

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR, CAMP COURT DI KHAN.

Appeal No...890/2023

Syed Ulfat Hussain Shah

.....APPELLANT

VERSUS

Govt. of K.P.K and others

.....RESPONDENTS

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LITIGATION SECTION
Main Diary No. & Date
Lit-1/Lit-2 Dairy No. & Date 254
13-12-2023
Director General Health Services KP

Riaz Hussain Shah
Sayed Riaz Hussain Shah
Litigation Officer/Technologist
District Health Office Tank.

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL.NO.890-D/2023

Syed Ulfat Hussain Shah.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & others.....Respondents

REPLY ON BEHALF OF RESPONDENTS No.2/3 & 4

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 and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. That the instant appeal has been filed in violation of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 as there is no final order (original or appellate) which is mandatory for filing appeal before the Service Tribunal, reliance is placed on 2006 SCMR 1.

ON FACTS:

1. Incorrect. The appellant has not been appointed in accordance with law but fraudulently and hidden appointed on non-authorized post of Ward Orderly in the year 2014 by the then District Health Officer in his private capacity at his residence.
2. Incorrect. No such official record has been annexed by the appellant in support of his claim nor did the same is available in the office of respondent No.4.

Incorrect. There is no official record available in the office of respondent No.04 and respondent No. 04 constituted an inquiry committee for inquiring the matter and on the basis of inquiry report the appellant was issued a show cause notice. **(Copies of the inquiry report and show cause notice are annexure-A&B).**

3. Incorrect. since his so called illegal appointment till date the appellant did not submit his arrival report nor did he performed his duty for a signal day therefore, he is not entitled for any relief from this honorable Tribunal.

4. Incorrect. The appellant has not performed duty for a signal day nor did he submitted his arrival report since his appointment therefore, on the recommendation of the inquiry committee he was issued show cause notice.

ON GROUNDS

- 1. Incorrect. Already replied in the preceding paras.
- 2. Incorrect. Denied. The acts of respondents are in accordance with law rules and principles of natural justice.
- 3. Incorrect. Already replied in para 3 of the facts.
- 4. Incorrect. Already replied in para 3 of the facts..
- 5. Incorrect .already replied in the preceding Paras.
- 6. Incorrect and not admitted. Already replied in para 01 of the grounds.
- 7. Incorrect. Already replied in para 01 of the grounds.
- 8. The replying respondents may be allowed to raise further grounds at the time of arguments.

PRYARE:

It is, therefore, most humbly prayed that on acceptance of this reply, this Honorable Tribunal may very graciously be please to dismiss the instant appeal of the appellat with costs.

Dr Shoukat Ali

As Name -

DIRECTOR GENERAL HEALTH SERVICES

Khyber Pakhtunkhwa, Peshawar

(Respondent No.3)

Mehmood Aslam

SECRETARY HEALTH DEPARTMENT

Khyber Pakhtunkhwa, Peshawar

(Respondent No.2)

Dr Sher Khan

(Signature)

DISTRICT HEALTH OFFICER

District Tank. (Respondent No.4)

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. ...890.. /2023

Syed Ulfat Hussain Shah **VERSUS** Govt. of K.P.K and others

AFFIDAVIT.

I, Dr. Sher Khan Afridi District Health Officer Tank, do hereby solemnly affirm and declare on Oath that all the para-wise contents of this reply/comments are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honorable Court. it is further stated on oath that in this appeal, The answering respondents have neither been placed ex:parte nor their defense has been struck off/cost.

Deponent



Dr Sher Khan Afridi
District Health Officer Tank.
Respondent No.3

A" (5)

To

The District Health Officer,

Tank.

Subject: INQUIRY IN SERVICES APPEAL NO. 890/2023 TITLED ULFAT HUSSAIN SHAH

VS GOVT. KP & OTHERS

R/Sir,

With reference your letter No. 6482-87/Court dated 15/011/2023, we both undersigned conducted inquiry on the subjected cited above.

Finding:- 1. Proper criteria as required under the APT rules have not been fulfilled and the

whole case of recruitments contains legal lacuna.

2. Not registered with employment exchange

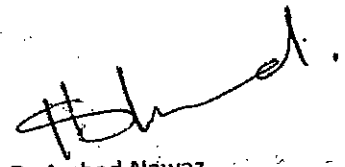
3. Appointment order showing that order issued on political pressure.

4. Not join duty at BHU Kot Musa.

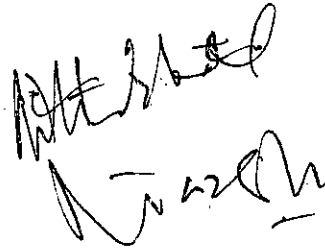
Recommendation:- The competent authority under the Khyber Pakhtunkhwa Government servant (efficiency and Discipline) rules 2011 do hereby serve against him & impose penalty of dismissal from services under rules 4 of the said rules.



Dr Imran Khan
Coordinator LHW Tank



Dr Arshad Nawaz
Coordinator PH Tank.



(B) 6



OFFICE OF THE DISTRICT
HEALTH OFFICER DISTRICT TANK

Phone

Fax

NO. 6805 /COURT

DATED 01/12/2023

I Dr Sher Khan, DHO Tank as competent authority under the Khyber Pakhtunkhwa Government's Service (Efficiency and Discipline) Rules 2011 do hereby serve you Mr. Ulfat Hussain Shah as follows:

1. (a) that consequent upon the completion of inquiry conducted against you by the inquiry officer / inquiry committee for which you were given opportunity of hearing in service Appeal No.890/2023 dated 27/04/2023.
- (b) on going through the finding and recommendation of the inquiry officer /inquiry committee the material on record and other connected papers including your defence before the inquiry officer / inquiry committee.

I am satisfied that you have committed the following acts /omissions specified in rule 3 of the said rules.

(c) Proper criteria as required under the APT rules have not been fulfilled and the whole case of recruitments contains legal lacuna.

(d). Removal from services

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of dismissal from services under rules 4 of the said rules.
3. You are thereof required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the finding of the inquiry officer / inquiry committee is enclosed.

Handwritten signature

Competent Authority

Handwritten signature
DISTRICT HEALTH OFFICER
DISTRICT TANK

No. 6806-11/Court

Copy is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa service Tribunal Peshawar.
2. Deputy Secretary Litigation Health Department Peshawar.
3. Director Litigation DGHS Khyber Pakhtunkhwa.
4. PA to DGHS KP.
5. Appellant.
6. Office Assistant for information please.

Handwritten signature
DISTRICT HEALTH OFFICER
DISTRICT TANK

7

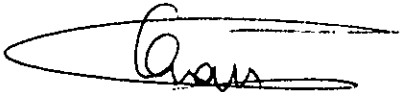


**OFFICE OF THE
DISTRICT HEALTH OFFICER
DISTRICT TANK**

No 6853 /court Date 12/12/2023
Phone:0963-510755

AUTHORITY LETTER.

Certified that Mr. Sajjadullah Hashmi Litigation Assistant/CT Pharmacy attached to DHO Office Tank is hereby authorized to attend the honorable Khyber Pakhtunkhwa Service Tribunal Peshawar to file the Joint para wise comments in Service Appeal No:890/2023 Title Sayed Ulfat Hussain Shah V/S Govt: of KPK and others on behalf of undersigned.


District Health Officer
District Tank