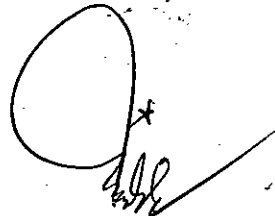


15.09.2020

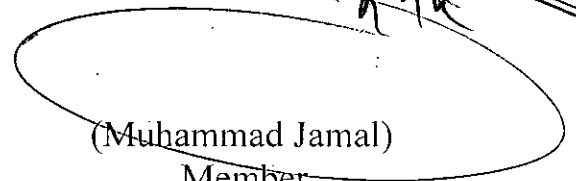
Mr. Sajid Ur Rehman, Advocate counsel for the appellant is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General, for respondents present.

Learned counsel for the appellant submitted that he has been instructed by the appellant to withdraw the instant appeal as the forum from where the remedies has been sought is elsewhere, therefore, as per request of the learned counsel this appeal stands withdrawn and is returned for approaching proper forum having jurisdiction in the matter. File be consigned to the record room

Announced:
15.09.2020




(Mian Muhammad)
Member(E)



(Muhammad Jamal)
Member
Camp Court A/Abad

20.12.2019

Counsel for the appellant present and requested for adjournment. Adjourned to 20.02.2020 for preliminary hearing before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.


Reader

Due to summer vacation case to come up for the same on 11/5
9 / 20 at camp court abbottabad.


Reader

25.10.2019

Learned counsel for the appellant present. Heard.

The appellant (LHV) filed the instant service appeal for regularization of her service w.e.f. her earlier appointment in the year 2003.

Vide order dated 28.07.2003, the appellant was appointed as LHV on contract basis (extendable) in the National Program for Family Planning & Primary Health Care District Haripur.

The appellant's services were terminated being non-resident vide order dated 27.05.2013.

Vide judgment dated 27.03.2019 passed in Writ Petition No.1279-A/2018 of the Hon'ble Peshawar High Court Abbottabad Bench, direction was issued to the respondents, to appoint the appellant as LHV. Consequently vide office order dated 20.05.2019, the appellant was appointed as LHV against the vacant post w.e.f. the date of taking over the charge.

From the judgment dated 27.03.2019 of the Hon'ble Peshawar High Court Abbottabad Bench and the appointment order dated 20.05.2019 mentioned above, learned counsel for the appellant could not make out the case for regularization of service of the appellant w.e.f. the year 2003.

Learned counsel for the appellant seeks adjournment for further assistance. Adjourn. To come up for preliminary arguments on 20.12.2019 before S.B at Camp Court, Abbottabad.



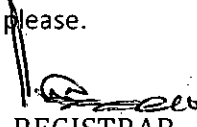
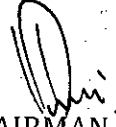
Member

Camp Court, Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1128/2019 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/09/2019	<p>The appeal of Mst. Shabana Kausar presented today by Mr. Sajid-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 5/9/19</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>25-10-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Ms Shabana Kausar Wife of Arshad Mehmood r/o village Mohra Ali Khan District Haripur received today i.e. on 28.08.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of termination order is illegible which may be replaced by legible/better one.
- 2- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1524 /S.T,

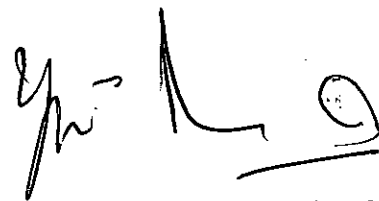
Dt. 28-8-2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Sijid-ur-Rehman Adv. Haripur

Respected Sir,

The objections raised by your good honor have been removed. Better copy of termination letter is at page no. 10-A. Moreover, one additional/extra copy/set is also attached. Files are resubmitted for fixation before the Tribunal please.



3/9/19.

Worthy Registrar sb.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 1128 /2019

Mst. Shabana Kausar

V/S

Govt. of KPK etc

SERVICE APPEAL

INDEX

S.#	Description	Annexure	Pages
1.	Memo of service appeal with affidavit and addresses of parties		
2.	Copy of appointment order	"A"	9
3.	Copy of termination order dated 27/05/2013	"B"	10
4.	Copy of recommendation	"C"	11-12
5.	Copies of WP No. 38-A/14 and Order dated 06.02.2018	"D"	13-14
6.	Copy of consideration letter dated 17.4.2018	"E"	15
7.	Copy of WP # 1279-A/18 and order dated 27.03.2019	"F"	16-25
8.	Copy of application for implementation of court order	"G"	26
9.	Copy appointment order dated 20.05.2019	"H"	27
10.	Copy of KP Regularization Act, 2014	"I"	28-32
11.	Copy of pay slip	"J"	33
12.	Copy of departmental appeal	"K"	34
13.	Copy of GPO receipt	"L"	35
14.	Wakalat Nama		36

Dated: 28-08 /2019

Shabana kausar

Appellant

Through

Ym R O
(SAJID UR REHMAN KHAN)

Advocate High Court,
At Haripur

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1244

Dated 28/8/2019

Service Appeal No. 112/8 /2019

Shabana Kausar daughter of Mir Muhammad, wife of Arshad Mehmood, resident of Village Mohra Ali Khan, Tehsil & District, Haripur.

...Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
2. Provincial Coordinator, LHW Programme for FP & PHC, Khyber Pakhtunkhwa PPIU, Peshawar.
3. District Health Officer, Haripur.

...RESPONDENTS

=====

SERVICE APPEAL FOR REGULARIZATION OF SERVICES OF APPELLANT AS PERMANENT AND REGULAR LHW ALONG WITH ALL BACK BENEFITS UNDER THE REGULARIZATION ACT 2014 ALONGWITH OTHER PERMANENT LHWS AT PAR.

=====

Filed to-day
Sumit
 Registrar 28/8/19

PRAYERS:-

Re-submitted to -day and filed.

[Signature]
 Registrar
 5/5/19

On acceptance of this service appeal, respondents be directed to regularize the services of appellant as permanent LHW since her appointment with all back benefits. Any other relief as may be deemed fit and proper in the circumstances of the case.

=====

Respectfully Sheweth: -

1. That the Appellant was appointed as LHW earlier in 2003 at BHU Shah Muhammad, Tehsil & District, Hariopur. Copy of appointment letter is annexed as **Annexure "A"**.
2. That the Appellant was illegally terminated on 27/05/2013. Copy of termination order is annexed as **Annexure "B"**.
3. That after the alleged baseless termination, Appellant approached to the office of District Health Officer, Haripur, who gone through the case of the Appellant and recommended for reinstatement of the Appellant to the Provincial Coordinator LHW Programme for FP&PHC KPK PPIU, Peshawar. Copy of the recommendation letter is annexed as **Annexure "C"**.
4. That the appellant filed a WP No. 38-A/14 before the Honourable Peshawar High Court Bench Abbottabad which was disposed of on 06.02.2018 with the direction to consider the case of appellant for reinstatement. Copies of WP No. 38-A/14 and order dated 06.02.108 are annexed as **Annexure "D"**.
5. That as per direction of Honourable Honourable Peshawar High Court Bench Abbottabad dated 06.02.2018, the Provincial Coordinator recommended the case of appellant for re-appointment a fresh appointment. Copy of

recommendation letter dated 17.04.2018 is annexed as **Annexure "E"**.

6. That against the illegal consideration for re-appointment/fresh appointment vide letter dated 17.04.2018, the appellant filed WP No. 1279-A/18 Honourable Peshawar High Court Abbottabad Bench which was decided on 27.03.2019. Copies of WP and Order dated 27.03.2019 are annexed as **Annexure "F"**.
7. That the appellant submitted an application for implementation of court order. Copy of application is annexed as **Annexure "G"**.
8. That the appellant was appointed as LHW in BPS-5 in the light of judgment of the Honourable Peshawar High Court Abbottabad Bench in WP No. 1279-A/18 decided on 27.03.2019 vide office order No. 5769-75/Estab/D/Apptt; dated 20.05.2019 by the District Health Officer, Haripur. Copy appointment order dated 20.05.2019 is annexed **Annexure "H"**.
9. That the similar other LHWs have already been regularized in the year 2012, the petitioner is also eligible and standing at the same footings. Copy of KP Regularization Act, 2014 is annexed as **Annexure "I"**.

10. That appellant being permanent employee of the respondents is withdrawing her salary in permanent category. Copy of salary slip is annexed as **Annexure "J"**.
11. That after taking over charge the appellant filed departmental appeal for her regularization with the others LHWs at par from the date of her appointment. Copy of departmental appeal is annexed as **Annexure "K"**
12. That the respondents repeatedly assured the appellant for her regularization from the date of her appointment but as the prevailing circumstances do not indicate any positive sight.
13. That the respondents neither passed any order upon the Departmental appeal of the appellant nor replied positive or negative, the Appellant come to this Honourable Court with the instant service appeal in hand, seeking setting aside of the impugned act of respondents being unwarranted at law and facts, inter-alia, on the following grounds;-

GROUND OF THE APPEAL;-

- a. That, the impugned act of respondents is illegal, unlawful, without lawful authority, arbitrary, perverse, against the principle of natural justice, hence, ineffective upon the rights of the Appellant and thus liable to be set-aside.

- b. That the impugned act of respondents is a sheer example of highhandedness and political motivation. Hence, liable to be set-aside.
- c. That, the impugned act of respondents is a worst example of discrimination and misuse of powers/ authority.
- d. That the respondents have already regularized the other LHWs under Act 2012 whereas the appellant has illegally and unlawfully deprived from her basic right.
- e. That from any stretch of imagination, respondents are not justified to the refusal of regularization of appellant especially when Act of 2012 is in field.
- f. That, respondents have not treated Appellant in accordance with law, rules and policy on the subject and unlawfully refused to regularize the services of appellant which is unjust, unfair, illegal, hence not sustainable in the eye of law.
- g. That there is no other efficacious, speedy or adequate remedy available to Appellant except the instant service appeal.
- h. That the other grounds shall be urged at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this service appeal, respondents be directed to regularize the services of appellant as permanent LHW since her appointment with all back benefits under the Regularization Act 2014 alongwith other permanent LHWs at par. Any other relief as may be deemed fit and proper in the circumstances of the case.

Dated: 28-08/2019

Shabane Kase

Appellant

Through

[Signature]

(SAJID UR REHMAN KHAN)

Advocate High Court,

At Haripur

VERIFICATION:-

Verified on oath that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

Dated: 28-08/2019

Shabane Kase

Appellant

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2019

Mst. Shabana Kausar V/S Govt. of KPK etc

SERVICE APPEAL

AFFIDAVIT

I, Shabana Kausar daughter of Mir Muhammad, wife of Arshad Mehmood, resident of Village Mohra Ali Khan, Tehsil & District, Haripur, do hereby declare on oath that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and that nothing has been suppressed form this Honourable Court.

Dated 28/8/19

Deponent
Shabana Kausar

Shabana Kausar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2019

Mst. Shabana Kausar V/S Govt. of KPK etc

SERVICE APPEAL

ADDRESSES OF THE PARTIES

APPELLANT

Shabana Kausar daughter of Mir Muhammad, wife of Arshad Mehmood, resident of Village Mohra Ali Khan, Tehsil & District, Haripur.

RESPONDENTS

1. Govt. of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
2. Provincial Coordinator, LHW Programme for FP & PHC, Khyber Pakhtunkhwa PPIU, Peshawar.
3. District Health Officer, Haripur.

Dated: 28/08 /2019

Appellant

Shabana Kausar

[Signature]

(SAJID UR REHMAN KHAN)

Advocate High Court,
At Haripur

Through

نیشنل پروگرام برائے خاندانی منصوبہ بندی اور بنیادی صحت، ضلع سرسید پور
اور ڈی ڈی افسیے اور جناب ڈی ایچ ایچ اور ڈی ڈی

Bated 28-7-03
3848-29
ڈی ایچ ایچ آفس سرسید پور
صوبہ سندھ
ضلع سرسید پور

تعمیراتی ضلع سرسید پور
ڈی ایچ ایچ آفس سرسید پور
ڈی ایچ ایچ آفس سرسید پور

- ۱۔ آپ کا کتاب خانہ سارا سارا مادی بنا کر ہٹا دیا جائے۔
- ۲۔ آپ کا کتاب خانہ پندرہ سال کی مدت کے لیے ہوگا۔ تمام نئی نئی کتابوں کی صورت میں اس کتاب خانہ میں تو جمع ہوتی رہے گی۔
- ۳۔ آپ کے بعد آپ کو پندرہ سال کی فرائض حاصل ہونے والے ہیں (60) اور اس وقت تک ستر کا ملا آپ کو فرائض دے گا۔ فرائض ہفتہ میں ایک بار (پندرہ سال کی عمر تک) ہونے لگے گا۔ آپ کو اپنے علاقہ میں فرائض دینے کے لیے آئے گا۔
- ۴۔ آپ کو پندرہ سال کی فرائض کے دوران پچاس (50) روپے فی ماہ اور ان کے بعد ہر ماہ 100 روپے یا اس سے زیادہ پائے گا۔
- ۵۔ پندرہ سال کی فرائض کے بعد آپ کو اس پروگرام میں کم از کم ایک سال کی خدمات سرانجام دینا ہوں گی۔ جس کے لیے آپ کو فرائض شروع کرنے سے پہلے پچاس (50) روپے کے حساب سے ہر ماہ ملنے لگیں گی۔ اگر آپ اس فرائض کے دوران مستحق ہونا چاہیں تو آپ اسٹیبلشمنٹ کی منظوری تک وصول پانے کے لیے فرائض کی تمام توہم و اجس جمع کرانا ہوں گی۔
- ۶۔ بیان ملنے کی مدت ختم ہونے کے بعد آپ مستحق ہونا چاہیں تو آپ کو ایک ماہ پہلے نوٹس جمع کرانا ہونا چاہیے۔
- ۷۔ اگر جانے کی صورت میں دیکھ کر اذکار۔
- ۸۔ آپ کو پروگرام کی ضرورت کے مطابق اپنے گھر کو "سیٹھ ہاؤس" بنا دینا ہے۔ آپ کو کھانے کے لوگوں کے ساتھ مل کر کام کرنا ہوگا اور اس لیے میں آپ کو اپنی پرواز اور رازداری صحت کے لیے ایک صحت کینی اور ضرورتوں کا کروٹ پھرت دینا ہوگا۔
- ۹۔ آپ اس امر کی پابندی ہوں گی کہ آپ پرواز کے دوران کے وقت موجود ہوں۔ اس سلسلہ میں آپ ان کی مدد بھی کریں گی۔
- ۱۰۔ آپ کو فرائض تک آف پاکستان کی کسی برانچ میں اکاؤنٹ منیجر ہونا ہوگا۔ آپ کے مشغلہ علاقہ کے قریب ترین ہونا اور اس مشغلہ میں داخل ہونا چاہیے۔

Attested to be True Copy
Sajid ul Rehman Khan
Advocate High Court Haripur

۱۱۔ آپ کو ستاتر مرکز صحت سے وصول ہانے والے تمام سامان کا ریکارڈ رکھنا، دوگوارا استعمال ہونے والے سامان کی تفصیل مرکز صحت سے ہی وصولی کے وقت جمع کروانی ہوگی۔

۱۲۔ آپ کو مائع عمل کی اشیاء (کنڈوم اور گولیاں) کی فروخت سے وصول ہانے والی رقم کا حساب برکھانا ہوگا اور اس کی تفصیل ہر ماہ مرکز صحت میں جمع کروانا ہوگی۔ غلام پورٹ کرنے یا مائع عمل کی اشیاء غیر متعلقہ کو روکنے یا روکنا توں پر پتھنے کی صورت میں آپ کو ذریعہ طور پر مطلع کروایا جائیگا اور آپ کے خلاف کارروائی عمل میں آئی جائے گی۔ جس میں وصول ہانے والی رقم کی تمام رقم کی واپسی بھی شامل ہے۔

۱۳۔ آپ کو ستاتر مرکز صحت میں ہر ماہ کے پہلے اختتامی صورتہ فارم پر اپنی کارکردگی کے متعلق امانت پورٹ بھی کروانی ہوگی۔

۱۴۔ آپ ایک سال کے دوران میں (۳۰) دن کی باقاعدگی رکھنے پر جانے کے لئے آپ کو ستاتر مرکز صحت سے اطلاع دی جائے ہوگی۔

۱۵۔ آپ کو دوران عمل میں (۳۰) دن کی رخصت پر جانے کی ضرورت ہے۔ اس دوران پہلے سے شروع ہو کر رخصتی کے دن دن بعد تک ہوگا۔ اس کے بعد آپ ایساٹھ ماہوں میں فراخس سرانجام دینا شروع کر دیکھیں اور رخصتی کے ایک ماہ کے اندر دوبارہ ٹیڈرٹ شروع کر دیں گی۔

۱۶۔ ٹریڈنگ حاصل کرنے یا ملانے میں وزارت کے دوران آپ کسی TANDA کی حقدار نہ ہوگی۔

۱۷۔ اگر کسی بھی اس بات کی تصدیق ہوگی کہ آپ نے اپنی تعلیم مکرر بائیس گاہ اور دیگر شرائط کے مطابق ملاصورتوں میں ہیں تو آپ کی خدمات بغیر کسی نوٹس کے ختم تصور کی جائیں گی اور آپ کو دوران ٹریڈنگ اور اس کے بعد وصول ہانے والے اڑھائی کی تمام رقم منگوانا ہوگی۔

۱۸۔ آپ کی خدمات سول سروس ایکٹ ۱۹۷۱ء کے تحت تصور کی جائیں گی بلکہ آپ کو اس لحاظ کی شرائط کی پابندی کرنا ہوگی جن سے کہ آپ کو تعلق تھا یا تھا۔ کیا جائے گا اور یہ کہ آپ کسی بھی قانونی یا دوسری کی حقدار نہ ہوگی۔

۱۹۔ آپ کی خدمات کسی بھی وقت بغیر نوٹس کے یا بغیر وجہ دیا جاسکتے ہیں۔

۲۰۔ اگر آپ کو پیمانہ کر دیا گیا ہے اور منظور کرتی ہیں تو آپ کو ہدایت کی جائے کہ آپ ہر دفعہ (۲۰۰) سے / کوٹھ S:30 سے

نوشہ سنہ ۱۹۷۱ء اور اس کے تحت ضرورت پر سامت ہونے سے قاصر ہیں تو آپ کا کتاب خود بخود ختم سمجھا جائے گا۔

ڈسٹرکٹ آفیسر ایلتھ

سرکاری نوٹ

معاون مہاشے اطلاع

ڈسٹرکٹ آفیسر ایلتھ، سرکار ہائے صحت، ضلع

پورٹ

سرکار ہائے صحت، ضلع

Annex (B)

GOVERNMENT OF PAKISTAN
DPIU LHW PROGRAM FOR FF&PHC

NO: 275-16 DATED: 27/5/13

10
Ann-B

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH HARIPUR

OFFICE ORDER

M/MRS: Shahana Kousar DISTRICT OFFICER Mrs. Muhammad

FILE NO: 40337-3 at PHC Muz. Branch

Resident of village: Mohda Ali Khan etc. Ali Khan

Attached to SHURHCICH: Shah Muhammad Working As:

(LHW/LHS/Driver) on contract basis with National Program for PP&PHC of this district is hereby terminated from service with immediate effect due to the reason that

She is (MR) not living in her own Community. LHW has deserted to shifted her health house. He is still living in the village Mohda Ali Khan in the Community of Gul Naz.

She is directed:

- 1) To immediately deposit back all the assets of National Program for Family Planning & PHC are in his custody to this office.
- 2) To back all the stipend received amounting to Rs. _____ because of termination during his _____

EXECUTIVE DISTRICT OFFICER
HEALTH HARIPUR

- Copy to:
- 1) Provincial Coordinator LHW Program for FF&PHC KPK PPIU Peshawar
 - 2) LHS Concerned

EXECUTIVE DISTRICT OFFICER
HEALTH HARIPUR

10-A

BETTER COPY

GOVERNMENT OF PAKISTAN
DPIU – LHW PROGRAM FOR FR&PHC HARIPUR
No. 2415-16 dated 27.05.2013

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH HARIPUR

OFFICE ORDER

Mr. / Mrs. **SHABANA KAUSAR** D/O **MIR MUHAMMAD**

HBL Account No. **40337-3** at **HBL Main Branch**

Resident of **Village Mohra Ali Khan U.C Ali Khan**

Attached to BHU / RHC / CH **Shah Mohammad** working as

(LHW)/LHS/Driver on contract basis with National Program for FP & PHC of this District is hereby terminated from duty with immediate effect due to the reason that

She is (NR) not working in her base community, LHW has directed to shifted her health base but she is still living in the Village Mohra Ali Khan in the community of Gul Naz

She is directed

1. To immediately deposit back all the assets of National Program for Family Planning and PHC are in the custody to this office
2. To back all the stipend receipt amounting to Rs. _____ because of termination during period

Sd/-
Executive District Officer
Health Haripur

Copy to

1. Provincial Coordinator LHW Program for FP & PHC KPK PPIU Peshawar
2. LHS concerned

Sd/-
Executive District Officer
Health Haripur

C 11



Government of Pakistan
Ministry of Health (Provincial PIU - NWFP)
National Program for Family Planning & Primary Health Care

LHW Re-appointment Recommendation Form

District Haripur

Part A:

- Name of EDO (Health) recommending Re-appointment Dr. Shoaib Ali (Canton)
- Name of Dist. Coordinator recommending Re-appointment Dr. Farhat
- Name of LHS who carried out initial Verification of Re-appointment Kausar

Part B:

- Name of LHW to be re-appointed Shahbana Kausar
- Father/Husband Name Mrs. Muhammad
- LHW Code Number 013
- LHW Bank Account Number 6037-3
- Bank Name & Code HBI Main Branch 0188
- LHW Catchment population is Rural Urban Urban Slum (Please tick one)
- Address Mahve Ali Khan wife Ali Khan
District & Tehsil Haripur

8. Reasons for termination of contract (Please tick one)

Resignation	NR	Poor Performance	Drop out from Training
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

due to marriage

- Date of termination: 27/11/2013
- Whether Completed 15 Months Training Yes No (Please tick one)
- Total Length of Previous Service as LHW 10 years
- Reasons for recommending her for Re-appointment

She was living in the LHW Gul Naz Community also she was married, Now she has committed to live with her parents and work in her base community.

Part C:

- Name of FLCF to which she will be attached BHU Shal. Muhammad
- FLCF Code to which she will be attached 073
- Nature of FLCF area Rural Urban Urban Slum (Please tick one)
- No. of LHW attached with FLCF (working + under 3 month training) 28
- Total Population of the FLCF 31056
- Total Population Covered by LHWs 22081

Attested to be True Copy

[Signature]
District High Court Haripur

Form: Date of re-appointment request form

Home No. _____

Post. road, _____

The Mall, Peshawar Cantt. Phone/Fax: 92135467.

www.fhi.org



- 7. Population registered by said LHW at the time of termination/resignation. 895
- 8. Proposed registerable Catchment population of LHW after Re-appointment. 1500
- 9. Is there any on going 12 Months training in her Base FLCF? Yes No (Please tick one)

Part D:

- 1. Nature of terrain of catchment area of FLCF. Plain Hilly (Please tick one)
- 2. Population Density of the area (Please tick one)

Thickly Populated	Scattered Population	Hard to reach population
	✓	

- 3. Any other comment about terrain and population etc.

We Certify that:

- 1. The population per LHW in the catchment area of her Base FLCF is according to Progr recruitment policy.
- 2. There is no overlapping of LHWs in the catchment area of her Base FLCF which may require a termination or readjustment in future.
- 3. Her Knowledge and skills have been tested and found suitable for Re-appointment.

[Signature]
ADC/LHS Concerned

[Signature]
EDO (Health)

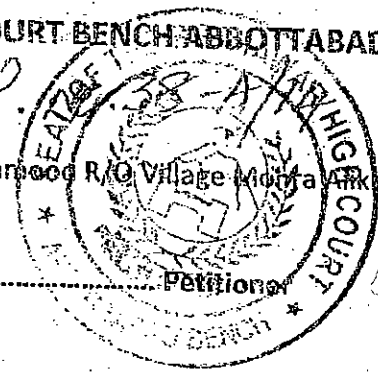
[Signature]
District Coordinator
NP for FP & PHC

Attested to be True Copy
[Signature]
Sajid-ur-Rehman
Advocate High Court Haripur

BEFORE THE HON'ABLE PESHAWAR HIGH COURT BENCH ABBOTTABAD

WP.

Shabana kausar D/O Mir Muhammad W/O Arshad Mehmood R/O Village Motta Ankan Tehsil and District Haripur Hazara.



VERSUS

1. Secretary Health, Civil Secretariat Peshawar KPK.
2. Provincial Coordinator LHW Program for FP & PHC KPK PPIU Peshawar.
3. District Health Officer Haripur.
4. Executive District Health Officer, Haripur.
5. In charge BHU Centre Shah Muhammad Haripur.
6. Supervisor at BHU Shah Muhammad for National Program for Family Planning and Basic Health District Haripur.
7. The state

..... Respondents

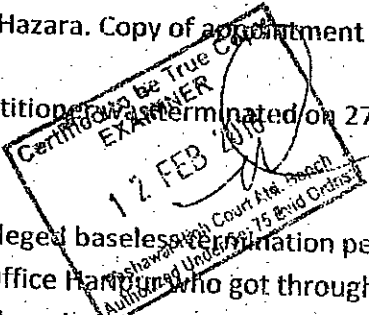
WRIT PETITION UNDER ARTICLE 199 OF CONSTITUTION OF PAKISTAN 1973

PRAYER: PETITION FOR SETTING ASIDE THE TERMINATION OF PETITIONER AND ORDER MAY KINDLY BE PASSED FOR REINSTATEMENT OF PETITIONER AGAINST THE POST LHW AT BHU SHAH MUHAMMAD HARIPUR

Respectfully sheweth;

FACTS OF THE PETITION:

1. That the petitioner was appointed as LHW at BHU Shah Muhammad Tehsil & District Haripur Hazara. Copy of appointment letter is annexed as annexure "A".
2. That that the petitioner was terminated on 27-05-13. Copy is annexed as annexure "B".
3. That after the alleged baseless termination petitioner approached to the office of District Health Office Haripur who got through the case of the petitioner and recommended the reinstatement of the petitioner to the Provincial Coordinator LHW Program for FP & PHC KPK PPIU Peshawar. Copy of the letter is annexed as annexure "C".
4. That the respondents repeatedly assured the petitioner her reinstatement but as the prevailing circumstances do not indicate any positive sight hence petitioner approached the Hon'able Court.
5. That as there is no other efficacious remedy available to the petitioner; the petitioner approached the Hon'able Court to seek justice in form of the instant writ petition.

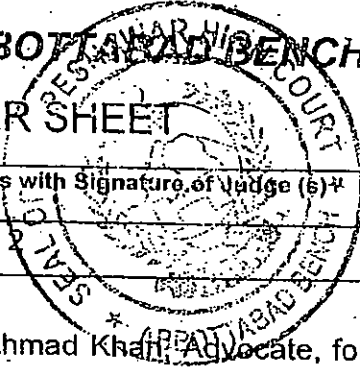


Attested to be True Copy
Sajid Ali P. Khan
Advocate High Court Haripur

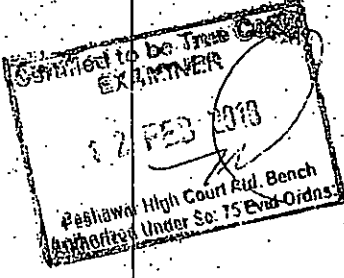
Arshad



PESHAWAR HIGH COURT, ABBOTTABAD BENCH.
FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)*
1	
06.02.2018	<p><u>W.P.No. 38-A/2014.</u></p> <p>Present: Mr. Mushtaq Ahmad Khan, Advocate, for the petitioner.</p> <p>Mr. Yasir Zahoor Abbasi, Assistant A.G for the respondents.</p> <p>***</p> <p>LAL JAN KHATTAK, J.- This petition is directed against the order dated 27.05.2013 of the respondent No.4 whereby the petitioner's services have been terminated.</p> <p>2. Facts of the case need no reiteration as the learned Assistant Advocate General at the very outset stated at the bar that as per parawise comments of the respondents, case of the petitioner for her reinstatement is pending before the <u>respondent No.2</u>, therefore, same be sent to him for its disposal in accordance with law, to which learned counsel for the petitioner readily agreed.</p> <p>3. In view of the above, this petition is disposed of in terms that the petitioner's case, pending before the respondent No.2, for her reinstatement be considered by the respondent within a period of one month.</p>



Self judge
Self judge

Attested to be True Copy
Advocate High Court Muzaffargarh

Sail, PS.

Hon'ble Mr. Justice Lal Jan Khattak
Hon'ble Mr. Justice Syed Arshad Ali



**DIRECTORATE GENERAL HEALTH SERVICES
(INTEGRATED HEALTH PROJECT)
KHYBER PAKHTUNKHWA, PESHAWAR.**

Phone: (Office): 091 9216344 - Fax: 091 9216346

(E) 15

No. 2517-21 DHS/IHP/2016-17

Dated: 17 - 04-2018

To,

Mrs Shabana kousar w/o Arshid Mahmood
Village Mohrra Ali Khan,
District Haripur.
(Contact: 03335081420)

Handwritten signature and stamp

Subject: CONSIDERATION OF APPEAL OF SHABANA KOUSAR UNDER COURT JUDGEMENT
DATED 05-02-2018 IN WP NO 38-A/2014.

It is with reference to the court judgment dated 05-02-2018 in WP No 38-A/2014 wherein the Honorable court has decided that the respondent No.2 (Provincial Coordinator LHW Programme) shall consider the case of the petitioner as per Law within a period of one month.

Consequent upon the above, the undersigned constituted the reinstatement committee under the procedure as reflected in the PC-1 of the LHW Programme vide inquiry office order No 1442-49/DHS/IHP/2016-17 dated 01/03/2018. The committee submitted its report along with recommendations to the undersigned.

As per the inquiry report, the petitioner has been terminated on basis of NR (None Resident). As per PC-1, an LHW is terminated directly by the DHO, if she is reported NR. In the case of the petitioner, the LHS concerned has reported the NR status of the petitioner to the DHO and consequently she was terminated. The report further clarifies the Programme status which has been windup and fresh appointment cannot be made upon resignation/termination/retirement of the existing staff. The inquiry committee recommended on humanitarian ground that the petitioner may be appointed under IHP a fresh as and when a seat is advertised/became vacant /available.

Signature of Project Director
PROJECT DIRECTOR
INTEGRATED HEALTH PROJECT
KHYBER PAKHTUNKHWA
16/04/18

COPY FOR INFORMATION TO:

1. Registrar Peshawar High Court Abbottabad Bench in WP NO 38-A/2014.
2. Director General Health Services Khyber Pakhtunkhwa.
3. Project Director Integrated Health Project Khyber Pakhtunkhwa Peshawar with the request to consider the appeal of the Petitioner for appointment on humanitarian ground.
4. District Health Officer Haripur.
5. PS to Secretary Health Khyber Pakhtunkhwa Peshawar.

Attested to be True Copy

Signature of Sajid-ur-Rehman Khan
Sajid-ur-Rehman Khan
Advocate High Court Haripur

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 1279-A/2018

Shabana Kausar daughter of Mir Muhammad, wife of Arshad Mehmood, resident of Village Mohra Ali Khan, Tehsil & District, Haripur.

...PETITIONER

VERSUS

1. Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. Provincial Coordinator, LHW Programme for FP & PHC, Khyber Pakhtunkhwa PPIU, Peshawar.
3. District Health Officer, Haripur.
4. Executive District Health Officer, Haripur.
5. Incharge, BHU Centre Shah Muhammad, Haripur.
6. Supervisor at BHU Shah Muhammad for National Programme for Family Planning & Basic Health, District Haripur.

...RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973, FOR ISSUANCE OF A DECLARATION TO THE EFFECT THAT IN THE LIGHT OF ORDER DATED 06/02/2018 PASSED BY THIS HONOURABLE COURT IN WRIT PETITION NO.38-A/2014, THE PETITIONER BE REINSTATED AT HER POSITION BUT

Attention to be given to this copy
Sd/-
District Health Officer
Haripur
Peshawar High Court Haripur

THE RESPONDENTS HAVE FAILED TO DO THE NEEDFUL, THE SAID ACT OF RESPONDENTS IS ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, ARBITRARY, PERVERSE, AND CONSEQUENTLY OF NO LEGAL EFFECT UPON THE RIGHTS OF PETITIONER.

PRAYERS:- ON ACCEPTANCE OF THIS WRIT PETITION, THE IMPUGNED ACT OF RESPONDENT IN NOT REINSTATING THE PETITIONER AT HER POSITION MAY GRACIOUSLY BE DECLARED NULL AND VOID AND RESPONDENTS BE DIRECTED TO REINSTATE THE PETITIONER IN THE LIGHT OF ORDER DATED 06/02/2018 PASSED BY THIS HONOURABLE COURT. ANY OTHER RELIEF AS MAY BE DEEMED FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE.

Respectfully Sheweth: -

1. That the petitioner was appointed as LHW at BHU Shah Muhammad, Tehsil & District, Hariopur. Copy of appointment letter is annexed as Annexure "A".
2. That the petitioner was terminated on 27/05/2013. Copy of termination order is annexed as Annexure "B".

Requested to be true Copy
 Sr. Clerk
 High Court Hariopur

- 3. That after the alleged baseless termination, petitioner approached to the office of District Health Officer, Haripur, who got through the case of the petitioner and recommended for reinstatement of the petitioner to the Provincial Coordinator LHW Programme for FP&PHC KPK PPIU, Peshawar. Copy of the letter is annexed as Annexure "C".
- 4. That the respondents repeatedly assured the petitioner for her instatement but as the prevailing circumstances do not indicate any positive sight.
- 5. That feeling aggrieved of the impugned act of respondents, the petitioner filed writ petition No.38-A/2014 before this Honourable Court, which was disposed of in the following terms;

"In view of the above, this petition is disposed of in terms that the petitioner's case, pending before respondent No.2 for her reinstatement be considered by the respondent within a period of one month".

Copies of writ petition and order dated 06/02/2018 are annexed as Annexure "D" & "E".

- 6. That after lapse of 08 months, the respondents' department did not reinstate the petitioner as directed by this Honourable Court.

Attested to be True Copy
 Syed-ul-Hasan
 Advocate High Court Haripur

7. That, faced with the situation, the petitioner once again come to this Honourable Court with the instant petition in hand, seeking setting aside of the impugned act of respondents being unwarranted at law and facts, inter-alia, on the following grounds:-

GROUNDS:-

- a. That, the impugned act of respondents is illegal, unlawful, without lawful authority, arbitrary, perverse, against the principle of natural justice, hence, ineffective upon the rights of the petitioner and thus liable to be set-aside.
- b. That the impugned act of respondents is a sheer example of highhandedness and political motivation. Hence, liable to be set-aside.
- c. That, the impugned act of respondents is a worst example of discrimination and misuse of powers/ authority.
- d. That despite clear directions from this Honourable Court to the respondents, the respondents are reluctant to obey the order/ directions passed by this Honourable Court and are bent upon to reinstate the petitioner.

Attested to be True Copy
Sajid
 Advocate
 High Court Haripur

- e. That the act of respondents also falls within the ambit of contempt of court of order passed by this August Court.
- f. That from any stretch of imagination, respondents are not justified the refusal of reinstatement of petitioner especially when clear order/ directions has been passed by this Honourable Court.
- g. That, respondents have not treated petitioner in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully refused to reinstate the petitioner which is unjust, unfair, illegal, hence not sustainable in the eye of law.
- h. That under Section-24-A of General Clauses Act, 1897, where any authority is vested with the power to make any order, such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment under which the power is conferred but in the case in hand the power was not exercised as such rather the same was misused arbitrarily to the detriment of petitioner without any rhyme or reason, therefore, the impugned act of respondent is not legally maintainable.

Attended to be True Copy
 Sajid M. Khan
 Advocate
 High Court Harbour

- i. That there is no other efficacious, speedy or adequate remedy available to petitioner except the instant constitutional petition.
- j. That notice of writ petition has been sent to the respondents through registered post AD. Copies of notice and postal receipts are attached herewith as Annexure "F".
- k. That a court fee stamp of Rs. 500/- is attached.
- l. That the other grounds shall be urged at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this writ petition, the impugned act of respondent in not reinstating the petitioner at her position may graciously be declared null and void and respondents be directed to reinstate the petitioner in the light of order dated 06/02/2018 passed by this Honourable Court. Any other relief as may be deemed fit and proper in the circumstances of the case.

Shabana Kousar
...PETITIONER

Dated: 16/11 /2018

Through

Sajid Ur Rehman Khan
(SAJID UR REHMAN KHAN)
Advocate High Court, at Haripur

VERIFICATION:-

Verified on oath that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

Attested to be True Copy

Sajid Ur Rehman Khan
Advocate High Court Haripur

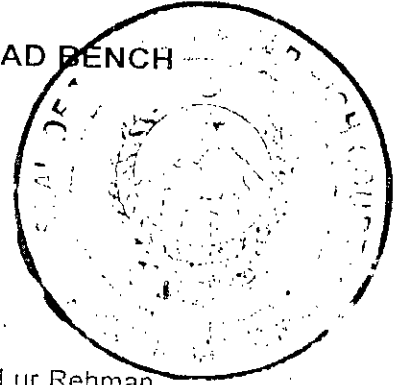
Shabana Kousar
...PETITIONER

PESHAWAR HIGH COURT ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

JUDGMENT SHEET

WP No. 1279-A/2018



Date of hearing:27.03.2019.....

Petitioners....(Mst. Shabana Kausar) by Mr. Sajid ur Rehman Khan, Advocate.

Respondents....(Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar & 05 others) By Sardar Muhammad Asif, Assistant AG.

LAL JAN KHATTAK, J. Petitioner through this petition under Article 199 of the Constitution of the Islamic of Republic of Pakistan, 1973, has prayed this court for issuance of a writ directing the respondents to reinstate her in service after setting aside the order of her termination from service dated 27.05.2013.

Jan

2. Brief facts of the case are that vide order dated 01.08.2003, petitioner was appointed as Lady Health Worker (LHW) at BHU Shah Muhammad, Tehsil and District Haripur on the recommendations of the selection committee. She worked there as such for a considerable period whereafter vide order dated 27.05.2013 she was

SCANNED

Certified to be True Copy
EXAMINER
30 MAR 2019
Peshawar High Court Abbottabad Bench
Authorized Under Sec: 75 Evid O: 8

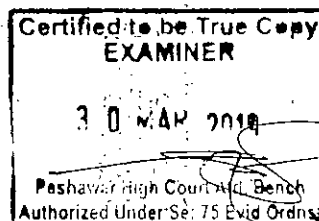
Attested to be True Copy
Sajid ur Rehman Khan
Advocate High Court Haripur

fired from service on the ground of her being non-resident (NR). She impugned her termination before this court in writ petition No. 38-A/2014 which was disposed of by this court on 06.02.2018 whereby directions were given to the respondents to dispose of her case within a period of one (01) month. Pursuant to the ibid order respondents constituted a committee which on 17.04.2018, inter alia, recommended that on humanitarian ground the petitioner be appointed under IHP afresh as and when a vacancy becomes available. Failure of the respondents to appoint the petitioner as per recommendations of the committee has constrained her to approach this court through the petition in hand.

Gaur

3. Arguments heard and record gone through.

4. Perusal of the case record would show that way back in the year 2003 petitioner was appointed as LHW at her Union Council where she worked till 2013 whereafter she was fired from service on the sole ground of her being non-resident, a status necessary for the Lady Health

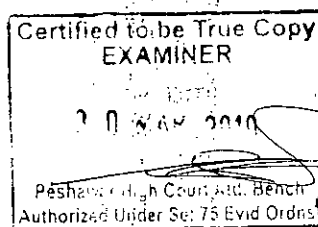


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Sajid-ur-Rahman Khan
Advocate High Court Hangzhou

Workers. Not only that the petitioner has annexed so many affidavits with her petition according to which she is a resident of Shah Muhammad i.e. the place of her posting, which affidavits have not been converted by the respondents through any counter affidavit but the petitioner had continuously performed her duties at BHU Shah Muhammad and there is no complaint of any nature with the respondents which could show that she was not residing in the place of her duties as alleged by the respondents. In addition, the reinstatement committee has also recommended to the department for appointment of the petitioner if and when a post becomes available. Learned counsel for the petitioner stated at the bar that the post wherefrom the petitioner was removed is still lying vacant.

Gan

5. As the petitioner had served the department almost for a decade and was removed from service on ground not sufficiently proved coupled with the recommendations for her appointment made by the reinstatement committee and availability of the post, as per statement of the



Attested to be True Copy
Sajid-ur-Rehman K.F.M.
Advocate High Court Peshawar

learned counsel made at the bar, we accept this petition and direct the respondents to appoint the petitioner as LHW.

Announced
Dt. 27.03.2019

Arshad Iqbal

Certified to be True Copy
EXAMINER
10 MAR 2019
Peshawar High Court Attd. Bench
Authorized Under Sec: 75 Evid Ordns.

Sd/- Judge,

Sd/- Judge,

Attested to be True Copy

Sajid ur Rehman Khattak
Peshawar High Court

بخدمت جناب ڈسٹرکٹ ہیلتھ آفیسر صاحب ہری پور

درخواست برائے عملدرآمد کئے جانے فیصلہ عدالت پشاور ہائی کورٹ بیچ ایبٹ آباد برٹ پٹیشن نمبر
1279-A/18 "مسماۃ شبانہ کوثر بنام سیکرٹری ہیلتھ وغیرہ" فیصلہ مورخہ 27.03.2019

جناب عالی!

- ۱۔ یہ کہ من سائلہ سال 2003 سے بطور لیڈی ہیلتھ ورکر appoint ہو کر کام کر رہی تھی کہ مورخہ 27.05.2013 کو من سائلہ کو terminate کر دیا گیا۔ نقل termination آرڈر لف ہے۔
- ۲۔ یہ کہ من سائلہ نے بعد ازاں اپنی termination کے خلاف عدالت عالیہ پشاور ہائی کورٹ بیچ ایبٹ آباد میں رٹ پٹیشن نمبر 38-A/14 دائر کی تھی جس میں من سائلہ کو reinstate کئے جانے کا حکم مورخہ 06.02.2018 کو صادر ہوا۔ نقل رٹ پٹیشن وغیرہ لف ہے۔
- ۳۔ یہ کہ من سائلہ کو حکم مورخہ 06.02.2018 کی رو سے مورخہ 17.04.2018 کو letter جاری کر دیا گیا۔ نقل لف ہے۔
- ۴۔ یہ کہ من سائلہ نے حکم مورخہ 17.04.2018 اور termination آرڈر کو رٹ پٹیشن نمبر 1279-A/18 کو ذیل prayer کے ساتھ چیلنج کیا:۔

"On acceptance of this writ petition, the impugned act of respondents is not re-instating the petitioner at her position may graciously be declared null and void and respondents be directed to re-instate the petitioner in the light of order dated 06.02.2018 passed by this Honourable Court"

عدالت عالیہ پشاور ہائی کورٹ بیچ ایبٹ آباد نے من سائلہ کی رٹ پٹیشن منظور فرماتے ہوئے مورخہ 27.03.2019 کو ذیل حکم صادر فرمایا

5. As the petitioner had served the department almost for a decade and was removed from service on ground not sufficiently proved coupled with the recommendation for her appointment made by the re-instatement committee and availability of the post, as for statement of the learned counsel made at the bar, we accept this petition and direct the respondents to appoint the petitioner as LHW.

مصدقہ نقولات رٹ پٹیشن و حکم عدالت لف ہے۔

لہذا استدعا ہے کہ حکم عدالت عالیہ کے حکم مورخہ 27.03.2019 کی روشنی میں من سائلہ کو بطور LHW تعینات فرمایا جائے۔

المترجم

مسماۃ شبانہ کوثر زوجہ ارشد محمود دختر میر محمد ساکنہ موہڑہ علی خان تحصیل ضلع ہری پور

Attested to be True Copy
Sajid-ur-Rehman Khan
Advocate High Court Haripur

کاپی برائے مزید کارروائی
رجسٹرار پشاور ہائی کورٹ ایبٹ آباد بیچ۔
DG ہیلتھ سروسز پشاور

آرڈر کی کاپی سب سے پہلے درج ذیل آفسز کو بھیجی جائے گی



(14) (27)

OFFICE OF THE DISTRICT HEALTH OFFICER HARIPUR

ORDER

As ordered by the Honourable Peshawar High Court Abbottabad Bench vide his judgment announced on 27.03.2019 received through Additional Registrar Peshawar High Court Abbottabad Bench vide his letter No.235 dated 30.03.2018, Mrs. Shabana Kousar D/o Mir Muhammad (Wife of Arshad Mehmood) R/o Village Mohra Ali Khan Tehsil & District Haripur is hereby appointed as **Lady Health Worker in BPS-05 @ Rs.5400-260-13200** plus usual allowances against the vacant post District Haripur on the terms and conditions mentioned in the letter of Provincial Coordinator Health Department Khyber Pakhtunkhwa Lady Health Worker Program vide his No.1439 dated 13.10.2014 with effect from the date of taking over the charge in the interest of public service.

- I. You should join your post within fifteen (15) days of the issuance of this order. In case of failure your appointment shall stand automatically cancelled / withdrawn.
- II. You will produce Health & Age Certificate issued by the Medical Superintendent District Headquarter Hospital Haripur before assuming charge of post.

If the above offer of appointment on the terms & conditions mentioned above cited letter under reference is accepted then you are hereby advised to report to the I/c Basic Health Unit, Sarai Saleh on your own expenses within fifteen (15) of the issuance of this appointment letter positively otherwise order shall be stand cancelled automatically.

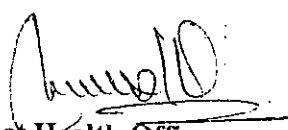
Sd/-
District Health Officer
Haripur

No. 5769-75/Estab/D/Apptt;

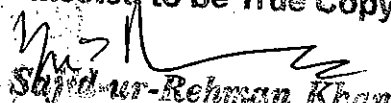
Dated Haripur, 20/05/2019.

Copy of the above is forwarded to the:

1. Additional Registrar Peshawar High Court Abbottabad Bench w/r to above for information please.
2. Provincial Coordinator LHWs Program Khyber Pakhtunkhwa Peshawar.
3. District Accounts Officer Haripur.
4. Medical Officer I/c Basic Health Unit, Sarai Saleh.
5. Lady Health Supervisor concerned.
6. Account Section (Local).
7. Appointee concerned.


District Health Officer
Haripur

District Health Officer, Haripur
Phone & Fax # 0995-610997
dhoharipur@yahoo.com

Attested to be True Copy

Sajid ur-Rehman Khan
Advocate High Court Haripur

FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 2/07/2014.

No. PA/Khyber Pakhtunkhwa/Bills/2014/ 351 The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Bill, 2014 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 24th June, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th June, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA REGULATION OF LADY HEALTH WORKERS PROGRAM AND EMPLOYEES (REGULARIZATION AND STANDARDIZATION) ACT, 2014

(KHYBER PAKHTUNKHWA ACT NO. XXVI OF 2014)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa. (Extraordinary), dated the 02/07/2014).

(Here print as in the accompaniment).

Nur-e-Elahi

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.

Nur-e-Elahi

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa /Bills/2014/ 352-56 Dated 2/07/2014

A copy of the above is forwarded to :-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Health Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Director Information, Khyber Pakhtunkhwa.
5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.

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M. A. Rehman
Secretary to Government
Khyber Pakhtunkhwa
Attending High Court Hallway

Nur-e-Elahi

SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

AN
ACT

to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of employees of the said program

WHEREAS in pursuance of the Constitution (Eighteenth Amendment) Act, 2010, the subject of Health has been devolved to the Provinces and as such Lady Health Workers Program run by Federal Government for supporting the family planning and primary health care was devolved to the Provinces accordingly;

AND WHEREAS in the Lady Health Workers Program, the community based workers have a special nature of job, for the execution of which they have to remain continuously embedded with their local catchment population;

AND WHEREAS it is obligatory to maintain the original concept and design of the Lady Health Workers Program, to ensure the presence of community embedded employees for effective service delivery to the people of the area;

AND WHEREAS it is expedient to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of the employees of the said program.

It is hereby enacted as follows:-

1. **Short title, application and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014.

(2) It shall apply to all persons employed or to be employed in Lady Health Workers Program, in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once except section 4, which shall come in to force on 1st July, 2012.

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context,-

- (a) "catchment population" means the local population for which a Community Embedded Employee of the Program is appointed or posted and regularly resides therein;
- (b) "Community Embedded Employee" means a Program employee residing and working within his defined catchment population for which he was appointed or posted;
- (c) "District Program Implementation Unit" means the Management Unit of the Program at District level;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "prescribed" means prescribed by rules;
- (f) "Program" means the Lady Health Workers Program devolved to the Province and which was previously run by the Federal Government under the name of the National Program for Family Planning and Primary Health Care;
- (g) "Program employee" means an employee of the Program, whose service is regularized under this Act and includes persons to be appointed after the commencement of this Act;

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Sajid ul Rehman Khan
High Court Haripur

- (h) "Province" means the Province of the Khyber Pakhtunkhwa;
- (i) "Provincial Program Implementation Unit" means the Management Unit of the Program at Provincial level; and
- (j) "rules" mean rules made under this Act.

3. **Status of Program.**---(1) On commencement of this Act, the National Program for Family Planning and Primary Health Care, shall be deemed to be a Program of Government to be known as the Lady Health Workers Program.

(2) The purpose of the Program shall be to provide preventive, curative, rehabilitative and promotive health care services to the catchment population in the Province.

(3) The Program shall continue for such a period as Government may determine.

(4) After coming into force of this Act, Government may appoint persons to various posts in the Program on contract basis and there shall be no regular appointment in the Program.

(5) The appointment under sub-section (4) shall be made in accordance with the criteria and manner as may be prescribed.

4. **Regularization.**---(1) On commencement of this Act, all the Program employees, who were appointed in the Program on contract or fixed monthly stipend basis before 1st July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1st July, 2012:

Provided that the services of such Program employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette:

Provided further that the posts of the Program fallen vacant on account of death, retirement, resignation, dismissal, termination or otherwise shall be filled-in on contract basis.

(2) The Program employees regularized under this Act shall be placed in the relevant Pay Scales corresponding to the civil servants or as may be determined by Government.

(3) The seniority of the Program employees regularized under this Act shall be determined in a manner as may be prescribed.

(4) A Program employee, whose services are regularized under this Act, shall retire from service, on the option of the Program employee and on such date as requested by the Program employee, after completion of twenty five years of qualifying service or on the completion of sixtieth year of age.

(5) A Program employee, whose service is regularized under this Act, shall be entitled to such pensionary and retirement benefits as may be determined by Government.

5. **Mechanism of recruitment for Community Embedded Employees.**---(1) For filling a post of Community Embedded Employee, the appointing authority shall cause to verify and ensure in the prescribed manner that person, who is to be appointed against such post, shall be a regular resident of his catchment population.

(2) The Provincial Program Implementation Unit shall oversee and monitor the process and finding of the verification, carried out by the appointing authority under sub-section (1), before a person is appointed against post of Community Embedded Employee.

(3) The Community Embedded Employee shall perform his duties within the catchment population of his residence; provided that Government may adjust a Community Embedded Employee in another area in certain circumstances to be prescribed.

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 M. M. Khan
 High Court, Haripur

(4) Notwithstanding anything contained in other provisions of this Act, the services of the Community Embedded Employees, whose services are regularized under this Act, or other Community Embedded Employees to be appointed after the commencement of this Act, shall be liable to termination, if the employee-

- (a) has unlawfully ceased to be a regular resident within or has become a non-resident for his catchment population; or
- (b) is involved in any other engagement or a practice which is not in accordance with the laid down and approved policy of the Program; or
- (c) has ceased to be efficient in the performance of official duties; or
- (d) has proved guilty of gross misconduct.

(5) A Community Embedded Employee, whose service is terminated under sub-clause (a) or (b) of sub-section (4) of this Act may be reinstated into service in a manner as may be prescribed:

Provided that this opportunity of reinstatement shall not be given more than once throughout the tenure of a Community Embedded Employee's service:

Provided further that-

- (a) no salary or allowances shall be paid to the re-instated employee for the period spent under termination; and
- (b) payment made, if any, to the terminated employee being re-instated, which was not allowed during or for the period spent under termination, is recovered from the employee.

6. Posting, transfer and adjustment of Program employees.---Notwithstanding anything contained in other provisions of this Act, the Program employees, except the Community Embedded Employees, may be transferred to perform duty anywhere in the Province.

7. Disciplinary action.---Disciplinary cases against the Program employees shall be dealt with in a manner as may be prescribed.

8. Application of Government rules.---The Program employees shall be dealt in accordance with the provisions of this Act and rules; provided that if no specific rules are available on any matter, the Government rules shall be applicable to such Program employees.

Public servants.---All Program employees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

Power to make rules.---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Saving.--- Any rules, orders or instructions in respect of any terms and conditions of services of employees duly made or issued by an authority competent to make them and in force immediately after the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, the Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

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Sd/- *Abulhasan Khan*
Advocate High Court Faisalabad

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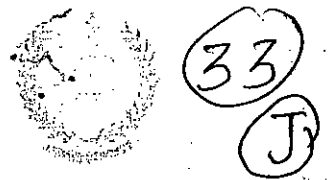
13. **Repeal.**--- The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Ordinance, 2014 (Khyber Pakhtunkhwa Ord. No. VI of 2014) is hereby repealed.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA**

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

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Sajid Mehmood Khan
Advocate High Court Haripur

Dist. Govt. NWFP-Provincial
District Accounts Office Haripur
Monthly Salary Statement (July-2019)



Personal Information of Mr SHAHBANA KOUSAR d/w/s of ARSHAD MEHMOOD

Personnel Number: 00910833 CNIC: F330204975558 NTN:
 Date of Birth: 06.03.1976 Entry into Govt. Service: 21.05.2019 Length of Service: 00 Years 02 Months 012 Days

Employment Category: Active Permanent

Designation: LADY HEALTH WORKER 80002116-DISTRICT GOVERNMENT KHYBE
 DDO Code: HR6113-DISTRICT HEALTH OFFICER ADMINISTRATION HARIPUR
 Payroll Section: 002 GPF Section: 001 Cash Center:
 GPF A/C No: Interest Applied: Yes **GPF Balance:** 1,780.00
 Vendor Number:
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 05 Pay Stage: 0

Wage type		Amount	Wage type		Amount
0001	Basic Pay	10,260.00	1000	House Rent Allowance	1,503.00
1300	Medical Allowance	1,500.00	2211	Adhoc Relief All 2016 10%	859.00
2224	Adhoc Relief All 2017 10%	1,026.00	2247	Adhoc Relief All 2018 10%	1,026.00
2264	Adhoc Relief All 2019 10%	1,026.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3005	GPF Subscription - Rs 890	-890.00	3501	Benevolent Fund	-600.00
4004	R. Benefits & Death Comp:	-690.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till July-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 17,200.00 Deductions: (Rs.): -2,180.00 Net Pay: (Rs.): 15,020.00

Payee Name: SHAHBANA KOUSAR
 Account Number: 40337-3
 Bank Details: HABIB BANK LIMITED, 220198 MAIN BAZAR, HARIPUR. MAIN BAZAR, HARIPUR., HARIPUR

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: VILLAGE MOHRA ALI KHAN P.O SARAI SALEH
 City: HARIPUR Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address:
 City: Email:

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 Advocate High Court Haripur

(358678/26.07.2019/15:28:29) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

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(K)

To

Provincial Coordinator, LHW Programme for FP & PHC, Khyber Pakhtunkhwa PPIU, Peshawar.

Subject **DEPARTMENTAL APPEAL**

Sir,

1. It is humbly submitted that the Appellant was appointed as LHW earlier in 2003 at BHU Shah Muhammad, Tehsil & District, Hariapur and later on the services of appellant was illegally terminated on 27/05/2013. Copies of appointment and termination orders are enclosed.
2. That appellant approached to the office of District Health Officer, Hariapur, who gone through the case of the Appellant and recommended for reinstatement of the Appellant to the Provincial Coordinator LHW Programme for FP&PHC KPK PPIU, Peshawar. Copy of letter is enclosed.
3. That against the illegal termination dated 27.05.2013, appellant filed WP No. 1279-A/18 Honourable Peshawar High Court Abbottabad Bench which was decided on 27.03.2019. Copies of WP and Order dated 27.03.2019 are enclosed for ready reference.
4. That the appellant was appointed as LHW in BPS-5 in the light of judgment of the Honourable Peshawar High Court Abbottabad Bench in WP No. 1279-A/18 decided on 27.03.2019 vide office order No. 5769-75/Estab/D/Apptt; dated 20.05.2019 by the District Health Officer, Hariapur. Copy of appointment order dated 20.05.2019 is enclosed
5. That the similar other LHWs have already been regularized in the year 2012, the petitioner is also eligible and standing at the same footings. Copy of Act, 2012 is enclosed.
6. That your good honour have already regularized the other LHWs under Act 2012 whereas the appellant has deprived from her basic right.

It is, therefore, humbly prayed that the appellant may also be regularized like others LHWs and pay all back benefits as per Act of 2012

Dated: 27/05 /2019

Appellant *Shabana Kausar*
Shabana Kausar
LHW BHU Sarai Saleh
Hariapur

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[Signature]
Sajid Ahmad Khan
Assistant District Officer

(L)

(35)

No. 206

286

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the initial weight prescribed in the
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27 MAY 19

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Date-Stamp

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Insurance fee Rs. 10 Weight 100 Kilo
(in words) Grams

Name and address of sender [Signature]

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[Signature]
Sajid-ur-Rahman Khan
Advocate High Court Haripur

وکالت نامہ

از دفتر ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ
آفس نمبر 9، شیر پاؤ پلازہ ڈسٹرکٹ کورٹس ہری پور

بعد الت جناب سروس ٹریڈینگز پرائیویٹ لمیٹڈ

منجانب ایسٹنٹ

سمتہ سبائٹہ کونٹری بنام گو روٹس ک.پ.ک

نوعیت مقدمہ سروس ایسٹنٹ بمقام بشامہ

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی مقدمہ کیلئے ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ کو بدیں شرط وکیل مقرر کیا جو کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب کو اطلاع دیکر حاضری کروں گا۔ اگر کسی پیشی پر منظر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پچھری کے علاوہ کسی اور جگہ یا پچھری کے مقرر اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پچھری کے کسی اور جگہ ساعت ہونے پر یا بروز پچھری کے اوقات کے آگے یا پیچھے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ و پرداختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی و اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دخل تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد ثالثی و راضی نامہ و فیصلہ بر خلاف کرنے، اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتنا ہی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ بیرونی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پیر مشر کو بجائے اپنے یا ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے تاکہ سند ہے مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم 2019-08-08

Accepted & Attested

ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ

سببہ کورٹ
(Appellant)