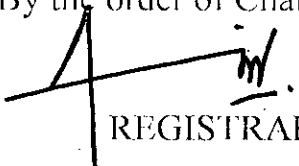


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 2456/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/11/2023	<p>The appeal of Dr. Kalim Ullah presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNA**  
**PESHAWAR**

Service Appeal NO. 2456-P/2023

DR. KALIM ULLAH

VS

GOVT: OF KP & OTHERS

**INDEX**

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2.	Application for suspension with Affidavit		6-7
3.	Copies of the letter dated 15.02.2023 and 11.03.2023	A&B	8-9
4.	Copy of the letter dated 13.03.2023	C	10
5.	Copies of the representation and writ petition	D&E	11-16
6.	Copy of the impugned notification dated 18.8.2023	F	17
7.	Copies of the departmental appeal and order dated 30/10/2023	G&H	18-20
8.	Copy of the letter dated 13/06/2023	I	21
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**APPELLANT**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**

**BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNA**  
**PESHAWAR**

Service Appeal NO. 2456 /2023

Dr. Kalim Ullah, Senior Medical Officer, DHQ Hospital, Miran Shah,  
District North Waziristan R/O Darmangi Garden, Khyber Colony,  
House#5, Warsak Road, Peshawar.

.....APPELLANT

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar
- 4- Dr. Miraj Wazir, General cadre BPS-17,  
Medical officer DHO office North Waziristan.

.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 18/08/2023, WHEREBY THE PRIVATE RESPONDENT WHO IS SERVING AS MEDICAL OFFICER (BPS-17) HAS BEEN POSTED AGAINST THE POST OF DHO, NORTH WAZIRISTAN DISTRICT AND AGAINST THE INACTION OF THE RESPONDENT BY NOT IMPLEMENTING THE PROPOSAL THAT THE APPELLANT BE POSTED AS DHO NORTH WAZIRISTAN DISTRICT AND AGAINST THE INACTION OF THE RESPONDENT BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STIPULATED PERIOD OF 90 DAYS.**

**PRAYER:-**

That on acceptance of the instant service appeal, the impugned notification dated 18/08/2023 to the extent of private respondent may kindly be set aside and the respondents may kindly be directed to implement the proposal for posting of appellant as DHO North Waziristan District. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That the Appellant is the bonafide, Law abiding citizens of Pakistan and is performing his duty as Senior Medical Officer (BPS-18), DHQ Hospital, District North Waziristan.

- 2- That it is pertinent to mention here that vide letter dated 15.02.2023 a proposal for transfer was placed before the Provincial Election Commissioner, Khyber Pakhtunkhwa, Peshawar and the subject proposal was referred to the Chief Election Commissioner of Pakistan for issuance of NOC regarding the transfer so proposed vide letter dated 15.02.2023 and vide letter dated 11.03.2023 the NOC was granted. Copies of the letter dated 15.02.2023 and 11.03.2023 are attached as annexure.....A&B.
- 3- That in light of the NOC so granted by the Election Commission of Pakistan, the Provincial Election Commission issued the same to the respondent No. 2 vide letter dated 13.03.2023 for further necessary action and making the proposed transfer through a notification. Copy of the letter dated 13.03.2023 is attached as annexure.....C.
- 4- That by not issuing the transfer notification on the proposal and further action of the Election Commission, the Appellant preferred a representation before the respondent No. 2 but the respondent No.2 is reluctant to issue the transfer notification, the appellant filed a writ Petition No. 3323/2023 and fixed on 13/09/2023. Copies of the representation and writ petition are attached as annexure.....D &E.
- 5- That the respondents despite to act upon the proposal issued through letter dated 15.02.2023, astonishingly issued the impugned Notification dated 18.08.2023 whereby the private respondent belongs to the General cadre of BPS-17 officers at has been posted against the proposed post of the Appellant i.e. DHO, North Waziristan District. Copy of the impugned notification dated 18.8.2023 as attached as annexure..... F.
- 6- That feeling aggrieved from the impugned notification dated 18.08.2023 the Appellant filed departmental appeal followed by Writ Petition No 3666-P/2023 and the same was disposed of vide order dated 30/10/2023, with the directions as follows:-
- "In view of the above, this petition is disposed of with the direction to the Worthy Chief Secretary, Khyber Pakhtunkhwa to decide the fate of the departmental appeal filed by the petitioner on 22/08/2023 strictly in accordance with law after providing him an opportunity of hearing within a period of fortnight from the date of receipt of this order"***
- Copies of the departmental appeal and order dated 30/10/2023 are attached as annexure..... G & H.
- 7- That after the aforementioned order/judgment and clear directions of the Honourable Peshawar High Court the

respondents are reluctant to decide the departmental appeal of the appellant within statutory period of 90 days. The Appellant feeling aggrieved and having no other option, but to file the instant service appeal on the following grounds amongst the others:-

**GROUND:**

- A- That the impugned notification dated 18/08/2023 is against the Law, facts, norms of natural justice and materials on the record, hence, not tenable and the interference of this Honorable Tribunal is required.
- B- That the Appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That, the treatment meted out to the Appellant is clear violation of the Fundamental Rights of the Appellants as enshrined in the Constitution of Pakistan, 1973.
- D- That according to Article 37 of the Constitution the state is bound to promote social justice and eradication of social evils and accordingly the action and inaction of the respondents squarely falls in violation of the said Article.
- E- That, the Appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- F- That it is important to mention here that after issuing NOCs by the Election Commission of Pakistan, the Chairman of Sub Division Miran Shah through a letter dated 13/06/2023 addressed to the respondents that the appellant may not be posted at North Waziristan District as DHO, because the said appellant has crate problems/issues for me and for my party, so that's why the said may kindly be posted to somewhere else. Copy of the letter is attached as annexure.....**I.**
- G- That the appellant has also awarded good performance certificate form the respondent department. Copy of performance certificate is attached as annexure..... **J.**
- H- That the case of private respondent regarding regularization against the post of medical Officer (BPS-17) is subjudice before the august Supreme Court of Pakistan but despite of that the respondents posted the private respondent against the post of DHO, North Waziristan District.

I- That the Appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT

THROUGH:  
NOOR MOHAMMAD KHATTAK

WALEED ADNAN

UMAR FAROOQ

&

MEHMOOD JAN  
ADVOCATES

VERIFICATION:

It is verified that no other earlier Service Appeal was filed between the parties.

DEPONENT

**BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNA**  
**PESHAWAR**

Service Appeal NO. \_\_\_\_\_ -P/2023

DR. KALIM ULLAH

VS

GOVT: OF KP & OTHERS

**AFFIDAVIT**

I, Dr. Kalim Ullah, Senior Medical Officer, DHQ Hospital, Miran Shah, District North Waziristan R/O Darmangi Garden, Khyber Colony, House#5, Warsak Road, Peshawar, do hereby solemnly affirm that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

  
DEPONENT

**BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

CM NO. \_\_\_\_\_ -P/2023

In

Service Appeal NO. \_\_\_\_\_ -P/2023

DR. KALIM ULLAH

VS

GOVT: OF KP & OTHERS

**APPLICATION FOR SUSPENSION OF OPERATION OF THE**  
**IMPUGNED NOTIFICATION DATED 18/08/2023, WHEREBY THE**  
**PRIVATE RESPONDENT WHO IS SERVING AS MEDICAL OFFICER**  
**(BPS-17) HAS BEEN POSTED AGAINST THE POST OF DHO,**  
**NORTH WAZIRISTAN DISTRICT, TILL THE DISPOSAL OF THE**  
**MAIN APPEAL.**

**R/SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned notification dated 18/08/2023, whereby the private respondent who is serving as Medical Officer (BPS-17) has been posted against the post of DHO, North Waziristan District.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned notification dated 18/08/2023 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned notification dated 18/08/2023 may very kindly be suspended till the disposal of the above mentioned service appeal.

THROUGH:

  
APPLICANT

  
NOOR MOHAMMAD KHATTAK  
ASC



BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL  
PESHAWAR

CM NO. \_\_\_\_\_ -P/2023

In

Service Appeal NO. \_\_\_\_\_ -P/2023

DR. KALIM ULLAH

VS

GOVT: OF KP & OTHERS

AFFIDAVIT

I, Dr. Kalim Ullah, Senior Medical Officer, DHQ Hospital, Miran Shah, District North Waziristan R/O Darmangi Garden, Khyber Colony, House#5, Warsak Road, Peshawar, do hereby solemnly affirm 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 Honorable Tribunal.

  
DEPONENT



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

No. SOH(E-V)/2-2/ECP/2020  
Dated Peshawar the 15<sup>th</sup> February, 2020

To

The Provincial Election Commissioner,  
Khyber Pakhtunkhwa, Peshawar

A-8

Subject: NOC FOR POSTING/ TRANSFER

Dear Sir,

I am directed to refer to the above captioned subject and to state that due to exigency of the situation for better healthcare service delivery efficiently and effectively, Health Department submits the following posting/ transfer proposal:-

S/No	Name of Doctor	From	To
1	Dr. Wazir Khan Safi, Management Cadre (BS-19)	District Health Officer, North Waziristan	DHQ Hospital Miranshah, North Waziristan vice S.No. 2.
2	Dr. Kaleem Ullah Khan, Senior Medical Officer (BS-18)	DHQ Hospital Miranshah, North Waziristan	District Health Officer, North Waziristan vice S.No. 1

2. Therefore, it is requested that NOC may be issued specifically for posting/ transfer of the above named doctors before taking up the case for approval of the Competent Authority, please.

Yours faithfully,

Section Officer (E-V)

Endst. No. & Date Even

Copies to the:-

PS to Secretary Health, Khyber Pakhtunkhwa.

ATTESTED

Section Officer (E-V)

Secretary  
Constitution Avenue,  
Islamabad, 11<sup>th</sup> March,

The Provincial Election Commissioner,  
Khyber Pakhtunkhwa,  
PESHAWAR.

ISSUANCE OF NOC.

I am directed to refer to your letter No. F-3(1)/2023-Els (PEC) Vol-II-16<sup>th</sup> subject noted above and to say that the Hon'ble Commission has been pleased to accept the application of the Election Officer (E-V) made vide his letter No. SOH(E-V)/2-2/ECP/2023 dated 15<sup>th</sup> February/posting of the following officers:

Name of Officer	Designation	Posting
Mr. Khan	District Health Officer, North Waziristan	DHO Hospital Miranshan Vice S. No. 2
Mr. Ullah Khan	DHO Hospital (Miranshan) North Waziristan	District Health Officer, North Waziristan Vice S. No. 1

may be informed accordingly.

Yours sincerely,

*Tawabul*  
(Tawabul Iqbal)  
Deputy Director (Election)

ATTESTED  
to be true Copy

Betta - 9

Constitution Avenue,  
Islamabad, 11<sup>th</sup> March, 23

The Provincial Election Commissioner,  
Khyber Pakhtunkhwa  
Peshawar

Subject: issuance of NOC,

Sir,

I am directed to refer to your letter No. F.3(1)/2023-EIS (PEC) Vol-II 16<sup>th</sup> February 23 on the subject noted above and to say that the Hon'ble Commission has been pleased to accord request of the section Officer (E-V) made vide his letter No. SOH(E-V)2-2/ECP/2023 dated 15<sup>th</sup> Feb 2023 for transfer/posting of the following officers:

Sr.	Name of Doctor	From	To
1	Dr. Wazir Khan Safi, Management Cadre, (BS-19)	District Health Officer, North Waziristan	DHQ Postal Miran shah vice S.No.2
2	Dr. Kaleem Ullah Khan, Senior Medical Officer (BS-18)	DHQ Hospital Miranshah, North Waziristan	District Health Officer North Waziristan vice S.No.1

The quarter concerned may be informed accordingly

Yours Sincerely,

Sd/-

(Tauqir Iqbal)

Deputy Director (Election-II)

RECEIVED

H

ATTESTED  
to be true Copy

OFFICE OF THE  
PROVINCIAL ELECTION COMMISSIONER  
KHYBER PAKHTUNKHWA

C-10

Shami Road Peshawar. Cantt.  
March 13, 2023

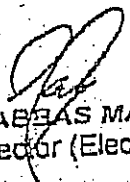
✓  
The Secretary,  
Health Department,  
Government of Khyber Pakhtunkhwa,  
PESHAWAR.

Subject: - ISSUANCE OF NOCs

Dear Sir,

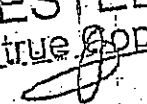
With reference to your office letter No. SOH(E-V)/2-2/ECP/2023 dated 15<sup>th</sup> February, 2023, I am directed to attach herewith the Election Commission of Pakistan, Secretariat, Islamabad letter No.F.10 (1)/2023-Elec-II dated 11<sup>th</sup> March, 2023 (Copy Enclosed), for further necessary action at your end, please.

Encl: - as Above

  
(KASHIF ABBAS MALIK)  
Deputy Director (Elections)

Copy is forwarded for information and necessary action to the Section Officer (E-V) Health Department Khyber Pakhtunkhwa Peshawar.

/  
(KASHIF ABBAS MALIK)  
Deputy Director (Elections)

ATTESTED  
to be true copy  


E-12

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

WRIT PETITION No. \_\_\_\_\_/2023

Dr. Kalim Ullah.....Petitioner


**VERSUS**

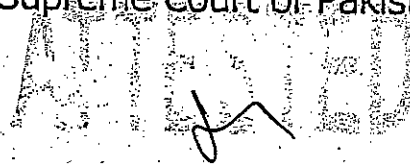
The Govt. of KPK & others.....Respondents

**I N D E X**

S.#	Description of Documents	Annex	Pages
1.			-
2.	Writ Petition		1-4
3.	Affidavit		5
4.	Addresses of parties		6
5.	Copy of letter dated 15.02.2023 and 11.03.2023	"A-B"	7-8
6.	Copy of letter dated 13.03.2023	"C"	9
7.	Copies of the representation and writ petition	"D-E"	10-13
8.	Copy of the impugned Notification dated 18.8.2023	"F"	14
9.	Copy of the representation	"G"	15
10.	Copy of the T/P of the principal government	H	16-18
11.	Court fee		19
12.	Special Attorney		20-21
13.	Wakalatnama		22

Through  
Petitioner

  
**Noor Mohamamd Khattak**  
Advocate.  
Supreme Court of Pakistan



13

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION NO. \_\_\_\_\_ -P/2023

Dr. Kalim Ullah, Senior Medical Officer, DHQ Hospital, Miran Shah,  
District North Waziristan R/O Darmangi Garden, Khyber Colony,  
House#5, Warsak Road, Peshawar.

.....PETITIONER

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar
- 4- Dr. Miraj Wazir, General cadre (BPS-17) Medical officer DHO office North Waziristan under transfer to the post of DHO, North Waziristan District.

.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN  
1973 AS AMENDED UPTO DATE

R/SHEWETH:  
ON FACTS:

- 1- That the petitioner is the bonafide, Law abiding citizens of Pakistan and is performing his duty as Senior Medical Officer, DHQ Hospital, District North Waziristan.
- 2- That it is pertinent to mention here that vide letter dated 15.02.2023 a proposal for transfer was placed before the Provincial Election Commissioner, Khyber Pakhtunkhwa, Peshawar and the subject proposal was referred to the Chief Election Commissioner of Pakistan for issuance of NOC regarding the transfer so proposed vide letter dated 15.02.2023 and vide letter dated 11.03.2023 the NOC was granted. Copies of the letter dated 15.02.2023 and 11.03.2023 are attached as annexure  
.....A&B.
- 3- That in light of the NOC so granted by the Election commission of Pakistan, the Provincial Election Commission issued the same to the respondent No. 2 vide letter dated 13.03.2023 for further necessary action and making the proposed transfer through a notification. Copy of the letter dated 13.03.2023 is attached as annexure.....C.
- 4- That by not issuing the transfer notification on the proposal and further action of the election commission, the petitioner

preferred a representation before the respondent No. 2 but the respondent No.2 is reluctant to issue the transfer notification the petitioner filed a writ Petition No. 3323/2023 and fixed on 13/09/2023. Copies of the representation and writ petition are attached as annexure.....D & E.

5- That the respondents instead of issuing the posting notification of the petitioner against the post of DHO, North Waziristan District issued the impugned Notification dated 18.08.2023 whereby the private respondent being a junior most to the petitioner and also a BPS-17 officer of General cadre has been posted against the post of DHO North Waziristan. Copy of the impugned notification dated 18.8.2023 as attached as annexure..... F.

6- That feeling aggrieved from the impugned notification dated 18.08.2023 the petitioner filed Departmental appeal/representation before the respondent No.1 but the same has not been decided till date. Copy of the representation is attached as annexure ..... G.

7- That the petitioner feeling aggrieved and having no other option but to file the instant writ petition on the following grounds amongst the others.

**GROUND:**

- A- That the action of the respondents by issuing the impugned transfer notification dated 18.08.2023 whereby the private respondent has been posted against the post of DHO North Waziristan is against the Law, facts, norms of natural justice and materials on the record, hence not tenable and the interference of this Honorable court is required.
- B- That the petitioner has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That, the treatment meted out to the petitioner is clear violation of the Fundamental Rights of the petitioners as enshrined in the Constitution of Pakistan, 1973.
- D- That according to Article 37 of the Constitution the state is bound to promote social justice and eradication of social evils and accordingly the action and inaction of the respondents squarely falls in violation of the said Article.

Handwritten signature and stamp at the bottom right of the page.



- E- That, the petitioners have been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- F- That the requirement for the subject post is with petitioner and the petitioner is a senior officer BPS -18 but to favor blued eyed person the respondents posted the private respondent through impugned notification dated 18.8.2023.
- G- That the impugned Notification is violative of the transfer/posting policy of the provincial Government and also violative of the instructions of the Esta: code. Copy of the T/P of the provincial Government is attached as annexure ..... H.
- H- That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this writ petition an appropriate writ may kindly be issued by declaring the impugned Notification dated 18.8.2023 as illegal, Unconstitutional and in effective upon the rights of the petitioner. That the respondents may kindly be directed to act upon the proposal dated 13.3.2023 by posted the petitioner against the post of DHO North Waziristan District. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

**INTERIM RELIEF:**

That the operation of the impugned Notification dated 18.8.2023 may kindly be suspended till the final decision of the instant writ petition.

PETITIONER

THROUGH:

NOOR MOHAMMAD KHATTAK  
ADVOCATES SUPREME COURT

WALEED ADNAN

KAMRAN KHAN

UMAR FAROOQ

&  
MEHMOOD JAN  
ADVOCATES

**VERIFICATION:**

It is verified that no other earlier writ petition was filed between the parties.

  
**DEPONENT**

**LIST OF BOOKS:**

- 1. Constitution of Pakistan.
- 2. Any other Case law as per need.



**ATTORNEY**





GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

F-17

Dated: Peshawar the 18<sup>th</sup> August, 2023

**NOTIFICATION**

**NO.SOH (E-V)/2-2/2023**

The Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to order posting/ transfer of the following doctors with immediate effect, in the best public interest:-

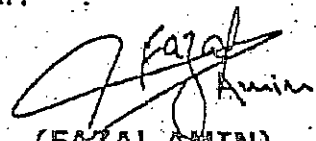
S.NO	NAME OF DOCTOR	FROM	TO
1.	Dr. Wazir Khan Safi, Management Cadre (BS-19)	District Health Officer, North Waziristan	Medical Superintendent (BS-19), DHQ Hospital Bajaur. Vice S.No. 02
2.	Dr. Liaqat Ali, Specialist Cadre (BS-18)	Medical Superintendent (BS-19), DHQ Hospital Bajaur In OPS	District Specialist (Peads) BS-18, DHQ Hospital Bajaur against the vacant post
3.	Dr. Miraj Wazir, General Cadre (BS-17)	Medical Officer (BS-17), attached to DHO office North Waziristan	District Health Officer (BS-18), North Waziristan in OPS. Vice S.No.01

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

No. 1338-47 / Notification of even No. & dated:

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services. Khyber Pakhtunkhwa.
3. MS, DHQ Hospital Bajaur.
4. District Health Officer, North Waziristan.
5. District Accounts Officer, North Waziristan and Bajaur.
6. PS to Secretary Health Department Khyber Pakhtunkhwa.
7. Deputy Director (IT), Health Department, Peshawar.
8. All concerned doctors.
9. Personal files of the concerned doctors.

  
(FAZAL AMIN)  
SECTION OFFICER (E-V)

ATTENDED

To,

The Honourable Chief Secretary,  
Khyber Pakhtunkhwa, Peshawar.

G  
C-18

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED  
NOTIFICATION DATED 18.8.2023

R/SIR,

Most humbly it is stated that the appellant is the bonafide, Law abiding citizens of Pakistan and is performing his duty as Senior Medical Officer, DHQ Hospital, District North Waziristan.

It is pertinent to mention here that vide letter dated 15.02.2023 a proposal for transfer was placed before the Provincial Election Commissioner, Khyber Pakhtunkhwa, Peshawar and the subject proposal was referred to the Chief Election Commissioner of Pakistan for issuance of NOC regarding the transfer so proposed vide letter dated 15.02.2023 and vide letter dated 11.03.2023 the NOC was granted.

In light of the NOC so granted by the Election commission of Pakistan, the Provincial Election Commission issued the same to the respondent No. 2 vide letter dated 13.03.2023 for further necessary action and making the proposed transfer through a notification.

Where after the appellant visited the office of the competent authority for issuance of the transfer/posting Notification but despite of repeated visits the authority were not willing to issue the Notification. That feeling aggrieved the appellant preferred a representation before the authority but the same has not been decided till date. Where after the appellant filed writ petition before the Peshawar High Court but during the pendency of the ibid writ petition the authority issued the impugned Notification dated 18.8.2023 whereby a junior and BPS-17 officer of the General cadre has been posted against the proposed post of the appellant i.e. DHO North Waziristan.


The above impugned Notification is violative of the transfer/posting policy, as well as violative of the instructions of the Esta Code and apex Court Judgments.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned Notification dated 18.8.2023 may kindly be set aside and the appellant may kindly be posted against the post of DHO North Waziristan District and oblige.

Dated: 22.8.2023

  
APPELLANT

Dr. Kalimullah, SMO (BPS-18),  
DHQ Hospital Miranshah (NW)

ATTESTED  


**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_ -P/2023**

Dr. Kalim Ullah, Senior Medical Officer, DHQ Hospital, Miran Shah,  
District North Waziristan R/O Darmangi Garden, Khyber Colony,  
House#5, Warsak Road, Peshawar.

.....PETITIONER



**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar
- 4- Dr. Miraj Wazir, General cadre (BPS-17) Medical officer DHO office North Waziristan under transfer to the post of DHO, North Waziristan District.

.....RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN  
1973 AS AMENDED UPTO DATE**

**R/SHEWETH:  
ON FACTS:**



- 1- That the petitioner is the bonafide, Law abiding citizens of Pakistan and is performing his duty as Senior Medical Officer, DHQ Hospital, District North Waziristan.
- 2- That it is pertinent to mention here that vide letter dated 15.02.2023 a proposal for transfer was placed before the Provincial Election Commissioner, Khyber Pakhtunkhwa, Peshawar and the subject proposal was referred to the Chief Election Commissioner of Pakistan for issuance of NOC regarding the transfer so proposed vide letter dated 15.02.2023 and vide letter dated 11.03.2023 the NOC was granted. Copies of the letter dated 15.02.2023 and 11.03.2023 are attached as annexure .....A&B.
- 3- That in light of the NOC so granted by the Election commission of Pakistan, the Provincial Election Commission issued the same to the respondent No. 2 vide letter dated 13.03.2023 for further necessary action and making the proposed transfer through a notification. Copy of the letter dated 13.03.2023 is attached as annexure.....C.
- 4- That by not issuing the transfer notification on the proposal and further action of the election commission, the petitioner

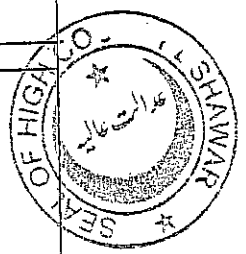
**ATTESTED  
EXAMINER**

20

# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
1	2
30.10.2023	<p><b>W.P No.3666-P/2023 with IR.</b></p> <p><b>Present:</b></p> <p><b>Mr. Noor Muhammad Khattak, Advocate, for the petitioner.</b></p> <p><b>Mr. Mubashir Manzoor, AAG, for the respondents.</b></p> <p>*****</p> <p><b>SHAKEEL AHMAD, J.</b> After arguing the case at some length, learned counsel for the petitioner stated that he will not press the instant petition on merit provided that the Worthy Chief Secretary, Khyber Pakhtunkhwa be directed to decide the fate of departmental appeal filed by the petitioner on 22.08.2023 strictly in accordance with law after providing him an opportunity of hearing.</p> <p><b>2.</b> In view of the above, this petition is disposed of with direction to the Worthy Chief Secretary, Khyber Pakhtunkhwa to decide the fate of the departmental appeal filed by the petitioner on 22.08.2023 strictly in accordance with law after providing him an opportunity of hearing within a period of fortnight from the date of receipt of this order.</p> <p style="text-align: right;">   <b>JUDGE</b> </p> <p style="text-align: center;">20324</p> <p style="text-align: right;">   <b>JUDGE</b> </p> <p style="text-align: right;"> <b>CERTIFIED TO BE TRUE COPY</b>  <b>EXAMINER</b>  Peshawar High Court, Peshawar  Authorized Under Article 3, 7  of the Qanun-e-Shahadat Act 19  <b>21 NOV 2023</b> </p>
Date of Presentation of Application	21-11-2023
No. of Pages	6-P
Copying	24-W
Total	21-11-2023
Date of Preparation of Order	21-11-2023
Date of Delivery of Copy	21-11-2023
Remarks	31



(Haider Shah, SSS) "DB" Hon'ble Mr. Justice Shakeel Ahmad and Hon'ble Mr. Wizar Ahmad

(1)

# مولانا سید نیک زمان حقانی (مظاہر)

سربراہ تنظیم سب ڈویژن میرٹھ  
وزارت صحت و برادری



I-(21)

Mob No:

0300-5930049

Date: 13/6/22

Ref.No: 16

صاحب الیٹریٹرز حکمت لو ٹنگرن وزیر اعلیٰ جسر جٹوہ

السلام علیکم، اچھا ہے کہ آپ میری بات سے سوچتے ہیں۔

میرا کہہ رہا ہوں کہ سب سے پہلے ڈاکٹر حکیم الشہان مجسٹ MS  
 میرا نام ہے اور ڈاکٹر سید سید حسین ڈیوٹی سربراہی کے لیے  
 ہو سکتے ہیں۔ باوجود اس کے کہ اس نے ٹرانسفر  
 کی درخواست کی ہے، NoC ایجنسی میں اس کے لیے  
 اور حکمت لو ٹنگرن کے آفس کو حوالہ دیا ہے۔ ذرا پہلے سے یہ بھی معلوم  
 ہوا ہے کہ ڈاکٹر حکیم الشہان کی تعیناتی بطور ایس ایچ  
 (DHO) شمالی وزیرستان میں ہوئے ہیں اور اس کے  
 ادا میرے بارے میں بھی سوال کیا ہے۔ مذکورہ ڈاکٹر صاحب  
 تعیناتی ٹرانسفر شمالی وزیرستان میں بطور DHO نہ کی  
 جائے۔ اگر آپ کا دفتر زیادہ دلچسپی رکھتا ہے  
 تو براہ کرم میری شہسی اور ضلع میں ڈسٹریکٹ ہیڈ کوارٹرز  
 آجے جگہ سے میرا نام سب ڈویژن حقانی  
 (مظاہر ANA) سسر شمالی وزیرستان  
 میرا نام ہے



Contact: PS to Mayor / Chairman 0313-7375443 // 0332-6706828

کاپی = 5 سیریلز سیکور - 2 ایف سیریلز کی کاپی

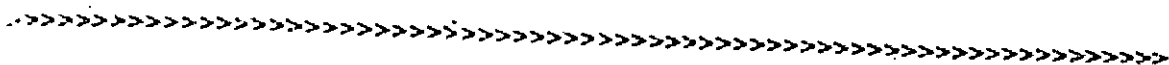
(J)

J-22

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ

HOSPITAL MIRANSHAH

Phone&Fax: 300741



APPRECIATION LETTER

Dear Dr Kalimullah Khan (Deputy Medical superintendent)

I express my sincere appreciation for your hard work, dedication and tremendous performance as a Deputy medical superintendent (MO-I). Your contribution has been invaluable and being as Medical superintendent, I am grateful for all that you did.

Specifically, I want to recognize your outstanding work as a DMS at DHQ Hospital Miranshah North Waziristan. Your administrative skills and approaches are really impressive, memorable and instrumental in achieving our goals. Your contribution has not gone unnoticed, and I want to publicly acknowledge your efforts.

I want to encourage you to keep up the excellent work in future as well.

Best wishes for future endeavors

Medical Superintendent  
DHQ Hospital Miranshah

Handwritten signature and date: 20/0

APPROVED  
Handwritten signature



**BEFORE THE HON'BLE KP SERVICE TRIBUNAL, PESHAWAR**

**CHECK LIST**

1.	Case title <b>Doctor Kaleem Ullah VS Government of KPK &amp; others</b>		
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexure are properly paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.*	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filled.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 , for other as required}	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes	No
17.	Case (Revision/appeal/petition etc) is filled on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- Noor Muhammad Khattak

Signature: - 

Dated:- \_\_\_\_\_

**FOR OFFICE USE ONLY**

Case: - \_\_\_\_\_

Case received on \_\_\_\_\_

Complete in all respect: Yes/No, (If NO, the grounds) \_\_\_\_\_



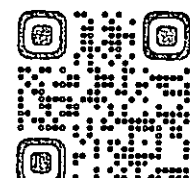
Signature \_\_\_\_\_

(Reader)

Dated: - \_\_\_\_\_

Countersigned: - \_\_\_\_\_

(Deputy Registrar)

50	پشاور بار ایسوسی ایشن، خیبر پختونخوا
19457	PESHAWAR BAR ASSOCIATION
ایڈویکیٹ:	  
بار کونسل ایسوسی ایشن نمبر: DC-15-0853	
رابطہ نمبر: 0345-9383141	

بعدالت جناب: خیبر پختونخوا سروسز ٹریڈ یونین

مخاطب:	دعویٰ:
ڈاکٹر کلیم اللہ	علت نمبر:
بنام	مورخہ:
پہلے ڈیپارٹمنٹ	جرم:
	تھانہ:

ساتھ ساتھ لکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام سے ڈاکٹر کلیم اللہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا 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 مذکورہ 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 وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوا ہے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 21/11/2023  
 محمد گواہ شہد الع  
 مقام

Accepted & accepted  
 Noted for ASE  
 کے لیے منظور