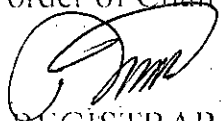


FORM OF ORDER SHEET

Court of _____

Appeal No. 195/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/01/2024	<p>The appeal of Mr. Hayat Khan presented today by Mr. Amaad Nasir kundi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

HAYAT KHAN Appeal No. 195/2024 Appellant

VERSUS

The Govt. of KP through its Secretary Healthy and

others..... Respondents

I N D E X

S.No	Description of documents	Annexure	Pages
1.	Grounds of Appeal		1 - 9
2.	Application for Interim Relief		10 - 11
3.	Impugned office order dated 05/10/2023	A	12
4.	Departmental Appeal dated 10/10/2023 & postal receipt	B & B1	13 - 16
5.	Relieving Office Letter dated 07/03/2023	C	17 - 18
6.	Withdrawal of Relieving Order dated 14/12/2023	D	19
7.	Arrival Report and request for release of salary dated 18/12/2023	E	20
8.	Restoration of Impugned office order dated 02/01/2024	F	21
9.	Departmental Appeal /Representation dated 04/01/2024	G	22 - 23
10.	Uniform policy dated 05/01/2018	H	24 - 25
11.	Clarification dated 10/01/2018	I	26 -
12.	Notification dated 13/06/2018	J	27
13.	Compliance Office Order Dated 29/01/2018	K	28 - 29
14.	Wakalat Nama		30

Appellant

Through

Mukhtar Ahmad Maneri
Advocate Supreme Court

&

Amaad Nasir Kundi

Advocate High Court, Peshawar

Email. amaadkundi786@gmail.com

BC-09-0795

0346-7865039

0312-2656644

Office Address: Office No.04, 2nd Floor, Juma Khan Plaza, Near FATA
Secretariat, Opposite Super CNG Gas Filing Zone, Warsak Road, Peshawar.

IN THE KP SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 195/2024

HAYAT KHAN S/o Taza Khan

Bhishti(BPS-04), LRH Hospital Peshawar.

Address for the purpose of service:

Care of Muhammad Waris R/o Flat No. 38, LRH Doctor Colony, Block-7, Peshawar.

..... Appellant

VERSUS

1. The Govt. of KP, through its Secretary **Health**, Peshawar.
2. The Govt. of KP, through its Directorate General Health Services, Warsak Road, Peshawar.
3. The Director General "DG" Health Services, KP Peshawar.
4. The Hospital Director, LRH, Peshawar.

..... Respondents

Service Appeal under Section 4 of the KP Service Tribunal Act, 1974 against the impugned office order No. 5607-14/ Personnel vide dated 05/10/2023 (Annex-A) whereby the appellant being Class-IV employee has been posted / transferred from LRH Peshawar to DHQ Hospital CHARSAADAH without any cogent and speaking reason, thus, being aggrieved and upset with this impugned departmental action, the appellant has been assailed by means of duly submitting of Departmental Appeal / Representation dated 10/10/2023(Annex-B) through postal registry as is evident with the receipt (Annex-B-1) addressed to the Respondent No. 03 herein DG and Authority is reluctant to pass any appropriate order, thus, the same is yet to be decided despite of expiry of statutory period, hence, this appeal inter alia, on the following facts and circumstantial grounds:-

=====

Respectfully Sheweth:

1. The marshal facts of the case in hand is that, the appellant was appointed to the post of Bhishti(BPS-01) w.e.f.

05/08/1993 accordingly. Since inception in service, he has been performing his duties regularly with utmost devotion to the entire satisfaction of superiors. The scale has been upgraded repeatedly by the Govt. of KP and now he is holding BPS-04. The appellant has been render meritorious service record at about of 38 years at his credit, which is remarkable for the Respondent LRH. There is no stigma apropos to past service.

2. That the appellant, being class-iv employee belongs to Para Medical Class-IV Association, which is registered under the aegis of Constitution of Islamic Republic of Pakistan and SNGD, established for their legitimate and fundamental rights accordingly.
3. Because it is very bizarre to discover here that the appellant was **Relieved from their posts** by the Office Letter bearing No. 685/HD/LRH/MTI, vide dated 07/03/2023 (**Annex-C**) issued by **Hospital Director** herein **Respondent No. 4** and placed at the disposal of DG Health herein Respondent No. 2. Since then, the **salaries of the appellant has also been stopped / discontinued** and living to end being low paid and class-iv employee, which is also liable to be struck down and thus, directed the Respondents to release the salary from the date of discontinuation forthwith.
4. That the appellant's **Relieving Order** was withdrawn by the Respondent DG Health vide office Letter No. 7584 dated 14/12/2023 (**Annex-D**) by observing specific reasons, that at the moment there are no vacant posts of Class-IV in Peshawar or nearby districts against which the below mentioned relieved employees herein appellant can be adjusted. The appellant being low paid civil servants hence could not be post in far-flung districts. In pursuance of the aforesaid letter, the appellant has been duly made **Arrival Report and request for release of salary with all arrears** etc vide dated 18/12/2023 (**Annex-E**) which is yet to be decided.

5. Because, it is very astonishing that this Directorate letter No. 7584/ Personnel dated 14/12/2023 was Withdrawn and **Restored The Office Order** bearing Endst: No. 5607-14/Personnel dated 05/10/2023 (is also now impugned) by the office order dated 02/01/2024 (**Annex-F**) which was also impugned by the appellant by means of duly filing independent **Departmental Appeal /Representation** dated 04/01/2024 (**Annex- G**) and prayed for the coveted relief thus, may be read as integral part of this appeal.
6. That similar nature of case was made in past in the same department and the posting / transferring / relieving order was withdrawn and make **Uniform Policy** for them vide dated 05/01/2018 (**Annex-H**). In this letter, the department has admitted that low paid employee cannot be transferred outside the district as they appointment are made on local basis. ***The Respondent LRH has also violated sub clause i, ii, iv, vi, vii, viii, ix, x, xi of the Letter ibid*** and the appellant is also deserve to be extended the benefit of *ibid* Letter.
7. That the Respondent LRH has further issued **CLARIFICATION** in this regard vide dated 10/01/2018 (**Annex-I**) upon the *ibid* letter, hence, the Class-iv cadre is localized cadre and change of status of any Teaching Hospital into any other has not impacted under the localized status of this cadre which remains non-transferable from any localized institution or District, therefore, their benefit shall also be extended to the appellant.
8. Because similar matter was earlier agitated before the Supreme Court which was subsequently decided in affirmative / positive and in pursuance to the effect, the Respondent Health Department was issued **NOTIFICATION** No. SOH-III/8-60/2018 vide dated 13/06/2018 (**Annex-J**) whereby compliance order was passed and as such the Office Order mentioned therein has been cancelled and the salaries of concerned officers / officials was released. Be that as it may, the Respondent LRH was **COMPLIED WITH** another

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judgment of PHC and KP Service Tribunal with another Office order bearing No. 1898-912/E-V vide dated 29/01/2018 (**Annex-K**) wherein the last para it is hold that Class-IV staff relieved / repatriated by HD MRI? LRH/KTH shall remain in their respective institution being low paid employees of Hospital Cadre and therefore, the benefit of ibid office order shall also be extended in their favors.

9. That the appellant has been duly submitted representation / departmental appeal to the respondent for the desirable relief leading to the CANCELLATION OF POSTING / TRANSFER AND ALLOW TO JOIN THEIR ORIGINAL STATION I.E. LRH AS WELL AS RELEASE OF SALARY FROM THE DATE OF DISCONTINUATION STATED ABOVE which is yet to be decided despite of expiry of Statutory period and the authority is reluctant to pass any appropriate order under the law, thus, being dissatisfied, hurt, aggrieved with this departmental action / inaction, hence, this appeal on the following circumstantial and reliable grounds:

GROUND:

- A. That impugned action / inaction / omission of the respondents is illegal and unlawful and without lawful authority therefore, the same is liable to set aside. It is also apparent from the record and they are bent to deprive the appellant from his salary in an illegal manner which is liable to be set aside.
- B. That the impugned posting and transferring order of the appellant is based on mala fide, discrimination and usurps the fundamental rights, hence, the same is liable to be struck down.
- C. That dual punishment of transfer / posting and stoppage of salary was imposed upon the appellant without opportunity of personal hearing for the one and same set of offence. Neither any show cause notice was issued to the appellant, nor any inquiry was conducted into any allegations, nor was any right of personal hearing afforded, which was against the

5

principles of natural justice. Two punishments issued in continuation for the one and same cause were hit by the doctrine of double jeopardy. Transfer order of appellant and subsequent order whereby his seniority was upset and he was made junior most were set aside. Reliance is placed on the reported judgment of Supreme Court (2022 SCMR 1387) titled as **Sohail Ahmad vs. FOP etc.**

D. That the impugned action / inaction of the Respondent Department amount to forced labour and it is prohibited under the constitution. Reliance is placed on the Art. 4, 11, 25, 27, 37 of the Constitution.

E. That the appellant will relied upon the reported judgment of PHC as 2017 PLC(CS)N 14 PESHAWAR-HIGH-COURT titled as "Mst.Shumaila Latif Vs.Govt. of KP" wherein holds that in the terms as

"Non-payment OF SALARY to the employee--Scope-- SALARY OF employee had been stopped without showing any cause or issuing any notice--Illegality and mala fide of department was palpable on record--If employee had acted in violation of disciplinary rules then she was liable to be dealt with under the relevant service rules--Act of Department was without lawful authority and was liable to be set aside--Pay of employee could not be stopped in presence of appointment order and performance of duties--If appointment order was made against procedure then appointing authority would be responsible for committing irregular appointment--State was bound to eliminate all forms of exploitation--Impugned act of department with regard to STOPPAGE of pay of employee was void ab-initio--Department was directed to release the SALARY of employee forthwith from the date of STOPPAGE of her pay--Constitutional petition was allowed in circumstances".

F. That the appellant will relied upon the Section 17 of the Civil Servant Act, 1973 which relates to the **PAY** whereby every civil servant appointed to a post shall be entitled to pay, in accordance with rules, to the pay sanctioned for such post.

G. That the given facts and grounds being precise and specific are the least but not the last. There is a room for more grounds in support of the case advanced herein before. Therefore, the appellant reserves his right to seek permission to raise further grounds during arguments, if needed.

H. That the appellant is eligible with all respects and entitled for the coveted relief forthwith. He has satisfactory service at his credit. The appellant has not been assigned any single reason which omission is violative of Section 24-A of General Clauses Act which provides that an authority vested with a power to make any order is bound to exercise that power reasonably, justly, fairly and for the advancement of the purpose for which such power is vested in him. The authority is further bound to mention the reasons for passing the adverse order.

I. That the impugned acts / omission of the respondent is illegal, unlawful and in violation of the Judgment of the august Supreme Court of Pakistan, as the appellant has been compelled illegally and unlawfully to approach this Hon'ble tribunal for the redressal of their grievances.

J. That the appellant has been made attendance successfully and mark attendance for the period he performed their duty and refusal of their wages is violation of Payment of Wages Act and the Bonded labour System (Abolition) Act, 1992 and Bonded Labour System (Abolition) Rules, 1995. Suffice it to observe that it is strictly in many verses of Holy Quran and Sunnah.

K. That the appellant has been subjected to discrimination which is violative of Article 4, 25, 27 & 37 of the Constitution of Islamic Republic of Pakistan, 1973. The appellant has been ignored and discriminated against without a valid reason. Moreover, the respondent is legally bound to remove discrimination and disparity while granting the benefits as some of the employees have been granted the similar benefit whereas the appellant has been ignored, hence the act of the

respondent is also violative to Article 27, 37 and 38 of the constitution of Islamic Republic of Pakistan, 1973; reliance is placed on 2017 PLC CS 712 (Rizwan Javed Versus Secretary Agriculture Livestock).

L. Every person discharging functions in relation to rights of people is bound to act fairly, justly and in accordance with law. Exercise of powers by public functionaries in derogation of direction of law would amount to disobeying the command of law and Constitution. If a person holding a public office is found to have proceeded in violation of law or his acts and conduct amounted to misuse of his official authority, he should be made answerable to law and should be proceeded against for an appropriate action by his superiors. 2003-PLC-CS-317(c), 2003-SCMR-1756(C).

M. That discretionary power must be exercised quite judiciously, honestly and not arbitrarily. Discretionary power enjoyed by the respondent authorities is not unbridled or unfettered as the said power has to be exercised reasonably, fairly and justly without giving any cause of complaint to any person who may be interested in the exercise of such discretionary power as laid down by the August Supreme Court of Pakistan as well as the other Courts of law numerous reported as 1995 SCMR 650, 2000 MLD 1660, 1992 SCMR1898 and 2002 PLC (CS) 889.

PRAYERS:

I. It is respectfully, prayed that on acceptance of this service appeal, the impugned action / inaction of the Respondent Department dated 05/10/2023 is illegal, without lawful authority and therefore, is liable to be set aside.

II. It is, therefore, further humbly prayed that the respondent department may kindly be directed to allow the appellant apropos to join his duty at LRH without any hindrance accordingly.

III. It is therefore, further humbly prayed that the impugned office order whereby his salary was stopped may kindly be set aside, declared illegal, without authority and the respondent Department may kindly be issued strict direction to release the salary immediately with all back benefits and arrears of pay from the date of discontinuation in the interest of justice.

W/O

Appellant

Through

Amaad Nasir Kundi
Advocate High Court, Peshawar.

9

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

HAYAT KHAN Appellant

VERSUS

The Govt. of KP through its Secretary Healthy and
others Respondents

AFFIDAVIT

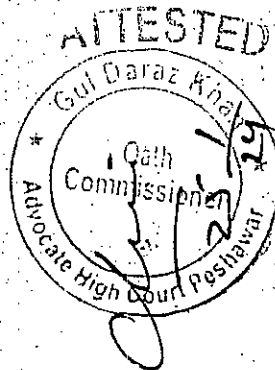
I, HAYAT KHAN C/O Muhammad Waris R/o Flat No. 38, LRH Doctor Colony, Block-7, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Handwritten signature

DEPONENT

NIC:17301-1928240-3

CELL No. 0333-9357281



BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

HAYAT KHAN Appellant

Versus

The Govt. of KP through its Secretary Health and
others..... Respondents

APPLICATION FOR INTERIM RELIEF

Respectfully Sheweth:

1. That the appellant has filed the instant appeal in which no date of hearing is fixed yet.
2. That the appellant has got a prima facie case and is hopeful about its success.
3. That the balance of convenience also lies in favour of the appellant.
4. That if the application is not allowed the applicant will suffer irreparable loss.
5. That the applicant is a poor person and only bread owner of the whole family and the education of his children is also dependent upon the salaries of the applicant.

It is, therefore, most humbly prayed that on acceptance of this application, the Department may kindly be directed to release the salary from the date of discontinuation w.e.f. 07/03/2023 with all arrears of pay and back benefits in the interest of justice.

[Handwritten Signature]

Applicant/Appellant

Through

[Handwritten Signature]

Amaad Nasir Kundi
Advocate High Court, Peshawar

AFFIDAVIT

I, HAYAT KHAN, Bhishti (BPS-04), LRH Hospital Peshawar do hereby solemnly affirm and declare that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Handwritten Signature]

DEPONENT





12 A

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

Head Office: Multiplex Building, Government Office, Peshawar. Phone: 091-9210187, 9210186 Fax #: 091-9210220

OFFICE ORDER

As approved /by, the competent authority, the following posting/ transfer of Class-IV Staff are hereby ordered on Administrative grounds with immediate effect:-

S.No.	Name of Official	From	To	Remarks
01.	Mr. Shahid Masih Sanitary Worker	Relieved by the MTI/LRH Peshawar	DHO Khyber	
02.	Mr. Roud Khan Ward orderly	-do-	DHO Khyber	
03.	Mr. * Muhammad Wards Ward orderly	-do-	DHQ Hospital Landikotal	
04.	Mr. Hayat Khan Dehishti	-do-	DHQ Hospital Landikotal	
05.	Mr. Fazle Mualla Attendant	-do-	DHO Nowshera	
06.	Mr. Muhammad Ali Ward orderly	-do-	DHO Charsudda	

Sd/xxxxxxxx

DIRECTOR GENERAL HEALTH
SERVICES, K.P, PESHAWAR.

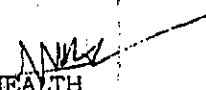
Dated 05/10/2023.

No. 5607-14 /Personnel

Copy forwarded to:-

1. Hospital Director MTI/LRH Peshawar w/r to his letter No. 20347 dated 23.09.2023.
2. DHO Khyber.
3. M.S DHQ Hospital Landikotal.
4. DHO Nowshera.
5. DHO Charsudda.
6. DAO Khyber/Nowshera/Charsudda.
7. P.A to DGHS Khyber Pakhtunkhwa.
8. Officials Concerned.

For information and necessary action.


DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR.

10/10/2023

صاحب عالی!

بھائی! سید دراندہ اپنی برائے والیس

L.R.H. کے ساتھ درجہ سپریم ملازمین

تعمیرات کے ساتھ درخواست پیش کی ہے کہ

L.R.H. انتظامہ کی جانب سے لٹرنمبر 20347 صورتہ 23-9-2023

کئی روشنی میں آئی صاحبان کی جانب سے کا درجہ سپریم ملازمین کے لئے مختلف اضلاع میں تیار کیے گئے ہیں لیکن کئی اضلاع اور درخواست کے ساتھ منسلک ہے۔

ان صاحبان سے بڑے اعداد کے ساتھ عرض ہے کہ

ان درجہ سپریم ملازمین کا تعلق سید ہدایت نکل درجہ سپریم ایس ایس ایس سے ہے اور ان ایس ایس کے مختلف تبدیل پر قائم ہیں

1) سید ہدایت نکل درجہ سپریم ایس ایس ایس کے تیار کیا گیا ہے

منظم ہے جو کہ SNGD سے رجسٹر ہے اور درجہ سپریم ملازمین کو اپنے جائز حقوق اور جائز مطالبات کی خاطر ہدایت نکل کے لئے کافی حاصل ہے SNGD کا آرڈر بھی درخواست کے ساتھ منسلک ہے۔

2) صاحب عالی! اس فونر ملازمین نے ہمیشہ سب درجہ سپریم ملازمین کے جائز

حقوق کی خاطر ہدایت نکل کے لئے اپنے انتظامہ کی جانب سے سب درجہ سپریم ملازمین کو انتظامی کارروائی کا نشانہ بنایا جاتا رہا ہے

3) صاحب عالی! صورتہ 51-52 حوالہ نمبر 686-709 صاحب ڈاکٹر جنرل سید

سروس سسٹم کی جانب سے بھی درجہ سپریم ملازمین کو والیس L.R.H.

سید ایڈووکیٹ نے نے اس کا جواب دیا کہ اس میں سے کسی میں شیف کی آئی
 میں سپریم کورٹ آف پاکستان کا حوالہ APT Rules Act 1973 کے مطابق
 1989
 درجہ چھٹا ملازم اس کے متعلق سے دوسرے متعلق کے لئے نہیں ہو سکتا
 لیٹر نوٹس کے ساتھ منسلک ہے۔

(4) چیف جج عالی حوالہ نمبر 686-709 مورخہ 5/1/2018 ڈاکٹر عبدالملک نے
 سپریم کورٹ آف پاکستان کی جانب سے حوالہ نمبر 70-72 مورخہ 10/1/2018
 اس کے متعلق CLARIFICATION جاری ہوا ہے جس میں واضح طور پر
 درجہ چھٹا ملازم اس کے لئے دوسرے متعلق نہیں ہو سکتا ہے
 شیف کی اس میں واضح طور پر لکھا ہوا ہے کہ یہ بھی درجہ چھٹا کے
 ساتھ منسلک ہے۔

(5) چیف جج عالی مورخہ 13 جون 2018ء ایسا نوٹیفکیشن جاری ہوا جو کہ
 سپریم کورٹ آف پاکستان کی جانب سے جاری ہوا ہے جو سپریم کورٹ آف پاکستان
 کے فیصلہ کی روشنی میں جاری ہوا ہے۔ اس میں اس کے لئے اس کے لئے
 ملازم اس میں درجہ چھٹا کے ہیں ان کو نام زد کیا گیا ہے کہ یہ ملازم
 دوسرے متعلق سے نہیں ہو سکتا ہے۔ نوٹیفکیشن میں درجہ چھٹا کے
 ساتھ منسلک ہے۔

(6) چیف جج عالی مورخہ 20/8/2018 حوالہ نمبر 334-35 ایسا نوٹیفکیشن کے تحت
 جس میں اس کے متعلق کی جانب سے ایسا فیصلہ صادر ہوا جو کہ یو این ایف
 وارنٹ فنان کے لئے ہے اس کے لئے (7) میں کہ کوئی بھی ملازم
 لیٹر D.G.S.H کے متعلق کے علاوہ دوسرے متعلق نہیں ہو سکتا ہے
 اس کے ساتھ منسلک ہے۔

15
مدرسہ اسلامیہ دارالعلوم دیوبند

آئی ایم اے میں سے ہر دو درجوں کی کتابیں لے کر آج کے روزنامہ میں ہر دو درجوں کی
کتاب سے آج کے مہینوں کو مکتوبیں لکھ کر ان کے نام سے لکھ کر
جو ہیں سہ ماہی کو ڈاک آفیسر کے پاس کے مطابق یہ لکھ کر
"ماہی" کے نام سے ہر دو درجوں کی کتابیں لکھ کر ان کے نام سے لکھ کر
یہ آج کے مہینوں سے دوسرے مہینوں کے نام سے لکھ کر ان کے نام سے لکھ کر
طوریہ ہر دو درجوں کے نام سے لکھ کر ان کے نام سے لکھ کر
آئی ایم اے میں سے ہر دو درجوں کی کتابیں لکھ کر ان کے نام سے لکھ کر
دیوبند دارالعلوم دیوبند کی طرف سے لکھ کر ان کے نام سے لکھ کر
کو L.L.H. میں Arrival طریقہ لکھ کر ان کے نام سے لکھ کر
8 ماہ کی مدت کے نام سے لکھ کر ان کے نام سے لکھ کر

محمد نواز مسعودی

الحمد لله رب العالمین

نام حیات خان

پتہ - - - - -

10/023

دیوبند

سیکشن

رہنما

B/1 16

No. 97

RGL 105240868

For Insurance Notices see reverse. Rs. Ps. 105
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgment is due.

Received a registered* addressed to _____

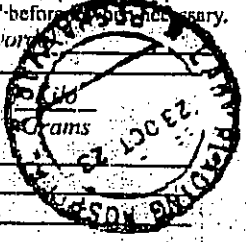
Date-Stamp

Initials of Receiving Officer _____ Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before, if necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured: Insurance fee Rs. _____ Ps. _____ (in words) Weight _____ Grams

Name and address of sender _____



To:

Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar.

No 685/HD/LRH-MTI
Dated: 07-03-2023

Subject:

RELIEVING ORDERS OF CLASS-IV STAFF (CIVIL SERVANTS)

This is to intimate that the Class-IV Staff of this hospital has started their uncalled-for protest within the premises of LRH-MTI since 03-03-2023. The protestors have been chanting slogans, bad names for administration, whistling via loud speaker, have stopped working are hell bent on their illegal demands. Because of this, OPD, Emergency, ICU services and medicine supply of this hospital are seriously affected. Therefore, the following leading protestors who are also civil servants, have been relieved along with their posts and placed at the disposal of your good office with immediate effect for involving in such illegal/unlawful acts.

S.No	Name	Father Name	Designation	RIFD#
1	Mr. Shahid Masih	Waris Masih	Sanitary Worker	7-0245
2	Mr. Roaid Khan	Sher Baz Khan	Ward Orderly	7-0166
3	Mr. Muhammad Wars	Abdul Wahab	Ward Orderly	6-0145
4	Mr. Shamsheer Khan	Sher Ali Khan	Chowkidar	7-0650
5	Mr. Muhammad Ali	M. Dalil Khan	Ward Orderly	7-0197
6	Mr. Hayat Khan	Taza Khan	Beheshti	7-0272
7	Fazle Maula	Fazil Rahim	Attendant	7-0269

[Signature]
HOSPITAL DIRECTOR

Lady Reading Hospital - MTI,
Peshawar

C.C forwarded for information to:-

1. Advisor to Chief Minister on Health, Khyber Pakhtunkhwa, Peshawar
2. Director Finance, LRH-MTI
3. Director Human Resources, LRH-MTI
4. Manager Housekeeping, LRH-MTI
- PS to Secretary Health, Govt. of Khyber Pakhtunkhwa, Peshawar
- PS to Director General Health Services, Khyber Pakhtunkhwa, Peshawar
- Secretary to BoGs, LRH-MTI
- Secretary to Dean, LRH-MTI
- PA to Associate Hospital Director, LRH-MTI

4 18

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR**



E-Mail Address: hrm@kpk.gov.pk Office Phn 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210730
No. 3007/Personnel Dated: 11.05.2023


TO BE SUBSTITUTED FOR THE SAME NO. & DATE

To, The Hospital Director
MTI- LRH Peshawar.

Subject: RELIEVING ORDERS OF CLASS-IV STAFF (CIVIL SERVANT)

Reference to your letter No. 685/HD/LRH-MTI dated 07.03.2023 & No. 5291-79/HR-IV/LRH dated 27.02.2023 on the subject noted above.

Please withdraw the said relieving order in the public interest being low paid employees.


16/5/2023

DIRECTOR (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES, KP PESHAWAR

12/05/2023

19 D 11

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR



E-Mail Address: hrm@pshs.gov.pk office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230
No. 7584 /Personnel Dated: 14/12/2023

To, The Hospital Director
MTI-LRH Peshawar

Subject: RELIEVING ORDERS OF CLASS-IV STAFF (CIVIL SERVANT)
Memo

Reference to the subject noted above, it is submitted that at the moment there are no vacant posts of Class-IV in Peshawar or nearby districts against which the below mentioned relieved employees can be adjusted. Being low paid employees they cannot be posted in far flung districts:

1. Shahid Masih Sweeper
2. Mr. Roaid Khan Ward Orderly
3. Mr. Muhammad Wars Ward Orderly
4. Mr. Hayat Khan Behishti
5. Mr. Fazal Moula Attendant
6. Mr. Muhammad Ali Ward Orderly

It is therefore, requested to withdraw the relieving order of the said employees at the moment. We will intimate you as soon as vacant posts are available in Peshawar or adjacent districts to accommodate them or such other Civil Servants working in MTI LRH Peshawar.

DIRECTOR (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

14/12/2023

خدمت صبا ہاسپتال ڈائریکٹر صحت اعلیٰ آئی / LPH لیسٹ اور

عنوان: حاضری رپورٹ / Arrival Report

دیجیٹل تہذیب اور اعلیٰ تعلیمی تہذیب اور تہذیب

صبا علی

گزارش کی جاتی ہے کہ سائل کے حکیمانہ اسل

کی روشنی میں صبا ڈائریکٹر جنرل سیکرٹری سروسز لیسٹ اور

ڈائریکٹر (HRM) کے آرڈر ممبر اسلٹ نمبر 7584 / Personnel بحور

14 دسمبر 2023ء آج صبا صحت میں حاضری رپورٹ

Annual Report پیش کرنا ہوں

صبا علی! بحوالہ آرڈر ذکر کردہ بالا کی روشنی میں

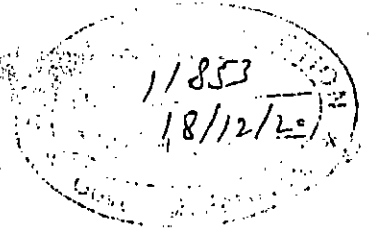
سائل کے ڈیوٹی مقام کا تعین کیا جائے اور مالا مارچ 2023ء

سے بینڈ ٹیبلٹوں کی ادائیگی کے احکامات صادر کار مشورہ ہیں

عین نواریں ہوں

المرقوم 18/12/2023

الحاضر



آئیگنا بعدار صحت صحت لیسٹ LPH لیسٹ اور

صحت

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

OFFICE ORDER

This Directorate letter No. 7584/Personnel dated 13.10.2023 is hereby withdrawn.

Subsequently, this Directorate office order bearing Order No. 14/Personnel dated 05.10.2023 is hereby stand restored as is under:-

S.No	Name of Official	From	To	Remarks
01	Mr Shahid Masih Sanitary Worker	Relieved by the MTI/LRH Peshawar	DHO Khyber	
02	Mr Roud Khan Ward orderly	-do-	DHO Khyber	
03	Mr. Muhammad Wardis Ward orderly	-do-	DHO Hospital Landikot	
04	Mr Hayat Khan Behisht	-do-	DHO Hospital Landikot	
05	Mr. Fazle Maula Attendant	-do-	DHO Nowshera	
06	Mr Muhammad Ali Ward orderly	-do-	DHO Chaman	

Director General Health Services
 Khyber Pakhtunkhwa
 Peshawar
 Date: 13/10/2023

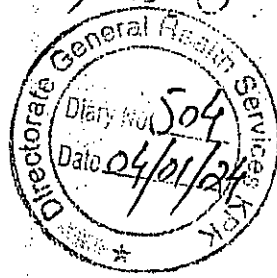
No. 134-40 /Personnel

Copy forwarded to the:-

1. Hospital Director, MTI/LRH Peshawar
2. DHO Khyber
3. MIS DHO Hospital Landikot
4. DHO Nowshera
5. DHO Chaman
6. DHO Khyber
7. Office

22 6

عمر بخیر خواہ کنوینشن



عنوان ایس کے آئی آر ڈی آر 685/HP

Directorate LHC 07/3/23

7584 مورخہ 14/11/14

دس ماہ کی مدت کے لیے جاری کی جائے گی۔

نیابت اہل علم کے ساتھ درخواستیں پیش کی گئی ہیں اور اس کے مطابق ایس کے آئی آر ڈی آر 685/HP مورخہ 14/11/14 کے تحت جاری کیا گیا ہے۔

صوبہ ہریانہ کے ایس کے آئی آر ڈی آر 685/HP مورخہ 07/3/23 کے ساتھ منسلک ہے۔

صوبہ ہریانہ کے ایس کے آئی آر ڈی آر 685/HP مورخہ 07/3/23 کے ساتھ منسلک ہے۔

صوبہ ہریانہ کے ایس کے آئی آر ڈی آر 685/HP مورخہ 07/3/23 کے ساتھ منسلک ہے۔

جنرل عالی آر ای ہدایت کے اضعاف پر عمل کرنے سے متعلق صورتہ 1853 جو آرڈر نمبر 1853
2023 R.H

نے ڈیپٹی R.H سے اس کا فری بیس کی کاپی R.H کی جانب سے ایسے وار
میں جو سول سٹی ہو گیا ہے صورتہ 11/2024 جو آرڈر نمبر 134-40 ڈاکٹر کی طرف
ملائے سرور کی جانب سے دوبارہ مختلف انداز میں ٹرانسفر کیا اور ڈیپٹی کی طرف
پر بھی درخواست کے ساتھ لف ہے۔

- مجدد رائے اسل -

آر ای ہدایت سے نمائندہ عاثرانہ اسل ہے کہ درجہ ملازم اس کے لئے ہے
اس کے ساتھ ہی والی ڈیپٹی آر ای ہدایت کے ساتھ ہے کہ مسلسل ہا جان سے
اسی جانب سے کچھ بھی ہو گیا ہے ڈیپٹی کے فرائض سرانجام دینے کے لئے کوشش میں ہے
لیکن اس کے لئے ہر قسم کی کوشش کے تحت مسائل کا سارا نظام درجہ ملازم ہو گیا ہے
پر جان کے ساتھ ساتھ ہی مسائل کا مستقل حل دیا گیا ہے۔

لہذا آر ای ہدایت سے نمائندہ عاثرانہ سے اسل
No 7584 Directorate اور 07/23 صورتہ 687/HD
صورتہ 11/24 کے مندرجہ ذیل اضعاف کا ریکارڈ ہے جو اس کے ساتھ R.H سے
جاہز کے اضعاف کا ریکارڈ ہے جس میں نمائندہ مسائل کی 10 ہاں سے بعد تفصیلاً عمل ہے

عبدالرشید نیوگا

اسرار علی لہذا

نام صاحب خان
پوسٹ ہسٹری
صورتہ 4-1-24
دستخط صاحب خان

24 H
13²/_{8/2}

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR



E-Mail Address: dgshs@psh.gov.pk office PH# 091-9210269 Exchanges# 091-9210167, 9210195 Fax# 091-9210230
No. 686-709 /Personnel Dated: 5/01/2018

To,

1. Hospital Director MTI/LRH Peshawar.
2. Hospital Director MTI/KTH Peshawar.

Subject: DEPARTMENTAL APPEALS AGAINST RELIEVING ORDERS OF CLASS-IV STAFF OF MTI/LRH STAFF.

Sir,

Kindly refer to your miscellaneous relieving orders regarding Civil Servant Class-IV who were initially appointed by the competent authority of your MTI/LRH Peshawar in past to report at DGHS office for their further posting, along-with their Departmental Appeals against their relieving orders.

The following Class-IV submitted Departmental Appeals/arrival reports.

S.No.	Name of Appellant	Relieving order No.
1	Roaid Khan S/o Sher Baz Khan Ward orderly	1424-31/HD/LRH dated 15.12.2017
2	Muhabat Khan S/o Hasham Khan Ward orderly	1432-39/HD/LRH dated 15.12.2017
3	Noor Rahim S/o Abdul Kabir Ward orderly	1416-23/HD/LRH dated 15.12.2017
4	Munawar Lal S/o Lal Din Sweeper	1456-63/HD/LRH dated 15.12.2017
5	Muhammad Ali S/o Lal Khan Ward orderly	1392-99/HD/LRH dated 15.12.2017
6	Hayat Khan S/o Taza Khan Behishti	1628-35/HD/LRH dated 21.12.2017
7	Faramosh S/o Dost Muhammad W/orderly	1409-16/HD/LRH dated 15.12.2017
8	Muhammad Asif S/o Muhammad Tariq Naib Qasid	1644-51/HD/LRH dated 21.12.2017
9	Mr. Ishaq Bota S/o Buta Masih Sweeper	1448-55/HD/LRH dated 15.12.2017
10	Tahir Khan S/o Syed Khan Dhobi	1620-27/HD/LRH dated 21.12.2017
11	Fazal Maula S/o Fazal Rahim Attendant	1634-43/HD/LRH dated 21.12.2017
12	Sartaj S/o Muhammad Khan Lift Operator	1501-08/HD/LRH dated 18.12.2017
13	Shahid Masih S/o Waris Masih Sweeper	1440-47/HD/LRH dated 15.12.2017
14	Muhammad Waris S/o Abdul Wahab W/orderly	1400-08/HD/LRH dated 15.12.2017
15	Mr. Hamyun S/O Ghulam Rabani Ward Orderly	51240-57/KTH/HRD dated 22.12.17
16	Mr. Niaz Muhammad S/O Sher Muhammad Masalchi	51240-57/KTH/HRD dated 22.12.17
17	Mr. Yaqoob Masih S/O Rehmat Masih Sweeper	51240-57/KTH/HRD dated 22.12.17
18	Mr. Rooh ul Amin S/O Gul Habib M. Sweeper	51240-57/KTH/HRD dated 22.12.17

The Director General Health Services Khyber Pakhtunkhwa Peshawar being competent authority for considering departmental appeals of Class-IV Civil Servant who were initially appointed by competent authority of concerned MTI/ LRH in past, and accept all above referred departmental appeals and direct all the Class-IV to report back to MTI/LRH & KTH for their duties on the following amongst other grounds:-

- i. The above named Class-IV Civil Servants were appointed by your good self in past and they served under your control since their initial appointment according to relevant Law & Rules of initial recruitment.
- ii. According to Khyber Pakhtunkhwa Civil Servant Act 1973, and APT Rules 1989 the Class-IV shall be appointed on local basis and they cannot be Inter District transferred because to avoid violation of permanent residential rights of other Districts for their appointment. Ex-cadre transfer/ appointment/ deputation has already been banned by Supreme Court of Pakistan 2013 SCMR 1357.
- iii. Mostly above named Class-IV having domicile of Peshawar and other were appointed on Provincial based Hospital against their quota. According to relevant

entitled for 25% Son quota of retired employees against the Class-IV post in same Hospital.

IV. The Section-16 of MTI Act 2015 is also allowed to serve name in their concerned MTI Hospital on the term & condition of Civil Servant. The Section 11A Khyber Pakhtunkhwa Civil Servant Act 1973 is not applicable in this case.

v. However, the authority of MTIs can initiate disciplinary proceeding against Class-IV found of mis-conduct and any Class-IV/official if himself apply for his transfer it will be consider as per Law and according to availability of vacant post.

vi. They cannot be relieved prior obtaining NOC of the undersigned/ competent authority to adjust them further, also there is no single vacant post of Class-IV is available in District Peshawar and their adjacent Districts, so their relieving orders and stopping of their salaries is illegal and violation of their fundamental right.

vii. Similarly, the other 09-MTIs of Khyber Pakhtunkhwa are also relieving their Class-IV without any reason if this practice will continue all over the Province will lead to Provincial exchequer to an un-manageable situation.

viii. Mostly above named Class-IV approached Peshawar High Court Peshawar in writ petition No. 1914-P/2016, who in decision dated 17.11.2016 has also directed to adjust them locally. But as narrated above in para-IV there is no single vacant post in District Peshawar or their adjacent District even in all over the Khyber Pakhtunkhwa because of large number of appointments of Class-IV by the present Government, we are also facing litigation about them.

ix. The Peshawar High Court Peshawar D.I.Khan Bench in writ petition No.555-D/2017 has decided on 15.11.2017 (copy attached). The last sentence of para-5 is hereby reproduced below:-

"It clearly indloates that for all intents and purposes, the petitioner was a Government servant according to his appointment order and was to be dealt with in accordance with Government rules and MTI has nothing to do with his services particularly when the petitioner has not joined MTI and thus, the impugned order dated 09.05.2017 is not sustainable".

x. The Service Tribunal Khyber Pakhtunkhwa has also decided the service appeal No. 480-P/2017 dated 15.12.2017 in similar nature case (copy attached).

xi. Supreme Court of Pakistan In 2009 SCMR 1, has decided that when a question of law pertaining to terms and conditions of Civil Servant has been decided by Service Tribunal and Supreme Court of Pakistan its benefits shall be extended those Civil Servants who were not party in litigation process to avoid unnecessary litigation.

In the light of all above mentioned, on acceptance of their Departmental appeals you are requested to withdraw above mentioned orders in column 3 of above table and release their salaries with all arrears.


DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR.


5/11/18

C.c

1. Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar w/r to discussion regarding subject cited above for information and further necessary action please.
2. All concerned Class-IV appellants mentioned above. They are directed to report to their respective original place of posting.

8

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR**



No. 870-72 /Admn/DGHS/KP

Dated: 16 /01/2018

To,

1. The Hospital Director MTI/LRH Peshawar
2. The Hospital Director MTI/KTH Peshawar

Subject: **CLARIFICATION.**

Memo:

With reference to this Directorate letter No. 686-709/Personnel dated 05.01.2018 on the subject of departmental appeal against relieving orders of Class-IV staff of MTI/LRH & KTH, we were call upon by Hon'able Secretary Health Khyber Pakhtunkhwa to discuss the said letter where we produced our clarification, the same is hereby conveyed to your kind perusal:

- i. The Class-IV cadre is a localized cadre and change of status of any Teaching Hospital which was originally following the Govt. structure, then was granted authority under Khyber Pakhtunkhwa Medical & Health Institutions Reform Act 1999, Khyber Pakhtunkhwa Medical & Health Institutions and Regulation of Health Care Ordinance, 2002 and has recently been converted into MTI-Khyber Pakhtunkhwa Medical Teaching Institutions Reform Act, 2015, has not impacted under the localized status of this cadre, which remains non-transferable from any localized institutions or District.
- ii. Those cadres which are Provincial in nature such as Medical Officer, Dental Surgeon, Nurses & Paramedics in such cadre services of Civil Servant presently on the strength of Medical Teaching Institutions can be sent back, although we prefer that reasons for proceeding against are made part of surrender letter.
- iii. In the instant case if these Civil Servant Class-IVs are involved in any adverse activity, disciplinary proceedings which may lead to any penalty including dismissal from services can be initiated and finalized within the administration structure of MTI.
- iv. In all such cases the MTI itself is competent authority to take action as per the law and rules mentioned in our previous letter which was not meant to absolve any such employee.

In case of any further clarification required, you along with any legal expert you wish to bring on service rules in Secretary Health Khyber Pakhtunkhwa Office at anytime.

**DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

C.c

Secretary to Govt of Khyber Pakhtunkhwa Health Department Peshawar

Supreme Court Matter

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 13th June, 2018

NOTIFICATION.

No. SOH-III/8-60/2018. In light of the orders of the honourable Chief Justice of Pakistan, office order issued by Directorate General Health Services NO. 1898-912/E-V dated 29th January, 2018 is hereby cancelled with immediate effect.

The salaries of concerned Officers/officials may also be released.

Note: Compliance report of the above orders should please be submitted to this secretariat for onward submission to Supreme Court of Pakistan.

SECRETARY HEALTH
GOVT. OF KHYBER PAKHTUNKHWA

Endst. Even No and Date.

Copy forwarded to:-

1. The Director General, Health Services, Khyber Pakhtunkhwa for further necessary action.
2. The Director General, Provincial Health Services Academy, Peshawar.
3. The Hospital Directors, MTIs – LRH and KTH, Khyber Pakhtunkhwa.
4. PS Secretary Health, Khyber Pakhtunkhwa.
5. PA to Additional Secretary (Establishment) Health, Khyber Pakhtunkhwa.
6. PA to Deputy Secretary (Admn) Health, Khyber Pakhtunkhwa.
7. Officers/Officials concerned.


13.6.18
SECTION OFFICER-III



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

E-Mail Address: nwfrdghs@yahoo.com office Ph#091-9210269
Exchange# 091-9210187, 9210196 Fax # 091-9210230

OFFICE ORDER

In compliance to order dated 25.04.2017, of Peshawar High Court Peshawar in writ petition 429-P/2016 and Khyber Pakhtunkhwa Service Tribunal Peshawar order dated 30.11.2017, in service appeal No. 458/2017, all the departmental appeals in respect of the following officers/officials along-with similar placed other officers/officials are not maintainable on account of Res-judicata under CPC Rule-11 in the eye of Law.

1. Mr. Isam Gul Clinical Technologist Surgical
2. Muhammad Riaz Barki C.T Pathology
3. Muhammad Arim C.T Cardiology
4. Johar Ali C.T Radiology
5. Shamsul Taj C.T Surgical
6. Roadar Shah C.T Pharmacy
7. Mujahid Azam C.T Pharmacy
8. Imdadullah C.T Pathology
9. Murad Ali office Assistant

Moreover, they belong to provincial cadre and have also completed their normal tenure in their respective MTIs institutions and this Directorate Office Orders and Government of Khyber Pakhtunkhwa Health Deptt: Notifications regarding their posting / transfer ultimately attained at its finality.

They are strictly directed to comply the office orders No. 2267-84/AE-VI dated 09.02.2016, No. 2303-20/AE-VI dated 10.02.2016, No. 2517-24/E-V dated 01.07.2016, and Govt: of KP Health Department Notification No. SOH(E-III)1-1/2016 dated 15.02.2016, without fail.

Consequently, this Directorate office order bearing Encls: No. 1092-68/AE-VI dated 24.01.2018, is hereby withdrawn ab-initio.

However, it is pertinent to mention here that the Class-IV staff relieved/repatriated by HD MTI/LRH/KTH shall remain in their respective institutions vide this Directorate letter No. 636-709/Personnel dated 05.01.2018 and No. 870-72/Admn/DGHS KP dated 10.01.2018 being low paid employees of Hospital cadre.

Sd/xxxxxxx
DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR.
Dated 29/01/2018.

No. 1898-912/E-V

Copy forwarded to the:-

1. Secretary to Govt: Of Khyber Pakhtunkhwa Peshawar.
2. Hospital Director MTI LRH Peshawar.
3. Hospital Director MTI/KTH Peshawar.
4. M.S CHQ Hospital D.I Khan.
5. DHO Kohistan.
6. M.S Sakou Group of Teaching Hospital Swat.
7. DHO Swabi.
8. M.S CHQ Hospital Battagram.
9. DHO Torghar.
10. M.S CHQ Hospital KDA Kohat.
11. DHO Kohat.
12. PS to Minister for Health Khyber Pakhtunkhwa Peshawar.
13. Officers/officials concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH SERVICES,
KHYBER PAKHTUNKHWA PESHAWAR.

29

19

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**



E-Mail Address: dgsh@peshawar.gov.pk, office Ph# 091-9210269 Exchange# 091-9210137, 9210196 Fax # 091-9210230
No. 1-224-35 / Personnel Dated: 20/07/2018

To:

The Hospital Director
MTI/ LRH Peshawar.

Subject: RELIEVING OF MR. WARIS KHAN S/O ABDUL WAHAB WARD ORDERLY.

Reference to your letter No. 799-805/HD/LRH dated 18.04.2018, on the subject noted above.

Enclosed please find herewith a copy of Enquiry Officer letter No. 5794/GNBMH/Enquiry/Disciplinary Action dated 09.08.2018 and report vide letter No. 5126/GNBMH dated 30.06.2018 alongwith its enclosures, the recommendations of the Enquiry Officer are as under:-

1. The salary of MR. Waris Khan Ward Orderly should be released, alongwith arrears (43-days deduction), as according to him he was regular in his duty (Bio metric record is a proof).
2. The civil servants should not be relived from MTI/LRH without the prior permission for worthy DGSH Khyber Pakhtunkhwa.
3. The provision of uniform allowance as promised to be considered by the LRH authorities should be considered sympathetically.

You are requested to take necessary action as per recommendations of the Enquiry Officer please, under intimation to this Directorate.

ADDITIONAL DG (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR.

C.c:

P.A to DGHS KP Peshawar.

VAKALATNAMA

BEFORE THE Service Tribunal KP Peshawar

Suit
Application
Appeal
Case
Execution
Writ Petition

No. _____ of 2024

Hayat Khan

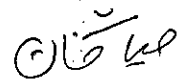
Plaintiffs
Applicants
Appellants
Petitioner
D/H

VERSUS

The Govt of KP it Secretary Health

Defendants
Opponents
Respondents
J/D

I/We do hereby appoint Mr. Mukhtar Ahmad Maneri, Advocate Supreme, Aamad Nasir Kundi, AHC, Naseer Ud Din Yousafzai, AHC, Peshawar to appear and act for me/us in the above mentioned proceedings and to conduct, prosecute and/or defend and/or compromise the same and any other proceedings that may arise out of or be connected with the same, with full power and authority to sign all necessary pleadings, petitions, applications papers and documents, to pay all proper fees and costs, to file and withdraw all documents and to apply for and receive payment of all moneys that may be or become due and payable to me/us during the course or after the completion or conclusion of the said proceedings, and to settle, compromise or to withdraw the said proceedings.

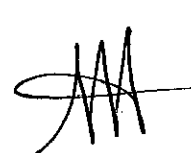


Signature

Received on 25/01/2024 from Appellant #01

Accepted.


ADVOCATE/S


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