORDER.**

Recommended by the MNA, NA 45 Khyber agency for appointment.

Mr: Sharafat S/O Haji Muhammad residence of Kuki khel is hereby appointed as a Malaria Supervisor BPS -09 (6200-380-17600) at the vacant post of Malaria Supervisor in Khyber agency on the following terms and conditions:-

1. If he is declared medically fit for this job.
2. He shall not indulge in any trade, business and any other activity what so ever which has been declared prohibited for the government servants in Civil Servant Act: 1973.
3. If he wishes to resign the services a prior notice of 60 days will be submitted or pay of 60 days should be deposited in lieu of resignation in Govt: treasury.
4. He will have to serve any where in Khyber Agency. The offer shall be automatically held cancelled if he fails to join the duty within 15 days of the receipt of this offer.

Sd/-xxxxxxxxxx  
Agency Surgeon khyber,  
At Jamrud.

No. 11145-48 /AS-kh:/PF Dated LKL: 15/12/2014  
Copy forwarded to the :-

- 01- Director Health Services FATA, NWFP, Peshawar.
- 02- Political Agent Khyer at Peshawar.
- 03- Agency Account officer Khyber at Jamrud.
- 04- Official concerned.

For information and necessary action please.



Agency Surgeon Khyber,  
At Jamrud.

Accepted  
by

Note: The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: Mr. Sharafal

2. Race: Muslim Afridi

3. Residence: village Kuki, Tehsil and Distt. Jammal  
Khyber Agency.

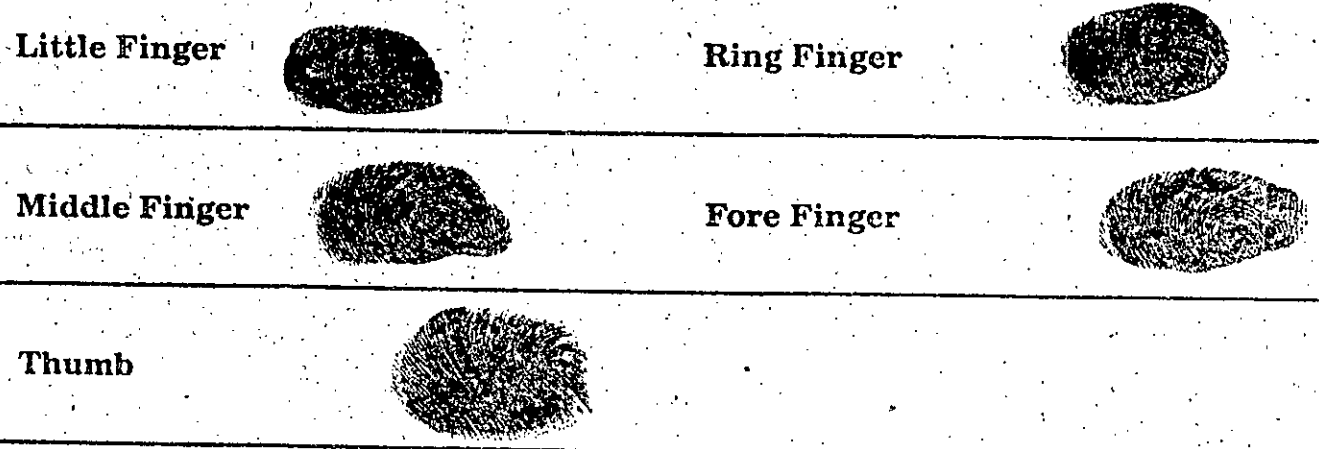
4. Father's name and residence: Mr. Haji Muhammad (as above)


5. Date of birth by Christian era as nearly as can be ascertained: 03-04-1992

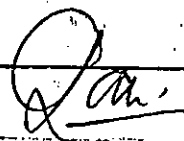
6. Exact height by measurement: 5' 6"


7. Personal marks for identification:

8. Left hand thumb and finger impression of (Non-Gazetted) officer:



9. Signature of Government Servant: 

10. Signature and designation of the Head of the Office, or other Attesting Officer.   
  
Agency Surgeon  
Khyber Agency

Attested  


15/12/2014

6

| 9<br>Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8  | 10<br>Date of termination or appointment. | 11<br>Reason of termination such as promotion, transfer, dismissal, etc.)            | 12<br>Signature of the head of the office or other attesting officer. | 13<br>Leave   |   | 14<br>Signature of the head of the office or other attesting officer  | 15<br>Reference to any recorded punishment or censure or praise of the Government Servant. |
|---|---|--|---|---|---|---|--|
|   |   |  |   | Nature and duration of leave taken.   | Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government |   |  |
|   |   |  |   |   | Period  |   |  |
| <p>Appointed as a Malaria Supervisor<br/>           BPS-9th (Rs 6200-380-17600) in Malaria<br/>           Control Khyber Agency on date 15/12/2014<br/>           vide this office order NO 11145-48/AS/Ky dated 15/12/2014</p> |   |  |   |   |   |   |  |
| <p><i>[Signature]</i><br/>           Agency Surgeon<br/>           Khyber Agency</p>  |   | <p><i>[Signature]</i><br/>           Agency Surgeon<br/>           Khyber Agency</p> |   | <p>TR. 516<br/>           9/6/15</p>  |   |   |  |
|   |   |  |   | <p><i>[Signature]</i><br/>           P. Ahmad<br/>           Payment</p>                      |   | <p>Drawn of Rs. 7889/-<br/>           Am of pay &amp; allowances<br/>           w/e 15/12/2014 to 31/5/2015<br/>           order no. 11145-48/AS<br/>           Kh/Pr. dtc 15/12/2014</p> |  |
|   |   | <p><i>[Signature]</i><br/>           Agency Surgeon</p>                              |   | <p><i>[Signature]</i><br/>           Agency Accounts Officer<br/>           Khyber Jamrud</p> |   |   |  |



GOVERNMENT OF PAKISTAN  
ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA  
DISTRICT khyber  
PAYROLL SYSTEM

شرفات

PAYMENT ADVICE  
P Sec: 001 Month: June 2015  
KH0062 - Agency Surgeon Khyber A  
Min. Of K.A & N.A & S.F. R

Pers #: 50224658 Buckle:  
Name: SHARAFAT  
MALARIA SUPERVISOR  
CNIC No. 212020292531

NTN:  
GPF #:   
Old #:

GPF Interest Applied  
BPS 09 Active Temporary

DEPTT CODE KH0062

PAYS AND ALLOWANCES:

|                                |           |
|--------------------------------|-----------|
| 0001-Basic Pay                 | 6,200.00  |
| 1000-House Rent Allowance      | 1,146.00  |
| 1210-Convey Allowance 2005     | 1,932.00  |
| 1300-Medical Allowance         | 1,200.00  |
| 1520-Unattractive Area Allow   | 1,000.00  |
| 1971-Adhoc Allowance 2011@ 15% | 573.00    |
| 1973-Adhoc Allowance 2011@ 50% | 1,910.00  |
| 2118-Adhoc Relief Allow (2012) | 1,240.00  |
| 2148-15% Adhoc Relief All-2013 | 930.00    |
| Gross Pay and Allowances       | 90,622.00 |

DEDUCTIONS:

|                                 |          |        |          |
|---------------------------------|----------|--------|----------|
| GPF Balance                     | 2,975.00 | Subrc: | 595.00   |
| 3701-Benevolent Fund(Exchange)  |          |        | 180.00   |
| 3704-Group Insurance(Exchange)  |          |        | 67.00    |
| 3711-Addl Group Insuranc(Exch)  |          |        | 7.00     |
| 6075-Adj GPF                    |          |        | 2,380.00 |
| 6154-Adj. Group Insurance(Exch) |          |        | 720.00   |
| 6155-Adj. Addl:G Insurance Exch |          |        | 268.00   |
| 6156-Adj. E. E. F (Exchange)    |          |        | 28.00    |
| Total Deductions                |          |        | 4,245.00 |

NET AMOUNT PAYABLE 86,377.00

QUALIFYING SERVICE YRS MON D.O.B 03.04.1992  
00 Years 06 Months 07 Days

LFP Quota: 4  
Payment through DDO.



GOVERNMENT OF PAKISTAN  
ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA  
DISTRICT khyber  
PAYROLL SYSTEM

PAYMENT ADVICE

P Sec: 001 Month: June 2015  
KH0062 - Agency Surgeon Khyber Agen  
Min. Of K.A & N.A & S.F. R

Pers #: 50224658 Buckle:  
Name: SHARAFAT  
MALARIA SUPERVISOR  
CNIC No. 212020292531

NTN:  
GPF #:   
Old #:

GPF Interest Applied  
BPS 09 Active Temporary

DEPTT CODE KH0062

PAYS AND ALLOWANCES:

|                                 |           |
|---------------------------------|-----------|
| 2174-Adhoc Relief Allow-2014.   | 620.00    |
| 5002-Adjustment House Rent      | 5,212.00  |
| 5011-Adj Conveyance Allowance   | 8,787.00  |
| 5012-Adjustment Medical All     | 5,458.00  |
| 5102-Adj Unattractive Area All  | 4,549.00  |
| 5311-Adj. Adhoc Relief Allownce | 5,640.00  |
| 5898-Adj. Adhoc Allowance 50%   | 682.00    |
| 5911-Adj. Adhoc Relief 2011     | 8,687.00  |
| 5938-Adj. Adhoc Relief All 2012 | 2,592.00  |
| Gross Pay and Allowances        | 90,622.00 |

DEDUCTIONS:

|                  |          |        |          |
|------------------|----------|--------|----------|
| GPF Balance      | 2,975.00 | Subrc: |          |
| Total Deductions |          |        | 4,245.00 |

NET AMOUNT PAYABLE 86,377.00

*Handwritten signature*

QUALIFYING SERVICE YRS MON D.O.B 03.04.1992  
00 Years 06 Months 07 Days

LFP Quota:  
Payment through DDO.

D

8

2-7-15

**OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.**

**OFFICE ORDER:-**

Reference this office appointment order No. 11145-48 /As-Khy/Pf dated: 15 . 12 .2014, is hereby withdrawn as no codal formalities were observed at the time of making the appointment order.

Therefore the official in the order may be considered as terminated with effect from 01.07.2015.

No. 2344-48 / AS-Khy/Pf

*dl = 27/7/2015*

*[Signature]*  
Agency Surgeon  
Khyber

Copy forwarded to the :

01. PA to Secretary Social Sector, FATA, FATA Secretariat Peshawar.
02. Director Health Services, FATA, Peshawar.
03. Agency Accounts Officer Khyber at Jamrud
04. Official concerned. / *MR: Sharafat S / Offajimud.*

For information please

*[Signature]*  
Agency Surgeon  
Khyber

*[Signature]*  
*[Signature]*

ایسے ہی ہوتے ہیں۔ اگر کسی کو  
اللہ تعالیٰ سے دعا ہے کہ وہ  
اللہ تعالیٰ سے دعا ہے کہ وہ  
اللہ تعالیٰ سے دعا ہے کہ وہ

اللہ تعالیٰ سے دعا ہے کہ وہ  
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اللہ تعالیٰ سے دعا ہے کہ وہ





باعتبار جناب سرسٹریٹریٹ صوبہ سرحد پشاور

جناب اسٹارٹ

بنام ایجنسی سرحد وغیرہ

شرافت

دعویٰ اپیل

## باعث تحریر یہ اینکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے سید احمد خان سرور سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقریر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر واختہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 30-07-15

العبد

العبد

العبد

ارباب سید رحمان  
Pabina  
سرسٹریٹریٹ  
پشاور

سید احمد خان سرور  
ایڈووکیٹ

شرافت  
Dawat

**BEFORE THE SERVICE TRIBUNAL**

**KHYBER PAKHTUNKHWA, PESHAWAR**

Appeal No. 1034/2015

Mr. Sharafat, Malaria Supervisor ..... Appellant

**Versus**

Agency Surgeon Khyber & Others ..... Respondents

Para wise joints comments on behalf of respondent No. 2.

**Preliminary objections**

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honorable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for mis joinder & non-joinder of necessary parties.
5. That the present appeal is barred by law.
6. That the appeal is not maintainable in its present form.
7. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed

**Respectfully Sheweth;**

**ON FACTS**

1. Correct, to the extent of appointment order but the appointment order issued to the appellant is made completely without observing codal formalities.
2. Correct, that service book was maintain but as stated above the appointment of the appellant was made completely without observing codal formalities.
3. Incorrect, the withdrawl order was issued from proper forum.
4. Incorrect, the departmental appeal filed was properly regretted by Director Heath Services FATA as is evident from the annex-E attached with appeal of the appellant.

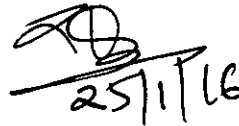
**ON GROUNDS**

- A. Incorrect, the appointment order issued to the appellant is without observing codal formalities for the appointment of Malaria Supervisor BPS-09.

(2)

- B. Correct, that the salary was paid to the appellant but as stated above the appointment of the appellant was issued without observing codal formalities.
- C. Correct, to the extent of codal formalities but as stated above the appointment order issued to the appellant is withdrawn on the basis of not observing the codal formalities for the appointment and is withdrawn during the probation period.
- D. Correct, that the appointment order was issued from the competent forum, but it is pertinent to mention here that the withdrawn order is also issued by the same forum.
- E. Incorrect, appointment without observing codal formalities are not vested right of the appellant rather general public may also have to be aware of the vacant position through advertisement.
- F. Incorrect, as stated above the appointment of the appellant is being made without observing codal formalities, therefore, the same were issued without performing codal formalities.

It is therefore most humbly prayed that the appeal of the appellant is devoid of merits and legal footings as while making the appointment order no codal formalities were observed at the time of appointment.

  
25/11/16

Respondent No. 02  
**Director Health Services (FATA),**  
Peshawar

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1034/2015

Sharafat

Versus

Agency Surgeon & Others

**REPLICATION**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTION.**

All the 7 preliminary objections of respondents are illegal and incorrect. No reason in support of the same is ever given as to why the appellant has no cause of action/locus standi, he has estopped by his own conduct, hon'ble Service Tribunal has got no jurisdiction to entertain the instant matter, appeal is bad for mis & non joinder of necessary parties, barred by law, appeal is not maintainable and bad in its present form.

**ON FACTS**

1. Admitted correct to the extent of order of appointment of appellant by the respondents. As far as observance of codal formalities, the same were made and it was the responsibility of the department to adhere to the same. Even then, the said order of appointment was implemented, acted upon and got finality and cannot be rescinded under the law.
2. Admitted correct by the respondents. For rest of the assertion, the above legal aspect be taken into account.
3. Not correct. The para of the appeal is correct regarding termination of the service for no legal reason.
4. As above. Moreso, as far as order of rejection is concerned, no such like order could be made by the authority. It is not an order in the eye of law nor the same is speaking one, so is liable to set at naught.

**G R O U N D S:**

- a. Not correct. Observance of codal formalities, if any, is the responsibility of the department and if codal formalities were not observed, then order of appointment could not be taken into task and that too without adhering to law.

- b. Not correct. The ground of the appeal is correct regarding Service Book, Medical Examination and other formalities.
- c. Admitted correct by the respondents to the extent of the codal formalities. Order of withdrawal is in total disregard of law and rules on the subject matter. Major punishment requires law which was not followed by the authority.
- d. Admitted correct by the respondent. Order of withdrawal is quite contrary to law.
- e. Not correct. The ground of the appeal is legal and correct regarding observance of legal formalities.
- f. Not correct. The ground of the appeal is correct.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Through Appellant

Saad Ullah Khan Marwat

Arbab Saif Ul Kamal

Miss Robina Naz  
Advocates,

Dated: .05.2016

### AFFIDAVIT

I, Sharafat, Appellant, do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief and that of the reply are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

DEPONENT

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S.A. No. 1034/2015

Sharafat

versus

Agency Surgeon & Others

**Application for withdrawal of the appeal**

**Respectfully Sheweth,**

1. That the subject appeal is pending disposal before this Hon'ble Tribunal and is fixed for 29-03-2017.
2. That applicant and respondents resolved the matter amicably and intends to withdraw the subject appeal.
3. That respondents made commitment with applicant to first withdraw the appeal and thereafter, he will be reinstated in service.
4. That if the commitment made so was not honored by the respondents, then applicants be allowed to re-agitate the matter as per law.

It is, therefore, most humbly requested that applicant be allowed to withdraw the subject appeal from the hon'ble Tribunal, with permission to file a fresh one if need be.

Appellant

Through

Saad Ullah Khan Marwat

Arbab Saif Ul Kamal

Advocates

Dated: 08-12-2016

*Case file  
be registered  
09.12.16*