

**Service Appeal No. 993/2019**

**Dr. Muhammad Taus Khan**

**Versus**

**Government of Khyber Pakhtunkhwa through Chief Secretary and 3 others.**

**Order: MUHAMMAD HAMID MUGHAL, MEMBER:**

03.10.2019 Appellant present. Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney present.

Learned District Attorney challenged the very maintainability of the present service appeal on the ground that it was premature having been filed without waiting for a period of ninety days after filing of departmental appeal against the posting transfer order made impugned in the present service appeal. In support of his plea learned District Attorney relied upon judgment dated 10.02.2014 of this Tribunal passed in Petition No.1648/2013.

On the other hand learned counsel for the appellant while referring to the judgments reported in 2005 SCMR 890, 2009 PLC (C.S) 44 and 2000 SCMR 67 argued that at this stage the present service has become mature and that vide order dated 15.07.2009 the Hon'ble Peshawar High Court Mingora Bench, (Dar-ul-Qaza) Swat directed the respondents to decide the representation of the appellant within 7 days but the departmental appeal filed by the appellant was not decided within 7 days hence the present service appeal on 24.07.2019.

Arguments on maintainability of the present service appeal heard. File perused.

The impugned posting transfer order was issued on 24.06.2019 the appellant rushed to the Civil Court, then to the High Court and then the appellant filed the present service appeal on 24.07.2019.

The departmental appeal filed by the appellant has not been answered until yet.

Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act clearly enunciates that where an appeal, review or a representation to a departmental authority as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973, or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was preferred.

It is therefore a settled proposition that unless the departmental appeal, or application for review or representation is decided earlier, no Service Appeal would lie to this Tribunal unless a period of ninety days has elapsed from the date on which such departmental appeal, or application for review or representation was preferred.

The Hon'ble Peshawar High Court Mingora Bench, (Dar-ul-Qaza) Swat in its order dated 15.07.2019 directed the respondents to decide the representation of the appellant within 7 days. Learned counsel for the appellant remained unable to demonstrate that the said direction of the Hon'ble Peshawar High Court Mingora Bench, (Dar-ul-Qaza) Swat has the effect of frustrating the statutory provision as contained in Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

It would be pertinent to mention that the Registrar of this Tribunal while observing that period of ninety days has not elapsed as per Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, Service Appeal is premature, returned the same vide endorsement No.1268/ST dated 26.07.2019, however the appellant resubmitted the service appeal for placing the same before the Bench for further hearing. Moreover the right of the appellant to file competent service appeal is not jeopardized until yet. In these circumstances the judgment of the Apex Court reported

3.10.2019

in 2005 SCMR 890 is not applicable to the facts and circumstances of the present case.

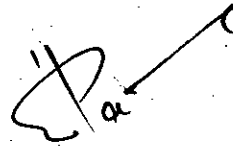
For the reason stated above, the present service appeal is hereby rejected being not competent. No order as to costs.

Before parting with this judgment/order it may be mentioned that as per documents annexed with the service appeal, selection of Paramedics is in process in District Bannu. It is desired that the Secretary Health Khyber Pakhtunkhwa (respondent No.2) shall ensure selection of Paramedics on merit through ETEA or other proper Testing & Evaluation Agency, in order to avoid the conflict between the political figures and district administration and let the dream of appointments of government servants on merit come true.

File be consigned to the record room.



(Hussain Shah)  
Member



(Muhammad Hamid Mughal)  
Member

ANNOUNCED.  
03.10.2019

02.10.2019

Appellant in person present. Mr. Usman Ghani learned District Attorney for the respondents present. Appellant requested for adjournment as his counsel is busy before the Hon'ble Peshawar High Court, Bannu Bench. Being a posting transfer case last opportunity is granted. Adjourn. To come up for further proceedings/arguments on 03.10.2019 before D.B

  
Member

  
Member

20.09.2019

Counsel for the appellant and Addl. AG alongwith Hazrat Shah, Superintendent on behalf of the respondents present.

Learned counsel for the appellant furnished reply to application of respondents for rejection of appeal. The same is placed on record.

To come up for arguments on application for rejection of appeal as well as reply/comments of the respondents on memorandum of appeal on 25.09.2019.

  
Chairman

25.09.2019

Appellant in person and Mr. Usman Ghani District Attorney alongwith Hazrat Shah, Superintendent for the respondents present.

Under the provisions of Khyber Pakhtunkhwa Service Tribunal Act, 1974 an appeal, when admitted for regular hearing, may be allowed or dismissed/rejected by a Division Bench and not a single Bench.

Instant matter is, therefore, posted for hearing before a Division Bench on 02.10.2019.

  
Chairman

Appeal No. 993/2019  
Dr. M. Taus Khan vs Govt


Alongwith the appeal an application praying for suspension of operation of impugned transfer order dated 26.06.2019 has been submitted. Notice of the application be also given to the respondents for next date. In view of the arguments of learned counsel and the available record, the appellant has a good prima-facie case, therefore, the operation of impugned notification No.HOS(E-V)1-131/2007 dated 24.06.2019 is suspended till next date.

  
Chairman

23.08.2019

Appellant alongwith counsel and Mr. Kabeerullah Khattak, Addl. AG for the respondents present.

An application for rejection of appeal has been submitted on behalf of the respondents. A copy of the application has been handed over today to the appellant. To come up for reply and arguments on 11.09.2019 before S.B.

Chairman 

11.09.2019

Appellant in person and Mr. Ziaullah, DDA alongwith Hazrat Shah, Superintendent for the respondents present.

Appellant requests for adjournment as his learned counsel is engaged before the Apex Court today. Adjourned to 20.09.2019 before S.B.

Chairman 

30.07.2019

Appeal No. 993/2019  
Dr. M. Taus Khan vs Govt

Counsel for the appellant present.

Learned counsel for the appellant contended that the appellant was posted as DHO, Bannu on 02.01.2019. In utter disregard to the Transfer/Posting Policy of the Provincial Government he was again transferred on 24.06.2019 and placed at the disposal of respondent no.3. The impugned notification dated 24.06.2019 was officially endorsed to the P.S to Minister Health, Khyber Pakhtunkhwa which clearly indicated that the transfer order was politically motivated and not in the public interest. The appellant submitted a writ petition before the Hon'able Peshawar High Court wherein on 15.07.2019, the respondents were directed to decide departmental representation of appellant within 7 days. The representation, however, remain un-responded. It was also stated that the appellant is to retire from service on 02.02.2020 and owing to the said fact he was not to be dislocated in the last year of his service.

In reply to a question regarding maturity of the instant appeal and the bar contained in Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, learned counsel relied on admitting note in appeal no. 866/2016. In the note dated 26.08.2016 it was mentioned that the Hon'able Peshawar High Court was pleased to direct to decide the departmental appeal of appellant in the referred case within thirty days. The said period of thirty days expired on 25.08.2016 while the appeal before Tribunal was submitted on 26.08.2016. In the said manner, the appellant was not obligated to have waited for ninety days after the directions by the Hon'able High Court dated 15.07.2019 or from the date of submission of departmental, it was added.

On the strength of admitting note in appeal No. 866/2016 instant appeal is admitted for regular hearing subject to all just exceptions. 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 23.08.2019 before S.B.

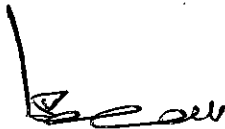
Appellant Deposited  
Security & Process Fee

30/7/19

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. \_\_\_\_\_ /2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29/07/2019	<p>As per direction of the Worthy Chairman this case is submitted to the S. Bench for decision on office objection. To be put up there on <u>30/07/2019</u>.</p> <p> REGISTRAR 29/7/19</p>

P-21  
Prematur

17  
18




This is an appeal filed by Dr. Muhammad Taus Khan today on 24.07.2019 against the order dated 24.06.2019 against which he filed departmental appeal on 28.06.2019. The period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Copy of order sheet of this Tribunal dated 02.01.2019 mentioned in para-2 of appeal is not attached which may be placed on it.

No. 1268 /ST,

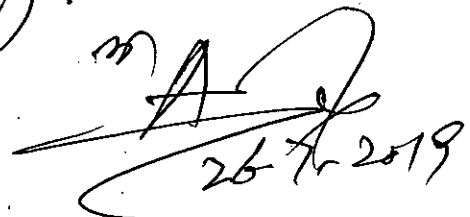
Dt. 26-7-2019

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Muhammad Arif Jan, adv. Pesh.

R/Sis -

Re-submitted in light of reported  
Judgment "2011 PLD(45) 993" and further  
order dt 19-7-2019 of this Hon'ble Tribunal  
in titled appeal "Javed Iqbal vs Secty"  
being identical in nature,  
the present appeal may kindly  
be placed before the worthy Bench  
for further hearing.

  
26-7-2019

Sir,  
The objections of this office & reply of Counsel  
for the appellant is submitted for order please

Jemal Khan  
26/17/15

The Chairman  
Be fixed before an OB in RA  
Morgan's objection

28/17

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 993 /2019

Dr. Muhammad Taus Khan.....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa,  
through Chief Secretary and others.....Respondents

**I N D E X**

S.No.	Description of documents.	Annexure	Dated
1.	Service Appeal		1-8
2.	Stay application with affidavit		9-10
3.	Addresses of parties		11
4.	Copy of transfer order dated 24.06.2019	A	12
5.	Copy of status quo order dated 01.07.2019 and subsequent order dated 05.07.2019	B	13-15
6.	Copy of departmental appeal	C	16-18
7.	Copy of order judgment dated 15.07.2019 passed by hon'ble High Court	D	19-21
8.	Copy of application dated 16.07.2019	E	22
9.	Copy of correspondence made through social media	F	23-24
10.	Copies of necessary documents	G	25-35
11.	Copy of newspaper clipping dated 23.07.2019	H	36
12.	Wakalatnama		37

  
Appellant

Through

**Ahmad Farooq**  
Advocate High Court

&

  
**Muhammad Arif Jan**  
Advocate High Court

Cell: 0333-2212213

①

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1032

Dated 24/7/19

Service Appeal No. 993 /2019

Dr. Muhammad Taus Khan DHO Bannu (BPS-20) presently transferred to DG Health Services KP Peshawar.

.....Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Health, Province of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3) Director General, Province of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 4) Dr. Fahim Hussain, Provincial Coordinator, Lady Health Worker Programme, Khyber Pakhtunkhwa.

.....Respondents

**SERVICE APPEAL U/S 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST  
TRANSFER ORDER DATED 24.06.2019,  
AGAINST WHICH THE APPELLANT  
FILED W.P.NO.3731-P/2019, WHICH  
WAS DISPOSED-OF WITH THE  
DIRECTION TO DECIDE THE  
DEPARTMENTAL REPRESENTATION OF  
THE APPELLANT WITHIN 7 DAYS  
POSITIVELY, BUT UN-RESPONDED TILL  
DATE, HENCE THE PRESENT APPAL.**

Filed to  
Registrar  
24/7/19

**Respectfully Sheweth:-**

- 1) That the appellant hails from a respectable family of Dera Ismail Khan and holds MBBS degree. Besides MBBS, the appellant also obtained Degree of DHMP from Institute of Management Sciences, Peshawar.
- 2) That the appellant while posted as DHO, Bannu on the direction of this hon'ble Tribunal on 02.01.2019 now again transferred vide order dated 24.06.2019 (hereinafter impugned) at the disposal of respondent No.3. (Copy of transfer order dated 24.06.2019 is attached as Annex "A")
- 3) That appellant being aggrieved and having no efficacious remedy except to invoke the jurisdiction of Civil Courts of District Bannu by filing a Civil Suit, wherein, the status quo was granted for the reason that, the act of the authority in respect of transfer order is violation of law as the hon'ble Court was satisfied that the impugned order is the result of ongoing proceedings of advertised post in which the interview was fixed for 02.07.2019, but the appellant as with his unblemished service record was never bow against the interference of the political hierarchy in any manner. (Copy of status quo order dated 01.07.2019 and subsequent order dated 05.07.2019 are attached as Annex "B" respectively)

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- 4) That immediately, after the impugned order, the appellant preferred departmental appeal on 28.06.2019 before the competent Authority, but of no avail. (Copy of departmental appeal is attached as Annex "C")
- 5) That meanwhile, the Civil Suit was returned to the appellant on the sole ground of maintainability, however, the respondents knowingly the facts of pendency/ disposal of the departmental appeal, badly failed to dispose-of the same, hence the appellant then immediately approached to the hon'ble High Court, Peshawar for redressal of his grievances by filing WP No.3731-P/2019, which was disposed-of with the directions to the respondents to dispose-of the departmental appeal of the appellant within 07 days of the receipt of the order/ judgment dated 15.07.2019. (Copy of order judgment dated 15.07.2019 passed by hon'ble High Court is attached as Annex "D")
- 6) That the appellant himself submitted the copy of judgment/ order dated 15.07.2019, vide Diary No.10518 dated 16.07.2019, but the respondents turn deaf ears. (Copy of application dated 16.07.2019 is attached as Annex "E")
- 7) That appellant now approaches this Hon'ble Tribunal on the following grounds:-

### **GROUND**

- A. Because the act, commission and omission of the respondents by way of transferring the appellant

vide the impugned order dated 24.06.2019, is patently illegal, unlawful, without lawful authority, against the law, rules and regulation governing the subject matter, thus liable to be set-aside and the appellant may kindly be allowed to keep and continue his duties as DHO, Bannu.

- B. Because the respondents are badly failed to follow the law, rules and regulation; more so, the policy of retirement on superannuation has also been violated, as appellant is going to be retired on 02.02.2020 and astonishingly the posting /transfer policy is further been violated as the appellant is holding the office of DHO Bannu since 02.01.2019, but the impugned order is premature one and is also violation of laid down polices, hence invites consideration of this hon'ble Tribunal.
- C. Because the respondents are/ were bound down under the law to disposed-of the departmental representation, but even upon the clear cut direction of the hon'ble Peshawar High Court, Peshawar and further the attendance of the Civil Suit by the respondents concerned, is established the malafide of the respondents, thus this act of the respondents is amounts to abuse of law.
- D. Because the impugned order is the result of political interference in the proceedings of appointments against the advertised posts and interviews on 02.07.2019 fixed through publication in newspapers and the appellant

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always follow the merit and never accept the unfair and illegal orders of his superiors, thus have unblemished career of about 32 years, but the impugned order is stigmatize the whole career of the appellant. (Copy of correspondence made through social media is attached as Annex "F")

- E. Because the respondents in utter disregard to the principles of the fairness, merit and transparency passed the present impugned order dated 24.06.2019, hence the impugned order of the respondent is against the law, illegal, unlawful and void ab-initio and liable to be turned down.
- F. Because the impugned transfer of the appellant without adopting proper criteria and codal requirements by the respondents is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be un-held on this score also.
- G. Because the malafide of the department is so apparent that the appellant has been made a rolling stone as the appellant was transferred from the post of Deputy DHO, Dera Ismail Khan and posted as MS DHQ Hospital Dera Ismail Khan vide order dated: 26.09.2016 and just after one month of his transfer, the appellant was again transferred vide order dated: 27.10.2016.



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Thereafter, the appellant was again transferred and posted as DHO, Lakki Marwat vide order dated: 10.03.2017 and just after one year of the said order, the appellant was once again transferred vide order dated: 12.04.2018. The malafide of the respondents did not stopped here as they posted the appellant as DHO Bannu vide order dated 02.01.2019 on the direction of this hon'ble Tribunal and just after almost 6 months of the transfer order, once again transferred vide impugned order dated: 24.06.2019 which shows that the appellant has been transferred frequently from one post to another and that too before completion of his normal tenure of three years, hence the case of appellant is of repeated transfer without adhering to law and dicta of the Superior Courts. (Copies of necessary documents are attached as Annex "G")

- H. Because astonishingly, the impugned order upto to the extent of respondent No.4 have been recalled and the respondent No.4 have been shown/ adjusted against the post of Chief Medical Officer (CMO), Karak vide newspaper clipping dated 23.07.2019, hence the impugned order may graciously be considered in toto, thus the appellant has the right to hold the office of DHO, Bannu. It is further worth mention here that, no one is / was ready to accept the post of DHO, Bannu which his evident from the above press

clipping. (Copy of newspaper clipping dated 23.07.2019 is attached as Annex "H")

- I. Because the impugned order has been passed without applying proper law and rules over the subject.
- J. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new Pandora box in clear violation of Service law, hence, the said impugned order is liable to be set aside, and the appellant may kindly be allowed to work on the post of District Health Officer, Bannu.
- K. Because it is highly condemnable that the respondents are adopting the policy of "MIGHT IS RIGHT", which is evident from the frequent posting/ transfer order of the appellant as well as respondent No.4 of BPS-20 officers, as no summary have been moved nor any approval has been made, thus the act, commission and omission of the respondents is in violation of law and rules, hence invites consideration of this hon'ble Tribunal.
- L. That any other ground which has not been specifically mentioned will be agitated at the time of arguments with kind permission of this hon'ble Tribunal.

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It is, therefore, humbly prayed that, on acceptance of the instant appeal may be pleased to;


- i. Declare the impugned order dated: 24.06.2019 of Respondent No. 2 as illegal, unlawful, without lawful authority and void ab-initio and to be set-aside.
- ii. Direct the respondents to allow the appellant to work on the post of DHO, Bannu with all privileges of the post
- iii. Any other relief may also kindly be granted in the circumstances of the appellant's case.

  
Appellant

Through

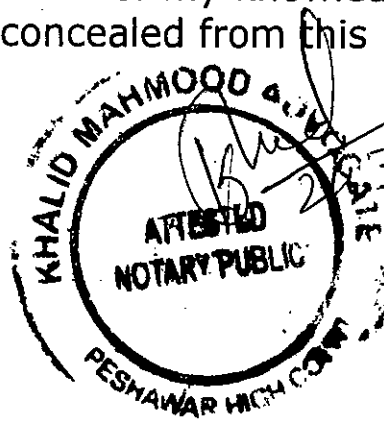
**Ahmad Farooq**  
Advocate High Court

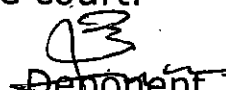
&

  
**Muhammad Arif Jan**  
Advocate High Court

**AFFIDAVIT**

I, Dr. Muhammad Taus Khan DHO Bannu (BPS-20) presently transferred to DG Health Services KP Peshawar (Appellant), do hereby affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



  
Deponent

12101-6365807-0

0333-9278873

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

C.M.No. \_\_\_\_\_/2019

IN

Service Appeal No. \_\_\_\_\_/2019

Dr. Muhammad Taus Khan.....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa,  
through Chief Secretary and others.....Respondents


APPLICATION FOR SUSPENSION OF  
OPERATION OF THE IMPUGNED  
TRANSFER ORDER DATED 24.06.2019  
TILL THE FINAL DECISION OF TITLED  
APPEAL.

Respectfully Sheweth:

- 1) That the above titled appeal is being filed before this hon'ble Tribunal alongwith instant application.
- 2) That the grounds of main appeal may kindly also be considered as part and parcel of this application.
- 3) That appellant is having a good arguable case in his favour and is also sanguine about its success.
- 4) That balance of convenience also lies in favour of appellant.
- 5) That if the relief as prayed for in the heading of this application is not granted, the very purpose of

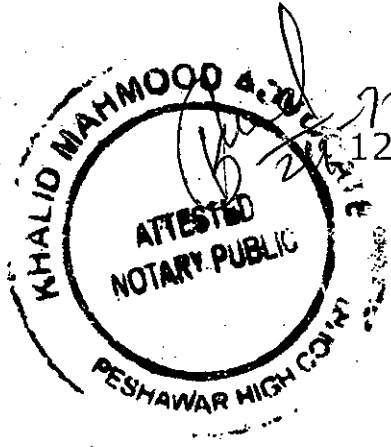

titled appeal will be defeated and the appellant will be suffer an irreparable loss.

It is, therefore, prayed that on acceptance of this application, the impugned transfer order dated 24.06.2019 may graciously be suspended till the final decision of titled appeal.

Appellant   
Through  
**Muhammad Arif Jan**  
Advocate High Court

**AFFIDAVIT**

I, Dr. Muhammad Taus Khan DHO Bannu (BPS-20) presently transferred to DG Health Services KP Peshawar (Appellant), do hereby affirm and declare on oath that the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

   
Deponent  
12101-6365807-0  
0333-9278873

(11)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_/2019

Dr. Muhammad Taus Khan.....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa,  
through Chief Secretary and others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT**

Dr. Muhammad Taus Khan DHO Bannu (BPS-20) under  
presently transferred to DG Health Services KP  
Peshawar.

**RESPONDENTS**

- 1) Government of Khyber Pakhtunkhwa, Through Chief  
Secretary, Civil Secretariat, Peshawar.
- 2) Secretary Health, Province of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
- 3) Director General, Province of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
- 4) Dr. Fahim Hussain, Provincial Coordinator, Lady  
Health Worker Programme, Khyber Pakhtunkhwa.

Appellant   
Through  
**Muhammad Arif Jan**  
Advocate High Court

(12)

Annex-A



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar the 24<sup>th</sup> June 2019

**NOTIFICATION**

**NO SOH(E-V)1-131/2007**

The competent authority has been pleased to order postings/transfers of the following doctors with immediate effect in the public interest

Sr	Name of Doctor	FROM	TO
1	Dr Muhammad Taus Khan Management Cadre BS-20	District Health Officer Bannu	Report to the Director General Health Services Khyber Pakhtunkhwa
2	Dr Fahim Hussain Management Cadre BS-20	Provincial Coordinator Lady Health Worker Program Khyber Pakhtunkhwa	District Health Officer Bannu vice S No 01

SECRETARY HEALTH  
Govt. of Khyber Pakhtunkhwa

**Endst. No. & Date Even**

Copy to the -

- 1 Accountant General Khyber Pakhtunkhwa
- 2 Director General, Health Services, Khyber Pakhtunkhwa.
- 3 District Health Officer Bannu
- 4 District Accounts Officer Bannu
- 5 PS to Minister Health Khyber Pakhtunkhwa.
- 6 PS to Secretary Health Department.
- 7 Computer Programmer Health Department
- 8 DHIS Cell DGHS Office, Peshawar.
- 9 Doctor concerned.

(FAZAL ALI)

SECTION OFFICER (E-V)

ATTESTED

Annex(B)

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IN THE COURT OF CIVIL JUDGE-XI, BANNU

Case title: Dr. Taus Khan VS Secretary Health K.P.K. Peshawar etc

Order-03  
01.07.2019

Instant suit received from the court of learned Senior Civil Judge, Bannu.

Plaint filed through counsel. He admits and verifies the contents of plaint and application to be true and correct. Be registered.

An application for the grant of temporary injunction is also annexed with the plaint. Preliminary arguments heard on application and record perused. On the strength of available record and as nothing is in rebuttal yet, therefore, ad-interim injunction is granted only to the extent of further action upon the disputed notification **No. SOH (E-V) 1-131/2007 dated 24.06.2019 till date fixed only**. This order is subject to notice to the defendants and any contrary order of any superior/appellate forum, in this regard.

Summons accompanying copy of plaint and application be issued to the defendants with direction to either appear in person or through counsel fully conversant with the facts of the case on the next date fixed and submit written statement and written reply.

Since the matter is against a notification issued by the Government. Therefore notice alongwith copy of the plaint be also issued to the Office of District Attorney Bannu.

Adjourned to 05.07.2019

Announced.  
01.07.2019

ATTESTED

03 JUL 2019

Malik Zeeshan Gul  
Civil Judge-XI, Bannu  
ATTESTED

1- Registration No:	5041
2- Date of Presentation of Application	3-7-19
3- Date of Receipt of the file	3-7-19
4- Date of Preparation of copy	3-7-19
5- Date of Delivery of copy	3-7-19
6- No. of copies / words	2 F.
7- Ordinary Fee	4
8- Urgent Fee	
9- Total Fee	5

The post Office is notified in the case of inland registration also insured. and restrictions. current edit upon every rule.



بندوب عالیہ، بھٹی

۱۶۸ روپیہ ۱۶۶۶، ۲۴-۵-۱۹

ORDER SHEET

Case Title: ABDUL QAYYUM SIDDIQI, Senior Civil Judge, Bannu Page 1

Case Title: ڈاکٹر خالد سید سکرینر بہنو of 1

No. & Date: Order of the Proceeding with signature of Judge or Magistrate and that of parties or counsel where necessary.

ORDER-01

Suit submitted through counsel. Be entrusted to the Court of

learned Civil Judge- XI, Bannu, for disposal.

*(Signature)*

ABDUL QAYYUM SIDDIQI  
Senior Civil Judge, Bannu

0-02  
01-7-19

دعویٰ جھڑا لہذا زبردستی مانا کہ نہیں ہو۔

Malik Zafar Gul  
Civil Judge-XI

*(Signature)*

بندوب عالیہ، بھٹی، پیر و فارما، درخواست عارض حکم رقم ۱۶۸،  
عرضہ عروضا اور اوراق، بیان حلف، فرد پتہ، فیرت و اڑان،  
فیرت دستاویزات، طلبہ دستاویزات اور اوراق، وکالت نامہ،  
تقول درخواست عارض حکم رقم ۱۶۸، تقول عرضہ عروضا،  
سناٹ فارم پیر و فارما، لہذا زبردستی مانا کہ نہیں ہو۔

*(Signature)*

ATTESTED

03 JUL 2019

Copying Agency  
Lower Court Bannu

ATTESTED

*(Signature)*

(15)

بدر سے صاحب اور صاحبہ نو  
۱۶۹ روپے ۱۰۶۹  
ڈاکٹر طاہرہ نسیم سکریٹری سیکشن

نوٹ رڈر

05.07.2019 حاضری حسب سابق۔ آفیسر جلیس صاحب آج رخصت اتفاق پر ہے۔

لہذا اشل برائے کارروائی سابقہ مورخہ 2019/07/08 کی پیشی میں رکھی گئی۔

*[Signature]*

Order---4  
05-07-2019

Case file requisitioned from the Court of learned CJ-XI, Bannu on the written request of counsel for plaintiff.

Petitioner alongwith learned counsel present and submitted an application for extension of status quo order. Case file requisitioned. In the light of order, dated 01-07-2019 of the learned Civil Judge-XI, Bannu status quo is extended till date fixed i.e. 08-07-2019. The extension of status quo will be subject to notice to the defendants and any contrary order of superior/appellate Court.

File be returned and presented to the Court concerned on the date already fixed.

*[Signature]*  
Inam Ullah  
Civil Judge-XIII  
Bannu/MOD

- 1- Registration No: 5104
- 2- Date of Presentation of Application 05-07-09
- 3- Date of Receipt of the file 05-07-09
- 4- Date of Preparation of copy 05-7-19
- 5- Date of Delivery of copy 05-7-19
- 6- No. of copies / words 1
- 7- Ordinary Fee 2
- 8- Urgent Fee 1
- 9- Total Fee 3
- 10- Signature of Copyist *[Signature]*

**ATTESTED**

05 JUL 2019

Copying Agency  
Lower Court Bannu

**ATTESTED**

*[Signature]*

(18)

Annex - C<sup>2</sup>

To,

**Worthy Chief Secretary  
Govt of Khyber Pakhtunkhwa  
Peshawar**

(Through Proper Channel)

**Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER  
NO.SOH(E-V) 1-131/200) DATED: 24-06-2019 VIDE WHICH THE  
APPALLENT IS BEING TRANSFERRED FROM THE OFFICE OF  
DHO BANNU TO THE DGH OFFICE AS OSD**

R/Sir,

1. That the appellant served the Health Department govt. of Khyber Pakhtunkhwa for about 32 years with unblameworthy record.
2. That due to outstanding performance and efficiencies, the appellant was posted/transferred in the situation where no one was ready to hold the office of DHO Bannu, but the appellant being hard worker and always honored the directives of his superiors, accepted the post of DHO Bannu as a challenge.
3. The appellant took over the charge as DHO Bannu on 3.1.2019 and in a short span of time i.e. about less than 05 months, not only improve the worst condition of the health facilities, but also over come and functionalized the dead health facilities which are evident from the functionalization of TDH Kakki and Janikhel. The appellant also Standardize the ongoing programs/project like EPI/Polio and Leshmania etc as follow.

(i). Try to minimize the fake finger marking in polio campaign as per govt. Policy by encouraging staff and by communication with parents, influential's and community through social media and personal meeting.

It was realized that there is fake finger marking while the first case of Polio was confirmed on 08-01-2019 when the appellant took charge as DHO Bannu on 03-01-2019.

The fake finger marking was due to the fear of the health staff and partner staff by the strict order of previous administration which force the polio worker for fake finger marking to avoid from the penalization including removal from the service.

The Appellant panelized that staff those staff who was not in the mood of improving themselves and not improving their techniques.

**ATTESTED**

*(Signature)*

17

- ii. The Appellant involved maximum Doctors in Polio as UCMO i.e upto 30 in January 2019 campaigns which were only seven before appellant took charge as DHO Bannu.
  - iii. The Appellant also strengthened the EPI program by rationalization of the EPI workers.
  - iv. The Appellant also take measures to control the TB, Leshminia and other vector programs.
4. That instead of, to encourage the appellant due to the his outstanding performance, with excellent/very good ACRs and the competent authority knowing the fact of the retirement, in near future, i.e on 2/2/2020, the appellant was transferred vide impugned order date 24-06-2019 with malafide intension and for no any good reason and justification.
  5. That the appellant always perform his duties with full Zeal and Zest and there is/was no complaints, inquiry or other departmental proceeding pending before any competent authority.
  6. That the impugned order is based on victimization and just to accommodate a blue eyed person which is against the law, rules and regulation governing the subject matter.
  7. That there may be a proper enquiry for Polio epidemic in Bannu Division with the following submission.
    - i. That the environmental sample of five drainage UC in Bannu was positive in October 2018 which means that the virus was circulating in Bannu and nearby Districts.
    - ii. The first case of Polio was confirmed in District Lakki Marwat in December, 2018 near the boundary of Bannu District.
    - iii. From 08-01-2019 Polio cases started coming positive from Bannu District and reached upto 6 in April, 2019.The under five children population in Bannu District is 192995.  
Out of 11 Polio cases confirmed in FR Bannu 05 cases are from FR Bannu where under five populations is 49337.  
It is pertinent to mention that FR Bannu is separately controlled by Deputy DHO FR Bannu Previously known as agency surgeon FR Bannu. The Deputy DHO FR Bannu is fully authorized for hiring and firing of all his staff like DHO Bannu being the DDO of FR Bannu, but

ATTESTED



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unfortunately DHO Bannu is held responsible for the entire district which is not the case as such.

- iv. As per government notification deputy DHO FR Bannu has not up till now submitted arrival report to DHO Bannu, along with supporting staff even after informing him in writing.

The appellant has written to the high ups for his non cooperation and lack of interest in polio program etc for his transfer out of District Bannu (Reference Number 17044-48)

The present deputy commission Bannu has also written complaint against him to the EOC and Secretary Health for his inefficient and lack of interest in the Polio Program.

The Appellant has also submitted an email against PEO Dr.Arsalan against his non cooperation and arrogant behavior in Polio campaign with the appellant.

8. That the appellant always follow the merit and at present the proceeding of interview/appointment a paramedical staff is in progress, hence the impugned order, is also result of disobeying, unfair and injustice and approaches.

It is therefore humbly submitted that the impugned transferred order dated 26/6/2019 may kindly be withdrawn as being void and the appellant may graciously be allowed to keep and continue his duties as DHO Bannu till his superannuation age.

  
Appellant

Date: 28-06-2019

Dr. Muhammad Taus Khan  
Member of Service (BPS-20)  
DHO Bannu  
Health Department Khyber  
Pakhtunkhwa.

**ATTESTED**  


(19)

Annex-D

(1)



**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. \_\_\_\_\_/2019

**Dr. Muhammad Taus Khan DHO Bannu (BPS-20) presently transferred to DG Health Services KP Peshawar as OSD.**

..... Petitioner

Versus

1. **Government of Khyber Pakhtun Khwa,**  
Through Chief Secretary,  
Civil Secretariat, Peshawar.
2. **Secretary Health,**  
Province of Khyber Pakhtun Khwa,  
Civil Secretariat, Peshawar.
3. **Director General,**  
Province of Khyber Pakhtun Khwa,  
Civil Secretariat, Peshawar.
4. **Dr. Fahim Hussain,**  
Provincial Coordinator, Lady Health Worker Programme, Khyber  
Pakhtunkhwa.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION  
OF THE ISLAMIC REPUBLIC OF PAKISTAN.**

**RESPECTFULLY SHEWETH:**

**ATTESTED**  
EXAMINER  
Peshawar High Court

1. **That** the Petitioner hails from a respectable family of Dera Ismail Khan and holds MBBS degree. Besides MBBS, the petitioner also obtained Degree of DHMP from Institute of Management Sciences, Peshawar.
2. **That** the petitioner was appointed in the Health Department as Medical Officer vide notification/office order dated: 18-02-1987 and after his appointment, the Petitioner has been working with sheer zeal and dedication

**ATTESTED**  
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**PESHAWAR HIGH COURT, MINGORA BENCH**  
**(DAR-UL-QAZA), SWAT**

**FORM OF ORDER SHEET**



Court of .....

Case No..... of.....

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	15.07.2019	<p><b><u>W.P No.3731-P/2019</u></b></p> <p><b>Present:</b> M/s. Asad Zeb Khan and Muhammad Arif Jan, Advocates for the Petitioner.</p> <p>Mr. Rab Nawaz Khan, AAG for the respondents.</p> <p>***</p> <p><b><u>ISHTIAQ IBRAHIM, J.</u></b>- This writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan has been filed by Dr. Muhammad Taus Khan, petitioner, praying that:</p> <p><i>"It is, humbly submitted that on acceptance of the present writ petition, this Hon'ble Court may graciously be pleased to:</i></p> <ol style="list-style-type: none"><li><i>Declare the impugned order dated 24.06.2019 of respondent No.2 as illegal, unlawful, without lawful authority and void-ab-initio by setting aside the said order.</i></li><li><i>Direct the respondents to allow the petitioner to work on the post of DHO, Bannu till his retirement.</i></li><li><i>Any further better relief may also</i></li></ol>

**ATTESTED**  
EXAMINER  
Peshawar High Court

**ATTESTED**

M. Iqbal (D.B)

Hon'ble Mr. Justice Ishaq Ibrahim  
Hon'ble Mr. Justice Shakeel Ahmad

kindly be granted in the circumstances of the appellant's case"

2. When the case was taken up for hearing, learned counsel for the petitioner was confronted with Article 212 of the Constitution as the petitioner is civil servant and the writ petition is against the transfer order. The same is not maintainable, however, the respondents are directed to decide his representation submitted by him within 07 days, positively after receipt of order of this Court.

Announced  
15.07.2019

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Constitution of Pakistan 1973  
16 JUL 2019

JUDGE  
JUDGE

No. 27120  
Date of Presentation of Application 15-07-2018  
No of Pages 3P  
Copying fee 12/-  
Total 12/-  
Date of Preparation of Copy 16-07-2018  
Date of Delivery of copy 16-07-2018  
Received By D. M. Taus

ATTESTED  
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ATTESTED

DR. M. Taous Khan  
DHO Bannu  
16-7-19

and photo copy of the Representation dated 28.6.19  
is attached for necessary action  
Photo copy of original copy of order dated 15-7-19  
is in  
after the receipt of the judgment of the Honorable  
Representative from with in seven (07) days. Pending  
know, to decide the Departmental  
Representative has issued direction to you  
Request that the Honorable High Court  
get's order with bundle

R/Siv

in respect of DR. M. Taous Khan  
Taus Khan DHO Bannu  
Departmental Representation

Subject:

Khyber Pakhtoon Khwa  
Health Dept. Peshawar

The Honorable,  
Secretary to Govt. of  
16/7/19

10518

D. No.

Annex-E

(22)

To

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Annexure - F



Stop all interviews, immediately. Don't take law into your hands. You are going against the merit. You are bringing a bad name to yourself, the department and me. This is unacceptable.

You will be held accountable for each and everything you are doing against the law and policy. You will not be spared and you will regret it. (H I K- Minister for Health, KP)

AA.i can call you.i am ur subordinate .ur order will be complied.

09:36 ✓

Sir.can.i call.u 10:05 ✓

No, you wait for your fate. This is Imran Khan's Pakistan, not the one you used to live in.

4 JULY 2019

Sir.the.interview date was fixe on 2/7/19.and 300 Candidates were there.as per rules cancellation shall be in news paper 3 days earlier. If it is postponed the people were going to block the road and they were agitated.and it was difficult to control the mob.rthen public will say DHO cannot MANAGE.



ATTESTED  
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ATTESTED

- 1. P.S. to Minister Health, Khyber Pakhtunkhwa
- 2. P.A. to Secretary Health, Khyber Pakhtunkhwa
- 3. P.A. to Director General Health Services, DGHS, Khyber Pakhtunkhwa
- 4. District Health Officer, Bannu (for immediate, without the process till further orders)

Copy forwarded to:

No. 151/2019

Director Administration  
 Director General Health Services  
 Khyber Pakhtunkhwa Peshawar

This issues with the approval of the competent Authority.

I am therefore directed to convey that interviews for various posts to be held in DHO office Bannu on 2 July, 2019, stands cancelled.

Furthermore, the ambiguity caused due to transfer of the DHO, Bannu and subsequent postponement of the interview by Dr. Fahim Hussain, the newly designated DHO Bannu, the subject process has already become objectionable.

Upon non observance of the codal formalities, the competent authority in the health Department understands that a transparent interview/selection would not be possible in the office of Dist Health Officer Bannu.

Subject: Cancellation of interview/selection process at Dist. Health Officer Bannu

OFFICE ORDER

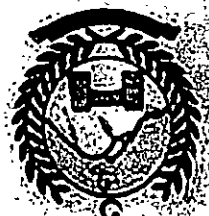
No. DGHS (Office)/1-10/2019

Dated: 02.07.2019

All communication should be addressed to the Director General Health Services Peshawar and not to any official by name.

E-Mail Address: [dg@kphs.gov.pk](mailto:dg@kphs.gov.pk)  
 Office: 091-9210269  
 Fax: 091-9210187, 9210196  
 Cell: 091-9210230

DIRECTORATE  
 GENERAL HEALTH SERVICES  
 KHYBER PAKHTUNKHWA PESHAWAR



24

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Annex (G)

## SITUATION VACANT

Application are invited for suitable candidates for the following vacant posts at various health facilities under the control of District Health Officer Bannu

S.N	Nomenclature of post	BPS	Age Limit	Prescribed Qualification
1.	Junior Clinical Technician Dental	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.
2.	Junior Clinical Technician Radiology	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.
3.	Junior Clinical Technician Anesthesia	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.
4.	Junior Clinical Technician Surgical	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.
5.	Junior Clinical Technician Pathology	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.
6.	Junior Clinical Technician Pharmacy	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.
7.	Junior Clinical Technician Multipurpose	12	18-30Years	At least 2 <sup>nd</sup> division S.S.C with Science from a recognized Board with in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical faculty or Diploma in the relevant Paramedical technology from any recognized institute, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar.

### TERMS AND CONDITIONS

(1). Interested candidates must send application along with attested copies of required documents, domicile & CNIC through postal address giving below with in fifteen (15) days after advertisement. (2). Application must clearly specify for the relevant technology along with the diploma in the relevant diploma (no application of other diploma or certificate holder will be accepted / consider. (3) The Candidates serving in Govt shall application through proper channel and to produce NOC at the time of interview.(4). No separate call will be issued for interview. (5). The candidate shall bring their original documents & CNIC when appearing for interview. (6). 2% quota for disabled persons, 3% quota for minority & quota for female candidate reserve as per Government rule / policy. (7). Preference will be given having Domicile of District Bannu. In case of non-suitable candidates the other districts of Khyber Pakhtunkhwa candidates will be considered. (8) Over age candidates will be consider as per government rule / Policy (9). No TA/DA will be admissible as per Government Rule. (10). Interview will be held on 02-07-2019 at 10:00 am in the office of District Health Officer Bannu.(11). In case of submission of fictitious documents disciplinary proceeding will be initiated according to rules.(12) The authorized officer will have the option to cancel the test and interview without giving any reason.

**INF(P)**  
**2707/19**

**DR. MUHAMMAD TAOUS KHAN**  
District Health Officer Bannu. 0928-9270132

ATTESTED  
★



26

GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 2<sup>nd</sup> January, 2019

**NOTIFICATION**

**NO.SOH(E-V)1-131/2007**

The Competent Authority is pleased to order posting/transfer of the following doctors with immediate effect in the public interest:-

S#	Name of Doctor	From	To
1.	Dr.Muhammad Taus Khan Management Cadre BS-20	Waiting for posting	District Health Officer Bannu
2.	Dr.Muhammad Daraz Management Cadre BS-20	District Health Officer Bannu	Report to the Director General Health Services Khyber Pakhtunkhwa.

SECRETARY HEALTH  
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Bannu.
4. District Accounts Officer Bannu
5. PS to Minister for Health Khyber Pakhtunkhwa.
6. PS to Secretary Health Department.
7. Computer Programmer Health Department
8. DHIS Cell DGHS Office, Peshawar.
9. Doctor concerned.

*Hamid Iqbal* 02/01/2019  
(HAMID IQBAL)  
SECTION OFFICER (E-V)

ATTESTED  
*[Signature]*

27



BETTER COPY

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

Dated Peshawar the 12<sup>th</sup> April, 2018

**NOTIFICATION**

No. SOH(E-V)1-131/2016 The competent authority, is pleased to transfer Dr. Muhammad Taus Khan Management Cadre BS-19 District Health Officer Lakki Marwat and place his services at the disposal of Director General Health Services, Khyber Pakhtunkhwa with immediate effect in the public interest.

2. - Consequent upon, the above Dr. Esa Khan medical Superintendent BS-19 DHQ Hospital Lakki Marwat is hereby authorized to look after the post of District Health Officer Lakki Marwat till further orders.

**Secretary Health  
Govt. Of Khyber Pakhtunkhwa**

**Endst. No. & Date Even**

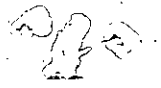
Copy to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa
3. District Health Officer Lakki Marwat
4. MS DHQ Hospital Lakki Marwat
5. District Accounts Officer Lakki Marwat
6. PS to Minister Health Khyber Pakhtunkhwa
7. PS to Secretary health Department
8. PS to Special Secretary Health Department
9. PS to Computer Programmer Health Department
10. Doctor concerned.

**ATTESTED**

*A*

28



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

COC No. \_\_\_\_\_, 2018  
In Service Appeal No.939/ 2018

**Dr. Muhammad Taus Khan**  
District Health Officer (DHO)  
Lakki Marwat

..... APPLICANT

**VERSUS**

1. **Naveed Kamran Baloch**  
Chief Secretary KP  
Civil Secretariat, Peshawar
2. **Abid majeed**  
Secretary Health (Khyber Pakhtunkhwa)  
Civil Secretariat, Peshawar
3. **Dr. Ayub Ros**  
Director General Health (KP)  
Civil Secretariat, Peshawar
4. **Dr. Abdul Gul**  
District Health Officer Lakki Marwat,  
District Lakki Marwat

..... RESPONDENTS

-----  
APPLICATION FOR INITIATING CONTEMPT OF COURT  
PROCEEDINGS AGAINST THE RESPONDENTS/ CONTEMNORS FOR  
NON IMPLEMENTATION OF THE ORDER DATED 08.08.2018 IN  
SERVICE APPEAL No. 939/ 2018  
-----

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,

ATTESTED

29



Respectfully Sheweth;

1. That the applicant/ appellatant has filed Service Appeal No. 939/ 2018 which is pending adjudication and fixed before this hon'ble Tribunal for 04.09.2018.
2. That the instant Service Appeal was admitted to full hearing on 02.08.2018 and *status quo* was granted on 08.08.2018 in favor of appellatant till further order and the same was extended on 13.08.2018 by this hon'ble Tribunal. (Copies of the orders dated 08.08.2018 & 13.08.2018 is hereby annexed as Annexure 'A').
3. That in pursuance to orders of this hon'ble Tribunal, when the applicant/ appellatant reached to his office, Respondent No. 4 in connivance with other respondents, refused to applicant to enter into his office i.e. DHO Lakki Marwat and this act of respondents is in absolute disregard to the directions of this hon'ble Tribunal in its order dated 08.08.2018 and 13.08.2018 and till date the appellatant is suffering due to such conduct of the respondents concerned.
4. That the applicant/ appellatant approached the respondents/ contemnors several times along with the copy of the orders dated 08.08.2018 and 13.08.2018 to implement the clear cut directions of this hon'ble Tribunal despite the fact that they had already the knowledge of grant of *Status Quo* in the said orders of this hon'ble Tribunal but the respondents/ contemnors paid no heed and showed no intentions whatsoever to implement the said orders till date.
5. That the respondents/ contemnors are willfully and deliberately showing disregard to the orders of this hon'ble Tribunal and flouting the directions therein which act of the respondents clearly amounts, to contempt of court and therefore liable to be proceeded in the contempt of court proceedings.
6. That the respondents/ contemnors are to be punished strictly as it would otherwise defeat the very purpose of law of contempt to maintain faith of the people in the dignity and uprightness of the Courts/ Tribunals.

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**  
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It is, therefore, respectfully prayed that on acceptance of this contempt application, this hon'ble Tribunal may kindly be pleased to initiate contempt proceedings against the respondents/ contemnors for willful disobedience and disregard to the its orders dated 08.08.2018 and 13.08.2018 with the directions to implement the same forthwith in its letter and spirit.

Dated: \_\_\_\_\_, 2018

APPLICANT/ APPELLANT

Through

Certified to be true copy

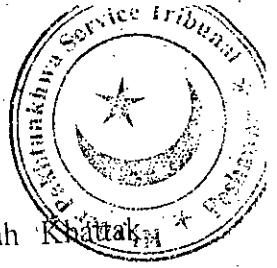
EMAD SHER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

MUHAMMAD ADNAN SHER  
Advocate High Court, Peshawar

Date of Presentation of Application 28-6-19  
 Number of Words 1600  
 Copying Fee 10/-  
 Urgent 2/-  
 Total 12/-  
 Name of City Peshawar  
 Date of Completion of Copy 8-7-19  
 Date of Delivery of Copy 8-7-19

ATTESTED

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31

24.01.2019

Petitioner in person present. Mr. Kabirullah Khattak  
Additional AG for the respondents present. Reply on behalf of  
respondents not submitted. Learned Additional AG requested for  
adjournment. Adjourned. To come up for reply on behalf of  
respondents on 24.01.2019 before S.B.

*MA*  
Muhammad Amin Khan Kundi  
Member

24.01.2019 Petitioner absent. Learned counsel for the petitioner  
absent. Hazrat Shah Superintendent representative of the  
respondents present, submitted copy of office orders dated  
18.09.2018 and 02.01.2019 placed on file and stated that the  
appellant has been posted as DHO Bannu vide order dated  
02.01.2019 and similarly his salaries have also been released.  
Case called but no one appeared on behalf of petitioner. In  
view of the above the present application be consigned to  
the record room being not pressed.

**ATTESTED**

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ANNOUNCED.  
24.1.2019

*[Signature]*  
Member

**ATTESTED**

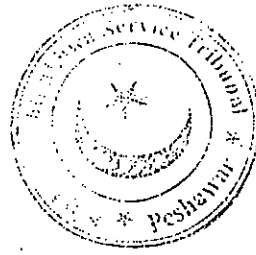
*[Signature]*

32

*[Handwritten signature]*

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 939/2018



1205  
27/7/2018

Dr. Muhammad Taus Khan

Presently Posted as OSD Health Department (KP)

APPELLANT

VERSUS

- 1. Government of Khyber Pakhtunkhwa  
Through Chief Secretary KP  
Civil Secretariat, Peshawar
- 2. Secretary Health (Khyber Pakhtunkhwa)  
Civil Secretariat, Peshawar
- 3. Director General Health (KP)  
Civil Secretariat, Peshawar
- 4. Dr. Abdul Gul  
District Health Officer Lakki Marwat,  
District Lakki Marwat

RESPONDENTS

*[Handwritten signature]*  
27/7/18

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974

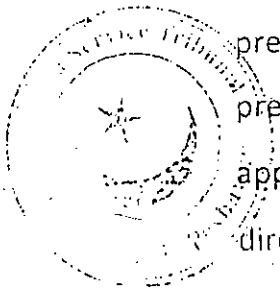
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*[Signature]*  
SECRETARY  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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*[Signature]*

8/8/2018

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Appellant with counsel and Mr. Kabirullah, Khattak, AAG for official respondents No. 1 to 3 present. Counsel for private respondent No. 4 also present. On the previous date notice of interim application was issued to the respondent and was directed to submit reply and arguments on the said application. Today private respondent No. 4 submitted replication of the application of interim relief. Arguments heard and record perused.

*M. Aslam*  
*8.8.2018*

Brief fact of the present service appeal is that the appellant was serving in health department as District Health Officer Lakki Marwat. He was transferred from Lakki Marwat and placed his services at the disposal of Director General Health Service Khyber Pakhtunkhwa vide order dated 12/4/2018. Later on private respondent Dr. Abdul Gul Management Cadre BPS-19 was transferred against the post of District Health Officer Lakki Marwat vide order dated 18/5/2018. The appellant filed departmental appeal against the order dated 12/4/2018 on 17/4/2018, which was not responded, hence present service appeal. The appellant also submitted application for suspension of impugned notification and notification dated 18/5/2018 on the ground mentioned in the application and prayed for acceptance of the said application. Reply of the said application submitted by private respondent No. 4 today.

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 Director General Health Service  
 Khyber Pakhtunkhwa  
 Peshawar

Learned counsel for the appellant contended that appellant was serving in health department and he was transferred to the post of

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District Health Officer Lakki Marwat vide order dated 10/3/2017. It was further contended that normal tenure as per transfer posting policy is 2 years. But appellant has been malifidely transferred before his normal tenure. It was further contended that the appellant was transferred on political influence and in this respect he stated that copy of impugned order has also been forwarded to Private Secretary to Minister Health Khyber Pakhtunkhwa. It was further contended that appellant has not relinquished the charge so far and in case the impugned order is not suspended and the appellant relinquish the charge. The present service appeal will be become infructuous. Therefore, prayed for acceptance of interim application.

M. Hanif  
8.8.2018

On the other hand Additional Advocate General assisted by learned counsel for private respondent No. 4 opposed the contention of learned counsel for appellant and contended that the appellant was transferred from the post of District Health Officer Lakki Marwat and his service was placed at the disposal of Director General Health Service Khyber Pakhtunkhwa vide order dated 12/4/2018. It was further contended that later on private respondent was transferred from Management Cadre and was posted as District Health Officer Lakki Marwat vide order dated 18/5/2018. It was further contended that the appellant has not filed any departmental appeal against the transferred order dated 18/5/2018, therefore, the present appeal is not maintainable. It was further contended that the private respondent has assumed the charge. It was further contended that there was complain against the present

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Private Secretary  
Minister Health  
Khyber Pakhtunkhwa

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appellant. Therefore the appellant has rightly been transferred and prayed for dismissal of interim application.

Perusal of the record reveals that the appellant was transferred against the District Health Officer Lakki Marwat vide order dated 10/3/2017. According to Transfer Posting Policy the normal tenure is 2 years, but the appellant has been transferred after one year, therefore the appellant has been transferred before his normal tenure. It is also the claim of the appellant that he has not relinquished the charge so far. There is also nothing on the record in shape of documentary proof about the relinquish of the charge of post of appellant. Moreover, transfer should not be made as punishment on the ground of complaint. Therefore, status-quo be maintained till further order. To come up for written reply of respondents on 13/8/2018.

*U. Amin*  
MEMBER

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Petition 08-08-18  
Number of Petition 1600  
Copy of Petition 10 CV  
Amount 7.00  
Total 12.00  
Name of Applicant [Signature]  
Date of Receipt 08-08-18  
Date of Delivery of Copy 08-08-18

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*[Signature]*

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

**DAILY MASHRIQ PESHAWAR**

پشاور روزنامہ  
عہدہ کے بانی  
سید تاج میر شاہ

**مشرق**

مسلطہ اشاعت کے 52 سال

پشاور اور اسلام آباد سبیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC CERTIFIED

جلد 52 منگل 19 ذی القعدہ 1440ھ 23 جولائی 2019ء 8 سادہ قیمت 20 روپے شمارہ 234

Annex - H

ڈی ایچ او ہون ڈاکٹر نعیم کا  
ڈی ایچ کیو ہسپتال کرک جاؤلہ

پشاور (نیوز رپورٹر) محکمہ صحت نے ڈسٹرکٹ ہیلتھ آفیسر ہون کو تبدیل کر دیا (بقیہ 47 صفحہ 10)

47	کرک جاؤلہ	بقیہ نمبر
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ہے تاہم اس سلسلے میں کسی نئے افسر کی تعیناتی نہیں کی گئی ہے۔ ذرائع کے مطابق محکمہ صحت نے رواں مہینے ڈسٹرکٹ ہیلتھ آفیسر ہون ڈاکٹر طاہر خان کو تبدیل کر کے انکی جگہ لیڈی ہیلتھ ورکرز پروگرام کے کوآرڈینیٹر ڈاکٹر نعیم حسین کو ڈی ایچ او ہون تعینات کیا تھا۔ اس سلسلے میں پیر کے روز محکمہ صحت سے جاری اعلامیہ کے مطابق ڈی ایچ او ہون ڈاکٹر نعیم حسین کا جاؤلہ واپس لیکر انیس ڈسٹرکٹ ہیڈ کوارٹر ہسپتال کرک میں گریڈ بیس کے چیف میڈیکل آفیسر کے عہدے پر تعینات کر دیا ہے۔ اعلامیہ کے مطابق محکمہ صحت کیڈر کے گریڈ انیس کے افسر ڈاکٹر رحیم جنگ سے لیڈی ہیلتھ ورکرز پروگرام کے کوآرڈینیٹر کا چارج لیکر ڈاکٹر نعیم حسین کے پاس برقرار رکھا گیا ہے۔ واضح رہے کہ ڈی ایچ او ہون کا عہدہ اس نئے حکمران کے تناظر میں خالی ہو گیا ہے۔

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قیمت 50 روپے  
23334  
ایڈویٹ: محمد عارف خان  
بار کونسل/ ایسوسی ایشن نمبر: BS/10/6663  
رابطہ نمبر: 0333-2212213



پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: خیبر کسٹومرز حکومت خیبر پختونخواہ

دعویٰ:	
علت نمبر:	
مورثہ:	<u>محمد عارف خان بنام حکومت</u>
جرم:	
تھانہ:	

**باعث تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی کارروائی متعلقہ آن مقام کیلئے محمد عارف خان کے لیے ایڈووکیٹ کے طور پر روک دیا گیا ہے۔

قرارداد کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: \_\_\_\_\_

الع بد \_\_\_\_\_

مقام پشاور

کے لیے منظور ہے۔

All best

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1327 /ST

Dated 31 / 7 / 2019

To

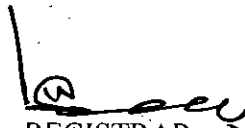
The Secretary Health Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

ORDER IN APPEAL NO. 993/2019, DR. MUHAMMAD TAUS KHAN.

I am directed to forward herewith a certified copy of order dated 30.07.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.