04.02.2021

Nemo for the appellant. Addl. A.G alongwith Saleem Javed, Litigation Officer for the respondents present.

It is already past 01.00 P.M and despite repeated calls no one is in attendance on behalf of the appellant. Dismissed for non-prosecution. File be consigned to the record.

Chairman

ANNOUNCED

04.02.2021

None for the appellant present.

Notices be issued to the appellant and his counsel.

Adjourned to 16.09.2020 before S.B.

(Mian Muhammad) Member(E)

16.09.2020

Appellant alongwith counsel and Addl; AG alongwith Saleem Javed, Litigation Officer for the respondents present.

The representative of respondents requests for time to furnish reply to the appeal. Adjourned to 18.11.2020 on which date the needful shall be done without fail.

Chairman

18.11.2020

Appellant in person present Addl; AG alongwith Saleem Javed, Litigation Officer for the respondents present.

M/S Jalal-ud-din and Muhammad Alam Advocates have submitted Vakalat Nama on behalf of appellant and requests for adjournment in order to prepare the brief. The representative of respondents also requests for submission of reply.

Adjourned to 04.02.2021 for reply and arguments before S.B.

Chairman

20.01.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment due to general strike of the Bar. Learned AAG also requests for time to furnish reply of the respondents and argue the preliminary issue regarding maintainability of appeal. To come up for reply and arguments on the question of maintainability of instant appeal on 03.03.2020 before S.B.

Chairman

03.03.2020

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present and again requested for time to furnish reply of the respondents and argue the preliminary issue regarding maintainability of appeal. Representative of the department is absent, therefore, notices be also issued to the respondents with the direction to direct the representative to attend the court and submit reply. To come up for reply and arguments on the question of maintainability of instant appeal on 16.04.2020 before S.B.

(MUHAMMAD AMIN KHAN KUNDI) MEMBER

16.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 14.07.2020 for the same. To come up for the same as before S.B.

16.09.2019

Junior to counsel for the appellant and Addl. AG for the respondents.

Request for adjournment is made due to general strike of the bar. Adjourned to 30.10.2019 for arguments on the point of maintainability of instant matter as required on 29.07.2019.

Chairman

30.10.2019

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG requests for time to obtain the reply of respondents and argue the preliminary issue regarding maintainability of instant appeal as recovery of TA/DA has been sought through the appeal.

Adjourned to 11.12.2019 before S.B.

Chairman

11.12.2019

Junior to counsel for the appellant and Addl. AG present.

Requests for adjournment due to general strike of the Bar today. Adjourned to 20.01.2020 before S.B.

Chairman

28.06.2019

Appellant present. Learned counsel for the appellant present. Heard.

The appellant has filed the present service appeal being aggrieved that vide office letter issued in the month of May, 2018, the Medical Superintendent DHQ Hospital Tank forwarded the case of the appellant to the Budget Officer Health Department Khyber Pakhtunkhwa for allocation of Rs.479310/- under head A03805 TA for payment to the appellant but the TA/DA amount for the year 2014 to 2018 has not been paid to the appellant until yet.

Let pre admission notice be issued to the respondents for reply. In view of submission of the appellant, the Budget Officer Health Department Khyber Pakhtunkhwa and Medical Superintendent DHQ Hospital Tank are also impleaded as respondents in the present service appeal as respondents No.5 & 6. Adjourned to 29.07.2019 before S.B.

29.07.2019

Counsel for the appellant and Mr. Usman Ghani,
District Attorney for respondents present.

The notice issued to Medical Superintendent, DHQ, Hospital Tank for appearance today has not been complied with. Learned District Attorney, therefore, requests for time to ensure representation of respondents on the next date of hearing. Learned counsel for the appellant are required to address their respective arguments on the question of maintainability of the instant service appeal on the next date of hearing.

Adjourned to 16.09.2019 before S.B for preliminary arguments before S.B.

Chairman

Form- A FORM OF ORDER SHEET

Court of			
Case No	4	652 /2019	<u>. </u>

	Case No	652 /2019	
S.No.	Date of order proceedings	Order or other proceedings with signature of judge	
1	2	3	
1-	20/05/2019	Jan Wazir Advocate may be entered in the Institution Register and put up	
		to the Worthy Chairman for proper order please. REGISTRAR	
2-	21/05/19	This case is entrusted to S. Bench for preliminary hearing to be put up there on _ ンピーの 19	
		CHAPRMAN	
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The appeal of Dr. Niamatullah Medical officer Shakardara Civil Hospital Kohat received today i.e. on 08.05.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- The law under which appeal is filed is wrong.
- 2- Copy of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- 3- Director General Health and Secretary Health are the competent authorities, having over all administrative authorities of the health department there is no need to affiliate them with any other authority.

No. 923 /S.T,

Dt. 10 | 5 /2019.

REGISTRAR

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Bismilla Jan Wazir Adv.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 652 /2019	Diary No. 731
Dr. Niamat Ullah	Appellant
VERSUS	
Government of Khyber Pakhtunkhwa	
Through Chief Secretary & others	Pernandents

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S#	Description of Documents	Annex	Pages	
1.	Service Appeal	•	1-4	
2.	Affidavit		5	
3	Addresses of parties		6	
4.	Copy of the transfer order	Α	ア	
5.	Copy of Bill of payment	. В	8	
6.	Copies of certificates	С	10-	- 3
7.	Copy of Department Appeal		30	
8.	Wakalatnama	_	31	

M

Appellant

Through

Bismillah Jan Wazir

Advocate

Dated __/05/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 652 /2019

VERSUS

- 1. Government of Khyber Pakhtunkhwa through chief secretary Khyber Pakhtunkhwa civil Secretariat, Peshawar.
- 2. Director General Health Services Government of Khyber Pakhtunkhwa, Secretariat, Peshawar.
- 3. Secretary Health Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
- 4. District Headquarter Hospital, Tank.......Respondents 28649 5. Budget Officer Health Department 149

6. Medical Superintendent DHQ Hospital Tank.

Registrar

APPEAL UNDER HONORABLE SERVICE Filed to-day TRIGUNAL ACT, 1974, AS THE RELEASE OF

PAYMENT OF TA/DA FIR YEARS 2014 TO

2018 DULY ISSUED GRANT BILL BY THE

CONCERNED DEPARTMENT ON DATED

5/2018 HAS NOT BEEN PAID. THE

APPELLANT FORWARD DEPARTMENTAL APPEAL ON DATED 29.11.2018 BUT THE

DEFENDANTS TURNED A DEAF EAR TO

REKEASE THE ANIUNT. THE DEFENDANTS

2

MAY BE DIRECTED TO RELEASE THE PAYMENT OF TA/DA OF THE APPELLANT AS PER RULE AND CONDITION OF THE SERVICES AND OTHER RELIEF THAT MAY BE TRIBUNAL DEEM FIT ALSO BE GRANTED.

Prayer

On acceptance of this appeal the respondents may be directed to release TA/DA of the appellant and bill issue on 5/2018 and other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

Respectfully Sheweth:

- 1. That the appellant was transferred as Medical Officer, (BPS-17) on dated 28.08.2014 from Shekerdara Civil Hospital District Kohat to DHQ Tank Hospital. That incompliance the appellant took over the charge of the said post and stated performing his duty quite efficiently and up to the satisfaction of his superior. (Copy of the transfer order is attached as annexure "A").
- 2. That the appellant approached for the release of his TA/DA to respondents MS Office Account Section several time but amount as per Bill has not been paid to the Appellant. Bill of payment is attached as annexure "B").

- 3. That the appellant approached for the clearance of the due bill to Chief Secretary of Khyber Pakhtunkhwa, Secretary of Health, DG, Health, Ministry of Health of Khyber Pakhtunkhwa and MS Tank through various modes and application but the appellant is still deprived of his legal earning and expenditures incurred during performing his duty. Court certificates have been attached as annexure "C").
- 4. That the Appellant has no other adequate remedy approaches this Hon'ble Tribunal on the following grounds amongst others:

GROUNDS:

- A. That the stubborn willful denied to grant the appellant due payment of TA/DA is against the law, facts norms of natural justice and material on the record, hence it is the legal right of the Appellant to receive the due amounts according to law and terms and condition of service.
- B. That the appellant had not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violate article in accordance with law and rules on the subject noted above and as such the respondents violate article 4 and 25 of

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the Constitution of Islamic Republic of Pakistan, 1973.

- C. Those respondents acted in arbitrary and malafide manner while delaying releasing unnecessarily Appellant due and lawful TA/DA according terms and conditions of service.
- D. That court certificate regarding the appellant TA/DA has been duly placed and attached to the appellant.
- E. That any other ground if need be raised at the time of argument with the prior permission of this Hon'ble Tribunal.

It is, therefore most humbly prayed that on acceptance of this Appeal, the respondents may please be directed to pay the amount to the Appellant of his TA/DA as per Law and Rules.

Any other remedy which this August Tribunal deems fit that may also be awarded in favour of the Appellant.

Appellant

,Through

Bismillah Jan Wazir

Advocate

Dated __/05/2019



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

019
Appellant
wa Respondents

AFFIDAVIT

I, Dr. Niamat Ullah, M.O Shekerdara, Civil Hospital, Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Serv	ice Appeal No/2019
Dr. N	Niamat Ullah Appellant
_	VERSUS
	rernment of Khyber Pakhtunkhwa ugh Chief Secretary & others
<u>A P </u>	ADDRESSES OF PARTIES PELLANT:
Dr. N	Niamat Ullah, M.O Shekerdara, Civil Hospital, Kohat
RES	SPONDENTS:
1.	Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2.	Director General Health, Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar
3.	Secretary Health Ministry of Health Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
4.	District Headquarter Hospital, Tank
	Appellant
	Through Bis—W
	Bismillah Jan Wazir

Advocate

Dated __/05/2019





Amerilane

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR.

Office Ph# 091-9210269 🗃 Exchange# 091-9210187, 9210196

091-9210230

OFFICE ORDER

As ordered by the competent authority, Dr. Naimatullah Khan Medical Officer (BPS-17) Civil Hospital Shakardara District Kohat is hereby transferred and posted at DHQ Hospital Tank against the vacant post, with immediate effect in the interest of public service.

NB:- Arrival/ Departure report should be submitted to this Directorate for record.

Sd/xxxxxx DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKIITUNKIIWA PESHAWAR

Dated.

/2014

Copy forwarded to the:-

- 01. Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar for information.
- 02. District Health Officer, Kohat.
- 03. Medical Superintendent DHQ Hospital Tank.
- 04, DAO, Kohat,
- 05. DAO, Tank,
- 06. Doctor concerned.
- 07. AE-IV, DGHS Office Peshawar.

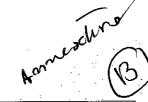
For information and necessary action.

puty Director (Personnel) S, KIIYBER PAKIITUNKIIWA

PESHAWAR

endorse







OFFICE OF THE MEDICAL SUPERINTENDENT DISTRICT HEAD QUARTER HOSPITAL TANK.

Phone: 0963 512534

Fax: 0963-512534 Dated /05/2018

No. /Account

Ťο

6. The Budget Officer,

Health Department Khyber Paktunkhwa.

Subject: -

GRANT FOR TA UNDER HEAD A3805

Memo,

It is summitted for your kind information that the following TA Bill in respect of Dr Niamatullah Khan then Medical Officer B-17 of various periods is pending till date.

S.No	Bill Amount	
1.	Rs. 99030.00	
2.	Rs. 133930.00	
3.	Rs.128050.00	
4.	Rs. 70000.00	
5.	Rs. 48300.00	
Total	Rs.479310.00	

It is requested that amounting to Rs.479310.00 may please be allocated under

Head A03805 TA for payment to Doctor Concerned well in a time.

Medical Superintendent, DHQ Hospital Tapk.

No.

Copy is forwarded to the:-

1. Doctor Concerned.

Musico

Medical Superintendent,
DHQ Hospital Tank.



GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT



Dated Peshawar the 22nd November, 2017

NOTIFICATION

No.SO(E)H-II/4-1/2017/P Dr. Naimat Ullah s/o Malak Sarwar Khan, Medical Officer, BS-17, is hereby transferred from DHQ Hospital Tank to DHQ Hospital KDA Kohat against the vacant post of Medical Officer, BS-17, with immediate effect in the public interest.

SECRETARY HEALTH KHYBER PAKHTUNKHWA

Endst. of even No. & Date.

Copy to the:

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Director General, Health Services, Khyber Pakhtunkhwa.
- 3. MS, DHQ Hospital Tank/Kohat.
- 4. DAO Kohat/Tank.
- 5. PS to Secretary Health, Khyber Pakhtunkhwa.
- 6. Doctor concerned.

(Jibreel Raza)

Section Officer (E-II)

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on 26/02///

بعدالت جناب بيش جج صاحب كوبالت جناب سيش جج صاحب كوبالت 215/6/19 328 p. 16/6/19 315 مقدمة عوان بالا مِن كواه في اللهم للحريث اللهم مير لعلى الله كالله كالمراح اللهم المراك الله كالمراح اللهم عاضر عدالت آكر بعدادات شهادت بغيرخ في وخوراك فارغ كيا كيا-Session Judge Kohar

Alled

1374 12 23 2014 sist مقدمهٔ عنوان بالا میں گواہ کر الرکم لحمی (لیکر حال دیم لعلی النسم کی کر المحمد الت آکر بعدادائے شہادت بغیر خرج وخوراک فارغ کیا گیا۔

12 12/0 2013 sign مقدمة عنوان بالا مين گواه حراللر كري كسي في في من من المرك في المرك في المرك المرك المرك المرك المرك المرك في Sessions Judge Kohaf
Sessions Judge, Kohat

ON 2002/352 pz 3 2014 2019 مقدمة عنوان بالا بين گواه حراك فارغ كيا گيا-عاضر عدالت آكر بعدادائے شہادت بغير خرچ وخوراك فارغ كيا گيا-Session Judge Kohat
Sessions Judge, Kohat

بعدالت جناب سيشن جح صاحب كوماك سركارتام: دل شار فان QN218 Me, 302/158 314 2014 2014 2014 مقدمه عنوان بالامين گواه كراس لوي راسله هان مير كل و في الله مان مير كان ما م ما ضرعدالت آكر بعدادائ شهادت بغير خرج وخوراك فارغ كيا گيا-

is Ne. 1547. 15 2013 200 Session Judge, Kohat Session Judge Kohat / // S

بخدمت جناب چيف سيرٹري ميلتھ خيبر بختونخواہ

عنوان ہرائے اوائینگی TA/DAبلز.

جاب عالى!

گزارش کی جاتی ہے کہ میں کوبات سے سال 01/10/2014 کو ان کے MO الیوں میڈ یکل آفیر ترانسفر ہوا۔ اور وہاں پر 01/11/2018 کے بھود میڈ یکل آفیر ترانسفر ہوا۔ اور وہاں پر 01/11/2018 کے سرانجام دی۔ سال 2014 سے میں مسلسل کو بات میں کورٹ شباوت 2018 کے پیش کیلئے آئ رہا۔ گرائی وقت کے کلاک کے ساتھ کورٹ شرفنگیٹ تی کری رہا جی کہ 2018 کے جواں کہ تواں پڑے دہ ہے۔ بار باریفین وہائی پر نال منول سے کام ایستار با۔ اور 2014 کے جواں کہ تواں بھی ہوئی۔ سابقہ کلاک نے سائل ایستار با۔ اور 2014 نالسفر کی انہوں ہے جواں اور گئی نہیں ہوئی۔ سابقہ کلاک نے سائل بائی بڑار دو بے رشوت نے ویٹ پر میر سے ساد سے ایل ایس سے وابط کری رائی ہوئی ہو کہ دیتا۔ حالا کھ برسال ذی اے دی اسے کا کہ بیت میں ذاتی رہا ہے۔ بھی ہوں ہودہ ایم ایس نے میر سے دی کو وہ بجٹ کا نے ہوٹا کہ دیتا۔ حالا تک برسال ذی اے دی اسے کا کہ برسال دی اے دی اسے کا کہ برسال دی اے دی اسے کا کہ برسال دی اے دی اسے کا کہ برسا کی اور کی بھی بھی دیے ہے صاف انکار کردیا ہے۔ میں کی دفعہ نی اے دی اے بل کی اور کی بھی جسی دینے سے صاف انکار کردیا ہے۔ میں کی دفعہ نی اے دی اے بل کی اور کی بھی جسی می کورہ کا تی باتا ہم آئی ہو

چنک میں شالی وزیرستان سے تعلق رکھتا ہوں اور میرے گھر ضرب عضب آپیشن کی وجد سے damage ہوا ہے ، اسکی مرمت کیلئے بھے پہنے کی سخت ضرورت ہے اور امجی بھی بلڈ مگے مغیر بل کی دکا نداروں کا قرض وار ہوں ۔

puestro)
Bi=

یہ بات واضح رہے کہ میں نے 01/10/2017 میں ٹرانسفراورٹی اے ڈی اے بلز ادائیگل کیلئے صوبائی محسب کو درخواست بھی دی تھی ،ان کی بار بارآ رڈ رکرنے پرکوئی عمل نہیں کیا گیا۔ (کا پی لف درخواست ہے)

نوٹ: مجھے مبلغ -/4,78,310 روپے میں صرف -/80,000 روپ پچھلے سال دیے میں۔(کابی اف درخواست ہے۔)

البداالتجاكی جاتی ہے كر جھے ایك ہفتہ كے اندراندراوا يكى يقينى بنائے جائے -بسورت ويكر من مجوراً پشاور بانى كورث من بمدرر تانى رث پنيش دائر كرونگا-

الرقيم: 29/11/2018

ينشور خثور

وْاكْرُنْعْت اللّٰه سِيْسَرِّمِيدُ يَكُلْ آ فِيسِوال DHQ كوباك -سَنَدِ شَالَى وَزَيْرِيسَان - مِسْلَطُ مَوباً لَلْ نِبْرِ: 334-8258372 موباً لَلْ نِبْرِ: 0334-8258372

لى يما كا الماع: ارجيف تكرزى سا و KPK - ايراتي المسترزي سا و KPK - ايراتي المسترزي سا و KPK - المستر

مر كري الله KPK مرايم الله المالك من المح كونا تك مرايم اليم المرايم كونا تك م

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13720 بیثاور بارایسوسی ایشن،خیبر پختونخواه نوك:اس وكالت نامه كى فو نوكاني نا قابل قبول موكى _ Accepte