

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

**Service Appeal No. 1291/2023**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10080

Date 21/12/23

Rehmat Ali ..... (Appellant)

Versus

Government of Khyber Pakhtunkhwa and others..... Respondents

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Dr. Shaukat Ali  
Director General Health Services  
Khyber Pakhtunkhwa, Peshawar.

**BEFORE THE HONORABLE PAKHTUNKHWA SERVICE**  
**TRIBUNAL PESHAWAR.**

Appeal No. 1291/2023

Rahmat Ali S/O Abdul Rahman Ex-Medical Technician R/O Village Hazara, Tehsil  
Kabal, District Swat, ..... **Appellant**

**VERSUS**

The Secretary Health Services Government of Khyber Pakhtunkhwa, Peshawar and  
Others..... **Respondents**

**PARA WISE 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 instant appeal is against the prevailing Laws and Rules.
3. That the appeal is not maintainable in the present form and liable to be dismissed.
4. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has not come to the honorable tribunal with clean hands.
7. The instant appeal is time barred and barred by law.

**FACTS: -**

- i. Pertains to record.
- ii. Pertains to record.
- iii. Incorrect. The appellant did not apply for any further leave for 10 years neither the respondents assured the appellant for grant of 8 years leave. The appellant did not annex anything in support of his claim. The appellant absented himself without any permission from the competent authority.
- iv. Incorrect. As stated above after expiry of his sanctioned leave on 31<sup>st</sup> December 2011, the appellant failed to resume his duty and remained absent for a period of 3375 days.
- v. Pertains to record. However, detail reply is given in the preceding paras.
- vi. Correct to the extent of letter dated 07.04.2021 for initiation of disciplinary proceedings due to his admitted long absence of more than 09 years.
- vii. Incorrect. The appellant did not submit any application.

Incorrect hence denied the appellant did not submit any departmental appeal.

Pertains to record.


Incorrect. The impugned order dated 23.07.2021 was issued in accordance with law and rules however, the appellant malafidely concealed the fact from the Honorable Tribunal therefore, again representative of the department produced the impugned order dated 23.07.2021 during execution proceeding on 07.02.2023.


- xi. Incorrect. The appellant is not an aggrieved person as the major penalty was awarded to the appellant due to his own conduct for remaining absent for a period of more than 08 years.
- xii. Already explained in para "xi" above.


**GROUND:** -

- a. Incorrect. Already replied in para "x" of the facts. The impugned order was communicated to the appellant well within time.
- b. Incorrect. An inquiry have already been conducted which is annexed as Annexure-A. It is worth to mention that the appellant himself admitted his absence in his service appeal therefore, as per dictum laid down by the Apex Court in 2021 SCMR 144, 2021 SCMR 959, 2022 PLC CS SC 132 and 2023 PLC CS SC 283 where absence has not been denied there is no need of regular inquiry in such case.
- c. Incorrect. Already replied in para "b" above.
- d. Incorrect. Already replied in para "b" above
- e. Incorrect. Already replied in para "b" above.
- f. Incorrect. the appellant willfully remained absent for a period of more than 08 years without prior permission / leave of the competent authority hence his act amount to gross mis-conduct therefore, he was awarded major penalty vide impugned order dated 23.07.2021

It is therefore, most humbly prayed that upon acceptance of this written reply the service appeal of the appellant may kindly be dismissed with cost. Any other relief witch this honorable service tribunal may deem just may also be graciously awarded to the respondents.

  
Dr Mahmood Aslam wazir  
Secretary to Govt. Khyber Pakhtunkhwa  
Khyber Pakhtunkhwa  
(Respondent No. 01)

  
Dr Shoukat Ali  
Director General Health Service  
Khyber Pakhtunkhwa  
(Respondent No. 02)

  
Dr Muhammad Salim Khan  
District Health Officer  
District Swat  
(Respondent No. 03)

**District Health Officer**  
Distt: Swat at Gulkada

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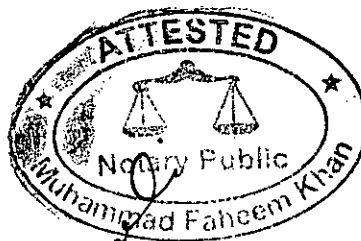
Government of Khyber Pakhtunkhwa and others ..... Respondents

**AFFIDAVIT**

I Dr. Shaukat Ali Director General Health Services Khyber Pakhtunkhwa do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No. 1291/2023 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court. It is further stated on oath that in this appeal the answering respondents have neither been placed ex-party nor their defense have been struck-off.



Dr. Shaukat Ali  
Director General Health Services  
Khyber Pakhtunkhwa, Peshawar.



21/12/2023



**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

*Attested*  
*Safiqul*

Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa