

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1411/2023

Muhmamad Shoaib Khan

.....

Appellant

VERSUS

Government of Khyber Pakhtunkhwa
Health Department & Others

.....

Respondents

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Today

Next - 16-04-24


(ISRAR AHMAD)

SECTION OFFICER (LIT-II)
GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT
CNIC # 17301-1378727-7

**BEFORE THE' HONORABLE KHYBER PAKFITUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. 1411/2023

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 9852

Dated 12-12-2023

Muhammad Shoaib Khan.....**Appellant**

Versus

Govt. of Khyber Pakhtunkhwa and others.....**Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got no cause of action or locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has been estopped by his own conduct to file the instant appeal.
7. That the Appeal is badly time barred.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. Incorrect. The whole career of the appellant is full of complaints and had poor performance in regards to the discharge of his official duties as a drug inspector. On the basis of complaint on the allegations of corruption and issuance of fake Drug Sale License, the provincial Inspection Team conducted a detail inquiry against the appellant and recommended disciplinary action against the appellant along with referral of his case to the anti-corruption establishment Khyber Pakhtunkhwa for legal action. Furthermore, the respondent No. 03 (Secretary Health) constituted a committee for comprehensive audit of District Mardan, Kohat, Dir Lower and Peshawar regarding performance of Drug Inspectors posted as per their job and to find out discrepancies / male practices wherein some illegalities/ irregularities were proved and the committee recommended the appellant for disciplinary proceedings under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules 2011. (Copies of the PIT inquiry report, Notification dated 24.06.2020 and report of the committee are Annexures- A, B & C)
2. Incorrect. Already replied in para 01 above.
3. Correct to the extent of issuing a show cause notice which was duly replied by the appellant however, the reply of the appellant was not satisfactory.
4. Already replied in para 03 above.
5. Incorrect. Proper opportunity of personal hearing was provided to the appellant which was availed by the appellant hence denied. Thereafter, after providing opportunities of defense and fulfilling all the codal formalities as per law the appellant was awarded major penalty of removal from service vide Notification dated 02.02.2023 already annexed as annexure-F with the appeal.
6. Pertains to record.
7. Incorrect. No vested right of the appellant has been violated by the replying respondents however, reply on the grounds is as under:

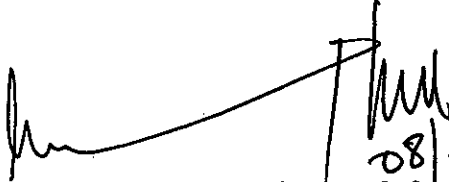
Grounds:

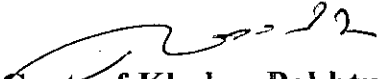
- A. Incorrect. The replying respondents acted as per law, Rules and Principles of natural justice.
- B. Incorrect. As per para A above.

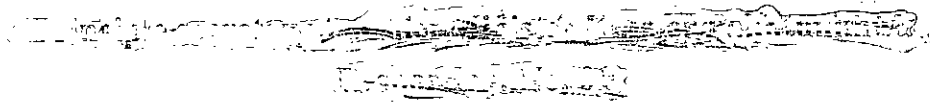
- C. Incorrect. All the allegations mentioned in the charge sheet along with statement of allegations have been proved during the inquiry proceedings beyond any shadow of doubt therefore, after fulfilling of all the codal formalities removal Notification dated 02.02.2023 was issued by the Competent Authority.
- D. Incorrect. As per para A above.
- E. Pertains to Court record. However, regular inquiry was conducted through an impartial inquiry committee against the appellant before issuing the impugned notification dated 02.02.2023.
- F. Incorrect. Already replied in para A above.
- G. The replying respondents also seek permission of this Honorable Tribunal to adduce other grounds during final hearing of the case.

PRAYER

It is therefore requested that the Appeal of the Appellant may very graciously be dismissed with cost.

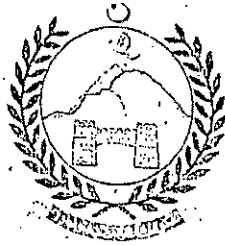

08/12/2023.
**Director General Drug Control &
Pharmacy Services
Khyber Pakhtunkhwa
Respondent No. 04**


**Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Respondent No-02&03**



CONFIDENTIAL

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PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA
INQUIRY REPORT

Subject: INQUIRY INTO COMPLAINT AGAINST MR. AMIN-
UL-HAQ SENIOR DRUG INSPECTOR, MARDAN.

1- Order of Inquiry

Orders of the Competent Authority to conduct an inquiry into the captioned case were communicated vide Chief Minister's compliant and Redressal Cell letter No. DS/C&RC)/CMS/KP/1-65/Vol-1/Noor Islam/app-3288/2449 dated 07.09.2020 (Annex: A).

2- Complaint

The complainant, Dr. Noor Islam in his complaint dated 25.7.2020 (Annex: B) stated that he was a retired Chief Medical Officer from Health Department Government of Khyber Pakhtunkhwa and had a clean, dedicated and honest service history at his credit.

He further stated that he had a private clinic in Takht Bhai. Mr. Amin-ul-Haq Senior Drug Inspector Mardan visited pharmacy of his clinic along with Assistant Commissioner Takht Bahi for inspection on 17.03.2020.

Section Officer-III
Health Department
Khyber Pakhtunkhwa

affected
Section Officer-III
Health Department
Khyber Pakhtunkhwa

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further alleged that the said store was also used for issuing illegal Drug Licences.

The complainant alleged that on the subsequent day i.e., 18.03.2020, Mr. Amin-ul-Haq sent him a Drug licence prepared and signed by him for a period of two years. He added that he was insulted in front of his patients, AC and other staff just for the sake of illegal money. The complainant requested for an impartial probe into the matter to punish/transfer such a mentally unfit/drug addict from district Mardan and to replace him by an honest and dutiful drug inspector.

3- Inquiry Proceedings.

a. After receiving the case, the complainant, Dr. Noor Islam was requested to attend office of the PIT for hearing and recording statement vide letter dated 11.09.2020 (Annex: C). In response, he attended and recorded his statement on 16.09.2020 (Annex: D).

b. The PIT further requested the Assistant Commissioner, Takht Bhai, District Mardan to furnish comments in connection with allegations levelled in the instant complaint vide letter dated 25.09.2020 (Annex: E). The requisite comments furnished by the concerned Assistant

attested
[Signature]
Section Officer (Lit-II)
Health Department
Ayub Pakhtunpura

[Signature]
Section Officer (Lit-I)
Health Department
Ayub Pakhtunpura

Commissioner vide letter dated 28.09.2020 (Annex: F).

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- c. The Secretary Health Department was requested to serve the Questionnaire of the PIT upon the accused Drug Inspector and direct him to attend office of the PIT for hearing and recording statement vide letter dated 09.10.2020(Annex: G). In response, brother of the accused Drug Inspector attended who requested that he(Mr.Amin ul Haq Sr. Drug Inspector) would attend the PIT on the next day (Annex: H). The accused himself attended along with reply to the questionnaire on 20.10.2020 (Annex: I). His statement was also recorded wherein he requested that he would submit the deficient/pointed out record within a week time (Annex: J).

The PIT further requested the Secretary Health department to direct the accused officer Mr. Amin ul Haq to provide the deficient record as per the commitment of the accused vide letter dated 28.10.2020. and reminders dated 10.11.2020 and 18.11.2020(Annex: K). However, the accused Drug Inspector failed to provide the requisite record. The incumbent Provincial Drug Inspector Mardan namely Abdul Rauf provided some of the record

g. H. H. H.
Secretary (it-ii)
Health Department
Khyber Pakhtunkhwa

through Health Department vide letter dated 18.11.2020(Annex: L)

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e. The Director General Drug Control, Khyber Pakhtunkhwa was requested to provide an attested/authentic copy of the Drug Control Act 1976 and bye Laws of the Drug control vide letter dated 11.11.2020 and reminder dated 18.11.2020(Annex: M). The requisite laws were provided vide letter dated 17.11.2020(Annex: N).

f. The PIT served a questionnaire containing two questions upon the then Assistant Commissioner, Takht Bhai Mardan vide letter dated 25.11.2020(Annex: N-I). Reply of the officer was received vide letter dated 26.11.2020(Annex: N-II).

g. The PIT visited District Mardan and conducted an inspection of the clinic of Dr. Noor Islam on 10.12.2020. The record of Fake Drug Licences was also collected from the incumbent Drug Inspector Mardan(Mr. Abdur Rauf) during the visit(Annex: O).

O). In light of the fake Drug Licences, statements of the following owners of concerned Drug shops/pharmacies were also recorded;

attested
Jameel
Section Officer
Health Department
Khyber Pakhtunkhwa

Jameel
Section Officer
Health Department
Khyber Pakhtunkhwa

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S.No	Name	Pharmacy	Annexure
1	Joint statement of Muhammad Ikram S/O Shakar Khan and Muhammad Ibrar S/O Muhammad Ikram	Takht Bhai Veterinary	P
2	Yousaf Shah S/O Niqab Shah	Sufyan Medicine company Manga, Mardan	Q
3	Jamshed Khan S/O Sarfaraz Khan	Shahab/Khyber Medicose Takht Bhai	R
4	Rasheed Khan S/O Ghulam Sarwar	Rasheed Medicose Takht Bhai	S

Attested
Inspector

Section Officer (L&H)
Health Department
Khyber Pakhtunkhwa

Section Officer
Health Department
Khyber Pakhtunkhwa

h. Further PIT visited the medicine shop at Jhandi, Mardan reportedly own by the Rasheed Khan indicated as middleman of the accused Drug Inspector. However, his shop was found closed. A summon dated 10.12.2020 was handed over to the nearby neighbour of his shop to attend PIT on 11.12.2020 for hearing. In response he attended accordingly and recorded statement (Annex-S).

i. The PIT further served a questionnaire upon the Ex-Drug Inspectors Mardan(Mr. Amin-ul-Haq, Tayyab and Muhammad Shoaib) to clarify the status of twenty-nine doubtful Drug Licences issued by them which have no official record vide the PIT letter dated 16.12.2020(Annex-T). In response, only Mr. Shoaib submitted record unofficially (Annex-U).

4- Observations/Analysis.

After scrutiny of the available record/documents, detailed discussions, written statements and replies of the concerned, observations/findings of the PIT are as under:-

a. The Complainant, Dr. Noor Islam stated in his written statement dated 16-09-2020(Annex: D) that his complaint was based on facts and that he would be responsible if anything was found baseless. The PIT asked him whether he had Drug Licence on the day when his pharmacy was inspected by the Drug Inspector on 17.03.2020. He replied that at the time of inspection and sealing of his pharmacy he had no Drug License but the pharmacy was inside his clinic having only emergency items for his clinic's patients. The PIT further asked him to furnish proof regarding the payment of Rs.1,10,000/- as bribe to the concerned

Attested
Imran Khan
 Section Officer (Medical)
 Health Department
 Khyber Pakhtunkhwa

Ali Raza
 Section Officer (Medical)
 Health Department
 Khyber Pakhtunkhwa

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During the inspection he requested the aforementioned Drug Inspector that the pharmacy was only for his clinic's patients and was totally under his supervision. The complainant further added that he informed the Drug Inspector that his clinic was already registered with Health Regulatory Authority.

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The complainant contended that the medicine area was inside his clinic where he kept medicines for the consumption of his patients only and did not sell medicines to the general public. The complainant asserted that he requested the said Drug Inspector to intimate his objections (if any) in writing and that he (complainant) would also manage Drug Sale License if required under the law.

The complainant alleged that Mr. Amin-ul-Haq refused to entertain his request and sealed the pharmacy. He added that he sent his nephew named Mr. Mohammad Younas to the office of the above Drug Inspector where an amount of Rs. 1,40,000/- was demanded from him for de-sealing of the pharmacy. The complainant alleged that his nephew paid the Drug Inspector an amount of Rs.1,10,000/- in Rasheed Medical Store situated in Jhanday Bazar Takht Bhai. The complainant further claimed that Mr. Rasheed, owner of the Rasheed Medical store was middleman of the aforementioned Drug Inspector for extorting illegal money from all Medical Stores situated in District Mardan. It was

attested
Health Department
Khyber Pakhtunkhwa

Officer-III
Department
Khyber Pakhtunkhwa

Drug Inspector. He replied that two of his relatives were his witnesses. The PIT asked him that whether he had applied for issuance of Drug license. He replied that he had not applied for any Drug license. He claimed that the accused officer Mr. Amin-ul-Haq issued him fake Drug License which had no official record. The complainant provided the said Drug Licence to the PIT having the following particulars with condition to keep it confidential during the inquiry proceedings(Annex: W);

DSL NO	Medical Store Name	Address	Qualified Name	From	To
171/Rs & (171/Rs-N)	Islam Medical Store	Mazdoor Abad Takht Bhai	Abdur Rehman S/O Abdul Jabbar	18-3-20 (18-3-20)	17-3-22 (17-3-20)

attested
Jamir A
 Section Officer-III
 Health Department
 Muzaffargarh

The complainant was further asked that why he paid an amount of Rupees 1,10,000/- as a bribe which was a crime under the law. He contended that it was the only way to expose corruption of the said Drug Inspector.

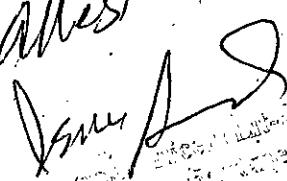
Section Officer-III
Health Department
Muzaffargarh

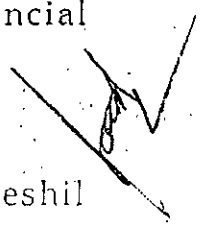
b. The Assistant Commissioner in her comments dated 28.09.2020 (Annex: F) stated that office of the Assistant Commissioner provides only administrative support to the other departments

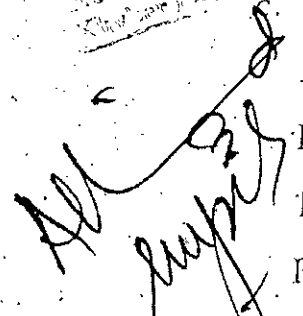
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and fulfillment of legal formalities was the responsibility of the concerned departments. In the instant case office of the AC Takht Bhai provided administrative support to the concerned Drug Inspector who fulfilled the legal formalities. The PIT asked her as to why she failed to ensure a fair/lawful post sealing action as she accompanied Mr. Amin-ul-Haq Sr. Drug Inspector Mardan during sealing of the pharmacy of Dr. Noor Islam on 17.03.2020 which was de-sealed on the basis of a fake Drug Licence on 18.03.2020(Annex: N-I). She reiterated that she only provided assistance to the Drug Inspector as provided under section 18(1)(d) of the Drug Act 1976. She added that neither she issued the sealing nor the de-sealing order. She further added that powers of sealing lies with the Drug Inspector and the powers of de-sealing rested with Drug Court or Provincial Quality control Board(Annex: N-II).

Attested

 Amin-ul-Haq Sr. Drug Inspector
 Pharmacy Technician
 Teshil Hospital Tangi



All copies

 Section Officer-III
 Health Department
 Khyber Pakhtunkhwa

Mr. Shams-ul-Haq Pharmacy Technician of Teshil Hospital Tangi(brother of Amin-ul-Haq Sr. Drug Inspector) in his statement dated 19.10.2020(Annex: H) stated that he attended the PIT on behalf of his brother. He further stated that his brother had fallen from stairs and had got injuries on his hand due to which he was unable to attend the proceedings. He produced a medical certificate issued by a private orthopedic surgeon.

He requested that his brother would attend the PIT on next day.

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d. Mr. Amin-ul-Haq Senior Drug Inspector Mardan in his reply to the questionnaire of the PIT (Annex: I) stated that he was posted in District Mardan on 30.10.2019. He added that his routine inspections schedule was started from 9.00am to 5:00pm at random basis. He further added that on the day of sealing medical store of the Dr.Noor Islam, he inspected the following three other pharmacies along with Assistant Commissioner Takht Bhai.

- a. Shahab Medical Store
- b. Sehat medicos' main bazaar Takht Bhai district Mardan
- c. Khyber Medicos

According to his statement he inspected medical store of Dr.Noor Islam on 17.03.2020 along with the medical store after issuance of License for which all the requisite documents were furnished by drug control clerk. He further informed that the said Doctor ran his medical store without a license for years. When he sealed medical store then the aforementioned Doctor approached for getting license for which he provided all the relevant documents and details to Drug Control Clerk. He commented that he sealed medical store of the Dr.

Attested
Section Officer (I) AC
Health Department
Khyber Pakhtunkhwa

Section Officer (I)
Health Department
Khyber Pakhtunkhwa

Noor Islam under section 23 (l)(c), vii, vi & (i) of the Drug Act 1976. Unregistered Expired, Misbranded and Indian drugs were taken on form-6. He further informed that the said -seized drug Sample record was available along with attestation and biometric proofs with Mr. Imran Ullah store keeper of Dr. Noor Islam medical store. Regarding provision of detail of the Drug Licences issued by him (Sr. Drug Inspector Mardan), he informed that during the month of March, 2020, record of his office was mixed due to non availability of storage facility and would take time in its recovery. Which seems a lame excuse and leads to the impression that no record was available of the Drug Licence in question.

e. In statement dated 20.10.2020 (Annex; J) the accused officer stated that he visited the clinic of complainant, Dr. Noor Islam for inspection along with Assistant Commissioner Takht Bhai, Mardan at around 9.00 am on 17.03.2020. He added that a pharmacy shop was there with clinic of the above doctor. During inspection, the said Doctor had no Drug Licence. In addition, unregistered and samples were also found in his pharmacy. Hence, his pharmacy was sealed. He added that the next day (18.03.2020), when the said Doctor produced the Drug Licence, de-sealing order was issued. The PIT asked him that as per his claim, if the said Doctor had been running the pharmacy without

*Attested
Inspected*

AM
Section Officer
Health Department
Khyber Pakhtunkhwa

Licence for years then how many times he issued him show Cause Notices. He replied that he did not issue any show cause notice before the sealing and expressed ignorance if any other Drug Inspector had issued him any show cause notice before his posting. The PIT asked him to explain that whether issuance of show cause notice is required before sealing of any pharmacy. He replied that Dr. Noor Islam was issued a show cause notice on the same day i.e., on 17.03.2020. The PIT asked him to produce copy of application of the said Doctor for issuance of Licence. He replied that he had no copy of the said application at the time. However, he promised that he would provide the same within a week time. The PIT asked him to explain the procedure of issuance of Drug Licence. He replied that the same was mentioned in the Drug Act-1976, which he would provide after confirmation from the said Act. The PIT asked him to produce copy of the Drug Licence which he issued to the concerned Doctor on the basis of which he issued the order of de-sealing. He promised that he would provide the copy within a week time. The PIT asked him whether he got the seal/signatures of the concerned Doctor on the confiscated drugs. He replied that Form-6 was attested by the concerned pharmacy store keeper. The PIT asked him that

*attested
Janyal*

[Signature]
 Joint Officer III
 Health Department
 Hyber Pakhtunkhwa

[Signature]

why he did not furnish detail of the Drug Licences issued by him during the month of march 2020. He promised that he would produce the said record within a weak time. However, he failed to produce record of the Drug Licence issued to Dr. Noor Islam despite repeated requests.

- i. The Health Department vide its letter dated 18.11.2020(Annex: L) informed that Mr.Amin ul Haq Sr. Drug Inspector Mardan issued the following three Drug Licences during the month of March 2020;

DSL NO	Medical Store Name	Address	Qualified Name	From	To
29/Rs	Musa Khel Medical Store	Shamsi Road Mardan	Sahib ul Haq S/O M. Kamil	22-2-20 Issued on 16.3.20	21-3-22
117/Rs	Shameen Medicos	--do--	M. Nadeem S/O Hikmat Shah	09.3.20	08.3.22
633/Rs	Mirza Medicos	Saro Shah Takht Bhai	Mirza Khan S/O Ashraf Khan	26.3.20	25.3.22

Attested
Isma A...

Section Officer (Drugs)
Mardan District
Khyber Pakhtunkhwa

AM 3/8/20

Section Officer-III
Health Department
Khyber Pakhtunkhwa

(17)
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8. Mr. Abdur Rauf Drug Inspector Mardan in his statement dated 10.12.2020 (Annex: O) stated that he was posted in District Mardan on 07.10.2020. The PIT asked him that whether he had conducted any inspection/scrutiny for verification of the Drug Licences issued in District Mardan. He replied that he had conducted a field inspection during which the following Drug Licences issued by the ex-Drug Inspectors (Mr. Amin ul Haq, Shoaib and Tayyab) were found fake, without official record, Bank challan, and qualified person and in contravention of the Drug Rules 2017. He added that he had also shared the said record with Health Department;

Detail of Drug Licences having no official record.

Attested
Inspected

Section Officer (at)
Health Department
Mardan Pakhtunkhwa

Attested
Section Officer (at)
Health Department
Mardan Pakhtunkhwa

S.No	Name of Medicose	Drug license Number	Address
1.	Takht Bhai veterinary	102/Rs Dated 20.05.2020	Malakand road takht Bhai
2.	Shahab medicose	202/RS Dated 07.05.2020	Main bazar takht bhai, Mardan.
3.	Mohmand medical center	547/RS Dated 01.04.2020	Saleem staff charsadda road mardan.
4.	Said medicose	766/NS Dated 30.12.2019	Opp Rhc manga charsadda road mardan.
5.	Health care pharmacy	135/Rs Dated 30.04.2019	Main bazaar lund khwar, takht bhai mardan.
6.	Sanan veterinary medicine store	352/Rs. Dated 17.02.2020	Chel road main chowk lund khwar bazaar
7.	Rehman medical center	434/WS Dated 08.06.2020	Mc plaza shop 14, bank road mardan
8.	Afaq traders	378/WS Dated 13.12.2018	Mc plaza bank road mardan.
9.	City medicose	361/RS Dated 14.05.2019	Swabi road kas korona college morh Mardan
10.	Sufyan medicen company	704/RS Dated 06.08.2020	Charsadda road manga, District Mardan.
11.	Ayaaan medical store	87/RS Dated 19.06.2020	Malakan road jalala takht bhai, Mardan
12.	United medicose	571/RS Dated	New plaza sher garh takht Bhai Mardan

13	Anas medical store	409/RS Dated 05.10.2020	Nawaz plaza shergarh mardan
14	Ibrahim medical company	697/RS Dated 24.07.2020	Abbas market manga mardan
15	Gul medical store	88/RS Dated 01.04.2019	Hatian road sher garh takht bhai Mardan
16	Mussa khel medicose	725/RS Dated 18.09.2018	Hari chand road sher garh takht bhai
17	Waris medical store	519/RS Dated 29.07.2019	Pir sado takht bhai
18	Kareem medical store	611/RS/N Dated 09.09.2020	Doran abad swabi road mardan
19	Saeed medical store	720/RS Dated 04.09.2020	Nawa kali rustam Mardan
20	Anwar medicose	479/RS Dated 05.10.2020	Opposite civil hospital rustan mardan.
21	Amjid medical store	518/RS Dated 25.02.2020	Main bazaar shankar katlang road Mardan
22	Mardan surgical service	324/RS Dated 22.06.2020	Jamal plaza pre chowk police line road
23	Zaman medicose	326/RS Dated 16.10.2020	Katlang road shankar mardan.
24	M-jehangir pharmacy	498/RS Dated : Nil	Chato chowk shamsi road mardan
25	Ikram medicose	703/RS Dated 20.07.2020	Swabi road sohaib plaza, kes. koroona
26	Saddam veterinary store	470 Dated 23.12.2019	Mian bazar gujarat mardan
27	Rehman medical store	822/RS Dated 26.02.2019	Katlang road shankar
28	Talha medicose	272/WS Dated 14.05.2019	Opp; civil hospital rustan mardan.
29	Ihsan medical store	617/RS Dated 15.07.2020	Manga stop, waseem khan market shop no. 1, tehsil mardan distt mardan.

The PIT served a questionnaire upon the then Drug Inspectors Mardan (Mr. Amin-ul-Haq, Tayyab and Muhammad Shoaib) to clarify the position of the above Licences. However, Mr. Amin-ul-Haq and Tayyab did not submit any reply while Mr. Muhammad Shoaib unofficially submitted record of Drug Licences issued by him which is doubtful due to no official record in backup/support. (Annex-U).

Section Officer
Health Department
Khyber Pakhtunkhwa

h. In another case of fake Drug Licence, Mr. Muhammad Ikram S/O Shakar Khan and Muhammad Ibrar S/O Muhammad Ikram owners of Takht Bhai Veterinary in their joint statement dated 10.12.2020 (Annex-P) stated that they paid about Rs.1,00,000/- to Mr. Amin Ul Haq Drug Inspector through Mr. Jamshed owner of Khyber Medical store and they were provided Licence No.102/Rs dated 20.05.2020. They added that before issuance of Licence, Mr. Amin Ul Haq and Mr. Rashid owner of Rashid Medicos had visited their store and issued the warning that he(the Drug Inspector) would seal their store. At the time of visit the said Drug Inspector received Rs.15,000/- from them and gave them two days time. They further informed that an amount of Rs.85,000/- was further paid to Mr. Amin ul Haq which was received by Mr. Rashid owner of Rahsid Medicos. Thus, a total of Rs. 1,00,000/- was paid to the aforementioned Drug Inspector and they were issued the above Drug Licence without any further information regarding its authenticity. They requested to return them the amount extorted by the above Drug Inspector.

Section Officer
Health Department
Khyber Pakhtunkhwa

attested
Jam A

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

In this connection, Mr. Jamshed Khan S/O Sarfraz Khan owner of Shahab/Khyber Medicos in his statement dated 11.12.2020 (Annex-R) stated that

Mr. Amin Ul Haq Drug Inspector had raided the Drug shop of Muhammad Ikram (Takht Bhai veterinary) during April/May 2020 and issued him a show-cause notice. He added that the son of Muhammad Ikram came to him and then they talked to Amin-ul-Haq Drug Inspector. The said inspector told them that he would arrange a qualified person for them and then he received about Rs. 80000/- to Rs 85000/-. He further stated that he was a guarantor in the said amount. Afterwards, the aforementioned Drug Inspector provided them a Drug Licence through Mr. Rasheed owner of Rashid Medicos Jhandi Bazar, Takht Bhai, Mardan. The PIT further asked him to explain that the Drug Licence No.202/Rs dated 07.05.2020 issued to his brother owner of Shahab Medico had no official record and was fake. He replied that he himself provided all the requisite documents along with Rs.10,000/- for issuance of Drug Licence to Amin ul Haq Drug Inspector during April 2020 who issued a Drug Licence within fifteen days. He added that his brother Mr. Shahab was himself a qualified person. He further added that he did not know whether his Drug Licence was legal or illegal.

Section Officer
Health Department
Khyber Pakhtunkhwa

Attested
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

Another owner of medicine shop, Mr. Yousaf Shah
O. Niqab. Shah owner of Sufyan Medicine
company, Manga Mardan in his statement dated

11.12.2020 (Annex-Q) stated that he had been running the said medicine shop since August 2020 and his qualification was F.A. He added that he deposited an amount of Rs.8,000/- in Bank for the Drug Licence and Rs.60,000/- was paid to Mr. Amin Ul Haq who provided the Drug Licence to his brother. The PIT asked him whether he knew his qualified person (Mr. Altaf Hussain S/O Abdul Ghafar). He replied that he had heard that the said person was resident of Takht Bhai and did not have any further information. The PIT asked him whether he knew that his Licence was fake. He replied that he did not know regarding the said fact.

k. The prime middleman of the accused Drug Inspector, Mr. Rasheed Khan S/O Ghulam Sarwar owner of Rasheed Medical Store jhandi Bazar Mardan in his statement dated 11.12.2020(Annex-S) stated that he had been running the said shop since 2002. He further stated that he neither received any amount from Dr. Noor Islam nor he provided Drug Licence to him. He added that he had met the aforementioned Doctor after three days of sealing of his medical store. He further added that a Jirga was held between Mr. Amin ul Haq and Dr. Noor Islam at his residence which was also attended by Dr. Ashfaq, Dr. Tahir and him. During the jirga the Drug Inspector offered

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Department
Pakhtunkhwa

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Health Department
Pakhtunkhwa

his apology to Dr.Noor Islam who accepted the apology saying that he was a pakhtun and that the Drug Inspector had come to his residence. However, he demanded that the amount of Rs.1,10,000/- received by the Drug Inspector would be returned to him. In response, Mr. Amin Ul Haq said that he would call the qualified person and if he agreed to cancel his Licence he would return the amount.

The above statement reveals that Mr. Amin ul Haq had received an amount of Rs. 1,10,000/- from Dr. Noor Islam. Which is a concrete evidence of acceptance of bribe by the accused Drug Inspector.

1. It was further observed that on one hand the accused Drug Inspector, Mr. Amin ul Haq Sr. Drug Inspector Mardan admitted that pharmacy of Dr. Noor Islam was de-sealed after issuance of Drug Licence by him on 18:03.2019. But on the other hand he failed to produce the application of Dr. Noor Islam for issuance of the Drug Licence and copy of the Drug Licence issued to the aforementioned Doctor despite repeated requests of the PIT. Furthermore, the above Drug Inspector, as per the data provided by Health Department, revealed that he had issued only three Drug Licences during March 2020 which did not include the Drug Licence issued to the pharmacy of Dr. Noor Islam(the complainant). It

Investigation Officer-II
Health Department
Cyber Pakhtunkhwa

Attested
Jasir Ahmad

confirmed the claim of Dr. Noor Islam that he was issued a fake Drug Licence by Mr. Amin ul Haq Drug Inspector just for extorting illegal money from him. Furthermore, it was found that the pharmacy was sealed on 17.03.2020 and de-sealed on 18.03.2020 after issuance of Drug Licence which casts doubts as to how the formalities of moving application by Dr. Noor Islam for Drug Licence, arrangement of qualified person for Drug Licence, processing of application and issuance of Drug Licence were fulfilled in just one day. Similarly, statement of Mr. Rasheed Khan S/O Ghulam Sarwar owner of Rasheed Medical Store, jhandi Bazar, Mardan revealed that the said Drug Inspector had received an amount of Rs.1,10,000/- from Dr. Noor Islam.

Similarly, Statements of Mr. Muhammad Ikram S/O Shakar Khan & Muhammad Ibrar S/O Muhammad Ikram owners of Takht Bhai Veterinary, Takht bhai, Mr. Jamshed Khan S/O Sarfaz Khan owner of Shahab/Khyber Medicos, Takht bhai and Mr. Yousaf Shah S/O Niqab Shah owner of Sufyan Medicine company Manga Mardan were sufficient concrete evidence of eye witness and proved without any shadow of doubt that Amin-ul Haq Drug Inspector had accepted bribe in aforementioned cases which tantamount to the fact that the accused Drug

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Khyber Pakhtunkhwa

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Section Officer (L-11)
Health Department
Khyber Pakhtunkhwa

Inspector does not enjoy reputation of an honest officer and is involved in taking illegal money from the Drug Sellers.

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5. Conclusion/Findings

Based on the observation/analysis of this report the conclusion/findings of the PIT are as under;

Fake Licence;

a. As mentioned in para-4(l), it was proved that the accused Drug inspector (Mr.Amin ul Haq) issued the complainant a fake Drug Licence(Licence particulars mentioned in para-4-a) in a private Medical Store having no official record in contravention with Rule-14 of the Drug Rules 1982 as amended in 2017. In addition, as informed by Health Department, only three Drug Licences were issued by the accused Drug Inspector during the concerned month (March 2020) which does not include the licence issued to the pharmacy of 'Dr. Noor Islam. It further validated the claim of the complainant that he was issued a fake Licence for illegal money which has no official record.

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Commissioner
Health Department
Khyber Pakhtunkhwa

Bribe/illegal Money

The allegation that an amount of Rs. 1,10,000/- was illegally extorted by the above Drug Inspector from the complainant was also proved

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Stamp: HEALTH DEPARTMENT, KHYBER PAKHTUNKHWA

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by the circumstances that the accused issued a fake and forged Drug Licence upon which he had de-sealed the pharmacy which shows undue favour to the complainant. Similarly, as per the statement of Mr. Rasheed Khan S/O Ghulam Sarwar owner of Rasheed Medical Store Jhandi Bazar Mardan Mr. Amin ul Haq had received an amount of Rs.1,10,000/- from Dr. Noor Islam which was demanded back by the said Doctor during a Jirga. Similarly, the statements of other owners of Drug sellers mentioned in para-4(1) also confirmed receipt of illegal money/bribe from the Drug sellers by the accused Drug Inspector. Thus, the accused Drug Inspector (Mr. Amin ul Haq) misused his authority and committed corruption.

Others

c. The PIT found during the proceedings of the inquiry that the Drug Licences mentioned in para-4(g), did not have any official record and are doubtful.

d. The PIT found that Medicos of the Dr. Noor Islam is situated inside his clinic (Annex-V). However, he is required to move application for obtaining a legal Drug Sale Licence as required under the Law.

e. The Health Department is also required to look

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Section Officer-III
Health Department
Mhyber Pakhtunkhwa

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Section Officer-III (Lit-II)
Health Department
Mhyber Pakhtunkhwa

into the claim of accused Drug Inspector that Dr. Noor Islam had misbranded/Indian drugs at his clinic and take necessary action accordingly under the law.

6- Recommendations.

In light of the observations/findings and conclusion of this report, recommendations of the PIT as under;

- I. Strict Disciplinary action may be initiated against Mr. Amin-ul-Haq Sr. Drug Inspector Mardan for issuing a fake Drug Licence and receiving illegal money/bribe from Dr. Noor Islam. Furthermore, a case regarding issuance of fake/forged Drug Licence and accepting bribe may be registered in Anti-Corruption Establishment Khyber Pakhtunkhwa for taking legal action.
- II The above Drug Inspector may immediately be removed from field posting and he may not be posted in field in future.
- III. The administrative Department may be directed to conduct an inquiry into the Drug Licences mentioned in para-4(g) issued by Mr. Amin ul Haq, Tayyab and Muhammad Shoaib Khan Drug Inspectors during their tenures in District Mardan and take legal action accordingly under intimation

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 Health Department
 Khyber Pakhtunkhwa
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 Section Officer (Lit-II)
 Health Department
 Khyber Pakhtunkhwa

IV. Dr. Noor Islam (the complainant) may also be directed to move application for obtaining a legal Drug Sale Licence as required under the law.

V. In the Drug Licences the contents and addresses of the qualified person should be incorporated for the purpose of verification. Similarly, Drug Licences may be issued on-line throughout the Province.

VI. The Health Department may be directed to look into the claim of accused Drug Inspector that Dr. Noor Islam had misbranded/Indian drugs at his clinic and take necessary action accordingly in light of the relevant law/rules. The Department may also ensure that no such drug is sold in the Market so as to protect human lives.

[Signature]
KHALID KHAN
Research Officer-I
Provincial Inspection Team

[Signature] 07/01/21
LIAQAT ALI MOHMAND
Member Enquiry
Provincial Inspection Team

[Signature] 07/01/2021
SALAH UD DIN
Member General
Provincial Inspection Team

[Signature] 07/01/21
FARAH SAIR
CHAIRMAN
Provincial Inspection Team

[Signature]
Attested
Section Officer (Lit-III)
Health Department
Khyber Pakhtunkhwa

[Signature]
Section Officer-III
Health Department
Khyber Pakhtunkhwa



Dated the Peshawar 24th June, 2020

NOTIFICATION.

No. SOH-III/7-262/2020. The Competent Authority is pleased to constitute the following committee regarding conduction of comprehensive audit in Districts (Kohat, Peshawar, Mardan & Dir lower) regarding Drugs activities like licenses data, NOCs issued, case properly pending cases and status of FIR etc with immediate effect in the public interest.

- i) Additional Secretary (Dev) *[Signature]* 25/6/20 Chairman
- ii) Director General, Drug Control & Pharmacy Service. Member
- iii) Director, Drug Control & Pharmacy Services. Secretary/Member
- iv) Section Officer (Drugs) Health Department. Member

The said committee shall submit its report with findings/recommendations within one month positively for perusal of the Competent Authority.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

[Signature]
25/6/2020

Endst of even No and Date.

Copy forwarded to the:-

- 1. The Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2. The Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.
- 3. The Deputy Director (I.T) Health Department *[Signature]*
- 4. PS to Secretary Health, Khyber Pakhtunkhwa. *[Signature]*
- 5. PA to Special Secretary-I, Khyber Pakhtunkhwa.
- 6. PA to Additional Secretary (Estab/Dev) Health, Khyber Pakhtunkhwa.
- 7. PA to Deputy Secretary (Admn); Health, Khyber Pakhtunkhwa. *[Signature]* 25/6/20
- 8. Members of the Committee concerned.

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25/06/2020

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Section Officer-III
Health Department
Khyber Pakhtunkhwa

[Signature]
24/6/2020
SECTION OFFICER-III

Prologue:

The Competent Authority constituted a four members committee under the chairmanship of Additional Secretary (B&D), Health Department for comprehensive audit of the Offices of Drug Inspectors of Districts Mardan, Kohat, Dir Lower and Peshawar with regard to their activities in respect of Drug Sale Licenses's data, NOCs issued, case properties, pending cases and the status of FIRs etc **(Annex-I)**.

Authorization:

Health Department's Notification No. SOH-III/7-262/2020, dated 24-06-2020 **(Annex-II)**.

Methodology of Inquiry:

Office of Drug Inspectors of District Mardan was visited on 15th July 2020 for checking the relevant records/activities. In this context a letter was issued to field officers for the assigned task **(Annexure-III)**.

Documents Reviewed:

- a. The Drugs Act, 1976
- b. Drug Rules, 1982
- c. Record of the Drug Sale Licenses
- d. Attendance of the Drug Cell
- e. Inspection record of the Medical stores/distribution outlet
- f. Warehouse/Godown of the Seized Stock
- g. Drug Samples record of the last two years
- h. Cases submitted to PQCB
- i. Cases submitted to Drug Court
- j. Sealing orders of the Stores
- k. FIR Cases
- l. Substandard, unregistered and misbranded etc. cases
- m. Drug Cases record in Drug office
- n. NOCs issued to Applicants holding Cat. A, B & C
- o. Verification of Categories issued from Khyber Pakhtunkhwa Pharmacy Council.

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Health Department
Khyber Pakhtunkhwa

Drug Inspectors District Mardan

Currently the Drug Inspectors Office of District Mardan consists of the following positions;

S#	Position	BPS	No. of post	Filled	Vacant
1.	Chief Drug Inspector	19	1	0	1
2.	Senior Drug Inspector	18	1	1	0
3.	Drug Inspector	17	3	2	1
4.	Junior clerk	11	1	1	0
5.	Naib Qasid		1	1	0
6.	Driver				

attested
Issued

Mr. Amin-ul-Haq assumed the charge of BS-18 vide Health Department's Notification No. SOH-III/10-4/2019, dated 30th October 2019.

Following were observed from the record;

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure.
- D. No attendance record of the officer was available.
- E. No record of NOCs issued to applicants of Distt. Mardan who applied for getting DSLs in other districts/provinces.
- F. Licensing record was lying in dilapidated condition.
- G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses.
- H. Form-8 was not properly filled. Presence of Qualified Person was not assured at the time of issuing DSL.
- I. Seized medicines property and its record was in bad condition and was not identifiable.
- J. A single case was not launched in the Drug Court, Khyber Pakhtunkhwa.
- K. No taking over/handing over record was available.
- L. Market sampling of drugs for checking their quality was negligible.
- M. Being head of Drug Control in Distt. Mardan, his performance in the implementation of the Drug laws/rules, was poor.
- N. Statement of Dr. Noor Islam was received that Mr. Amin-ul-Haq, Senior Drug Inspector took one rupees lac twenty thousand (Rs. 120,000) through his private tout namely, Mr. Rashid for granting Drug Sale license for his Medical Store.

Mr. Shoaib Khan, Drug Inspector (BPS-17) Mardan

Section Officer III
Health Department
Khyber Pakhtunkhwa

Mr. Shoaib Khan was appointed and posted as Drug Inspector (BS-17) in September, 2017. The following were observed during the visit;

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. In his Progress Report eighty seven (87) Medical Stores were reflected sealed at district Mardan but single evidence for de-sealing of the said stores was not present.

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Section Officer III
Health Department
Khyber Pakhtunkhwa

- 24
- C. In his entire tenure only two samples of drugs were failed by Drug Testing Lab, showing his poor performance on implementing the Drug Laws/Rules.
 - D. Attendance record of the officer was not present.
 - E. No NOCs record for other districts/provinces was present.
 - F. Licensing record was lying in dilapidated condition.
 - G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses.
 - H. Form-8 was not properly filled. Presence of Qualified Person was not assured at the time of issuing DSL.
 - I. No record of the cases sent to Provincial Quality Control Board (POCB) or Drug Court Khyber Pakhtunkhwa, was available.
 - J. Proper handing over/taking over record was not present.
 - K. Market sampling of drugs for checking their quality was negligible.
 - L. No chain of command was observed in the issuance of DSLs to Medical Stores having no or poor documentation which create doubt in the authenticity of the said DSLs.

Audit of Mr. Shehzada Mustafa Anwar Drug Inspector (BPS-17) Mardan

Mr. Shehzada Mustafa Anwar assumed the charge of Drug Inspector (BS-17) in Distt. Mardan in December, 2018. The following were observed during inspection:

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. Though his performance, as compared to his other colleagues, in taking Drug Samples for the purpose of test/analysis was good (06 samples per month) but in fact it's negligible.
- C. Record of attendance of the officer was not present.
- D. No NOCs record for other districts/provinces was present.
- E. Licensing record was lying in dilapidated condition.
- F. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses.
- G. Form-8 was not properly filled. Presence of Qualified Person was not assured at the time of issuing DSL.
- H. Seized property and its record was in bad condition and was not identifiable.
- I. Proper handing over/taking over record was not present.

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Section Officer (Lit-1)
Department
Khyber Pakhtunkhwa

attested
Section Officer (Lit-1)
Health Department
Khyber Pakhtunkhwa

After going through the available record and discussion with the field officers in respect of activities carried out under The Drugs Laws and rules in Mardan district. Following anomalies were observed by the committee.

- There was no proper record of the Drug Sale licenses (DSL) maintained rather mix files containing some partial documents were dumped haphazard in samples room. Committee randomly collected 69 files for its verification and authenticity of documents. Amongst 69 files, the 7 categories (Pharmacy registration was found fake as per record tallied with Khyber Pakhtunkhwa Pharmacy council but the Drug Inspectors have issued Drug licences against it without confirming the authenticity of Registration in violation of policy of the govt (**Annexure-IV**) Seven numbers of licenses were found issued on registration against which licenses were issued in other Districts or Province (**Annexure-V**) and no NOC was sought prior to issuance of these Licences from relevant quarter.
- No record was present for inspection of medical stores, tour program for checking of medical stores.
- Mostly samples of drugs supplied through MCC were drawn and sent for the test analysis to DTL and market samples were not focused which indicates that quality assurance of the Drugs/Medicines selling in market were not screened for its quality and safety.
- Data for sealing of medical stores for the last few years were checked but no record found. Although verbally reported about some sealing of stores but its lawful de-sealing was not followed. It was observed that inspectors were abusing their authority, personal whim and wishes which are detrimental to the system.
- No inspection proforma/checklist has been found filled mandatory for grant and renewal of DSL.
- The seized stock was kept disorganized in a dilapidated condition without any detail and the committee could not tally the same with any seizure record.
- Under The Drugs Act 1976, DIs have to convey seizure of the seized stock to the Competent Authority but no such correspondence /permission found in the record that could indicate the quantity of the seized stock.
- Performance of Mr. Shehzada Mustafa Anwar, Drug Inspector was comparatively good than his other 02 colleagues. His performance as Drug

Section Officer-II
Health Department
Khyber Pakhtunkhwa

attested
Dewan Anwar

Inspector Distt. Swat was good but when he has transferred to Distt Mardan, his performance has been dropped to an average level which indicate that under the influence of two other DIs in corrupt system where ministerial staff were also hand in glove, he remained unable to work efficiently.

- The ministerial staff specially the one Kamran clerk has failed to keep the office record in proper manner that indicates his poor performance for his vested interests.

Recommendations.

In view of the forgoing the following recommendations are proposed.

- Disciplinary action against Mr. Amin-ul-Haq, Senior Drug Inspector and Mr. Shoaib Khan, Drug Inspector, Mardan may be initiated under the F.&D Rules.
- The office of the drug control at Mardan may be directed to compile record of all type of drug licenses along with streamlining the relevant record and NOC issued for other districts and submit the same within two weeks to the office of Director General Drug control & Pharmacy Services for further Necessary action.
- The department may take remedial measures to sack them from field duty on account of poor performance and corrupt practices and post them in hospitals as they have miserably failed in doing away the job assigned to them in fulfillment of the provisions of the Drugs Act, 1976 to protect the public interest at large.
- The supporting staff required to be replaced with new faces by directing DHO concerned to do the needful to protect public interests ensuring the

action Officer
Health Department
Khyber Pakhtunkhwa

Office of drug control Mardan does not go on sale.

Kaleem Ullah
Additional Secretary (B&D)
Health Department

Attested
Section Officer (L)
Health Department
Khyber Pakhtunkhwa

Saleem Khan
Director General. Drug Control & Pharmacy Services

Dr. Abbas Khan
Additional Director (Drugs) DG, DC & PS

Naseer Ahmad
Section Officer (Drugs), Health Department.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1411/2023

Muhmamad Shoaib Khan

.....

Appellant

VERSUS

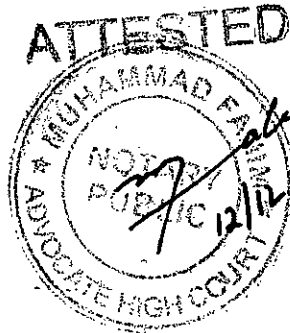
Government of Khyber Pakhtunkhwa
Health Department & Others

.....

Respondents

AFFIDAVAT

I, Abbas Khan, DG Drugs DGHS office Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the Written Reply alongwith annexures are true and correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.



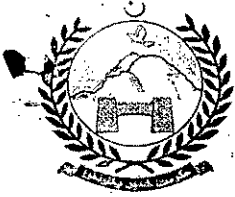
DEPONENT

(Abbas Khan)

(Director General Drugs)

Health Directorate Khyber Pakhtunkhwa,

IDENTIFIED BY:



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

AUTHORITY LETTER

Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.

(MAHMOOD ASLAM)

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department

9/15/23
Attested
Jawad

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

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Chief of NWFP
Services and General Adm. Deptt.
(Regulation Wing)

No. SOR (S&GAD) 2/82
Dated: 15.01.1988

1. All Administrative Secretaries to Government of NWFP
2. Secretary to Government NWFP
3. Secretary to Chief Minister NWFP
4. All Divisional Commissioners in NWFP
5. All Heads of attached Departments in NWFP
6. All Heads of Autonomous/Sem-Autonomous Bodies in NWFP.
7. All Deputy Commissioners/Political Agents In NWFP.
8. The Registrar, Peshawar High Court, Peshawar
9. All District and Sessions Judges in NWFP
10. The Registrar, NWFP Services Tribunal, Peshawar
11. The Secretary, NWFP Public Service Commission
12. The Director, Anti-Corruption Establishment, Peshawar.
13. The Secretary, Board of Revenue, NWFP

SUBJECT - SIGNING OF PARA-WISE COMMENTS ETC. IN SERVICE APPEALS FILED IN THE NWFP SERVICES TRIBUNAL BY CIVIL SERVANTS.

Sir

I am directed to inform the subject hereby and to say that pursuant to Rule-10(2) of NWFP Services Tribunal Rule-10(7) the competent authority has been pleased to authorize the Administrative Secretaries concerned or a subordinate officer to be nominated by the Administrative Secretary to sign para-wise comments etc. on behalf of the Chief Minister, NWFP and Chief Secretary, NWFP, as the case may be in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal

Yours Obedient Servant,

Sd/xxx
SECTION OFFICER (REGULATION-I)
S&GAD.

Endst: Even No. and date.

A copy is forwarded for information to the: -

1. All Addl. Secretaries/Dy. Secretaries in S&GAD.
2. All Section Officers/Estate Officers In S&GAD.
3. P S to Chief Secretary, NWFP.
4. P S to Secretary S&GAD.

