

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 872/2019

Date of Institution ... 31.05.2019

Date of Decision ... 09.11.2021

Dr. Muhammad Nadeem Medical Officer/Coordinator, DHO Office
Haripur.

... (Appellant)

VERSUS

Chief Secretary, Government to Khyber Pakhtunkhwa, Civil
Secretariat Peshawar and two others.

... (Respondents)

Mr. FAZAL SHAH MOHMAND,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

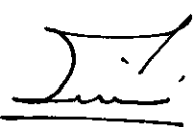
JUDGMENT

SALAH-UD-DIN, MEMBER:-

Precisely stated the facts as alleged by the appellant in his appeal are that he was appointed as Medical Officer on 22.11.1995 and his services were later on regularized on 22.10.1997. Vide order dated 07.11.2001, the request of the appellant for proceeding to Saudi Arabia on deputation was allowed; that the deputation period was for two years, however the same was extended from time to time and the appellant thus remained on deputation for seven years; that on 25.08.2008, the appellant submitted an application for extension in his deputation period for further two years,



however the same was regretted vide order dated 27.10.2008, therefore, the appellant resumed his duty on 03.03.2009; that during the period of his deputation, the appellant deposited contributory provident fund/GP fund etc; that the appellant finally submitted resignation on 28.01.2010 and kept performing his duty for three months, however nothing was conveyed to him regarding the acceptance or otherwise of the resignation tendered by him; that in the year 2013, the appellant submitted application for withdrawal of his resignation, which was duly forwarded to the concerned quarters vide letters dated 25.09.2013 and 02.03.2017, however no response was received; that the appellant submitted two others applications dated 11.09.2017 and 22.12.2017 to the concerned quarters for withdrawal of his resignation but no response was received by the appellant, therefore, the appellant submitted departmental appeal for acceptance of his arrival on 19.03.2019, which was also not responded, hence the instant service appeal.


2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the resignation of the appellant has not yet been accepted by the competent Authority, therefore, the service of the appellant is still intact and the respondents are legally bound to issue adjustment/posting order of the appellant against his post; that the appellant cannot be held entitled for in-action of the respondents and they are bound to grant him the arrears of outstanding salary; that the appellant has not been treated in accordance with law and the respondents have violated the relevant law/rules, which has resulted in causing prejudice to the appellant; that the appellant is having about 26 years of service at his credit with an unblemished record, therefore, the respondents are not justified in keeping the appellant in a hanging situation. Reliance was placed on PLD 2007 Supreme Court 52, judgment dated 13.06.2011 passed by this Tribunal

in Service Appeal No. 1689/2010 decided on 13.06.2011 as well as judgment dated 20.10.2021 passed by this Tribunal in Service Appeal No. 4675/2020.

4. On the other hand, learned Deputy District Attorney for the respondents has argued that the appellant did not perform any duty for the period from the year 2009 till date, therefore, he is not entitled to claim any salary for the said period; that the appellant remained absent from duty for more than five years, therefore, in view of FR-18, he has ceased to be a government employee; that the appeal in hand is barred by time and is liable to be dismissed on this score alone; that the appellant had himself submitted resignation, therefore, he is estopped by his own conduct and the appeal in hand is, therefore, liable to be dismissed with cost. Reliance was placed on 2007 SCMR 346 and 2014 SCMR 799.

 5. Arguments heard and record perused.

6. A perusal of the record would show that it is an admitted fact that the appellant had resumed his duty on 03.03.2009, when his request for further extension of his deputation period was regretted by the competent Authority. The appellant then submitted his resignation on 28.01.2010, which was forwarded by Director General Health Services Khyber Pakhtunkhwa Peshawar vide letter dated 25.09.2013 addressed to Secretary to Government of Khyber Pakhtunkhwa, Health Department Peshawar. A perusal of the aforementioned letter as well as letter dated 02.03.2017 addressed by Section Officer (E-II) to the Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar would show that it is an admitted fact that the request of the appellant for resignation as well as his request for withdrawal of the resignation were not responded by the competent Authority one way or the other. August Supreme Court of Pakistan in its judgment reported as PLD 2007 Supreme Court 52 has held as below:-

"16. From a bare perusal fo the above instruction it is crystal clear that on mere tendering/submitting of resignation the

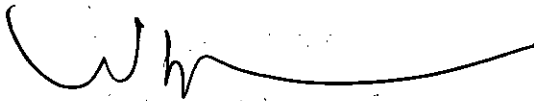
services of Goernment/Civil Servant would not come to an end and the same has to be accepted for its effectiveness by the competent authority. It also reveals that till such time as the resignation is accepted by the competent authority, the Civil/Government servant would continue to be in Government service and would be under an obligation to perform his duties. In case he fails or omits to perform his duties without prior authorization or leave, he would be deemed to be an absentee rendering himself liable for disciplinary proceedings under the appropriate law and rules. In view of the clear, express and unambiguous language used in instructions at serial No. 13 of the Esta Code there can be no doubt that the resignation tendered/submitted by a civil servant does not become effective/operative unless it is accepted by the competent authority and till such time the resignation is accepted the government/civil servant shall be deemed to be in the service. It will not be out of place to mention there that the above instruction was issued by the Authority, which is competent to amend, modify or alter the laws/rules relating to the terms and conditions of the civil servants, and such instructions would have same force as statutory rules. To substantiate the above proposition, reliance is placed on the judgment of this Court in the case of the Province of West Pakistan and other v. Ch. Din Muhammad and others (PLD 1964 SC 29)".

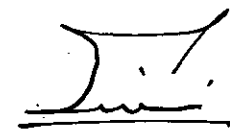
7. The resignation of the appellant has not yet been accepted by the competent Authority, therefore, the appellant shall be considered to be in service. So far the absence of the appellant from duty is concerned, nothing is available on the record to show that any disciplinary action was taken against him. The appellant has, however failed to show that he has performed any duty after tendering his resignation on 28.01.2010, therefore, he cannot claim any salary for the period during which he had not performed his duty. The contention of learned Deputy District Attorney that in view of FR-18, the appellant has ceased to be a government employee

is misconceived for the reason that FR-18 has been omitted vide Notification No. F.1(11)R.4/89 dated 3rd November 1992.

8. In view of the foregoing discussion, the appeal in hand is partially allowed and the respondents are directed to issue adjustment/posting order of the appellant against his post. The intervening period during which the appellant remained absent from duty may be treated as extraordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.11.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

09.11.2021

Appellant alongwith his counsel Mr. Fazal Shah Mohmand, Advocate, present. Mr. Safiullah, Section Officer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.


Vide our detailed judgment of today, separately placed on file, the appeal in hand is partially allowed and the respondents are directed to issue adjustment/posting order of the appellant against his post. The intervening period during which the appellant remained absent from duty may be treated as extraordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

09.11.2021



(Atiq-Ur-Rehman Wazir)
Member (E)



(Salah-Ud-Din)
Member (J)

26.10.2020

Proper D.B is on Tour, therefore, the case is adjourned for the same on 21.12.2020 before D.B.


Reader

21.12.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Nisar, Assistant, for the respondents are also present. Due to COVID-19, the case is adjourned to 12.03.2021 for the same.


Reader

12.3.21

D.B is not available, therefore the case is adjourned to 28.4.2021 for the same.

28.4.21

Due to COVID-19, the case is adjourned to 30.8.2021 for the same.

30.08.2021

Appellant alongwith Mr. Fazal Shah Mohmand, Advocate, present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 09.11.2021.


(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

28.07.2020

Mst. Rabia Muzaffar Advocate on behalf of counsel for the appellant and Mr. Ziaullah, DDA alongwith Hazrat Shah, Superintendent for the respondents present.

Former states that the Special Attorney of appellant is engaged in a family bereavement, therefore, is unable to appear before the Tribunal today. She requests for adjournment of the proceedings.

On the other hand, learned DDA states that the appellant is not available in Pakistan as evident from the contents of his Power of Attorney. The appeal in hand, which is essentially with the prayer for adjustment/posting of the appellant against the post of Medical Officer, is not allowable in the circumstances when the appellant had tendered resignation in the year 2010 and ever since is serving abroad.

On the last date learned counsel for the appellant was required to produce the appellant, however, in the interest of justice a further opportunity is provided to the appellant but as last chance.

Adjourned to 13.08.2020 for hearing before the D.B.

(Muhammad Jamal Khan)
Member


Chairman

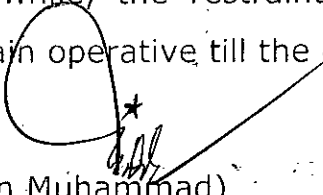
13.08.2020


Due to summer vacations case to come up for the same on 26.10.2020 before D.B.


Reader

15.07.2020

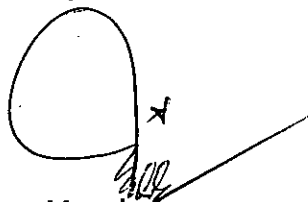
Counsel for the appellant is present. Mr. Ziaullah, Deputy District Attorney is also present. Rejoinder submitted by the appellant is placed on record. Mr. Ziaullah, Deputy District Attorney submitted that appellant is not consistently attending this Tribunal and his attendance may please be assured from the learned counsel. Attendance of appellant or his legal attorney is required. Learned junior counsel was directed to have a contact with her client and reporting that communication to the bench for the referred to purpose, time was sought, time of an hour given. After interval of an hour again case was called on for hearing the learned senior counsel while appearing is seeking time to produce appellant. Moreover it was stated that no contact could have been made with the appellant. Adjournment granted. Time granted with the direction to ensure attendance of the appellant on the next date of hearing. File to come up for attendance of appellant and arguments on 28.07.2020. In the meanwhile, the restraint order passed on 06.01.2020 shall remain operative till the date fixed.


(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

10.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Saleem Javed, Litigation Officer for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.03.2020 before D.B. The restraint order passed on 06.01.2020 shall remain operative till next date.


Member


Member

20.03.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 06.04.2020 for rejoinder, if any, and arguments before D.B. The restraint order passed on 06.01.2020 shall remain operative till next date.


(Mian Muhammad)
Member


(M. Amin Khan Kundi)
Member

6.4.2020

Due to COVID 19, the case is adjourned to 1-7-2020 for same as before.



01.07.2020

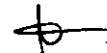
Due to COVID-19, the case is adjourned to 15.07.2020 for the same.


Reader

06.02.2020

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

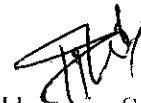
Learned AAG seeks time to contact the respondents and submit the requisite reply/comments. Adjourned to 24.02.2020 on which date reply to appeal as well as application submitted on 06.01.2020 shall positively be furnished. Arguments on the application shall also be addressed on the date fixed. The restraint order passed on 06.01.2020 shall remain operative till next date.



(Ahmad Hassan)
Member

24.02.2020

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Saleem Javed, Litigation Officer for the respondents present. Representative of the respondents submitted reply/comments which is placed on file. To come up for rejoinder and arguments on 10.03.2020 before the D.B. The restraint order passed on 06.01.2020 shall remain operative till next date.



(Hussain Shah)
Member

S.A No. 872/2019

06.01.2020

Counsel for the appellant and Addl. AG for the respondents present. Despite notices no representative of respondents is in attendance.

An application for restraining respondents from taking adverse action against the appellant has been preferred which is made part of the record. Notice of the application be given to the respondents for 23.01.2020. Till next date the respondents shall not finalize adverse action, if any, taken against the appellant. On the adjourned date the respondents shall positively submit reply to the appeal as well as application. Arguments on application shall also be addressed.


Chairman

23.01.2020

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

Learned AAG seeks further time to contact the respondents and furnish the requisite reply/comments. Adjourned to 06.02.2020 on which date the reply/comments shall positively be furnished. The restraint order passed on 06.01.2020 shall remain operative till next date.


Chairman

14.11.2019

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

On 09.08.2019 the respondents were put on pre-admission notice for 26.09.2019. The record shows that the requisite notices were issued, however, no appearance on their behalf was put in by any representative. Even today the respondents/representative are not in attendance.

The case of appellant is that being regular employee of the respondent department since the year 1997, applied for ex-Pakistan leave which was allowed for seven years deputation ending in the year 2008. Upon rejection of his request for further extension the appellant tendered resignation in January, 2010. The resignation was also not acceded to nor was declined by the respondents all along the period when the appellant requested for withdrawal of resignation or resumption of duty. At present, neither any adverse order regarding the continuation of service of appellant is in field nor he has been assigned posting for resumption of duty.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 06.01.2020 before S.B.





Appellant Deposited
Security & Process Fee
14-11-19


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 870/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/07/2019	<p>The appeal of Dr. Muhammad Nadeem resubmitted today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 2/7/19</p>
2-	09.08.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/08/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	26.09.2019	<p>Counsel for the appellant present.</p> <p>Issue pre-admission notice to the respondents in order to apprise the Tribunal regarding the present service status of the appellant who claims to have withdrawn his resignation submitted in the year 2010.</p> <p>Adjourned to 26.09.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
		<p>Mr. Wali Khan, Advocate on behalf of learned counsel for the appellant present.</p> <p>Request for adjournment is made as learned counsel is engaged today before the Apex Court at Islamabad. Adjourned to 14.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Dr. Muhammad Nadeem Medical officer DHO Office Haripur received today i.e. on 31.05.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Affidavit may be got attested by the Oath Commissioner.
- 4- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 5- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1062 /S.T,

Dt. 11-6- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal Shah Mohmand Adv. Pesh.

Sir, Resubmitted after necessary
completion.


Adv
02/7/19

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 879 /2019

Dr. Muhammad Nadeem.....Appellant



V E R S U S

Chief Secretary and Others.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-5
2.	Copy of Letter/Order dated 07-11-2001	A	6-6-A
3.	Copy of Application & Letter dated 27-10-2008	B & C	7-9
4.	Copy of Application & Receipts	D & E	10-15
5.	Copy of Application dated 28-01-2010	F	16
6.	Copies of Letters dated 25-09-2013 & 02-03-2017	G & H	17-18
7.	Copies of Applications	I & J	19-20
8.	Copy of Departmental Appeal dated 19-03-2019	K	21
9.	Wakalat Nama & Power of Attorney		22-25

Dated:- 31-05-2019.


Appellant
Through

Fazal Shah Mohmand
Advocate Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
Email:- fazalshahmohmand@gmail.com

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 872 /2019

Dr. Muhammad Nadeem Medical Officer/Coordinator, DHO Office Haripur.**Appellant**

V E R S U S

1. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Secretary, Health Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Director General, Health Services, Govt. of Khyber Pakhtunkhwa, Peshawar.**Respondents**

2-1-2

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR ADJUSTMENT/POSTING OF THE APPELLANT AGAINST HIS POST AND RELEASE OF SALARIES OF THE APPELLANT W.E.F 28-01-2010 TILL DATE, REGARDING WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF STATUTORY PERIOD OF NINETY DAYS.

Filed to-day
Registrar
31/5/19

PRAYER:-

On acceptance of this appeal, the respondents may kindly be directed to adjust/post the appellant against his post and release his salaries w.e.f 28-01-2010 till date.

Respectfully Submitted:-

1. That the appellant was appointed as Medical Officer on 22-11-1995 and on 22-10-1997 his services were regularized and since then he performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.

Re-submitted to-day and filed.

Registrar
31/5/19

2. That in the year 2001, the appellant made a request to respondents for joining foreign service on deputation to Saudi Arabia which request after due course of law was accepted and the appellant was allowed to proceed on deputation abroad for two years vide Letter/order dated 07-11-2001. **(Copy of Letter/Order dated 07-11-2001 is enclosed as Annexure A).**

3. That the period of deputation was extended from time to time and after seven years of deputation, the appellant again requested respondents for extension in his deputation for further two years on 25-08-2008 which was regretted and communicated to the appellant vide letter dated 27-10-2008 and the appellant was directed to join his duty immediately and accordingly the appellant resumed his duty on 03-03-2009. **(Copy of Application and letter dated 27-10-2008 is enclosed as Annexure B & C).**

4. That the appellant during this period duly deposited contributory provident fund/GP.Fund/pension fund etc and the appellant again made request for review/extension of his deputation period vide application dated 08-02-2009 along with receipts of his fund deposits. **(Copy of Application and Receipts are enclosed as Annexure D & E).**

5. That finally the appellant submitted resignation on 28-01-2010 however the same was not accepted and the appellant thereafter performed his duties for three months but nothing was communicated to him about the acceptance or otherwise of resignation. **(Copy of Application dated 28-01-2010 is enclosed as Annexure F).**

6. That in the year 2013 the appellant submitted application for the withdrawal of his resignation which was duly forwarded vide letters dated 25-09-2013 and 02-03-2017 but with no response. (**Copies of letters dated 25-09-2013 & 02-03-2017 are enclosed as Annexure G & H).**

7. That even there after the appellant submitted applications for the withdrawal of his resignation on 11-09-2017 and 22-12-2017 but with no response. (**Copies of Applications are enclosed as Annexure I & J).**

8. That on 19-03-2019 the appellant submitted appeal for for his posting/adjustment/arrival vide diary No 4710 but of no use despite the lapse of more than the statutory period of ninety days. (**Copy of Appeal dated 19-03-2019 is enclosed as Annexure K).**

9. That this action of the respondents of not posting/adjusting the appellant against his post and not releasing his salaries, is against the law, facts and principles of justice on grounds inter alia as follows:-

GROUND S:-

- A. That the omissions and commissions of respondents are illegal, unlawful, without lawful authority and of no legal effect.

-4-

- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant is not been treated according to law and rules.
- C. That the service of the appellant is still intact, therefore he is entitled to be adjusted/posted against his post and his salaries released forth with. Even law and rules are very much clear on the point.
- D. That the appellant with the permission and approval of department proceeded aboard on deputation and the same was also extended from time to time by the respondents and upon regretting the appellant as per directions of respondents reported for duty, thus has not violated any law/directions.
- E. That the appellant being in service is entitled to posting/adjustment and release of salaries as well.
- F. That the appellant has about 24 years of service with unblemished service record with no complaint during his entire service career.
- G. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

-5-

Any other relief not specifically asked for and deemed appropriate in the circumstances of the case may also be granted in favor of the appellant.

Appellant

Dated-:31-05-2019.

Through

**Fazal Shah Mohmand
Advocate, Peshawar**

AFFIDAVIT

I, Dr. Muhammad Nadeem Medical Officer/Coordinator, DHO Office Haripur, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

Identified by

**Fazal Shah Mohmand
Advocate Peshawar**

-6-

"A"

GOVERNMENT OF N.W.F.P.
HEALTH DEPARTMENT.

NO.SO (ME)H-IV/2-13/
Dated Peshawar, the 7.11.2001.

To

The Director General,
Health Services, NWFP,
Peshawar.

SUBJECT: DEPUTATION ABROAD.
Sir,

I am directed to refer to the subject noted above and to state that the Provincial Government is pleased to relieve Dr. Muhammad Nadeem, Coordinator, EDO(H), Haripur from the date of his relinquishing the charge for joining foreign service in (Saudi Arabia) on the following terms and conditions:-

- i) The period of deputation will be for two years.
- ii) He/She will be treated to be on foreign service with effect from the date he/she hands over charge of his/her present post. He/she shall revert from foreign service on the date he/she takes over charge of his/her post under this Provincial Government. If he/she takes leave before joining his/her post under Government, the date of reversion from foreign service will be decided by the Government of NWFP.
- iii) During deputation period this Provincial Government shall not be liable to pay for his salary, joining time, pay, allowances and travelling facilities both ways.
- iv. He/She (and where foreign employer is not agreeable to pay the pension contribution) he/she, as the case may be, shall during the period of foreign service, pay to the Provincial Government the pension contribution in foreign currency in accordance with the relevant rules and at the rates prescribed from time to time by the Govt. The remittance shall be made by him/her through his/her parent office in Pakistan with a covering letter showing the relevant head of account. The parent office will send copies of challans and schedules to the Accounts Officers concerned for information and necessary action. On delayed payment of these contributions, the provisions of supplementary Rules 307 shall apply. Till such time as the rates of pension contribution are ascertained and intimated by the Audit Office concerned, he/she shall at a uniform rate of 33.1% of the mean of minimum and maximum of the pay scale held by him/her at the time of emoluments (reckonable for pension) which would have been admissible to him/her and he/she not been deputed on foreign service.

CE/11/2001

- 6/A -

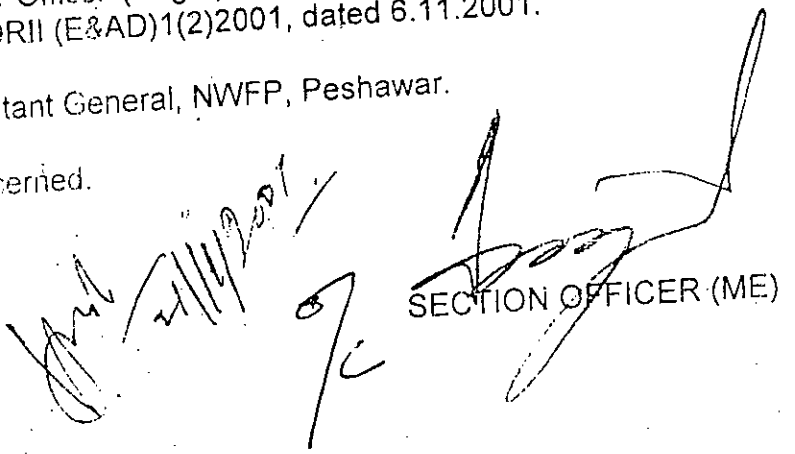
2. No leave salary contribution is recoverable from the foreign employer but leave/leave salary is to be sanctioned/paid during the period foreign service by the foreign service by the foreign employer that period being not countable for earning leave with the Government. In view of this, pension contribution will be payable by the foreign employer during the entire period of foreign service including the period of leave availed of by him/her with the foreign employer.

(Muhammad Abid Majeed)
Section Officer (ME)

Endst. No. & date even.

Copy forwarded to the:-

1. The Secretary to Govt. of Pakistan, Ministry of Health, Social Welfare and Special Education (Health Division), Islamabad.
2. The Secretary to Govt. of Pakistan, Ministry of Foreign Affairs, Islamabad.
3. The Secretary to Govt. of NWFP, Finance Department, Peshawar.
4. The Secretary NWFP Public Service Commission, Peshawar.
5. The Dean, PGMI, HMC, Peshawar.
6. The Chief Executive, HMC, KTH/LRH Peshawar.
7. The Executive Director Operation (Public), Overseas Employment Corporation, Ministry of Labour, Manpower & Overseas Pakistanis, East End Block Building Embassy Road, Islamabad.
8. The Incharge, Overseas, Fuji Foundation, Rawalpindi.
9. The Regional Manager, Overseas Employment Corporation Ltd Arbab Avenue, University Road, Tehkal Payan, Peshawar.
10. The Assistant Director, Immigration & Passport Office, Peshawar/Islamabad.
11. The Section Officer (Reg.II), Establishment Department w/r to his letter No.SORII (E&AD)1(2)2001, dated 6.11.2001.
12. The Accountant General, NWFP, Peshawar.
13. Doctor concerned.


SECTION OFFICER (ME)

ATTACHED

c/o M. SIDDIQUE. KARKYAN STORE
SHEKAWATA GATE
HARIDUR
POST ADDRESS:-

25-08-2008
MEDICAL OFFICER
HEALTH DEPT. NWFP

Dr. MUHAMMAD NADEEM
S/O MUHAMMAD SIDDIQUE
THANKS OBEDIENTLY
Yours
Naadeem

IN DEPUTATION
PLEASE ISSUE ME FOR THE EXTENSION
ALONG WITH AFFIDAVIT.
HAS BEEN SUBMITTED & PHOTOCOPIES ARE ATTACHED.
THE DUES FOR THE YEAR 6th & 7th
DEPT. NO 502 V (E & AN) 4-5/2005 DATED 20-3-2006.
IN TERMS OF DEPUTATION POLICY FROM ESTABLISHMENT
10 8th & 9th YEARS ON STATIC SENIORITY
TO SAUDI ARABIA FOR THE PERIOD OF TWO YEARS
FOR THE GRANT OF EXTENSION IN DEPUTATION
I AM REQUESTING YOUR OFFICE
YEARS 2008 & 2009.
MY CONTRACT HAS BEEN RENEWED FOR THE
M.O. IN THE MINISTRY OF HEALTH KSA &
I THE UNDERIGNED, WORKING AS
RESPECTED SIR,

SUBJECT: EXTENSION IN DEPUTATION

HEALTH DEPT. NWFP
THE SECRETARY

To

"B"
-7-

-8-"C"

2340
1-11-2008
7805
30/10/08

GOVERNMENT OF N.W.F.P.
HEALTH DEPARTMENT.

NO. SO(E)H-II/2-13/03
Dated Peshawar, the 27.10.2008.

To

The Director General,
Health Services, NWFP,
Peshawar:

SUBJECT: EXTENSION IN DEPUTATION IN FAVOUR OF DR. MUHAMMAD NADEEM, MEDICAL OFFICER.

Dear Sir,
30/10/08

I am directed to refer to the subject noted above and to state that Dr. Muhammad Nadeem, Medical Officer has submitted an application requesting for further extension in his deputation (copy enclosed) which was processed and granted.

2. The doctor may be directed to join his duty immediately or resign from service; failing which disciplinary action would be initiated against him.

Enclosed are:

Section Officer-II.

Enclosed doclm
Response immediately

OFFICE OF THE DG HEALTH SERVICES NWFP, PESHAWAR.
NO. 32369-71 /E-I, dated Peshawar the, 04.11.2008.
Copy forwarded to the:-

- 1. EDO(Health), Haripur to inform him accordingly.
- 2. Dr. Muhammad Nadeem S/O Muhammad Siddique C/O M. Saddiq H.No. 787, Moh: Asif Abad & Malikyar Road APT Bright Hall Public School Haripur.
- 3. Dr. Muhammad Nadeem S/O Muhammad Siddique General Physici Al-Qahma General Hosp: Al-Qahma Abh Aseer Saudi Arabia.

FOR DIRECTOR GENERAL HEALTH SERVICES NWFP, PESHAWAR 04/11

NO.

/E-I,

Copy forwarded to the:-

- 1. Secretary to Govt. of NWFP Health Deptt: Peshawar.
- 2. AE-II, DGHS, Office, Peshawar.

for information.


FOR DIRECTOR GENERAL HEALTH SERVICES NWFP, PESHAWAR.

ATTACHED

GOVERNMENT OF N.W.F.P.
HEALTH DEPARTMENT.

NO. SO(E)H-II/2-13/03
Dated Peshawar, the 27.10.2008.

To


The Director General,
Health Services, NWFP,
Peshawar.

-9-

SUBJECT: EXTENSION IN DEPUTATION IN FAVOUR OF DR. MUHAMMAD NADEEM, MEDICAL OFFICER.

Dear Sir,

I am directed to refer to the subject noted above and to state that Dr. Muhammad Nadeem, Medical Officer has submitted an application requesting for further extension in his deputation (copy enclosed) which was processed and regretted.

2. The doctor may be directed to join his duty immediately or resign from service; failing which, disciplinary action would be initiated against him.

Encl: as above.


Section Officer-II.



-10- "D"

**APPEAL
TO THE SECRETARY
HEALTH DEPARTMENT N.W.F.P.**

SUBJECT: EXTENSION IN DEPUTATION LEAVE ABROAD

Respected Sir,

Reference to office order # SO (E) H-II/2-13/03 Peshawar

Dated: 27/10/2008 and DGHS N.W.F.P Peshawar # 32369-71 EI, Dated: 04/11/2008.
And notice in the newspaper "Mshraq" 28/01/2009.

✓ I the undersigned, working on deputation in Saudia, sent application for extension of deputation abroad on static base for the two years of 2009/10 dated 28/08/2008. The attested photocopies of funds deposited on account of pension / contributory provident fund/ GP funds, benevolent fund and group insurance for the last seven years 2001 to 2008 are attached with my application, but my application regretted.

The policy of establishment department # SOR VI (E & AD) 4-5/2005, Dated 20/03/2006 for extension of deputation abroad on static base beyond five years already stands which provide rules for further extension.

✓ As I have started my contract with Ministry of health K.S.A for the year 2008 - 2009, which I am bound to complete it legally, technically and morally. It is therefore requested to review my case for extension in deputation on compassionate ground for the year 2008/09 till my contract ends there in K.S.A.

Thanks.

Yours obediently.

Dr. Muhammad Nadeem

S/o Muhammad Siddique

Ex. coordinator EDO (H) Haripur

Date: 08/02/2009

Copy to office DGHS Peshawar

ATTACHED

Attested N STATE BANK OF PAKISTAN H-Pr

'E' 10

(Name)

dated the 28 of 7 2003

Received from the bearer Dr Mahol Nadeem
the sum of Rs. 68780/-

to be credited to Government account under the head 12/2401
on account of Pen. Contribution

-11-

Fl Mahol Nadeem Jr Manager
This portion to be returned to the payee receipted by the Agent. 2001

Note.-The Bank Agent is instructed not to receive money unless both portion the
invoice are carefully and clearly filed in.



NWFP A&T 200

(31)

68780
3746
72526

Attested N STATE BANK OF PAKISTAN H-Pr

(Name)

dated the 28 of 7-03

Received from the bearer Dr Mahol Nadeem
the sum of Rs. 27161/-

to be credited to Government account under the head 12/2401
on account of Pen. Contribution

Manager

Dr 10/11/2001
This portion to be returned to the payee receipted by the Agent.

Note.-The Bank Agent is instructed not to receive money unless both portion the
invoice are carefully and clearly filed in.

See reverse

NWFP A&T 200

(32)

28-7-03

total 21 mo

ATTESTED

1-11-2006

740

Pension Contribution Formula:

- IIIA -

According to new pay scale Dec, 2001 onward.

$$\text{One Month Contribution} = \frac{\text{Initial pay} + \text{Final pay of scale}^{(17)}}{2} \times 33\%$$

$$= \frac{6210 + 15660}{2} \times 33.1\%$$

$$\text{Per month} = 3620/-$$

$$\text{Dec, 2001 to June 2003 (19 months)} = 3620 \times 19 = 68780/-$$

According to Old Pay Scale before Dec, 2001.

$$\text{One Month} = \frac{3880 + 7360}{2} \times 33.1\%$$

$$= 1860$$

$$\text{Oct + Nov, 2001} = (2 \text{ Month}) = 1860 \times 2 = 3720/-$$

Both amounts paid on dated 28/7/03

Qm

68780
.3720
<hr style="width: 50%; margin: 0;"/>
72500

Co 424/3304 = 8 x 4163 P.m

1-11-2006

Co 424/3304 = 12 x 4787 P.m

to 30-6-2007

STATE BANK OF PAKISTAN Haripur

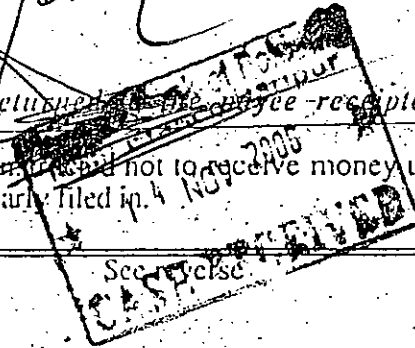
dated the of 20

Received from the bearer Dr. Muhammad Nadeem Khan Siddique
the sum of Rs. 39,150/- (thirty nine thousand one hundred fifty)
to be credited to Government account under the head 6103
on account of General Disbursement fund for 01/11/2001 to 31/7/2005

Manager

~~This portion to be returned to the bearer received by the Agent.~~

Note: - The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.



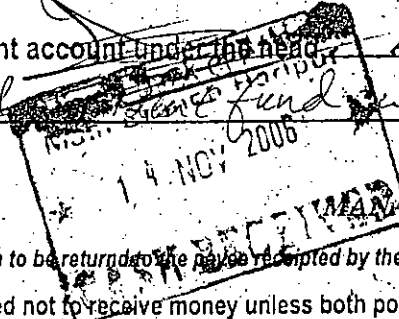
-12-

NWFP A&T 200

National STATE BANK OF PAKISTAN Haripur

Dated the of 200

Received from the bearer Dr. Muhammad Nadeem Khan Siddique
the sum of Rs. 15,000/- (Fifteen thousand only)
to be credited to Government account under the head 6103
on account of General Disbursement fund def 1/8/200 to 30/10/2006



This portion to be returned to the bearer received by the Agent.

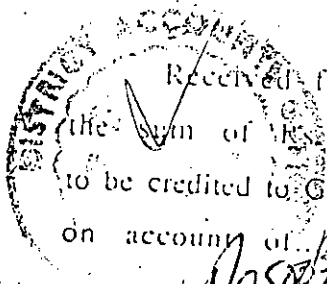
Note: The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.

(See reverse)

NWFP A&T 200.

ATTACHED

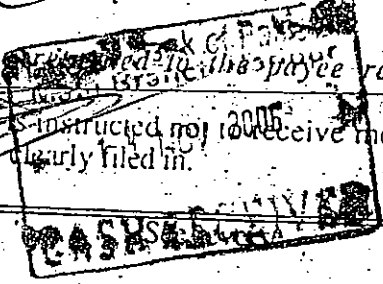
dated the 14 of 20-13-



Received from the bearer Dr. Muhammad Nadeem s/o M Siddique
the sum of Rs. 85007/- Eighty five thousand seven Rupees only
to be credited to Government account under the head 12-12-401 C05241
on account of pension contribution in F/o Muhammad Nadeem
18507/- of 01/7/2003 to 30/6/2005 Manager

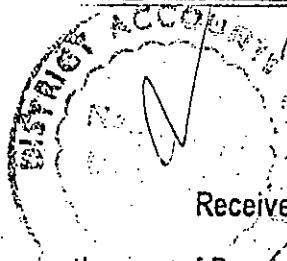
~~This portion to be returned to the payee received by the Agent.~~

Note: The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.



NWFP A&T 200

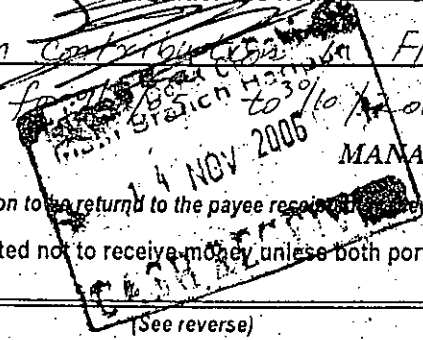
Dr. Muhammad Nadeem



National STATE BANK OF PAKISTAN Haripur

Dated the _____ of _____ 200

Received from the bearer Dr. Muhammad Nadeem s/o M Siddique
the sum of Rs. 66608/- (Sixty six thousand six hundred eight)
to be credited to Government account under the head 12-12-401 C02241
on account of pension contribution in F/o Dr. Muhammad
Nadeem for the period 30/10/2005 to 30/10/2006 -
MANAGER



~~This portion to be returned to the payee received by the Agent.~~

Note: The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.

NWFP A&T 200.

(See reverse)

ATTESTED

National STATE BANK OF PAKISTAN Haripur

Dated the _____ of _____ 200

14-14-

Received from the bearer Dr Muhammad Nadeem s/o M Siddique

the sum of Rs 9000/- (NINE thousand only)

to be credited to Government account under the head 806408

on account of Group Insurance for 01/11/2001 to 30/10/2006

Stamp: NATIONAL STATE BANK OF PAKISTAN HARIPUR, 14 NOV 2006, MANAGER, (See reverse)

This portion to be returned to the payee receipted by the Agent.

Note: The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.

NWFP A&T 200.

National STATE BANK OF PAKISTAN Haripur

Dated the _____ of _____ 200

14

Received from the bearer Dr Muhammad Nadeem s/o M Siddique

the sum of Rs 4500/- (FOUR thousand five hundred)

to be credited to Government account under the head 806202

on account of Benevolent fund for 01/11/2001 to 30/10/2006

Stamp: NATIONAL STATE BANK OF PAKISTAN HARIPUR, 14 NOV 2006, MANAGER, (See reverse)

This portion to be returned to the payee receipted by the Agent.

Note: The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.

NWFP A&T 200.

(See reverse)

ATTACHED

National STATE BANK OF PAKISTAN

Dated the _____ of _____ 200 - 15 - _____

Received from the bearer Dr. Muhammad Naqeen

the sum of Rs. 113881/-

to be credited to Government account under the head C 02241

on account of Open Contribution Fund

31/10/08

MANAGER

This portion to be returned to the payee receipted by the Agent.

Note: The Bank Agent is instructed not to receive money unless both portion the invoice are carefully and clearly filed in.

(See reverse)

NWFP & FATA
National Bank of Pakistan
Main Branch Haripur
★ 27 AUG 2008 ★
CASH RECEIVED

ATTESTED

Handwritten notes and signatures on the left side of the document, including the number 113881 and various scribbles.

Handwritten number 17 inside a circle on the right side of the document.

~~ATTACHED~~

Address: c/o Mohamad Siddique
Karyana store sharanwala Gate
Haripur NWFP
28/1/2010

Haripur
Dr Mohamad Nadeem
s/o Mohamad Siddique
Ex: Coordinator EDO Health

Yours obediently
Mohamad

Respectfully, I am undersigned,
submit my resignation from service due to
my personal interest.
Please accept my resignation letter,
and provide me service/experience certificate
with any other official formalities/benefit.
Early response be appreciated.
Thanks

To
The Director General Health
Health Services NWFP Peshawar
Subject: Resignation from service

Assalam-o-Alaikum

Dr. Nadeem Siddique

- 16 -
"F"



"G"
17-

③ 2

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications Should be Addressed to The Director General
Health Services Peshawar and not to any official by name
Office Ph. (091 - 9210269) Exchange PB 091 - 9210187, 091 - 9210196 Fax (091 - 9210230)*

No 24313-14/E.I

Dated 25/9/2013

To

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

Subject: - WITHDRAWAL OF RESIGNATION.

Dear Sir,

I am forwarding herewith application in respect of Dr. Muhammad Nadeem S/O Muhammad Siddique Ex-Coordinator DHO office Haripur requesting for the withdrawal of his resignation for further necessary action.

The officer concerned is working in the Provincial Health Department since 22.11.1995/22.10.1997 on contract/regular basis respectively. He belongs to Haripur Zone V.

After availing 07-years deputation to Saudi Arabia, his request for further extension was not honoured by the Govt: and an absence notice was served upon him during January 2009, for his willful absence since 25.10.2008, ~~however he reported arrival on 03.03.2009 in the DGHS office~~ which was forwarded to Govt: vide this Directorate letter No. 10266/E.I dated 11.03.2009.

During January 2010 he tendered resignation from service which was also forwarded to Govt: vide this Directorate letter No. 4988/E.I dated 20.02.2010.

Up till now no action on the same has been intimated to this Directorate and now the officer concerned has applied for withdrawal of his resignation as it has not been accepted by the Govt: as yet.

In the light of above further orders of the Govt: may please be conveyed at an early date.

Yours faithfully,

ATTESTED


**DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR**

Cc:-

Dr. Muhammad Nadeem Siddiqui Karayana Store Sheranwala Gate
Haripur for information.



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

"H" - 18 -

No. SO (H) E-II/10-25/2016/Dr. Zakir Ullah Khan
Dated Peshawar, the 02nd March, 2017

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department,
Peshawar.

Subject: **WITHDRAWAL OF RESIGNATION.**

Dear Sir,

I am directed to enclose herewith a copy of Director General Health Services, Khyber Pakhtunkhwa letter No.17570 E.I (Dr. Mohd Nadeem) dated 30-11-2016 along with relevant documents in respect Dr. Muhammad Nadeem S/o Muhammad Siddique, Ex-Coordinator BS-17, attached to DHO Office, Haripur, who has requested for withdrawal of his resignation

2. Dr. Muhammad Nadeem had joined Provincial Health Department on 22.11.1995/22.10.1997 on contract/regular basis respectively. He belongs to District Haripur, (Zone-V). He availed 07 years on deputation basis to Saudia Arabia, his request for further extension in leave was not granted by the Competent Authority and an absence notice was issued upon him from January, 2009 for his willful absence since 25-10-2008. However, he reported arrival on 03.03.2009 in DGHS KPK. In January, 2010 he tendered his resignation from service which was not decided till August, 2013. Again Dr. Muhammad Nadeem S/o Muhammad Siddique, Ex-Coordinator BS-17, in August, 2013 applied for withdrawal of his resignation and the Competent Authority has neither approved his resignation from service nor given approval for withdrawal of his resignation. It means that the doctor concerned was continuously absent from duty without prior approval of the Competent Authority.

3. It is, therefore, requested that this may be advised as to whether he may be proceeded against Section 2.11 of Pension Rules 2006 Or Disciplinary action under E&D Rules, 2011 may be initiated against him or he may be dealt with under any other relevant rules/laws please.


(Jibreel Raza)
Section Officer (E-II)

Endst: No. & Date Even

Copy of above is forwarded to:

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Health.
3. PA to Additional Secretary Health.


Section Officer (E-II)

10/3/17
ATTESTED

-19- "9" 9

To


The Secretary
Health Department KPK Peshawar.
Subject Withdrawl of Resignation

Please reference to the letter no-so (H) E-11 Dr Zakir ullah Khan dated 10-25-2016, dated peshawar 2nd march 2017 attached here with, I have already applied for withdrawl of resignation.

However till date no response/action has been taken in this regard.

The competent authority is hereby humbly requested for withdrawl of my resignation which I requested earlier and give me a chance to resume my services in the health department.

Thanks

Your faithful 
Dr. Muhammad Nadeem
S/O Muhammad Siddique
Medical Officer Haripur

Address : C/O
Siddique Keryana Store
Shera wala gate main
Bazaar haripur
Dated : 11-09-2017

ATTESTED

To,

The Secretary

Health Department Peshawar

Subject: Withdrawal of resignation

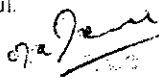
Respected Sir,

I have already applied for withdrawal of resignation. However no response/action has been taken in this regard.

As per government policy encouraging doctors to work in K.P.K. I am already in service and seriously interested to resume my job. It is requested for withdrawal of my resignation and resume my service in the health department.

Thanks

Yours faithful.



Dr. Muhammad Nadeem S/O
Muhammad Siddique
CNIC No. 13302-0350621-5
Medical Officer Haripur
Dated. 22-12-2017

No. 21408
Date 26/12/17
Secretary Health

-20-"J"

Trace finally
DP

ASE

ATTESTED

To

The Secretary Health,
Khyber Pakhtunkhwa,
Peshawar.

-21- "K"

L.No. 4710
Date 19.3.19
Secretary Health

Sub: WITHDRAWAL OF RESIGNATION/ARRIVAL RPORT.

Respected Sir,

I am regular employee of Health Department (Medical Officer) since 22/10/1997). After availing 7 years deputation from 2001-2008 in Suadi Arabia, my request for further extension regretted on 2009.on January 2010 I submitted resignation from service which was not accepted. I applied for withdrawal of resignation many times and want to resume my services in Health Department, but I did not get any feedback from the department. (Copies attached)

please accept my arrival report dated 19/03/2019 for necessary action

Thanks

Yours Faithfully

ASD
MSJ

Muhammad Nadeem

Dr. Muhammad Nadeem
S/o Muhammad Siddique
CNIC No. 13302-0350621-5
Medical Officer Haripur
Cell No. 0300-5147160

20/3/19

ATTACHED

ASD

محمد آصف نقوی برائش نوٹس کریڈٹ (II)
 ٹیکس نمبر 6319 تاریخ تاسیس 2019-8-31
 رجسٹرڈ نمبر 337 تاریخ 2019-5-02
 مختصر نام محمد آصف نقوی برائش نوٹس کریڈٹ
 نامزد محمد ندیم کو حنیف الرحمان

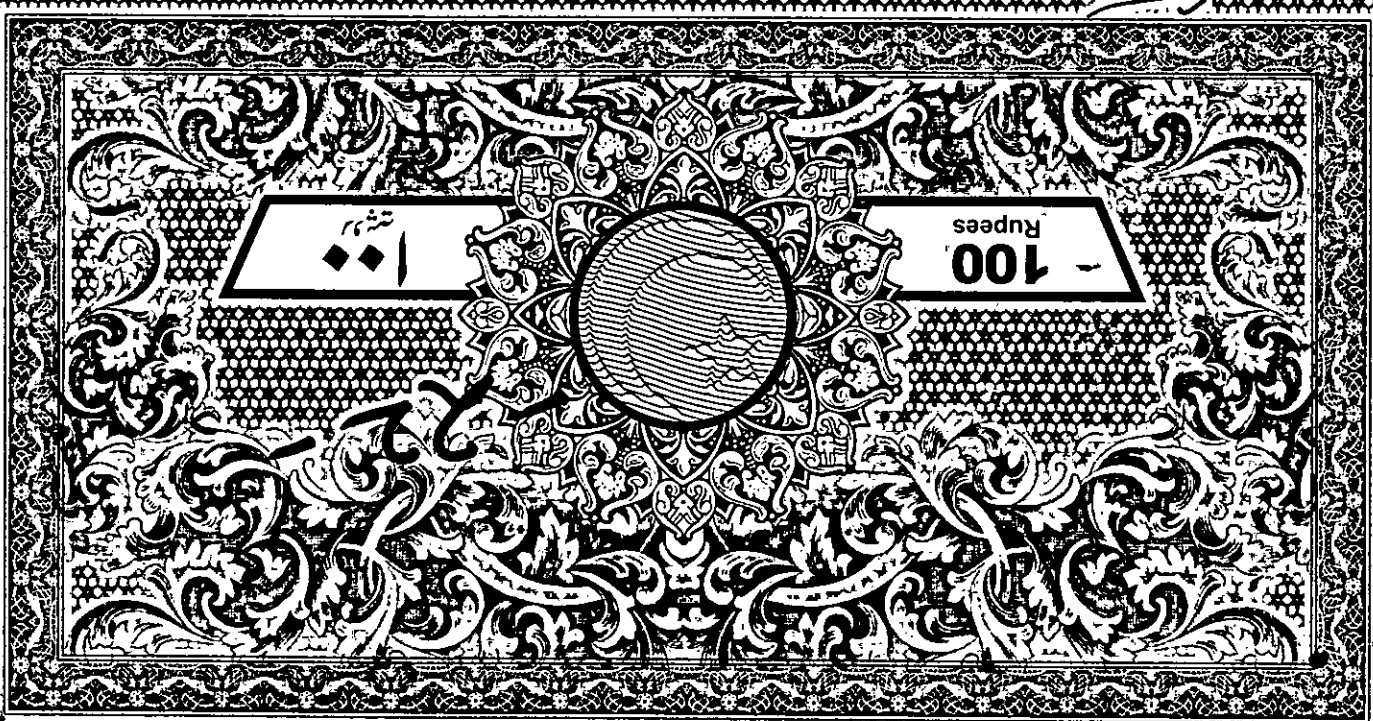
دائری عدالت لاہور میں جو اس وقت قائم ہے
 حنیف رحمان سے کٹیپ قریبی رشتہ دار اور حنیف رحمان
 کو قریبی رشتہ دار قرار دیا گیا ہے۔ اس کے علاوہ
 قریبی رشتہ داروں کی فہرست میں شامل کیا گیا ہے۔
 حنیف رحمان کی جائیداد میں سے حنیف رحمان کو
 حصہ دیا گیا ہے۔ اس کے علاوہ حنیف رحمان کی جائیداد
 میں سے حنیف رحمان کو حصہ دیا گیا ہے۔ اس کے
 علاوہ حنیف رحمان کی جائیداد میں سے حنیف
 رحمان کو حصہ دیا گیا ہے۔ اس کے علاوہ حنیف
 رحمان کی جائیداد میں سے حنیف رحمان کو
 حصہ دیا گیا ہے۔ اس کے علاوہ حنیف رحمان کی
 جائیداد میں سے حنیف رحمان کو حصہ دیا گیا ہے۔



محمد آصف نقوی برائش نوٹس کریڈٹ

ATTESTED

محمد آصف نقوی برائش نوٹس کریڈٹ





جو کھنڈا لکھن رو میں مسیحا لکھن
 کہنے کے لئے نوٹ کیا گیا ہے
 تمام دفعہ کے لئے

پروپ 5695، ڈاکٹر فرید اللہ خان،
 ڈاکٹر فرید اللہ خان، پتہ 1380-0350621-5



Madam

300 100 1621
 3 2-5-19

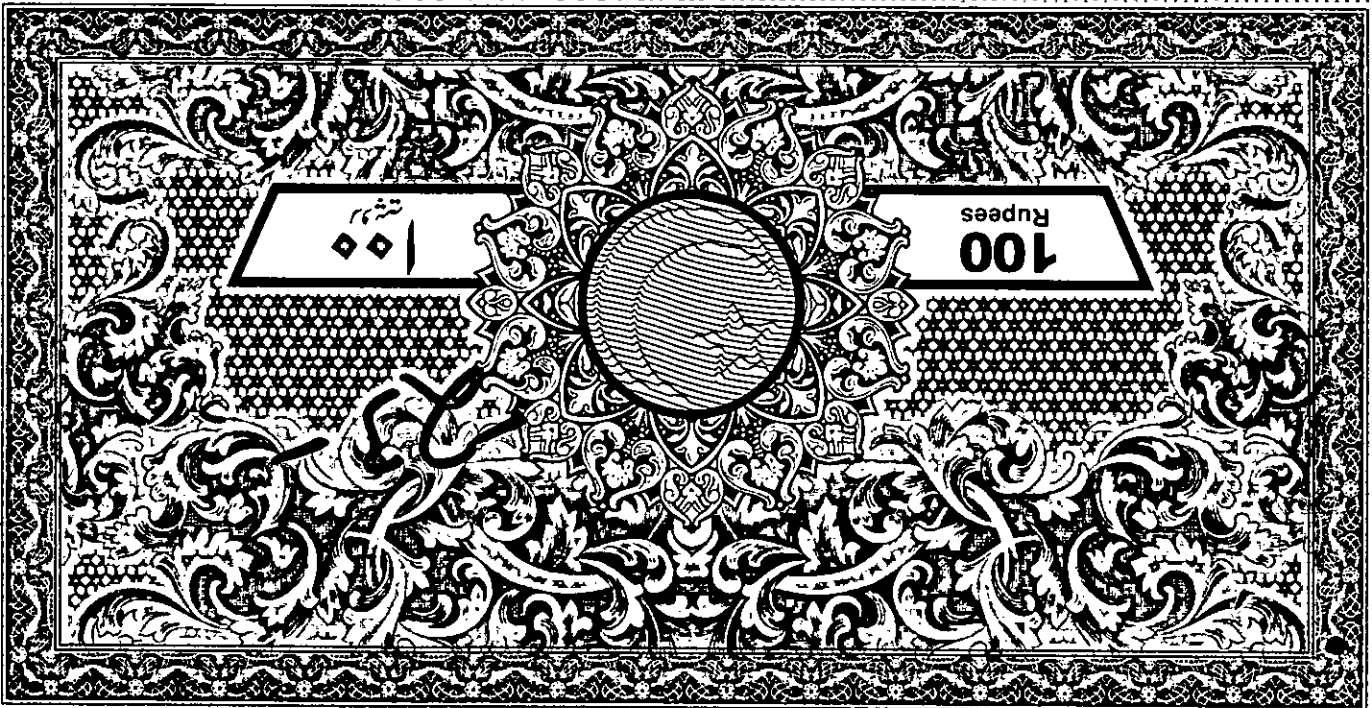
محمد آصف تنولی راجس ڈیس (کرپٹا)

آنس نمبر 2019-8-31
درجہ اثبات نمبر 337
02-5-2019
مختیار علی صاحب پور پور پور
محمد نذیر بیگ حفیف الرحمان



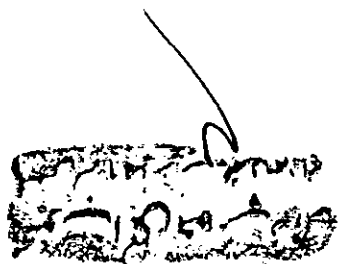
ATTESTED

Handwritten text in Urdu, likely a legal document or affidavit, written in a cursive style. The text is oriented vertically on the page.



B050809

227
127
2-5-18



محمد آصف قذافی (Rajin Karim)
 لاہور 31/8-2019
 337
 02-5-2019
 فقیرانہ سرفراز پور
 محمد نسیم حق صنف الرحمان
 جس کو منسلک کرنا



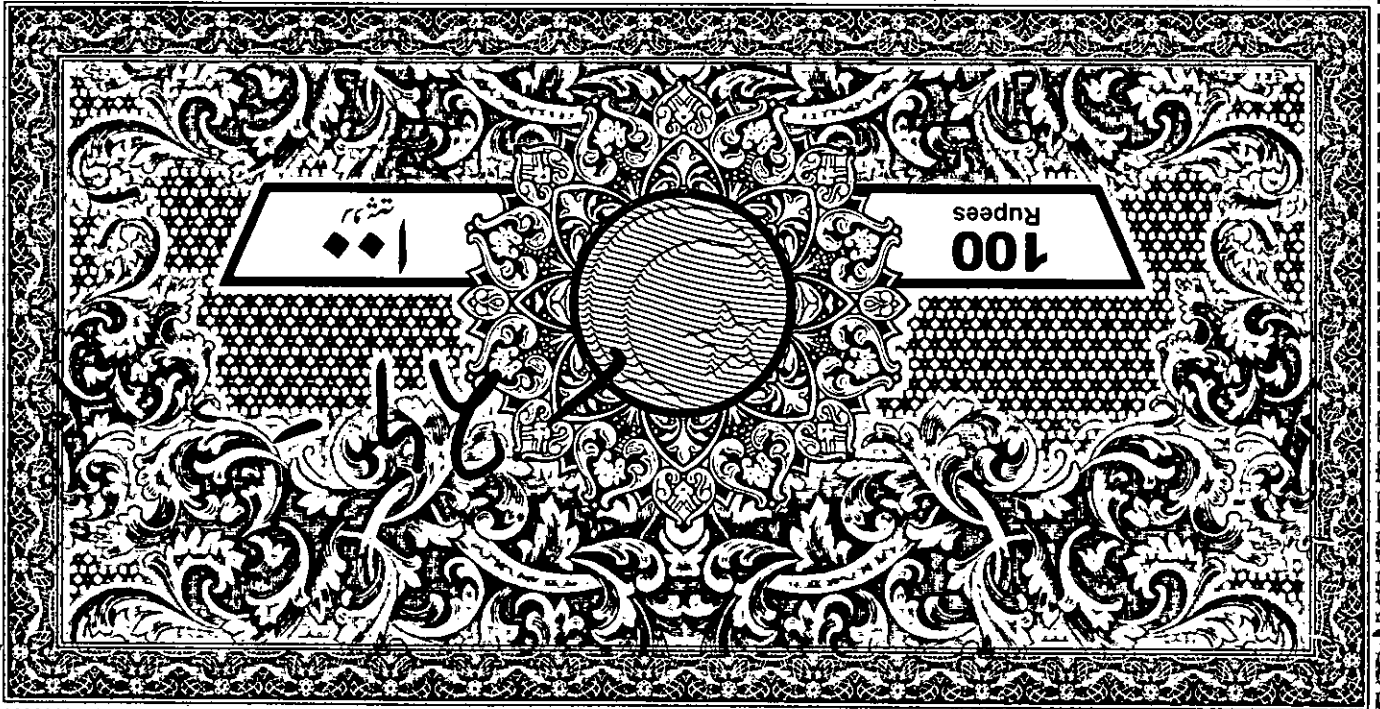
ATTESTED

13302-6477098-1
 13302-0434851-1
 محمد نسیم حق صنف الرحمان
 لاہور 31/8-2019

13302-0350621-5
 02/5/2019
 محمد نسیم حق صنف الرحمان
 لاہور 31/8-2019

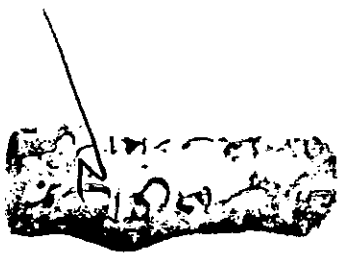
Identified by
 Marginal Witness

(3)



B050808

1621
2-5-18
P. P. P.



- 25 -

WAKALAT NAMA

IN THE COURT OF

Seize Tribunal Returns

Dr. M. Nadeem

VERSUS

Chief Secretary

Accused/

Petitioner/

Appellant/

Plaintiff.

Complainant

Defendant/

Respondent/

Charge v/s

Police Station:

Dated:

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Fazal Shah Mobmand Advocate Supreme Court of Pakistan, (herein after called the advocate) to be the Advocate for the Appellant in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say:

1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.

2) To sign, verify and present pleadings, appeals, cross - objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.

3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.

4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.

5) To engage any other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I herunto set my hand to these presents the contents of which have been explained to and understood by me, this _____ day of _____ 2011

Dr. Mohammed Nadeem

Signature / thumb impression of party / parties:

Fazal Shah Mobmand, Advocate Supreme Court of Pakistan

Accepted By

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

SERVICE APPEAL NO. 872 OF 2019

Dr. Muhammad Nadeem Ex-MO/Coordinator DHO office Haripur.....Appellant

Versus

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

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Preliminary Objections:-

1. That the Appellant has got neither cause of action nor 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 the Tribunal with clean hands.
7. That the Appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant Appeal is bad for mis-joinder and non-joinder of the necessary parties.

ON FACTS:

1. Para No. 1 pertains to record.
2. Para No. 2 pertains to record.
3. Para No. 3 is correct to the extent that the Appellant was granted deputation to Kingdom of Saudi Arabia for initial period of two years by the Govt. vide Notification No. SO(ME)H-IV/2-13 dated 07/11/2001 which was extended time to time and lastly it was extended for 6th & 7th year w.e.f. 25/10/2006 vide Govt. Notification No. SO(E)H-II/2-13/2003 dated 27/11/2006 which was expired on 24/10/2008. On expiry of deputation the request of the Appellant for further extension was regretted by the Govt. of Khyber Pakhtunkhwa Health Department vide letter No. SO(E)H-II/2-13/03 dated 27/10/2008 and he was

informed on his home address accordingly vide Endorsement No. 32369/E.I dated 04/11/2008 to report for duty immediately. When no response was received from the Appellant, his absence was floated in the press during January 2009. On 03/03/2009 the Appellant submitted paper arrival in DGHS office which was sent to Govt. of Khyber Pakhtunkhwa Health Department. The doctor concerned was supposed to be present in DGHS office and to pursue his case for posting but he again disappeared and probably continued his job abroad in Kingdom of Saudi Arabia unlawfully. Later on the doctor concerned submitted resignation from service in the DGHS office on 30/01/2010. The resignation was submitted to the competent authority during 02/2010 but during 09/2013 he submitted another application wherein he had requested for withdrawal of his resignation which was furnished to Govt. of Khyber Pakhtunkhwa Health Department vide No. 24313-14/E.I dated 25/09/2013 which shows that he was not interested to perform his duties in his parent department rather preferred foreign service. During the above period he remained absent from duty.

4. Para No. 4 pertains to record.
5. Para No. 5 as already explained in Para No. 3 above.
6. In reply to Para No. 6 it is submitted that on the expiry of 7-years deputation abroad on 24/10/2008. The request of the Appellant for further extension was regretted by the competent authority. The absence report was floated in the press during January 2009. On 03/03/2009, the Appellant submitted arrival report in DGHS office and disappear and again submitted resignation from service which was recommended for disciplinary proceedings instead of acceptance of resignation.
7. Para No. 7 is correct as already explained in preceding para.
8. Para No. 8 is correct. Disciplinary proceedings were initiated against the doctor concerned.
9. Para No. 9 is incorrect. The Appellant kept himself in touch with the Department in paper but not physically appeared. The signature he puts on the applications he submitted time to time in the health department seems to be bogus.

ON GROUNDS:

- A. Para-A is wrong, incorrect, and misleading, hence denied. The replying respondents always act in accordance with law & rules, and never act without lawful authority.
- B. Para-B is wrong, incorrect & misleading, hence denied. The replying respondents cannot even think the violation of law & rules, and the Appellant always treated in accordance with law and rules.
- C. In reply to Para-C it is submitted that the Appellant himself submitted the resignation by virtue of which he estopped by his own conduct. Furthermore,

the disciplinary proceedings initiated against the Appellant due to deceiving the Department by getting somersault after submitting arrival report and disappear, and then again forwarded his resignation.


- D. Para-D is incorrect as already explained in Para No. 3 of Facts above.
- E. Para-E is misleading, hence denied. Detailed reply has already been furnished at Para-C above.
- F. In reply to Para-F it is submitted that the Appellant joined the Health Department on 22/11/1995 & 15/09/1997 on contract/regular basis. He availed deputation abroad w.e.f. 25/10/2001 till 24/02/2008. Getting more monitory benefits, the Appellant preferred to work abroad. (He just served Provincial Health Department Khyber Pakhtunkhwa for about 6 years only).
- G. In reply to Para-G it is submitted that the respondents seek leave to raise additional grounds at the time of arguments.

PRAAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant Appeal may very graciously be dismissed with cost.



Secretary Health, Khyber Pakhtunkhwa.
Respondent No. 02



Director General Health Services,
Khyber Pakhtunkhwa.
Respondent No. 03.
DD(HRM).

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Respondent No. 02


Director General Health Services,
Khyber Pakhtunkhwa.
Respondent No. 03
DD (HRM).

- 1 -

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No 872/2019

Dr. Muhammad Nadeem.....**Appellant.**

V E R S U S

Govt. & Others.....**Respondents**

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action and locus standi to bring the present appeal, which is well within time. The appellant has come to this honorable tribunal for his due rights which appeal is according to prevailing law and rules besides the same is maintainable in accordance with law. The appellant has approached this honorable tribunal with clean hands, there is no malafide on part of the appellant in which all necessary parties have been impleaded and this honorable tribunal has got the jurisdiction to entertain and adjudicate upon the matter.

REPLY TO FACTS/GROUNDS:

Comments of the respondents are full of contradictions, rather amounts to admissions and are based on malafide. Respondents have ~~failed to show~~ that the version of the appellant is incorrect. Even respondents have failed to show and substantiate their version referring to any law and rules. In the circumstances the appellant has been deprived of his rights without any omission or commission on his part and he has been deprived of his rights guaranteed by the Constitution and law of the land. Respondents have admitted that after deputation period he reported arrival and also after some time submitted his resignation in the year 2010 which was processed but not finalized and before its finalization the appellant submitted application for the withdrawal of his resignation and as such as per law the same is required to be withdrawn as per the plethora of judgments of the Apex Court as well as of this honorable tribunal. **(Copy of Judgment dated 04-11-2010 in Service Appeal No 1589/2009 is enclosed as Annexure A).**

Respondents have tried to twist the facts, and tried to cover their, omissions, commissions and lacunas. The valuable rights of the

appellant are involved from which he cannot be deprived. The appellant could not be made to suffer for the fault of others as no one could be punished for the fault of others. In the circumstances the appellant has not been treated according to law and rules being his fundamental right.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.

Dated:-15-07-2020


Appellant

Through




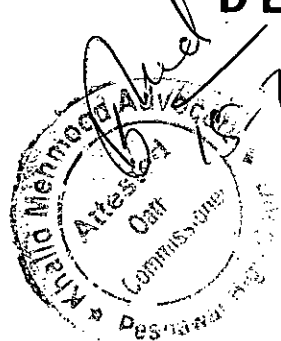
Fazal Shah Mohmand

Advocate,

Supreme Court of Pakistan

AFFIDAVIT

I, Dr. Muhammad Nadeem, Medical Officer/Co-Coordinator DHO Office Haripur (the appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.


DEPONENT
15-7-2020


BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL NO. 1589/2009

Date of institution ... 29.08.2009

Date of decision ... 04.11.2010

Said Noor Shah S/o Azhar Shah.
Ex-ASI District Buner.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home, K.P.K.
Inspector General of Police, Khyber Pakhtunkhwa.
Deputy Inspector General of Police, Malakand.
District Police Officer, Buner. ... (Respondents)

Service appeal against the order of DPO Buner dated 29.5.2009, whereby the appellant was retired on pension w.e.f 01.6.09 on his own request, and the I.G.P maintained the order of DPO while keeping silence on the appeal of the appellant.

Mr. Ashraf Ali, Advocate.
Mr. Sher Afgan Khattak,
Addl. Advocate General.

For appellant

For respondents

Mr. Qalandar Ali Khan
Mr. Sultan Mehmood Khattak.

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- This single order in the

instant appeal is also directed to dispose of appeal of Muhammad Alam Zeb (No. 1590/2009) because of similarity of issues involved in both the appeals.

2. The appellant (Said Noor Shah) in the appeal in hand as well as appellant in the connected appeal (No. 1590/2009) were both employees of District Police Buner from 03.10.1982 and 01.9.1977 respectively; but they both submitted applications for proceeding on retirement, respectively, on 14.10.2008 and 18.8.2008, which were not accepted from the due dates i.e. 6.11.2008 and 31.8.2008. However, they were informed later on, on 03.6.2009 and 01.06.2009, about the acceptance of their applications for pension w.e.f 01.6.2009. They both made appeals for restoration/reinstatement on the ground that the conditions forcing them to apply for retirement were no longer in existence; but they did not receive any response, hence these appeals, on the grounds that the impugned



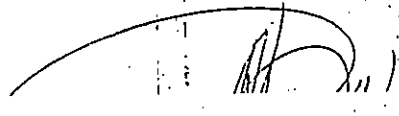
order of their retirement was against law and rules as their applications for retirement were not accepted and they were not allowed to retire from the dates applied for; that they continued to serve the department in the difficult period of serious law and order situation and militancy in the area; and that when their applications were not accepted within time they presumed that the same were rejected. In the instant appeal, the appellant further averred that due to an incident in the area, he was also served with a charge sheet on 01.7.2009, therefore, his pension order during pendency of departmental/inquiry proceedings was illegal in the eyes of law.


3. In both the appeals, the respondents submitted exactly the same replies, wherein they resisted the appeals, mainly, on the grounds that the appellants were retired from service on their own request and that they were retired from service by the DPO Buner (Respondent No.4) w.e.f 01.6.2009 due to prevailing law and order situation in the District. They defended the impugned order for being in accordance with law and rules.

4. We have heard arguments of the learned counsel for the appellants and learned AAG and have perused the record.

5. It is not disputed that both the appellants moved applications for retirement from service after rendering service in the Police Department of District Buner for considerable period, but it is also an admitted fact that they were not retired from service from the dates they prayed for and they, as such, continued to perform their duties, which is also evident from the record made available by the respondent-department. They were, however, retired from service subsequently vide separate orders dated 29.5.2009. Though they both were ASIs and their appointing authority, as such, was Regional Police Officer/D.I.G, but their impugned retirement orders were made by the District

ATTESTED





Police Officer, who was not competent authority within the meaning of Section 13 of the NWFP Civil Servants Act, 1973. Apart from that, the applications for retirement were also not accepted within a period of 30 days and the impugned orders were, as such, in violation of law/rules in the light of order/decision of the Tribunal dated 11.5.2010 in Service Appeal No. 1766/2009 titled 'Nazir-ur-Rehman Ex-ASI-vs-Secretary Home Department Peshawar etc.' In these cases, the applications were accepted after 6/8 months of their submission, and during this period, the appellants continued performing their duties and receiving their salaries/pay as would be seen from the record. Had the appellants left the service and absented themselves from duty after submission of their applications for retirement from service, the position would have been different; but when they continued in service, performed their duty and their applications were not accepted within the stipulated period of 30 days, there was no justification for belated acceptance of their applications after months together, that, too, without serving them with a show cause notice.

6. The appellants have also brought on record a similar nature case of Malik Zada ASI who was reinstated in service after his retirement from service on his own request in the same manner as the appellants applied for proceeding on retirement. They have, in the light of case of ASI Malik Zada, rightly alleged that they have been discriminated against.

7. Additionally, in the case of Said Noor Shah, the appellant was served with charge sheet and statement of allegations on 01.7.2009 for an incident which took place at Police Post Ambala on 29.4.2009. As such, departmental proceedings/inquiry was still in progress when he was retired from service w.e.f. 1.6.2009; while the Government instructions contained in Finance Department letter No. FD-SOSR-III/4-92/81 dated 1st October 1981 lays down that the right

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of proceeding on retirement shall not be available to a government servant against whom a departmental inquiry is pending.

8. The learned counsel for the appellants also cited order/decision of the Tribunal dated 11.5.2010 in Service Appeal No.1766/2009 titled 'Nazir-ur-Rehman Ex-ASI-vs-Secretary Home Department Peshawar etc.' in support of his appeal, but the cited case is a bit different from the present cases as in that case the appellant had moved application for withdrawal of his application for proceeding on retirement before acceptance of his retirement application, which is not the case here as, admittedly, the appellants had not moved applications for withdrawal of their earlier applications for proceeding on retirement before acceptance of their previous applications.

9. The learned AAG vehemently argued that there were no departmental appeals by the appellants and that their applications dated 6.6.2009 and 5.6.2009, respectively, were for re-employment, rather than for reinstatement in service; but in the absence of a specific format for departmental appeal, there is nothing to hold the applications as petitions for re-employment when the appellants have clearly prayed for rejoining the service and resuming their duty from 1.6.2009. Moreover, after acceptance of applications for rejoining of service of similarly placed employees by the department, it was not appropriate on the part of the department, rather discriminatory on their part, to deny same treatment to the appellants.

10. Consequently, both the appeals are accepted and while setting aside the impugned orders dated 29.5.2009, both the appellants are reinstated in service with consequential/back benefits, leaving the parties to bear their own costs.

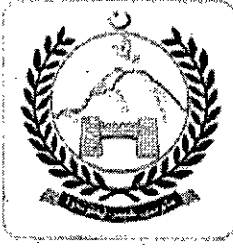
Certified to be true copy
Khalid Hussain
Secretary

ANNOUNCED

04.11.2010 (SULTAN MEHMOOD KHATTAK)
MEMBER

(QALANDAR ALI KHAN)
CHAIRMAN

X



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2484 / ST

Dated: 14/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The Director General Health Services,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 872/2019 DR. MUHAMMAD NADEEM.

I am directed to forward herewith a certified copy of Judgement dated 09.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR