

FORM OF ORDERSHEET

Court of _____

Misc. application No. 141 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09/02/2024	<p>The Misc. application in Service appeal 1476/2022 submitted today by respondents no. 2 & 4 through Section officer Litigation Health Department. It is fixed hearing before Division Bench at Peshawar on _____.</p> <p>Original file be requisitioned. Parcha Peshi is given to the representative of the Health department.</p>


REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Misc. Application No. 141/2021
Service Appeal No. 1476-81/2022

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
2. Director General Health Services Khyber Pakhtunkhwa ----- Petitioner

VERSUS

Zahir Shah and others ----- Respondents

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Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

SERVICE APPEAL NO. 1476-81/2022

Misc Application No. 141/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11073

Dated 09-02-2024

1. Secretary to Govt of Khyber Pakhtunkhwa Health Department
2. Director General Health Services Khyber Pakhtunkhwa **Petitioners**

Versus

Zahir Shah and others..... **Respondents**

PETITION ON BEHALF OF THE PETITIONERS / RESPONDENTS IN THE MAIN APPEAL FOR SETTING ASIDE THE ORDER DATED 03-02-2023 OF THE HONORABLE TRIBUNAL WHEREBY THE PETITIONERS/ RESPONDENTS WERE PLACED EX-PARTE.

Respectfully Sheweth,

1. That the above titled Service Appeal is pending before the honorable Tribunal which is fixed for 13-03-2024.
2. That the petitioners/respondents received an Order Sheet dated: 11/09/2023 and last chance was given for submission of Reply/parawise Comments. **(Copy of the Order Sheet is Annex-A)**
3. That the representative/focal person of the petitioners namely Mr. Safiullah was engaged before another bench of the honorable Tribunal in the proceeding of another Service Appeal however when he attended the bench of honorable chairman, he came to know that the petitioners/ Respondents have been placed ex-parte. **(Copy of the order sheet dated: 03/02/2023 is Annex-B).**
4. That the absence of the representative of the petitioners/ respondents before the bench of Chairman of the honorable Tribunal was not intentional / willful but for the reasons mentioned in para-3 above.
5. That there is no Ex-Parte judgment but Ex-Parte proceedings have been initiated against the petitioners therefore the same may be set aside at any time by the honorable Service Tribunal in the interest of justice.
6. That in case if the petitioners/ respondents have not been allowed to defend/submit Para-wise comments, other employees of the department who have been promoted vide the impugned order will suffer irreparable loss and un-ending litigation will be started between the employees of the department which will also affect/cause an irreparable loss to the public exchequer.
7. That it is a well settle principle of law that cases are to be decided on merits, rather than technicalities.
8. That the grounds of appeal annexed with the notice was incomplete which may be confirmed from the scanned copy of the Service Appeal therefore the comments could not be prepared accordingly.

It is therefore humbly prayed that the ex-parte order/proceedings dated 03-01-2024 may kindly be set aside in the interest of justice and petitioners/ respondents may kindly be provided an opportunity of submission of comments / defense in the interest of justice.



(Mehmood Aslam)

Secretary to Govt. Of Khyber Pakhtunkhwa
Health Department
(Petitioner No. 01)



(Dr. Shoukat Ali)

Director General Health Services
Khyber Pakhtunkhwa
(Petitioner No. 02)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR
SERVICE APPEAL NO. 1476-81/2022

1. Secretary to Govt of Khyber Pakhtunkhwa Health Department
2. Director General Health Services Khyber Pakhtunkhwa **Petitioners**

Versus

Zahir Shah and others..... **Respondents**

PETITION ON BEHALF OF THE PETITIONERS / RESPONDENTS IN THE MAIN APPEAL FOR SETTING ASIDE THE ORDER DATED 03-01-2024 OF THE HONORABLE TRIBUNAL WHEREBY THE PETITIONERS/ RESPONDENTS WERE PLACED EX-PARTE.

AFFIDAVIT

I Dr. Shoukat Ali, Director General Health Services Khyber Pakhtunkhwa do hereby state on oath that contents of the above petition is correct to the best of my knowledge and nothing has been concealed.

Deponent



Dr. Shoukat Ali
Director General Health Services
Khyber Pakhtunkhwa





**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

AUTHORITY LETTER

Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.

(MAHMOOD ASLAM)

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

9/15/23

attested
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

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BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK,
PESHAWAR.

S.A.No. _____/2022

Zahir Shah son of Noor Muhammad
Ex-Primary Health Care Technologist (Multipurpose BPS-17)
Health Department, District Health Office, Charsadda
R/o General Abdul Razzaq Kili, Kala Shah,
Tehsil District Charsadda..... Appellant

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Govt. of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
- 3) Govt. of Khyber Pakhtunkhwa through Secretary Finance, Civil Secretariat, Peshawar.
- 4) Director General Health Services Khyber Pakhtunkhwa, Warsak Road, Peshawar..... Respondents

Appeal u/s 4 of the Khyber Pakhtunkhwa
Service Tribunal Act, 1974.

Prayer:

On acceptance of this appeal, it is, therefore, earnestly prayed to allow this service appeal with directions to the official respondents to forthwith award proforma promotion to the appellant from the post of Clinical/ PHC Technologist PBS-17 to Senior Clinical Technologist PBS-18 with all consequential back benefits/ perks and pensionary benefits attached to the post of BPS-18 w.e.f.

15-11-2019.

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

11th Sept. 2023

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. Former made a request for adjournment. Adjourned by way of last chance. To come up for arguments on 03.01.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman.

Munazem Shah*

3rd Jan. 2024

1. Learned counsel for the appellant and Mr. Habib Anwar, Additional Advocate General present.

2. After striking off the defense of the respondents, they did not bother to make an application, what to talk of production of record. Therefore, Secretary to Government of Khyber Pakhtunkhwa, Health Department is put on notice to appear in person alongwith original record. Similarly, the Director General Health Services Khyber Pakhtunkhwa is also directed to appear in person alongwith original record. Copy of this order sheet be sent to the Chief Secretary Khyber Pakhtunkhwa to see the conduct of the respondents and AAG is directed to take up the matter with the Chief Secretary that the cases before the Tribunal are not being dealt in accordance with standing orders of the Establishment Department. To come up for arguments on 13.03.2024 before D.B. P.P given to the parties.



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MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(Fareeha Paul)
Member (E)

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(Kalim Arshad Khan)
Chairman

3rd Feb, 2023

Clerk of learned counsel for the appellant present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

Today there is nobody present on behalf of the respondents nor did they submit written reply/comments. The time provided in Rule-12 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 for filing reply is seven days before the date fixed but despite providing opportunity the respondents have not filed the comments. They are thus placed ex-parte and their right to file reply stands struck off. To come up for arguments on 11.05.2023 before D.B.

(Kalim Arshad Khan)
Chairman

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar