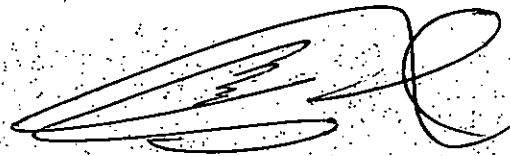


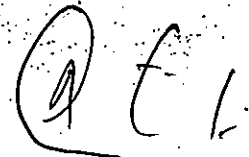
18.12.2015 Appellant with counsel (Wakcel Zaman Khattak, Advocates) and Mr. Usman Ghani, Sr. Government Pleader for the respondents present.

Vide our detailed judgment of to-day in the connected service appeal No. 721/2012 titled "Mati Ullah-vs-Additional Chief Secretary, FATA Secretariat Peshawar and others", this appeal is also dismissed as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

Announced
18.12.2015



(PIR BAKHSI SHAI)
MEMBER



(ABDUL LATIF)
MEMBER

26.11.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments alongwith connected appeals on 13.05.2015.

Reader

13.5.15

Junior to counsel for the appellant and Mr. Ziaullah, GP with Muhammad Mahaz Madni, Litigation Assistant for the respondents present. Senior counsel for the appellant is not available. To come up for arguments on 10.8.2015.



MEMBER



MEMBER

10.08.2015.

Appellant with counsel and Muhammad Mahaz Madni, Litigation Assistant alongwith Asstt. AG for the respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on

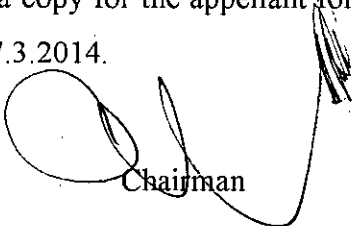
18-12-2015


Member


Member

13.12.2013

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with AAG present. Written reply received on behalf of the respondents in the connected appeal No. 721/2012 titled Matiullah-vs-Additional Chief Secretary, FATA etc., but they have not prepared a separate reply in this appeal. The respondents are, therefore, directed to submit separate reply in this appeal as well, with a copy for the appellant for rejoinder alongwith connected appeals on 7.3.2014.


Chairman

7.3.2014

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with AAG present. Written reply/para-wise comments received on behalf of respondents No. 1 and 3, while representative of the respondents stated that the same written reply be also considered on behalf of respondent No. 2. A copy of the written reply is handed over to the learned counsel for the appellant for rejoinder alongwith connected appeals on 30.5.2014.


Chairman

30.5.2014

Counsel for the appellant and Mr. Muhammad Maaz Madni, Assistant Litigation Officer on behalf of respondents with AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments alongwith connected appeals on 26.11.2014.


Chairman

726/12

* 13.1.2013

The Hon'ble bench is on tour therefore case is adjourned to
15.5.2013 for reply.



Reader

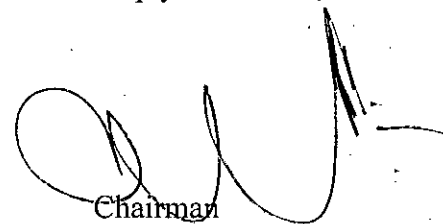
15.5.2013

Counsel for the appellant present. Respondents have been served through registered post in the connected appeal No. 721/2012, but they are not present due to note Reader on the previous date. Therefore, fresh notices be issued to them for written reply/comments, and the learned GP is also directed to contact the respondents for written reply/comments on 15.8.2013.


CHAIRMAN

15.8.2013

Mr. Muhammad Ayub Khattak, Advocate on behalf of counsel for the appellant and Mr. Muhammad Maaz, Assistant Litigation Officer on behalf of respondent No. 3 with Mr. Usman Ghani, Sr. GP for the respondents present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments, positively, on 13.12.2013.


Chairman

**BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR**

Mst. Saima

.....Appellant

V E R S U S

Additional Chief Secretary FATA and others

.....Respondents

REJOINDER

Respectfully Sheweth,

That the appellants beg to submit the following rejoinder.

Preliminary Objections:

- 1) Para No. 1 is incorrect, the appellant has got cause of action and locus standie to file the present appeal.
- 2) Para No. 2 is not correct, the appellant has not estopped to file the present appeal.
- 3) Para No. 3 is incorrect, the honourable Tribunal has got the jurisdiction.
- 4) Para No. 4 of written statement is incorrect, no question of mis-joinder or non-joinder arise in the present appeal.
- 5) Para No. 5 of the written statement is incorrect, the present appeal is not barred by limitation.

- 6) Para No. 6 of the written statement is not correct, the appeal in hand is maintainable.
- 7) Para No. 7 is incorrect, full reply has been given in Para No. 6 of this rejoinder.

On Facts:

1. Para No. 1 of the written statement is incorrect, the appellant was appointed by the agency surgeon with fulfilling all the cordial formalities.
2. Para No. 2 of the written statement is incorrect, Para No. 2 of the appeal is correct.
3. Para No. 3 of the written statement needs no reply.
4. Para No. 4 of the written statement needs no comments to reply.

Grounds:

- A) Para No. A of the written statement is incorrect while ground "A" of appeal is correct.
- B) Para No. B of the appeal is correct while written statement Ground "B" is incorrect.
- C) Para No. C of the written statement is not correct, Ground "C" of appeal is correct.
- D) Para No. D of the written statement is incorrect, Ground "D" of appeal is correct.
- E) Para No. E of the appeal is correct while that of the written reply is ~~divide~~ *denied*.

It is, therefore, prayed that on acceptance of this rejoinder
the case of the appellant may kindly be proceeded.

Appellant

Through

Muhammad Ayub Khattak

by
Qaim Khan Qureshi

Wakeel Zaman Khattak
Advocates High Court, Peshawar

Dated: 15.05.2014

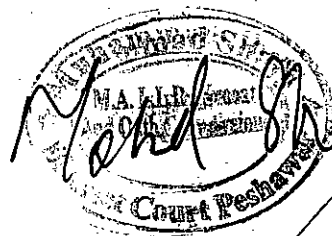
AFFIDAVIT

I, Mst. Saima, do hereby solemnly affirm and declare on Oath that the
contents of this rejoinder are true and correct to the best of my knowledge and
belief and nothing has been concealed from this Honourable Tribunal.

Saima

DEPONENT

ATTESTED



Mehd Gaj

Appeal No. 726/2012
Mst. Saima

6.
22.10.2012

No one is present for the appellant. Case adjourned to
15.11.2012 for preliminary hearing.


Member.

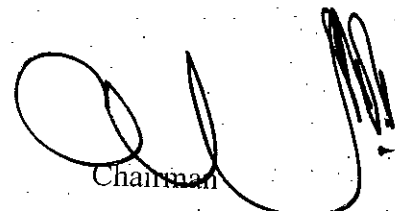
7.
15.11.2012

Counsel for the appellant present and stated that the appellant was appointed as a LHV vide order dated 26.05.2010. The appellant alongwith others were terminated vide order dated 20.02.2012 on the ground that their appointment orders were made without the fulfilling codal formalities. Counsel for the appellant further stated that before issuance of the impugned order, neither any charge sheet was issued nor any proper inquiry was conducted as required under the law. Appellant preferred departmental appeal on 05.03.2012 against the impugned order but with no response, hence this appeal. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. Process fee and Security be deposited within 10 days. Notices be issued to the respondents for submission of written reply on 12.02.2013.


Member

8.
15.11.2012

This case be put up before the Final Bench I for further proceedings.


Chairman

3. 2.8.2012

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 17.8.2012.


Member.

4. 17.8.2012

M/S. Matiullah Advocate on behalf of counsel for the appellant, Shakirullah A.G.P alongwith Aurangzeb Awan S.O. Litigation for the respondents present. Both requested for adjournment. Case adjourned to 6.9.2012 for preliminary hearing.


Member.

5. 6.9.2012

Proxy to counsel for the appellant, Mr. Shakirullah A.G.P alongwith Mr. Aurangzeb Awan S.O for the respondents present. The former requested for adjournment. To come up for preliminary hearing on 22.10.2012.


MEMBER

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 726 of 20/2

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
1-	02/07/2012	<p>The appeal of Mst. Saima LHV presented today by Mr. Wakeel Zaman Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	5-7-2012	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>2-8-2012</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

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

Service Appeal No. 726 /2012

Mst. Saima

(Appellant)

V E R S U S

Additional Chief Secretary, FATA Secretariat Peshawar & Others

(Respondents)

INDEX

S. No	Description	Annexure	Page
1.	Appeal		1-4
2.	Affidavit		5
3.	Appointment Order	A	6
4.	Diploma	B	7
5.	Diploma	C	8
6.	Dismissal Order	D	9
7.	Representation	E	10
8.	Re-instated Orders	F-G	11-14
9.	Appointment Order of Dilbar Khan & Shakeel Ahmad	H. 9	15-16
10.	Wakalat Nama		

(Appellant)
Mst. Saima (LHV)

Through

Wakeel Zaman Khattak

& 

Muhammad Ayub Khattak
Advocates, Peshawar

Dated: 02 .08.2012

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

Service Appeal No. 726 /2012

A. W. J. Peshawar
722
20/2/12

Mst. Saima D/o Iman Gul, (LHV) DHQ Hospital Landi Kotal R/o Samar Bagh, Tehsil & District Peshawar.

(Appellant)

V E R S U S

- 1) Additional Chief Secretary, FATA Secretariat Peshawar
- 2) Agency Surgeon Khyber at Landi Kotal
- 3) Director Health Services FATA KPK, Peshawar

(Respondents)

Appeal against the order of Respondent No.2 dated 20.02.2012 whereby the appointment order of appellant as Lady Health Visitor was withdrawn and the appellant was removed from service with immediate effect from the post of LHV.

Prayer:

On acceptance of this appeal the appellant be re-instated to her original post of LHV with all the back benefits.

Facts of the Case:

- 1) That the appellant was appointed as Lady Health Visitor on the 26.05.2010 through recommendation of selection committee in BPS-09 (3820-230-10720) against the vacant post of ADP in Khyber Agency by

Respondent No.2. (Copy of appointment order is attached as Annexure A)

- 2) That the appellant has passed the Lady Health Visitor examination from the Nursing Examination Board NWFP / KPK in February 2009 and having being trained in the PHS Nishterabad, Peshawar. (Copy of LHV Diploma is attached as Annexure B)
- 3) That the appellant have been trained in the PHS Nistherabad Peshawar and has passed the Midwifery Examination in November 2007 with 1st Division and appellant is consider to attend cases of Normal Labour. (Copy of diploma is attached as Annexure C)
- 4) That the appellant was serving on the post, when the appellant was shocked to receive the office order No. 2787=2803/DHS/FATA dated 20.02.2012 vide which the appointment order of the appellant as well as other 12 employees and all of them were removed from service by the recommendation of enquiry officer as their appointment were made without observing the codal formalities. (Copy of dismissal order are attached as Annexure D)
- 3) That the appellant preferred a representation to the competent authority against the said removal order but of no avail hence this appeal before the Honourable Tribunal. (Copy of representation is attached as Annexure E)
- 4) That feeling aggrieved by the impugned order and finding no other adequate remedy, the appellant has left with no option but to approach this Honourable Court.

GROUND OF APPEAL:

Humbly Sheweth,

The appellant begs to submit the following ground inter-alia:

- a) That the impugned order dated 20.02.2012 of removal from service of the appellant is against law, facts and material on record, hence untenable.
- b) That the respondent No.3 has committed material illegality and irregularities and thus has arrived at a wrong conclusion not sustainable in the eye of law. Therefore appellant order is liable to be set aside.
- c) That the Director Health Services of FATA has not the competent authority to issue the impugned order dated 20.02.2012.
- d) That before issuance of the impugned order 20.02.2012 neither proper inquiry was conducted nor any charge sheet, show cause notice have issue to the appellant for defend herself on the charge level against her the impugned order of the respondent is base on malafide.
- e) That some of the employees removed from service along with the appellant upon the said impugned order No. 2787-2803/DHS/FATA/Admn dated 20.02.2012, have already been re-taken to the same post for the reason known best to the respondents. (Copies of re-instated employee are attached as Annexure F and G respectively)

It is therefore, prayed that on acceptance of this appeal the appellant may kindly be reinstated to his original post as Dai in the respondent department.

(Appellant)

Mst. Saima (LHV)

Through

Wakeel Zaman Khattak

&

Muhammad Ayub Khattak

Advocates, Peshawar

Dated: 2.07.2012

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

Service Appeal No. _____/2012

Mst. Saima

_____ (Appellant)


V E R S U S

Additional Chief Secretary, FATA Secretariat & others

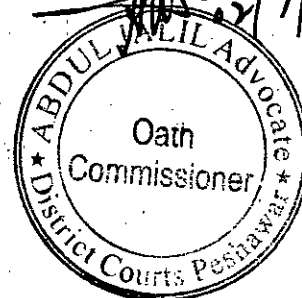
_____ (Respondents)

AFFIDAVIT

I, Mst. Saima D/o Iman Gul R/o Samar Bagh, Tehsil & District Peshawar do hereby solemnly affirm and declare Oath that the contents of the service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.


Mst. Saima
(LHV)

ATTESTED



OFFICE OF THE AGENCY SURGEON KHYBER,
AT LANDIKOTAL.

OFFICE ORDER.

On the recommenddation of selection committee Mst: Saima D/O Iman Gul Distt: Peshawar is hereby appointed as a Lady Health Visiter BPS-09 (3820- 230- 10720) at the vacant post of ADP - Scheme in Khyber Agency on the following terms and conditions:-

- 01- The appointment will be purely on contract basis.
- 02- The appointment is non transferable with in 05 years of tenure.
- 03- She will have to produce the Medical Certificate from Medical Supdt: Agency Head Quarter Hospital Landikotal.
- 04- Her service can be terminated at any time without assigning any reason or notice.

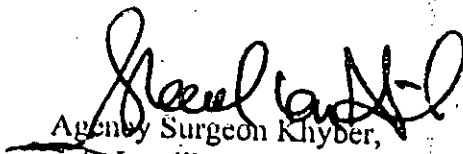
Sd/-xxxxxxx
Agency Surgeon Khyber,
At Landikotal.

No. 901-4 /AS-Khy:/PF dated LKL. 26 / 5 / 2010.

Copy forwarded to the:-

- 01-Director Health Services FATA-KPK-Peshawar.
- 02-Political Agent Khyber at Peshawar.
- 03-Agency Account officer Khyber at jamrud.
- 04-Official concerned.

For information please.


Agency Surgeon Khyber,
At Landikotal.


Mst. Zohra Khattak
Advocate
Peshawar Bar Association Pesh

SERIAL No. 03594

Diploma No. N.W.F.P. 3294 /NEB/LHV

Roll No. 115



Nursing Examination Board
NURSING EXAMINATION BOARD
N.W.F.P. PESHAWAR
LADY HEALTH VISITORS DIPLOMA

This is to Certify that Saima
Daughter/wife of Iman Gul
having been trained in the PHS, Nishterabad Peshawar
has passed in the LADY HEALTH VISITOR EXAMINATION of the Nursing
Examination Board N.W.F.P. held in February/November, 2009 and is considered
qualified to act as HEALTH VISITOR AND MATERNITY SUPERVISOR

She Passed in Second Division,

Ferhang Josephine
Vice-Chairman

Basim
Controller

NURSING EXAMINATION BOARD N.W.F.P.

Peshawar 11-May-09


Wakil
Amir Khattak
Advocate
Peshawar Bar Association Pesh

SERIAL No. 03453

Diploma No. N.W.F.P. 3859 /NEB/DM. SEC-II

Roll No. 126




Nursing Examination Board
DIPLOMA IN MIDWIFERY
SECTION II

This is to Certify that Saima
 Daughter/wife/of Iman Gul
 having been trained in the PHS, Nishitābad Peshāwar
 has passed the **MIDWIFERY EXAMINATION** of the Nursing Examination
 Board N.W.F.P. held in April/November, 2007 and is considered qualified
 to attend Cases of **NORMAL LABOUR.**

She Passed in First Division,

Leahang Joseph
 Vice-Chairman

Qureshi
 Controller

NURSING EXAMINATION BOARD N.W.F.P.

Peshawar 29-Mar-08

Wakil
 Advocate
 Peshawar Association Pesh

DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER:

As recommended by the Enquiry Officer the appointment orders of the following staff issued by the then Agency Surgeon Khyber at Jamrud without fulfilling codal formalities are hereby withdrawn and they are removed from service with immediate effect.

S/NO.	NAME WITH FATHER NAME	DESIGNATION
✓ 1	Mrs. Aina Bibi D/O Syed Anis Shah ✓	LHV
✓ 2	Mst. Nasim W/O Faisal Kamal ✓	Dai
✓ 3	Mst. Shahida W/O Shakirullah ✓	Dai
✓ 4	Mr. Zuz Muhammad S/O Jan Muhammad ✓	Chowkidar
✓ 5	Mst. Saima D/O Iman Gul ✓	LHV
✓ 6	Mr. Dilbar Khan	EPI Tech (GAVI)
✓ 7	Mr. Arqam Khan S/O Fazullah Khan ✓	EPI Tech (GAVI)
✓ 8	Mst. Razia Sultana D/O Ajab Khan ✓	LHV
✓ 9	Mr. Shakeel Ahmad S/O Abdul Haleem	Store Keeper
✓ 10	Mr. Akhtar Wali	Pharmacy Tech.
✓ 11	Mst. Laila D/O Jan Nisar ✓	LHV
✓ 12	Mr. Shah Muhammad S/O Abdur Rahim ✓	Malaria Supervisor
✓ 13	Mr. Mati Ullah S/O Bakht Jarnal ✓	Malaria Supervisor

Director Health Services
FATA, Peshawar.

No. 2797-2583 /DHS/FATA

Dated 20 /02/2012

Copy forwarded to:

1. Agency Surgeon Khyber at Jamrud.
 2. Deputy Director EPI, FATA.
 3. Agency Accounts Officer, Khyber at Jamrud.
 4. Officials concerned.
- For information & necessary action.

Director Health Services
FATA, Peshawar

(Signature)
Mr. Qamar
Asst. Secy. Health Services
FATA, Peshawar

محضور جناب ایڈیشنل چیف سپیکر ٹری صاحب فاٹا خیبر پختونخواہ پشاور

اپیل درخواست برائے بحالی سروس

جناب عالی!

مودبانہ گزارش ہے کہ مورخہ 20.02.2012 کو مجھے DHS FATA نے Terminate کیا ہے۔ وہ سراسر انصافی کی بنیاد پر کیا گیا ہے کیوں کہ:

جناب عالی! اس Order میں جو شاف Terminate ہو چکا ہے اس میں بھی بطور Lady Health Visitor پوسٹ پر تعینات تھی۔ اور مجھے بھی برطرف کیا گیا ہے۔ جو کہ میرے ساتھ بھی ظلم ہوا ہے۔ کیوں کہ اس وقت کے ایجنسی سرجن نے لوکل اشتہار لگائی تھی۔ جس کی بنیاد پر مذکورہ شاف اور میں نے Apply کی اور اس کے نتیجے میں بھرتی کیا گیا۔

لہذا آپ صاحب کی خدمت میں عرض کرتی ہوں کہ میرے Dismissal Order کو منسوخ کیا جا کر منکور فرمائیں۔ اور مجھے اپنے پوسٹ مصدقہ Lady Health Visitor پر بحال کیا جاوے۔

عین نواز ہوگی۔

آپ کا تاب
عداد

صائمہ دختر ایمان گل
(Lady Health Visitor)

مورخہ 05.03.2012

Wakil Zaidan Khattak
Peshawar
Advocate
Peshawar Bar Council
Peshawar

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMARUD.

NO. 685 /AS-KHY

DATED 13/31/2012.

TO.

The Director Health Services,
FATA Peshawar.

Subject:
Sir,

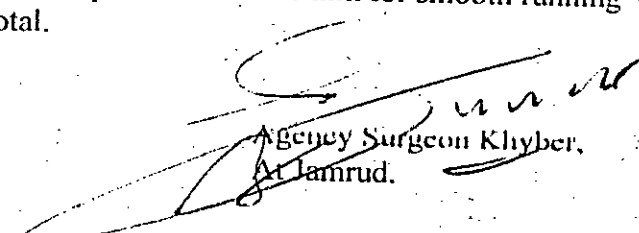
RE-INSTATEMENT OF SERVICE.


Reference your office order NO.2787-2808/DHS/FATA/
dated:20.02.2012

I have the honour to submit herewith application of Mr. Shakeel Ahmad S/O Abdul Haleem terminated employ self explanatory.

1. The post of storekeeper in AHQ:Hospital Landikotal was advertised in four News Papers namely "Frontier Post" "Aaj" "Wahdat" "Awamunnas" on October 31st 2009 (Copy attached for ready reference).
2. The Director Health Services FATA and Political Agent Khyber were requested to depute each member for interview /Selection of the Candidates against the vacancy of storekeeper under reference No.2090-91/AS-Khy dated: 19.11.2009 (Copy attached)
3. Mr. Niaz Assistant Director (Admn) was a member of selection committee from your office.
4. The selection committee recommended to Mr.Shakeel Ahmad S/O Abdul Haleem for the post of Storekeeper in AHQ:Hospital Landikotal. The then Agency Surgeon Khyber was appointed him on merit (Copy attached)

It is therefore requested to please re-instate him for smooth running of health work in AHQ:Hospital Landikotal.


Agency Surgeon Khyber,
At Jamarud.


Wakil Zaid Khan Khattak
Advocate
Peshawar Bar Association Pesh

DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

On acceptance of his appeal, Mr. Shakeel Ahmad Store Keeper attached to Agency Surgeon Khyber terminated vide this office order No. 2787-2803/DHS/FATA/Admn dated 20.02.2012 is hereby re-instated with effect from the date of termination.

.....sd.....
Director Health Services,
FATA, Peshawar.

No. 810-8-10 /DHS/FATA

Dated 25/05/2012

Copy forwarded to:

1. Agency Surgeon Khyber at Jamrud for information w/r to his letter No. 685/AS-Khy dated 13.03.2012.
 2. Agency Accounts Officer Khyber at Jamrud.
 3. Official concerned.
- For information and further necessary action.

Director Health Services,
FATA, Peshawar.

by
Mr. Mil Zaidi
Peshawar Bar Association Pesh

OFFICE OF THE DIRECTORSHIP OF HEALTH SERVICES FATA
FATA SECRETARIAT, RAJAH MOHAMMAD RAJAH,
PESHAWAR.

OFFICE ORDER.

On acceptance of his appeal, Mr. Shakeel Ahmad Store keeper attached to Agency Surgeon Khyber terminated vide this office order NO. 2787-2803/DHS/FATA/ gmsn dated: 20.2.2012 is hereby re-instated with effect from the date of termination.

.....Sd.....
Director Health Services,
FATA, Peshawar.

NO. 8106-10/DHS/FATA dated: 19.05.2012.

Copy forwarded to:-

1. Agency Surgeon Khyber at Jamrud for information w/c to his letter NO. 685/AS- khy dated: 13.3.2012.
2. Agency Accounts Officer Khyber at Jamrud.
3. Official concerned .

for information and further necessary action.

....Sd.....
Director Health Services,
FATA, Peshawar.

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

NO 1437-39 /AS-Khy

Dated 16/05 /2012.

Copy to :-

1. Medical Superintendent AHC Hospital Landikotal.
2. Agency Account Officer, Khyber at Jamrud.
3. Concerned Official.

Agency Surgeon Khyber,
at Jamrud.

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

NO _____ /AS-Khy

Copy to :-

1. Director Health Services, FATA w/r to his letter NO. 8106-10/ FATA dated: 15.5.2012.

Wakil Aman Khattak
Advocate
Peshawar
Agency Surgeon Khyber,
at Jamrud.

Re-11
File No. 7946-50

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER:

The termination orders of Mr. Dilbar Khari, EPI Technician (GAVI) and Mr. Akhtar Wali, Pharmacy Technician, (ADP employee) contained in this Directorate office order bearing endorsement No. 2787-2202/DHS/FATA dated 20/02/2012 is hereby withdrawn in the interest of public service with effect from the date of issuance.

.....sd.....
Director Health Services,
FATA, Peshawar.

No. 7946-50 /DHS/FATA

Dated 14/04/2012.

Copy forwarded to:

1. Agency Surgeon Khyber at Jamrud for information w/r to his letter No. 641/As-Khy dated 09/03/2012. He is directed to adjust the above named Officials on their original position of GAVI/ADP posts and vacate the regular posts under intimation to this Directorate.
 2. Deputy Director EPI FATA.
 3. Agency Accounts Officer, Khyber at Jamrud.
 4. Officials concerned.
- For information and necessary action.

Director Health Services
FATA, Peshawar.

by
MS
FATA

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

OFFICE ORDER.

The Service of Mr. Dilbar Khan EPI Tech GAVI Programme Khyber Agency is hereby regularized against the regular vacant of Jr. EPI Tech: on the following terms and conditions:

1. The appointment will be purely on contract basis.
2. The appointment is not transferrable within 05 years.
3. His service can be terminated any time without any reason.

Agency Surgeon Khyber,
At Jamrud.


NO 1863-67 /AS-Khy/

dated 30/8 /2010.

Copy to :-

1. Director Health Services FATA Peshawar.
2. Deputy Director EPI FATA.
3. FSMO Khyber.
4. Agency Account Officer Khyber.
- ✓ 5. Official Concerned.


Agency Surgeon Khyber,
At Jamrud.


Wakil Zaman
President
Peshawar Bar Association Pesh

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD

OFFICE ORDER

On the recommendation of the Departmental Selection Committee the competent authority is pleased to appoint Mr. Shakeel Ahmad S/O Abdul Haleem of Khyber Agency as Store Keeper in BPS 07 on contract basis on the terms and conditions laid down below:

1. His/Her appointment shall be for a period of 3 years on contract basis from the date of his/her joining in services and shall be extended on his satisfactory performance & will remain on probation for ONE year.
2. He/She is declared medically fit for this job.
3. His/Her appointment is purely on contract basis (prescribed under Government of NWFP Contract Policy 2005).
4. As the post is agency cadre, which is non-transferable, so he/she shall be bound to serve in Khyber Agency.
5. He/She shall not indulge in any trade, business and any other activity what so ever which has been declared prohibited for the Government Servants in Civil Servant Act 1973.
6. He/She shall be entitled for all those allowances admissible under the rules.
7. He/She will not be entitled for any TA/DA for joining service.
8. If he/she wishes to resign the services a prior notice of 60 days will be submitted or pay of 60 days should be deposited in lieu of resignation in Govt.
9. Salaries should be released after the verification of all the documents by the respective Agency Surgeon/Medical Superintendent from the concerned Board/Faculty etc.
10. He/She will submit undertaking on stamp paper on prescribed format prior to joining of the service.
11. The offer shall be automatically held cancelled if he/she fails to join the duty within 15 days of the receipt of this offer.

If he/she accepts the above terms and conditions, he/ she is directed to report for duty to the Agency Surgeon KHYBER AT JAMRUD for further posting at AHQH Landikotal, Khyber Agency.

Sd/xxxx
Agency Surgeon Khyber.

No. 734-38

Dated: 19 / 4 /2010.

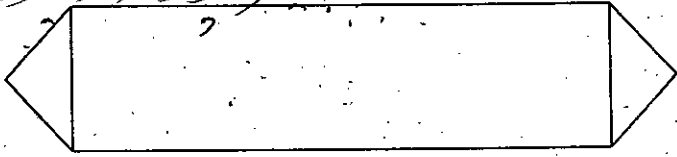
Copy for information and necessary action to:

1. Director Health Services, FATA Peshawar
2. Medical Superintendent, AHQH Landikotal, Khyber Agency
3. Agency Accounts Officer KHYBER.
4. Clerk for record at Agency Surgeon Office Khyber.
5. Official Concerned.

Agency Surgeon,
Khyber.

Wakil Danish Khattak
Peshawar Bar Association Pesh

بعدالت عینا ہر کچھ سوچو سوچو نہ ہوں کی بنا پر



مورخہ 2 جولائی 2012ء

2012ء پنجاب اسلام آباد

مقدمہ

دعویٰ سرحد میں رسول

صائمہ

اسلام آباد

جرم

بنام ایڈووکیٹ جنرل عرفہ کرمی خان

کیس نمبر 2012ء

Respondants

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام گماور کیلئے وکیل جن صاحب نے درخواست اور درخواست مقرر کر کے اقرار 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 پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے 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۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے جہانے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تارتخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

IA Hest ed
IA accepted
by
Dial
in
court
must

المرقوم 02 ماہ 2012ء

صائمہ

العبد العبد
مقام PESHAWAR کے لئے منظور ہے۔

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 726/2012

Mst. Saima

..... Appellant

Versus

Additional Chief Secretary (FATA) & Others

..... Respondents

Para wise joints comments on behalf of respondent No. 1 & 3.

Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honorable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for mis joinder & non-joinder of parties.
5. That the present appeal is barred by law.
6. That the appeal is not maintainable in its present form.
7. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed

Respectfully Sheweth;

ON FACTS

1. Incorrect, the appellant was appointed by the Agency Surgeon without fulfilling all the codel formalities.
2. Incorrect, the inquiry was conducted by the then Assistant Director (EPI) on a complaint against the appellant as well as their colleagues and recommended their termination due to non-fulfilling the codel formalities.
3. Correct, but the Departmental Appeal of the appellant was regretted on the mentioned grounds.
4. No Comments

ON GROUNDS

- A. Incorrect, the order dated 02-05-2010 is according to law, facts & material on record, hence untenable.
- B. Incorrect, the orders was completely illegal; therefore, the services of the appellant along with others were terminated.
- C. Incorrect, the Director Health Services FATA is the competent authority to cancel the illegal orders of Agency Surgeon
- D. Incorrect, since the initial appointment of the appellant along with others were totally illegal, therefore; there was no need of fulfilling codel formalities.
- E. Incorrect, the re-instated officials were actually adjusted as they were employees of the Health Department before, the appointment by the Agency Surgeon.

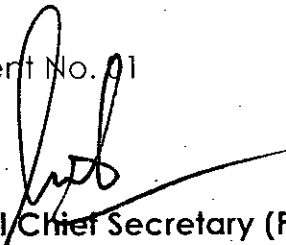
It is therefore most humbly prayed that the appeal devoid of merits/legal footing, may be dismissed with cost.

Respondent No. 03



**Director Health Services,
FATA Peshawar**

Respondent No. 01



**Additional Chief Secretary (FATA)
Peshawar**

(1)

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

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Mst. Saima

.....: Appellant

Versus

Additional Chief Secretary (FATA) & Others

..... Respondents

Para wise joints comments on behalf of respondent No. 1 & 3.

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FATA Peshawar**

Respondent No. 01



**Additional Chief Secretary (FATA)
Peshawar**