None is present on behalf of the appellant. Mr. Muhammad Zubair, District Attorney alongwith Amjad Ali, Assistant for the respondents present. Called several times till last hours of the court but none appeared on behalf of the appellant.

In view of the above, the appeal is dismissed for non prosecution. File be consigned to the record room.

Chairman Camp court, Swat

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ANNOUNCED 09.08.2017

09.08.2017

## FORM OF ORDER SHEET

Form A

Court of\_\_\_

 ·		
	12010	

Case No. Order or other proceedings with signature of judge or Magistrate Date of order S.No. Proceedings 3 2 1 The appeal of Mr. Iqbal Khan presented today by Mr. 30/05/2016 1 Rahim Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please. REGISTRAR -This case is entrusted to Touring S. Bench at Swat for 31-5-2016 preliminary hearing to be put up there on  $\underline{8}$  -  $\underline{6}$  -  $\underline{20}$  -  $\underline{6}$ 2 - \*\* 08.06.2016 Agent of counsel for the appellant present. Requested for adjournment. A-djourned for preliminary hearing to 13.07.2016 before S.B at Camp Court, Swat. CAMP CO

**BEFORE THE SERVICE TRIBUNAL K.P.K, PESHWAR** 

Service Appeal No -- 576/2016.

Iqbal Khan Male Attendant Civil Dispensary Chinglai Distt; Buner.

(Appellants)

## VERSUS

Govt of K.P.K, through Secretary Health K.P Peshawar and others .

(Respondents)

**INDEX-**

S.No	Description of Documents	Annexure	Pages No
01	Memorandum of Appeal ; 🚥		01-05
02	Addresses of Parties .		06
03	Affidavit .		07
04	Copy of initial appointment order End; No.4520-27/ pf dt,13/10/2014.	A	08
05	Copy of Judgment of the Pehhawar High Court dt, 19/9/014 (writ Pet; No.312-M/2012.	, В <sup>.</sup>	09-11
06	Copy of Health and Age Certificate dt 13/10/2014.	С	12-13
07	Copy of Office Order dt,30/10/2014.	D	14
08	Copy of Writ Petition No.393/2015.	E	15-18
° 09	Copy of status quo order on 10/8/2015 and 07/10/2015.".	F	19-23
10	Copy of imougned order dated 27/01/2016	G	24
11	Copy of Departmental Appeal dated 07/02/2016.	H	25-28
12	Wakalatnama.		

Through Counsel

Appellant

RAHIM KHAN Advocate High Court Peshawar Office at District Courts Daggar Buner Cell ===== 03439049185. Dated: 25/5/2016. BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Service Appeal No. 576 /Of 2016

Iqbal kahn Male Attendant Civil Dispensary Chinglai District Buner.

## "Appellant" N. Prov IVIES.

1. Govt; of Khyber Pukhtonkhwa through Secretary Health Deptt;  $\overline{K}$ . Peshawar.

VERSUS

- 2. Director General Health Services K.P Peshawar.
- 3. District Health Officer Buner at Daggar.
- 4. Incharge Civil Dispensary Chinglai Buner

"RESPONDENTS"

APPEAL UNDER SECTION No.4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED OFFICE ORDER NO.458-63 DT, THE 27/01/2016, RECEIVED ON 07/02/2016, PASSED BY THE RESPONDENT NO.3, BY VIRTUE OF WHICH THE APPELLANT HAS BEEN TRANSFERRED PRE-MATURE AGAINST THE TRANSFER POLICEY EXIST AND ALSO ON WRONG POST OF BESHTI.

## Pray in appeal

On acceptance of this appeal, the impugned transfer order, No. 458-63 dt,27/1/2016,passed by the respondent No.3, by virtue of which the appellant has been transferred pre-mature, in violation of the existing Transfer Policy , from Civil Dispensary Chinglai to R.H.C Nagrai as Beshti /on wrong post, ( received on 07/2/2016), may be set aside .

Any other relief to which the appellant is entitle under the rules and policy exist may also graciously be granted in favour of the appellant, though not specifically prayed for , by the appellant.

Respect fully sheweth as under.

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s المهرة 1. That the appellant was appointed, initially as Male Attendant, against employees son quota, by the respondent No.3, vide Office Order End; No.4520-27/pf dt,13/10/2014, in compliance to the Judgment, dated 19/9/2914 , of the Honourable Peshawar High Court , Mingora Bench, Darul

1

Qaza Swat ,, while disposing off, the Writ Petition No.312-M /2012 and was posted in D.H.Q Hospital Daggar Buner. Copies both, of the office order and judgment are annexed as "A" & "B".

- 2. That the appellant had in compliance to the office order, annexure "A" dated,13/10/2014, of the respondent No.3 submitted his arrival report and got his Health and Age Certificate from Medical Superintend DHQ Hospital Daggar Buner on dated 13/10/2014, on the same day. Copy whereof is annexed as "C" for ready reference .
- 3. That the appellant was then with a short span of time transferred to R.H.C Nagrai and then transferred to the existing station (C.D chinglai )vide orders dated, 30/10/2014 .copy annexed as "D".
- 4. That subsequently, after noticing the order, No.4633-41/Pf dt ,15/10/2014, issued by the respondent No.3, in totally disregard of the aforementioned affix judgment annexure "B" of the Honable Peshawar High Court ,Mingora Bench Darul Qaza Swat ,without consent of the appellant or any other reasonable grounds ,the appellant while given no head to his grievance , the appellant preferred to file writ petition No.393/2015, which is, adjudication before the Peshawar High Court, Mingora Bench, Darul Qaza Swat. Copy annexed as "E".
- 5. That in the above writ, the Honourable Peshawar High Court, Mingora Bench, Darul Qaza swat, has kind enough to suspend the order impugned in the writ concerned dt,15/10/2014, by issuing of status quo order on 10/8/2015 and 07/10/2015.. Copies annexed as "F".
- 6. That the respondent No.3 constantly committing contempt of the affix orders and COC to that effect has already been filed before the relevant competent forum, But meanwhile the respondent No.3 passed the impugned order dated 27/01/2016,, and transferred the appellant again ,after hardly completion of about one year and three months tenure of the appellant ,order impugned in this service appeal, is annexed as "G".

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- 7. That departmental appeal has timely been filed by the appellant, on dated 07/02/2016, through proper channel, duly sent to the respondent No.2, being appellate authority, vide Registered A.D.copies annexed as "H".
  - 8. That after lapse of statutory period, without receiving any positive response from either respondent, the appellant having no alternative adequate remedy, except to file this service appeal, on the following grounds among other inter alia.

## <u>GROUNDS</u>

- A. That the appellant was appointed as Male Attendant vide office Order End; No. 4520-27 dt,13/10/2014(annexure "A") and the subsequent unlawful order ,impugned ( through relevant Writ Petition No.393/2015) bearing No.4633-41 dt. 15/10/2014, was suspended, by the Peshawar High Court ,Mingora Bench ,Darul Qaza Swat, vide its Status Quo Order dated, 10/8/2015 and 07/10/2015..copies already annexed as "F".
- **B.** That the initial appointment Order dated 13/10/2014, after the aforementioned order of status quo, dated10/8/2015 & 7/10/2015,, of the Honourable Peshawar High Court Bench concerned, is effective and enforce but despite the fact, the respondent No.3, dealt unlawfully the appellant, while stopping the monthly salaries of the appellant and as well, vide the Order impugned dated 27/01/2016, annexure "G" by treating him as Beshti ..
- C. That the stay of the appellant at existing station( Civil Dispensary Chinglai ) according to last transfer Order, issued by the respondent No.3, bearing No.4898-900 /PF dt,30/10/2014, made hardly one year and three months (01 year& 03 months) while the normal Tenure of the appellant is yet not expired and is still outstanding.
- D. That the appellant has from the 1<sup>st</sup> day in the Health Deptt; been constantly discriminating by the respondent No.3 and against the Law he was downgraded by changing of his cadre or say re-appointing him with out any requirement of law or justification, from the post of Male attendant BPS 2 to Beshti BPS 1 (that time), purposefully just to adjust some one near and dear to him for pleasing of the political body and also now for the 2<sup>nd</sup> time by issuing of the impugned order dated 27/01/2016, transferring the appellant pre mature to remote hilly area before the expiry of normal tenure of the appellant on mala

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 That departmental appeal has timely been filed by the appellant, a= Jate4 07/02/2016, through proper channel, duly sent to the respondent No.2, being appellate authority, vide Registered A.D.copies annexed as "H<sup>\*</sup>.
 That after lanse of statutory period, without receiving any positive response

8. That after 'apse of statutory period, without receiving any positive response fram either respondent, the appellant having no alternative adequate remedy, except to file this service appeal, on the following grounds, among other inter alia.

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- A. That the appellant was appointed as Mole Attendant vide office Order End; No. 4520-27 dt,13/10/2014(annexure "A") and the subsequent unlawful order ,impugned ( through relevant Writ Petition No.393/2015) bearing No.4633-41 dt. 15/10/2014, was suspended, by the Peshawar High Court ,Mingora Bench ,Dorul Qaza Swat, vide its Status Quo Order dated, 10/8/2015 and 07/10/2015..copies already annexed as "F".
- B. That the initial appointment Order dated 13/10/2014, after the aforementioned order of status quo, dated10/3/2015 & 7/10/2015,, of the Honourable Peshawar High Court Bench concerned, is effective and enforce but despite the fact, the respondent No.3, dealt unlawfully the appellant, while stopping the monthly salaries of the appellant and as well, vide the Order impugned dated 27/01/2016, annexure "G" by treating him as Beshti...
- C. That the stay of the appellant at existing station( Civil Dispensary Chinglai ) according to last transfer Order, issued by the respondent No.3, hearing No.4898-900 /PF dt,30/10/2014, made hardly one year and three months (01 year& 03 months) while the normal Tenure of the appellant is yet not expired and is still outstanding.
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fide intention ,ill well , against the Law and Transfer policy exists. Hence the order impugned dated 27/01/2016, annexure "G" is not sustainable under the law and policy and liable to be set aside in favour of the appellant .while departmental representation/appeal of the appellant dated 07/02/2016 has not been decided in either way even up to expiry of the statutory period by the respondents concerned. Hence this service appeal.

- E. That beside the fact that the appellant has so far not obeyed the impugned order and still performing his duties in his existing station, Civil Dispensary Chinglai, so the order impugned is also liable to be suspended till the disposal of the instant service appeal for which is being requesting for as Interim Relief at the end of this Appeal.
- F. That any other grounds and justification supporting the instant appeal which will be argued at the time of arguments with the permission of this honourable Tribunal.

Therefore it is humbly prayed that on acceptance of this service appeal the impugned order No.458-63 dated 27/01/2016 passed by the respondent No.3 may be set aside in favour of the appellant from the date of its issue .

Any other relief to which the appellant is entitle under the law though not specifically prayed for in this appeal may also graciously be granted to the appellant .  $\dot{\psi}$ 

Through Counsel

ا متبال منان APPELLANT

RAHÌM KHAN ADVOCATE HIGH COURT PESHAWAR OFFICE ; AT DISTRICT COURTS DAGGAR BUNER Cell == 0343-9049185 Dated: 25/05/2016

## <u>CERTIFICATE</u>

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Certified that entire contents of this service appeal are true and correct to the best of my knowledge and belief and that no such like appeal is pending before this honourable Tribunal.

ا مثبال حاب APPELLANT

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## **INTERIM RELIEF**

BY WAY OF I NTERRIM RELIEF THE IMPUGNED ORDER NO.458-63 DATED 27/01/2016, PASSED BY THE RESPONDED NO.3 MAY KINDLY BE SUSPENDED TIILL THE DISPOSAL OF THIS SERVICE APPEAL.

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رمثل فان APPELLANT

**THROUGH** 

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RAHIM KHAN ADVOCATE HIGH COURT PESHAWAR OFFICE ; AT DISTT; COURTS DAGGAR BUNER Dated; 25/05/2016

## BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Service Appeal No.\_\_\_\_/Of 2016

Iqbal kahn Male Attendant Civil Dispensary Chinglai District Buner.

" Appellant"

#### VERSUS

1. Govt; of Khyber Pukhtonkhwa through Secretary Health Deptt; K.P Peshawar and others..

## ADDRESSES OF PARTIES.

1. Iqbal kahn Male Attendant Civil Dispensary Chinglai District Buner.

## " Appellant<u>".</u>

- <u>2.</u> Govt; of Khyber Pukhtonkhwa through Secretary Health Deptt; K.P Peshawar.
- 3 . Director General Health Services K.P Peshawar.
- 4 District Health Officer Buner at Daggar.
- 5. Incharge Civil Dispensary Chinglai Buner

## "RESPONDENTS"

ا فلیا (ے م) س APPELLANT

THROUGH

RAHIM' KHAN

ADVOCATE HIGH COURT PESHAWAR

OFFICE; AT DISTT; COURTS DAGGAR BUNER Cell \_\_\_\_\_ 0343-9049185 Sated . 25-5-2016. Cell \_\_\_\_\_\_03439049185

Dated= 25/5/2016.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Service Appeal No.\_\_\_\_/Of 2016

Iqbal kahn Male Attendant Civil Dispensary Chinglai District Buner.

" Appellant"

## VERSUS

Govt; of Khyber Pukhtonkhwa through Secretary Health Deptt; K.P
 Peshawar and others..

<u>AFFIDIVATE</u>

I, Iqbal Khan ,Male Attendant Civil Dispensary Chinglai Distt; Buner , do hereby affirm and declare that the contents of this service appeal are true and correct to the best of my knowledge and believe and that nothing has been concealed from this honourable Tribunal . It is also affirmed that no such like appeal is pending before this honourable Tribunal.

افتاك حان DEPONENT

DEFONENT DATED. 25/5/2016.



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OFFICE OF THE DISTRICT HEA OFFICER DISTRICT BU. Phone & Fax # 0939-51

## OFFICE ORDER

In the light of Peshawar High Court Bench at Mingora /Darul Qaza Swat writ Petition No. 312-M/2012, dated 19-09-2014. (copy attached)/Death case during the Service (late Said Bawar Ward Orderly BPS-02 attached to BHU Langow Distt; Buner.

Mr.Iqbal Khan S/O late Mr.Said Bawar Village Batai P.O. Nawagai & Tehsil Daggar District Buner is hereby appointed as Male Attendant BPS-02 (4900-170-10000) on regular basis against the vacant post at DHQ(H) Daggar Buner with immediate effect in the interest of public services with the following terms & conditions.

## TERMS & CONDITIONS

- You will be placed in minimum of BPS-02with usual allowance permissible to the Govt. servant of the same pay scale.
- Your service will be under the Govt. of Khyber Pakhtunkhwa civil servant (Amendment) Act. 2.
- 3. You will be provided the same facilities under benevolent fund as admissible to the Govt. servant, all the rates to be prescribed by the Govt.
- 4. You will be responsible for verification/authentication of all the documents you have submitted if any one of these documents is found "fake" you will be personally held responsible, legal action will be taken against you & your service will be stand terminated. 5. You will be on probation period for one year & your service will be regularized after
- successful completion of probation period, if your performance is not satisfactory, your service can be terminated any time without notice after probation period.
- 6. If the above offer of appointment is acceptable to you on the above terms & condition, you are advised to report to the DHQ(H)Daggar within 15 days from the issuance of this order. otherwise the offer will be considered as cancelled.
- Arrival will accept, if he found medically fit. 7.

bistric Health Officer District Buner Dated the 13 / 10- /2014

No. 4520 -27/PF Copy forwarded to:-

- The M.S DHQ(H) Daggar Buner 1.
- Director General Health Services KPK Peshawar 2.
- Deputy Commissioner Buner 3.
- Team Leader Merlin Buner
- 4. The District Accounts Officer Buner
- Mr.Iqbal Khan S/O late Mr.Said Bawar Village P.O.Nawagai & Tehsil Mandan District 5. 6. Buner
- Account/Establishment section of this office 7.

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District Buner Whant

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BEFORE THE PESHAWAR HIGH COURT, BENCH CHAWAR HIGK AT MINGORA / DARUL QAZA SWAT

Annes

Writ Petition No: <u>312-M</u> of 2012

(1) Iqbal Khan S/o Said Bawar (2) Saba Khan S/o Said Bawa Langaw, Batai, P.O and Tehsil Nawagai, District Buner.

## VERSUS

Petitioners

Govt. of Khyber Pukhtunkhwa through Secretary Health, Khyber (1)Pukhtunkhwa Peshawar. Attast

Director General Health Services Khyber Pukhtunkhwa, (2).

Peshawar.

E.D.O Health Buner at Sawari. (3)

D.C.O Buner at Daggar, District Buner. (4)

Sartaj Khan S/o Shad Ali Khan R/o Village Kulyari, Tehsil Gagra, (5)District Buner

- Jasim Ali S/o Abdul Hayat R/o Village Pacha Kalay, Tehsil (6) Gadezi, District Buner:
- Zia-ur-Rahman S/o Ahmad Gul R/o Village Suitanwas, Tehsil (7)Gadezi, District Buner (Drivers)
- Iqbal Jan S/o Agar Khan R/o Village Kulyari, Tehsil Gagra, (8)District Buner.
- Said Wali Shah S/o Muhammad Khun R/o Village Nansair, Tehsil (9) Salarzi, District Buner.
- (10) Muhammad Khaliq S/o Abdur Sattar, R/o Village Mohallah Banda, Malak Pur, District Buner (Tube Well Operators)
- Bakht Zari D/o Ashraf Gul R/o Villdge Daggar, District Buner. (11)
- Siasat Bibi D/o Muhammad Sattar R/o Village Manjar, Tehsil (12)Chamla, District Buner.
- Bakht Mina D/o Ali Said R/o Village Manjar, Tehsil Chamla, (13)District Burier.

Amtari W/o Farid Gul R/o Village Takhta Band, Tehsil Gagra, (14)

deceased government employees. x tot bavrasar stoup %001 to sized aft no tnaminioqua the petitioners seektheir ln essence, - 7 deceased sons quota. sought that the petitioners be posted against the 100 % ineffective upon the rights of petitioners and further the same be declared illegal, violative of rules and annulment of impugned notification and prayed that ABDUL LATIF KHAN, J .- The petitioners seek the respondents. Mr. Badi-uz-Zaman, Advocate for private respondents. Mr. Sabir Shah, AAG for the official Advocate for petitioners. Muhammad Saeed Khan Shangla, Present:-\*10Z-6-61 W.P. No. 312 of 2012. สิ้นเมื่ออวกาะ or Proceeding of parties or counsel where necessary лары Order of other proceedings with Signature diffuge or Maggerate and Mat Date of Order To old Inno Case No To muo NOTH RAINS FORM OF ORDER SHEET EOKW "V., N ESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT.

ni institution of sinsburger barraction appointment

100% deceased sons quota, the case of petitioners be

view of clear cut policy of the government regarding

learned counsel for private respondents agreed that in

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this Court, if so advised.

redressed then they would be at liberty to approach case, the grievances of petitions have not been with law within a period of two months positively. In deceased government employees strictly in accordance government regarding 100% quota reserved for petitioners in light of clear cut policy of əцı respondents are directed to consider the case of disposed being not stressed, however əyı SI In wake of the above, the instant petition

quota, then he would not press the instant petition. the petitioners on the basis of 100% deceased sons the concerned respondents regarding appointment of proposition to the effect that if direction is issued to Learned counsel for petitioners also agreed to this light of above referred policy of the government.

nex-10 17 W.F.P., Mad. No. 4 NWPP-27-PS-2000 P of 100-29-7-9 -- (16) MENICAL CENTERCARE Name of Official Min. 2. 9, Ball Klag Caste or raos. Slama Father's name ..... ) and Boway Residence. Village Batai Po-Novagui Tehsil Dagean Dist: Broner ( Presently ville & Kangalai Chingles Barney) Signature of the Official ..... Signature of head of office ..... Distt:Buner Seal of Office .: I do hereby cortify that I have examined Mr. 99 bal Khama candidate for employment in the Office of the M. S. DHQ - Hospital Das and can not discover that he had any disease communicable or other constitutional effection or bodily infirmity except..... I do no consider this as disqualification for employment in the office of the abane\_ His ago according to his own statement 35 year and by Wase appearance about ... This to, ... Eight .... years. Niedical Superinteratory Distr. Horat quarter > " about LEFT HAND THUME AND FINGER Oggent Bre IMPRESSIONS lo old Medical Superin Civil Hospital Ο

OFFICE OF THE DISTRICT HEAL

## OFFICE ORDER

OFFICER DISTRICT BUNER <u> Phone & Fax # 0939-510138</u>

Mr. Iqbal Khan Beshti attached to RHC Nagrai, is directed to report for duty at CD Chinglai, due to the shortage of class-IV staff with immediate effect in the best interest of public/polio eradication

Arrival/departure report should be submitted to this office.

Health

Dated the 3 0//10 - /2014

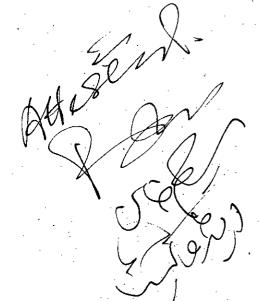
District Buner

No. 4898-90-/PF Copy forwarded to:-1. MO I/C RHC Nagrai & CD chinglai

- 2.
- The above named official T/L Merlin Buner 3.
- Account/Establishment section of this office 4.
- 5. P/file

Health Officer

District Buner



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W.P.NO. 322 (00	R HIGH COULT D		· · · · · · · · · · · · · · · · · · ·	F.	- 2 1-5
W.P. NO. 393 /20	15.	S	NGORA DAI	RULQAZA SW	AT. P
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<ol> <li>Govt of Khyber Pu</li> <li>Director General I</li> <li>B. Distt; Health Official</li> </ol>	ikhtoonkhwa thr	ough secreta Tyber Pukhtor	ry Health'do Ikhwa Pesh	ptt: Pushiawa awar,	11. i i i
		"RES	PONDENTS	e '	
	4 1				-
WRIT PETITOIN UN REPUBLIC OF <u>PAKI</u> Respectfully shewe		9 OF THE CO	INSTITUTIO	N OF ISLAMIC	A
<u>FACTS.</u>		, · · ·	Þ	Her	A
1 Though					Nº C
<ol> <li>That the petition at D.H.Q Hospital office order ,end quota of a decea and judgment of No.312/M/2012. dated 30/9/2014a as " A " ," B"&amp; "C"</li> </ol>	orsement No. 45 sed govt ; emplo this affix court , c	20-27/Pf date 20-27/Pf date yee's son , in lated 19/9/20	dent No.3, v ed ,13/10/2( compliance )14, in writ p	vide his D14 , ,against to the order petition	
<ol> <li>That the petitione submitted his arriv DHQ Hospital Dage annexed as annexy</li> </ol>	r in compliance to al report and got	the order da	nted, 13/10/	2014,	

3. That the petitioner was then transferred and subsequently posted at the existing station, Civil Dispensary Chinglai Buner by the respondent No.3, vide his office order endorsement No.4898-900/Pf dated 30/10/2014. Copy of the same order is annexed as "E".

MARCH SCOMY 355 創售

Additition and the sale

Therefore it is humbly prayed that on acceptance of this write petition the order impugned, endorsed vide No.4633-41 /PF dated 15/10/2014 may be declared as null and void, from the date of its issue with the directions to pay the arrears of monthly salaries, equal to the difference and variation of BPS 2 and BPS 1 w.e. from 13/10/2014 as due beingless drawn, till the date of disposal of this write petition and with the . directions not to make the pre mature transfer of the petitioner from his existing station /Civil Dispensary chinglai Buner in violation of the policy exist.

Any other relief to which the petitioner is entitled under the rules and policy exist, may also graciously be granted in favour of the petitioner for which specifically has not been prayed here in the instant petition. PETITIONER CUCICIA

Through Counsel

**RAHIM KHAN** Advocate High Court Peshawar Office ; At Distt; Courts Daggar Buner Cell'- 0343-9049185. Dated.10/07/2015

## INTYEREM RELIEF.

민님

Till the disposal of this write petition the status quo may kindly be granted.

In favour of the petitioner beside the threat as alarming one for the petitioner, اشكان خان not to transfer him. PETITIONER

Through counsel

RAHIMI

Advocate High Court Peshawar

Dated, 10/7/2015.

## CERTIFICATE

It is to certify that the contents of this w/petition are true and correct to the best of my knowledge and belief and tghat nosuch like write on the same Liste OF BOOK Constituation 5. Islamic Rep: 05.02 subject matter is pending before this affix court .

PETITIONER Dated ,10/07/1015

- Cranster Teni

Hase

BUNER

(1.3

MINGORA DARULQAZA SWAT

PETITIONER

MAR HIGH COUT

VERSUS

/2015.

TEFORE THE PESHAWAR

V P NO\_

Govt of Khyber Pukhtoonkhwa through secretary Health deptt; Peshawar .
 Director General Health Services Khyber Pukhtonkhwa Peshawar.
 Distt; Health Officer Buner at Daggar...

"RESPONDENTS"

Â

WRIT PETITOIN UNDER ARTICAL 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

Respectfully sheweth that;

FACTS.

 That the petitioner was appointed as Male Attendant. BPS 2 and posted at D.H.Q Hospital Daggar Buner, by the respondent No.3, vide his office order ,endorsement No. 4520-27/Pf dated ,13/10/2014, ,against quota of a deceased govt; employee's son, in compliance to the order and judgment of this affix court, dated 19/9/2014, in writ petition No.312/M/2012. copies, the judgment dated,19/9/014, of "application dated 30/9/2014and appointment order dated 13/10/014 are annexed as " A " ," B"& "C".

 That the petitioner in compliance to the order dated, 13/10/2014, submitted his arrival report and got Health and age certificate from M.S DHQ Hospital Daggar Buner on dated 13/4/2014. Copy where of is annexed as annexure "D".

 That the petitioner was then transferred and subsequently posted at the existing station, Civil Dispensary Chinglai: Buner by the respondent No.3, vide his office order endorsement No.4898-900/Pf dated 30/10/2014. Copy of the same order is annexed as "E".

115 302 2015

MARKINGSTRUCK

#### PESHAWAR HIGH COURT MINGO DAR UL-QAZA, SWAT

ORM OF ORDER SHEET

Case No.

**Proceedings** 

Serial No. of order

or proceeding

10,8.2015

Date of Order or

## Interim Relief in W.P. No. 393/2015.

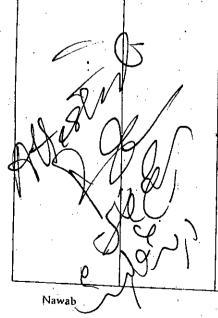
3117

Present:

Mr. Rahim Khan, Advocate, for the petitioner.

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel

Contends that the petitioner was appointed as Male Attendant in BPS-2 in light of the order dated 19.9.2014 passed by this Court in W.P. No. 312 of 2012 and as such has assumed the charge. But three (3) days after on 15.10.2014, he was again reappointed as Beshti BPS-01 on the basis of said order in gross violation of law and rules on the subject. The orders passed need careful examination and scrutiny. Pertaining which status quo is granted and the order dated 15.10.2014 stands suspended until 7.10.2015.



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## <u>PESHAWAR HIGH COURT, MINGORA BENCH/</u> <u>DAR UL QAZA, SWAT</u>

1

FORM OF ORDER SHEET

Court of .....

Case No..... of .....

Serial No. of order Dale of Order or Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel or proceeding <u>Proceedings</u> where necessary 07.10.2015 W.P. No. 393-M/2015. Mr. Rahim Khan, Advocate, for the petitioner. Present: الد الله الله Comments of the respondent No. 3 be sought so as to reach this Court within fortnight. Adjourn to a date in office. Interim Relief. Notice for a short date and in the meanwhile status quo be maintained. Sd-Syed Afsar Shah-U Sd. Haider Ali Khan-J CertiFIED to be true copy Peshaway Authorized 371 3 1 Nawab

Anex "G",

IMPUGNEDE

OFFICE OF THE DISTRICT HEALTH OFFICER DISTRICT Phone S. Fax # 0939-510138, Email: Mobuner@gmail.com

No. 458 67 1 (8. July

Dated the 27 101 /2016

## OFFICE ORDER

In compliance with Director General Health Services KPK Peshawar office letter No. 3620-87 And dated 26(3101)

The following officers/officials are working on general Duties against their original posts. They are hereby directed to report for duty at their original posts, detail are as under

<i>S</i> #	Name	Designation	From	То	Remarks
$\cdot I$	Dr.Amin Zahir	SMO	CH Chamla	RHC Nagrai	On his original post
2	Mrs.Naseem Bibi	LHV	-do-	BHU Langow	On her original post
3	Mr.Aurang Zeb	Mali	-do-	RHC Nagrai	On his original post
4	Mr,Amir Jawal	Ward orderly	Store	BHU Malka	-do-
- 5	Mr.iqbal Khan	Beshti	CD Chingli	RHC Nagrai	-do-
6	Mr. Hamsher	PHC Tehc;	DHQ(H)Daggar	Ũ	do

Arrival/departure report should be submitted to this office for record.

District Health Officer Buner

District Health Officer

Buner

Hesel

#### No.

Copy to;

- 1. Deputy Commissioner Buner
- 2. District Nazim Buner
- 3. DGHS KPK Peshawar
- 4. M.S DHQ(H) Daggar Buner
- 5. The Concerned MO I/Cs RHCs & CH of health facilities
- 6. The above named officials for compliance
- Acctt; Esta; Section
- P/File

sur polus

Anes (H) R- (25) حممت جماب خراف فرم المهاج مرضا معرضر حرفي في المحام التكاعر " fe who Tothe of" Replandent after stade by " Li Murt L' 23 27:01 2016 458-636 56 Ble Mert 2)-15-16abs & Julion ) 2000 3707 لاعلال الرحابة ويفلاة جاه ويعادان بال صحاب جى (ج- اوطو بر لوج) ب = = inally Judgement værgen 32 binnen ful jo -مع لت بالله الى مراداد المعرى منام الم معرات مور 4520-629 00 00 312-M-6 - 19 - 2010 Ster by 3 Small Attend 2012 13 The Rep المفرد - کف اس حی ایک 4633-41-6 295-302- 11-6 - 11-6 - 11-6 - 11-6 - 11-6 - 46. 5,1,= 21 vostor et = 2, vic us ( 15 - 10) - has Bight Beshter 1914 - 2012 كري المرجيري كافي لل حووث (بالمرمط رج مين المني King and and the stand of the stand 8D لی کھرد - مجمع میں کی ا 2 '6 & on Sich & PTO シブス

/11 ver la cimp All State Sold Frederic 1 Perce 19 1000 simonist of the stand of the mature Enter attent transforming in it 102 (155) 5J(10) - (6) (235) 35 M 200 55 M 200 5 35 M 200 5 M 200 SPREATED MARGE K., Not WACKS STORE SCARE STANDONO Ind. Will Color (E0-10) on OHPM (SSM) Ind Color (SSM) Ind Colo Forpower Erag 71665 CHEOLON A Star March March Star Jan Contrateset Manne on (5) 5, a : 6 Man (1978 - 6557 - 10) 50 Cor 30 - 2 (98)-A

بعدالت جماب جرمين من بروين خريد في المح العدالت جماب جرمين مريد في في المحالي ا مورفتہ کے کی اقبالاخان دعوى مروس إمر <u>بڑ</u>م باعث تحريراً نكه مقدمه مندجه عنوان بالامیں اپنی طرف سے واسطے پیروی وجواب دہی دکل مقدمه مندجه عنوان بالامين اپني طرف سے داسط پيروى وجواب دہى دس كارردائى متعلقہ آن مقام كم ميں احر بے لئے 'ور سیسے حول ن (ميرو كو يط حالی کر دسا عرار مقرركرك اقراركياجا تاب صحت موصوف كومقدمه كى كل كاروائى كا كامل اختيار ہوگا۔ نيز NDANO وکیل صاحب کوکرنے راضی نامہ دتقر رثالث و فیصلہ برحلف دیے جواب دہی اورا قبال دعویٰ اور بصورت د گری کرنے اجراءاور وصولی چیک نہ رو پیدادر عرض دعویٰ اور درخواست ہر تم کی تقدیق زرایں پردستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا پیل کی برآ مداور منسوخی نیز دائر کرنے اپیل نگرانی دنظر ثانی و پیر وی کرنے کااختیار ہو گا۔اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اورو کیل یا مختار قانونی کواپنے ہمراہ یا اپنی بجائے تقرركا اختيار ہوگا۔اورصاحب مقرر شدہ کوبھی وہی جملہ مذکور بالا اختيارات حاصل ہوں گےاور اس کاساختہ پداختہ منظور وقبول ہوگا۔دوران مقدمہ میں میں جوخرچہ وہرجانہ التوائے مقدمہ کے سب سے ہوگا۔اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا وخرچہ کی وصو لی کرنے کا ان بھی اختیار ہوگا۔اگرکوئی تاریخ پیشی مقام دورہ پر ہویا حد سے باہر ہے تو وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور کریں۔لہذاوکالت نامہ کھوریا کہ سندر ہے۔ المرتوم تحرحه ماه حرجی ,2016 العب العب العب العب العب بقام طعسام وليم في سورت علي منظور ب BAHIMKHAN High Count Advocate Dehawar Attested and Accepted

## <u>BEFORE THE SERVICES TRIBUNAL KYBER PAKTUN KHWA PESHAWAR</u> <u>Services Apeal NO. 576/2016</u>

Mr.Iqbal Khan S/o Said BawarMale attendant Civil Dispensary Chingali ......Petitioner <u>VERSUS</u>

- 1. The Secretary to Govt; of KPK Health Services
- 2. The Director General Health Services KPK Peshawar
- 3. District Health Officer District Buner......Respondents

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6	Applidanit		0-6

District Health Office District Buner

# BEFORE THE SERVICES TRIBUNAL KYBER PAKTUN KHWA PESHAWAR Services Apeal NO. 576 /2016

Mr.Iqbal Khan S/o Said Bawar Male attendant Civil Dispensary Chingali .....Petitioner 1.The District Health Officer District Buner. 2.Director General Health Services, khayberPakhtunkhwa, Peshwar.

3. Government of Khyber Pakhtunkhwa through secretary Health Departmant, civil

## Secretariat, Peshawar......Respondents.

Respectfully She weth:

## Preliminary objective:

ii.

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1. That the appeal is badly barred by time and under the rules is not maintainable.

2. That the appellant had concealed material facts from the Honorable Service Tribunal.

3. That the appellant had got no cause of action to file the instant appeal.

4. That the appellant has got no locus standi to ask for claim.

5. That the appellant is stopped by his own conduct to file the present appeal.

6. That the appeal is not maintainable in its present from and is not competent.

7. That the honorable tribunal has no jurisdiction to entertain the appeal.

8. That the instant appeal is bad for mis-joinder/non joinder of necessary parties.

#### <u>COMMENTS ON BEHALF OF RESPONDENT NO.1 to 3</u>

Correct: He was appointed by the then DHO Buner& issued first order on 13-10-2014. (Copy attached) on the compliance of Court judgment. And A

In Correct: on the same date 13-10-2014, his Medical Examination was performed by MS DHQ (H) DaggarBuner, but service file /arrival report has not been submitted in the DHQ (H) DaggarBuner.

In Correct; He has been transferred to CD Chingali from RHC Nagrai, not from DHQ(H) Daggar as he was appointed in RHC Nagra, according to the office order No.46331-41/PF Dated 15-10-2014 as it was his second order issued on 15-10-2014. Anx B

Correct: To the extent of his statement that he was appointed in BPS-01 According to his second order, his previous order on BPS-02 dated 13-10-2015 had been cancelled ,as no arrival & Service file had been submitted on the basis of  $1^{st}$  order. Thus the  $2^{nd}$  order was issued on 15-10-2014 in BPS-01.

Moreover the undersigned has competent authority to modify or change the order, as both the posts are of class-IV, & the court has ordered to appoint him on any vacant post of class-iv. Therefore he was appointed on regular basis on the post of Beshti BPS-01 attached to RHC NagraiBuner.

In correct; From the start he is receiving his salary in BPS-01, if he was grieved to be appointed on BPS-01, why he did not submitted appeal to the undersigned timely.

No Comments:

GROUNDS:

**D**).

A). In correct: The court has decided to recruit the appellant an decease Quota, but not ordered that he may be appointed on his father post. Moreover he posted BPS-01, which come under the

BD Class-IV.

- **B).** In Correct: the undersigned has not exercised unlawfully we just obeyed the Court order & selected the appellant on BPS-01
- C). It is the competency of the undersigned to appoint the appellant in BPS-01 or BPS-02, both

come under BD class-IV. No Comments:

- E). The appellant receiving his salary from the start of his service in BPS-01 not in BPS-02. Thus the BPS-01 order is legal, because the appellant has not submitted appeal against this post
- F) NO Comments:

timely.

G). No Comments :

DIRECTOR GENERAL HEAI

Senior Government Pleader Swat at Gulkada.

**KPK PESHAWAR** 

Bage.

SECRETARY HEALTH GOVERNMENT OF KPK PESHAWAR

District Health Officer, Buner

OFFICE OF THE DISTRICT HEALTH OFFICER-DISTRICT BUNER Phone & Fax # 0939-510138

pm (1) pm 2

#### OFFICE ORDER

In the light of Peshawar High Court Bench at Mingora /Darul Qaza Swat writ Petition No. 312-M/2012, duted 19-09-2014. (copy attached)/Death case during the Service (late Said Bawar Ward Orderly BPS-02 attached to BHU Langow Distt; Buner.

Mr.Iqbal Khan S/O late Mr.Said Bawar Village Batai P.O. Nawagai & Tehsil Daggar District Buner is hereby appointed as Male Attendant BPS-02 (4900-170-10000) on regular basis against the vacant post at DHQ(H) Daggar Buner with immediate effect in the interest of public services with the following terms & conditions. TERMS & CONDITIONS

- You will be placed in minimum of BPS-02with usual allowance permissible to the Govt. 1. servant of the same pay scale.
- 2. Your service will be under the Govt. of Khyber Pakhtunkhwa civil servant (Amendment) Act, 2013.
- 3. You will be provided the same facilities under benevolent fund as admissible to the Govt. servant, all the rates to be prescribed by the Govt.
- 4. You will be responsible for verification/authentication of all the documents you have submitted if any one of these documents is found "fake" you will be personally held responsible, legal action will be taken against you & your service will be stand terminated.
- 5. You will be on probation period for one year & your service will be regularized after successful completion of probation period, if your performance is not satisfactory, your service can be terminated any time without notice after probation period.
- 6. If the above offer of appointment is acceptable to you on the above terms & condition, you are advised to report to the DHO(H)Daggar within 15 days from the issuance of this order. otherwise the offer will be considered as cancelled.

District Health Officer

Dated the 7 / 0 /12014

Health Officer

District Buner

7. Arrival will accept, if he found medically fit:

Nol1520-27/101

Copy forwarded to:-

- The M.S DHQ(H) Daggar Buner Director General Health Services KPK Peshawar
- 2. 3. Deputy Commissioner Buner
- Team Leader Merlin Buner 4.
- 5. The District Accounts Officer Buner
- Mr.Iqbal Khan S/O late Mr.Said Bawar Village P.O.Nawagai & Tehsil Mandan District 6. Buner
- 7. Account/Establishment section of this office
- P/file 8.

1.

## OFFICE OF THE DISTRICT HEALTH OFFICER DISTRICT BUNER Phone, J. Fax # 0939-510138

## OFFICE ORDER

In the light of Peshawar High Court Bench at Mingora /Darul Qaza Swat writ Petition No. 312-M/2012, dated 19-09-2014. (copy attached)/Death case during the Service (late Said Bawar Ward Orderly BPS-02 attached to BHU Langow Distt; Buner. Mr. Iqbal Khan S/O late Mr. Said Bawar Village Batai P.O. Nawagai & Téhsil Daggar District Buner is hereby appointed as Beshti BPS-01 (4800-150-9300 ) on regular basis against the vacant post at RHC Nagrai Buner with immediate effect in the interest of public services with the following terms & conditions. TERMS & CONDITIONS 1. You will be placed in minimum of BPS-01 with usual allowance permissible to the Gove. servant of the same pay'scale. Your service will be under the Govi. of Khyber Pakhtunkhwa civil servant (Amendment) Act, You will be provided the same facilities under benevolent fund as admissible to the Govi. servant, all the rates to be prescribed by the Govil. 4. You will be responsible for verification/authentication of all the documents you have submitted if any one of these documents is found "fake" you will be personally held responsible, legal action will be taken against you & your service will be stand terminated. 5. You will be on probation period for one year & your service will be regularized after successful completion of probation period, if your performance is not satisfactory, your service can be terminated any time without notice after probation period. If the above offer of appointment is acceptable to you on the above terms & condition, you are advised to report to the RHC Nagrai within 15 days from the issuance of this order, otherwise the offer will be considered as cancelled. Arrival will accept, if he found medically fit. strict Intealth Officer No. 4633-41 PF. Copy forwarded to:istrict Suner 2014 ت ر Dated the 15 The M.S.DHQ(H) Daggar Buner. Ι. Director General Health Services KPK Peshawar 2 Deputy Commissioner Buner 3.1 Team Leader Merlin Buner 1 4 The District Accounts Officer Buner Mr. Iqbal Khan S/O late Mr. Said Bawar Village P.O.Nawagai & Tehsil Mandan District 5.

- б. Buner
- Account/Establishment section of this office ·7.
- 8. ₽/file

district Health Officer istriet Buner

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S.Amvar

## OFFICE OF THE DISTRICT HEALTH OFFICER DISTRICT BUNER Phone & Fax # 0939-510138

## OTTICE ORDER

Mr. Iqbal Khan Beshti attached to RHC Nagrai, is directed to report for duty at CD Chinglai, due to the shortage of class-IV staff with immediate effect in the best interest of public/polio eradication Arrival/departure report should be submitted to this office.

No. 4.898-900/

MO I/C RHC Nagrai & CD chinglai
 The above named official
 T/L Merlin Buner.
 Account/Establishment section of this office

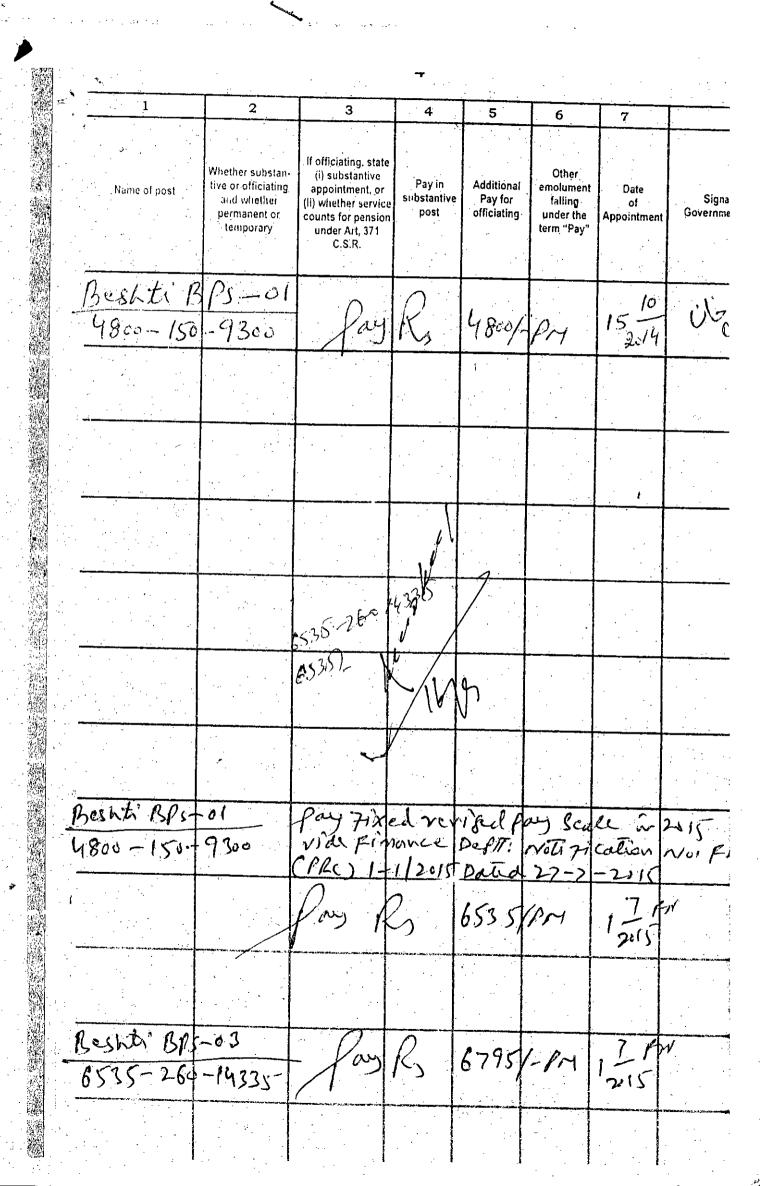
District Health Officer District Buner 30

Dated the /2014

Dist 'ci Heath District Buner

N Mr. Jabal Khan SIO\_Late Mr, Said Bawlar Designation Beshty BPS-01 Department Health RHC Nagran Burner. Rs: 50/=

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. Mr. Igsal Khan Name: \_ Justim Race: Residence: Village Batai P.O Nawagai and. Tehsil Daggar District Buner Father's name and residence: Late Mr. Sound Baway 1976 Date of birth by Christian era as nearly as can be ascertained: Exact height by measurement: Personal marks for identification: Left hand thumb and Finger impression of (Non-Gazetted) officer: Little Finger: **Ring Finger:** Middle Finger: Fore Finger: Thumb: Signature of Government Servant: ر شال خان Signature and designation of the Head of the Office, or other Attesting Sistrict Health Offens Officer BUNER.



5 ß 10 11 12 13 14 15 Leave Reason of Highature and Designation termination Allocation of period of of the head of the office Nature Date of Reference to any Signature of the leave on average pay or other attesting officer (such as and int termination or Signature of the recorded head of the office upto four months for Promotion, in attestation of durapunishment or head of the office appointment or other attesting transfer, which leave salary is columns 1 to 8 tion or other attesting censure, or reward officer. debitable to another dismissal, Л or praise of the officer ∵etc) Government leave Government taken Servant Government to Period which debitable 0 M Appa Ĵ. as Beshti BPS-01 Regular Basis againt The at Post at RHC Nagrai 0.01 15,014 U, 62 Da 10 / 2014 Capy allaca Intric Health Of BUNER. District Pre BUNER 19 of allow A 4.11 114 15 14 2269 30215 Scall Revised  $\mathcal{D}$ D. 17. Disti Distributer 30-6 Two Scale upgradation Allowed vide primance Depit: Not Ti Cali So (FR 7-20/2015 Э BPS.01 *₽3*-

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