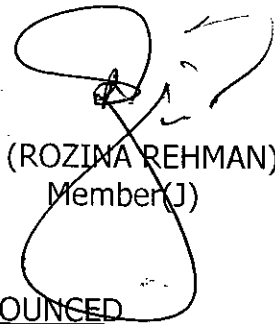



Service Appeal No. 1219/2019

S.No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	03.11.2021	<p>Appellant alongwith counsel present. Mr. Javaidullah, Assistant Advocate General for the respondents present.</p> <p>2. After hearing the appellant, it has been noted that he through his amended appeal challenged the orders passed by respondents on 24.06.2019, 07.10.2019, 08.11.2019 and 14.11.2019 (modified later on 18.11.2019) for their declaration as illegal unlawful and against the Rules/Policy on the subject. In the prayer, he prayed for setting aside the impugned orders and for allowing him to perform his duty as D.H.O Bannu or any other relief deemed fit and appropriate in the circumstances of the case. It has come to fore during discussion with the appellant that he has now retired but facing hardship in process of his pension case. Needless to say that the Pension Rules made it obligatory for the pension sanctioning authority to process the case of retired persons without delay and avoiding unnecessary intricacies resulting into delay. It is an undeniable fact that the appellant was in service of the respondent department who on account of his retirement is entitled for treatment in accordance with law and to get pension and retirement benefit without further delay, if not, already paid. As the present appeal has become infructuous for the main relief,</p>

the prayer for alternate relief make the room for direction to the respondents to finalize pension case of the appellant as well as the case for other retirement benefits more than sooner. The appeal stands disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.



(ROZINA REHMAN)
Member(J)



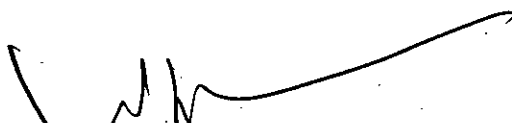
(AHMAD SULTAN TAREEN)
CHAIRMAN

ANNOUNCED
03.11.2021

30.08.2021

Appellant in person present. Mr. Shahbaz Khan, Section Officer alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Appellant sought adjournment on the ground that his counsel is not available today due to some domestic engagements. Adjourned. To come up for arguments before the D.B on 15.10.2021.



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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

15.10.2021

Appellant in person present.

Asif Masood Ali Shah, learned Deputy District Attorney for respondents present.

Former made a request for adjournment as his counsel is busy before august Supreme Court of Pakistan; granted by way of last chance. To come up for arguments on 03.11.2021 before D.B.



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



(Rozina Rehman)
Member (J)

28-12-2020

Due to summer vacation, case is adjourned to 15-03-2021 for the same as before.

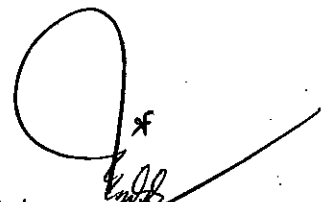

Reader

15.03.2021

Appellant in person and Mr. Muhammad Rashid, DDA for the respondents present.

Former requests for adjournment as his learned counsel is not available today.

Adjourned to 28.04.2021 before D.B.


(Mian Muhammad)
Member(E)


Chairman

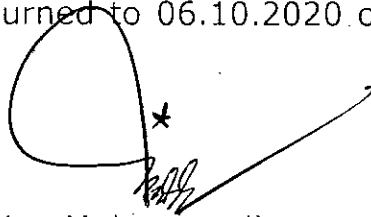
28.4.2021

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

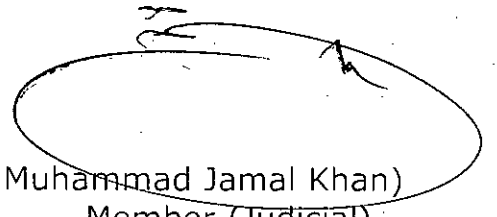


21.09.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present. Appellant is seeking adjournment that his counsel is not available today. Adjourned to 06.10.2020 on which to come up for arguments before D.B.



(Mian Muhammad)
Member (Executive)




(Muhammad Jamal Khan)
Member (Judicial)

06.10.2020


Appellant present in person.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 25.11.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

25.11.2020


Due to non-availability of D.B, the case is adjourned to 28.12.2020 for the same as before.



Reader

11.03.2020

Appellant in person present. Mr. Ziaullah, DDA for respondents present. Appellant seeks adjournment. Adjourned. To come up for arguments on 02.04.2020 before D.B. The restraint order already granted shall continue till the next date.


Member


Member

2.4.2020

Due to public holiday on account of (COVID-19) the case is adjourned for same on 29-6-2020.



29.06.2020

Due to COVID-19, the case is adjourned to 16.07.2020 for the same.


Reader

16.07.2020

Appellant in person and Mr. Ziaullah, DDA for the official respondents present.

Former requests for adjournment as his learned counsel is not available today. Adjourned to 21.09.2020 for arguments before the D.B.


(Muhammad Jamal Khan)
Member


Chairman


29.01.2020 Appellant in person present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned to 14.02.2020 for further proceedings/arguments before D.B.


Member


Member


14.02.2020 Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Jaffar Assistant and Mr. Hazrat Shah Superintendent for the respondent present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for further proceedings/argument on 28.02.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

28-2-20

the learned members is on
tour therefor case is adjourned
to 11-3-2020


Reader

08.01.2020

Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 16.01.2020 before D.B.


Member


Member

16.01.2020

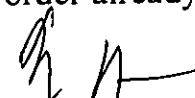
Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Adjourned to 24.01.2020 for arguments before D.B. The restraint order already granted shall continue till the next date.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

24.01.2020

Petitioner in person present. Mr. Riaz Painsdakhel learned Assistant Advocate General for the respondent present. Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Adjourned to 29.01.2020 for further proceedings/arguments before D.B. The restraint order already granted shall continue till the next date.


(M. Amin Khan Kundi)
Member


(Hussain Shah)
Member

20.12.2019

Appellant ^{with} counsel, Addl. AG alongwith Sher. Baz Khan, S.O for official respondents No. 1 to 3, Khurasm Shahzad for respondent No. 4 and respondent No. 6 in person present.

Respondent No. 6 as well as representative of respondent No. 4 state that they rely on the parawise comments submitted on behalf of respondents No. 1, 2 and 3. Similar reliance is placed by respondent No. 5 through memo. dated 20.12.2019, which is placed on file.


To come up for arguments before D.B on 31.12.2019. The conditional order of suspension of notification dated 24.06.2019 shall remain operative till next date.


Chairman

31.12.2019

Appellant in person and Mr. Usman Ghani, District Attorney for the official respondents present. Respondent No. 4 is not present, however, the Reader of the Tribunal namely Afsar Khan stated that respondent No. 4 has come in early hours but left the Tribunal for some reasons. The appellant requested for adjournment on the ground that his counsel is ill and unable to attend the court today. Last chance is given to the appellant to produce his counsel and argue the case on the next date. Case to come up for arguments on 17.01.2020 before D.B. The restraint order already granted shall continue till the next date.

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

Appeal No. 1219/2019

29.11.2019

Appellant alongwith counsel and Mr. Usman Ghani, District Attorney alongwith Sher Baz Khan, S.O for respondents No. 1 to 4 present.

The respondents are required to submit reply to the amended appeal alongwith Misc. Application for suspension of orders dated 24.06.2019, 07.10.2019, 08.11.2019, 14.11.2019 and 18.11.2019 positively on next date of hearing.

Adjourned to 13.12.2019 for arguments on application as well. Notices to respondents No. 5 & 6 shall also be issued for the date fixed. The conditional order of suspension of notification dated 24.06.2019 shall remain operative till next date.


Chairman

13.12.2019

Appellant in person present. Mr. Hazrat Shah, Superintendent on behalf of official respondents No. 1 to 3 alongwith Mr. Kabirullah Khattak, Additional AG and private respondent No. 5 in person present. Representative of respondents No. 1 to 3 submitted written reply. The same is placed on record. Neither written reply on behalf of respondents No. 4 & 6, submitted nor their representatives are present therefore, notices be issued to respondents No. 4 & 6 with the direction to direct the representative to attend the court and submit written reply/comments on the next date positively. Case to come up for written reply/comments on behalf of respondents No. 4 & 6 on 20.12.2019 before S.B. The conditional order of suspension of notification dated 24.06.2019 shall remain operative till next date.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12.11.2019

Appellant alongwith counsel and Addl. AG alongwith Sher Baz Khan, S.O for the respondents present.

Representative of respondents requests for further time to submit the reply/comments to the appeal as well as application (C.M No. 386/2019). Appellant also makes a request for adjournment in order to submit an amended appeal impugning the notification dated 07.10.2019 issued by the Secretary Health Department Government of Khyber Pakhtunkhwa.

Adjourned to 27.11.2019, on which date the needful shall positively be done by the parties. Till next date the order of suspension of impugned notification, passed on 09.10.2019 shall remain operative subject to the condition laid therein.


Chairman

27.11.2019

Appellant in person and Addl. AG for the respondents present.

The appellant has submitted amended appeal which is placed on record. As his learned senior counsel is not available today due to appearance before the Apex Court, instant matter is adjourned to 29.11.2019 before S.B.


Chairman

the respondents. To come up for written reply/comments on 28.10.2019 before S.B.

Alongwith the appeal there is an application for suspension of operation of notification dated 24.06.2019. Notice of the application be also given to the respondents for the date fixed. In the meanwhile the operation of impugned notification shall remain suspended, if not complied with already.



Appellant Deposited
Security & Process Fee

10/10/19



Chairman

28.10.2019

Appellant with counsel and Mr. Usman Ghani District Attorney alongwith Sher Baz Khan, S.O for the official respondents present. Nemo on behalf of respondent No. 4.

The representative of respondents requests for time to submit reply/comments to the appeal as well as in respect of Misc. Application No. 386/2019. Adjourned to 12.11.2019 before S.B.

The respondents shall positively submit the requisite reply on or before next date of hearing. The Misc. application shall also be argued on the adjourned date. In the meanwhile, the order of suspension of impugned notification, passed on 09.10.2019, shall remain operative subject to the condition laid therein.



Chairman

09.10.2019

Mr. Muhammad Sajjed Khan, Advocate has submitted Wakalatnama on behalf of the appellant which is placed on record.

Learned counsel contends that on 02.01.2019 the appellant, awaiting for posting, was adjusted as DHO Bannu. Consequently he started performing his duty there. In utter disregard of Provincial Government policy regarding posting/transfer of civil servants a notification dated 24.06.2019 was issued by respondent No. 1 whereby the appellant was required to report to the Director General, Health Services Khyber Pakhtunkhwa. Further the respondent No. 4 was transferred and posted as DHO Bannu vice appellant. The impugned act of respondents smacks of malafide and the result of political interference as copy of the notification was duly and officially endorsed to P.S to Minister Health, Khyber Pakhtunkhwa. It was further argued that the relevant policy of the Government provides normal tenure of two years for posting/transfer of a civil servant which was not completed by far in the case of appellant when the impugned notification was issued. It is also added that the appellant is to retire on reaching superannuation on 2.2.2020.

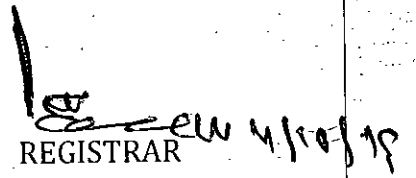

In view of the arguments of learned counsel and available record, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1219/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.10.2019	<p>The appeal of Dr. Muhammad Taus Khan presented today by Mr. Ahmad Farooq Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	08/10/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/10/19</u>.</p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Amended Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....Petitioner

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar & others.....Respondents

INDEX

S#	Description of Documents	Annex	Pages
1.	Amended Service Appeal alongwith affidavit		1-11
2.	Application for suspension with Affidavit		12-14
3.	Addresses of parties		15-16
4.	Copy of the Order	A	17
5.	Copy of Order dated 24.06.2019	B	18-21
6.	Copy of the departmental Appeal	C	22-25
7.	Copies of Complaint and Order Sheets	D & E	26-29
8.	Copies of Writ Petition and Order dated 15.07.2019	F & G	30-37
9.	Copies of Service Appeal, Order dated 30.07.2019 and 30.10.2019 and 05.08.2019.	H to K	38-44
10.	Copies of Orders	L & M	45-50
11.	Copies of FIR, W.P No.1115/2019 & judgment dated 13.11.2019	N, N1, & N2	51-64
12.	Copy of order dated 08.11.2019	O	65-
13.	Copies of Order dated 14.11.2019 and 18.11.2019	P & Q	66-67
14.	Wakalatnama		68


Appellant

Through

Muhammad Ijaz Khan Sabi
Advocate Supreme Court
15-B, Haroon Mansion,
Khyber Bazar, Peshawar

Dated 26.11.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Amended Service Appeal No. _____/2019

In

Original Service Appeal No.1219/2019

Dr. Muhammad Taus Khan,
 District Health Officer Bannu.....**Appellant**

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Secretary Health, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. The Director General Health Service, Khyber Pakhtunkhwa, Peshawar
4. The Provincial Coordinator, Lady Health Worker, Programme, Khyber Pakhtunkhwa, Peshawar
5. Dr. Hamid ur Rehman, Deputy District Health Officer, Bannu
6. Dr. Abdul Rehman, Additional Director General (HR), Director General Health Service, Peshawar
 **Respondents**

**AMENDED SERVICE APPEAL U/S 4 OF THE
KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT, 1974,**

Prayer

By accepting this amended appeal, the impugned orders passed by the respondents dated 24.06.2019, 07.10.2019, 08.11.2019 and 14.11.2019 (modified later on 18.11.2019) be declared as illegal, unlawful against the Rules/policy governing the subject and thus the same may accordingly be set aside and consequently the appellant may please be allowed to perform his duty as District Health Officer Bannu

Respectfully Sheweth:

1. That the appellant is having the qualification of MBBS Degree & Diploma in Health Planning & Management (DHPM) from Institute of Management Sciences Peshawar
2. That the appellant was posted as DHO Bannu on 02.01.2019. (Copy of the Order is attached as Annexure "A").

3. That the appellant was performing his duty with no complaint whatsoever when all the sudden (just after six months of his posting as DHO Bannu), the appellant was transferred and his services were placed at the disposal of Director General Health Services vide order dated 24.06.2019. (Copy of Order dated 24.06.2019 is attached as Annexure "B").
4. That on the 4th day of the aforesaid order i.e. 28.06.2019 the appellant submitted his departmental Appeal/ Representation as required U/S 22 of the Civil Servants Act, 1973. (Copy of the departmental Appeal is attached as Annexure "C").
5. That the appellant then filed a civil suit before the Court of Senior Civil Judge, Bannu and on the first day of presentation of plaint i.e. on ~~01~~⁰².07.2019, the court of Senior Civil Judge, Bannu, granted temporary injunction to the effect that the impugned order dated 24.06.2019 was suspended however on 08.07.2019 the plaint was returned to appellant for approaching competent court of law.

(Copies of Complaint and Order Sheets are attached as Annexure "D" & "E" respectively).

6. That thereafter the appellant approached the Peshawar High Court, Peshawar through W.P No.3731-P/2019 which was fixed for preliminary hearing on 15.07.2019 and on the date fixed, the Peshawar High Court, Peshawar was pleased to direct the departmental authority to decide the departmental appeal of the appellant, within seven days. (Copies of Writ Petition and Order dated 15.07.2019 is attached as Annexures "F" & "G" respectively).
7. That the appellant waited for seven days however the departmental authority did not decide his departmental appeal, therefore, he filed Service Appeal No.993/2019 on 24.07.2019 which was fixed for preliminary hearing on ~~24~~²⁵07.2019 and this Hon'ble Tribunal was pleased to suspend the impugned transfer order dated 24.06.2019.

It merits to mention here that on 05.08.2019 the impugned transfer order was withdrawn and

the appellant was allowed to perform his duty as DHO Bannu till the final decision of service Appeal. (Copies of Service Appeal, Order dated 30.07.2019 and 30.10.2019 and 05.08.2019 are attached as Annexures "H", "I", "J" & "K" respectively).

It merits to mention here that this appeal came up for its final hearing on 03.10.2019 however the same was rejected being premature.

8. That on 03.10.2019 when the appeal of the appellant was held to be premature by this Hon'ble Tribunal, therefore on the very next day, he filed the instant appeal on 04.10.2019 which was fixed for its preliminary hearing on 09.10.2019 however on 07.10.2019, additional charge of the post of DHO Bannu was entrusted to one Dr. Hameed ur Rehman (respondent No.5) and on the date fixed i.e. 09.10.2019, this Hon'ble Tribunal was pleased to suspend the impugned transfer order dated 24.06.2019. (Copies of Orders are attached as Annexures "L" & "M" respectively).

9. That on 30.10.2019, the appellant went to attend his office for performance of his duty however respondent No.5 (Dr. Hamid ur Rehman) lodged an FIR No.1417 dated 06.11.2019 against the appellant alleging therein that the appellant has forcibly opened the lock of office of DHO Bannu which FIR was challenged by the appellant through W.P No.1115-B/2019 before the Peshawar High Court Bannu Bench and the Hon'ble Peshawar High Court, Bannu bench was pleased to Quash/set aside the FIR No.1417 vide judgment dated 13.11.2019. (Copies of FIR, W.P No.1115/2019 & judgment dated 13.11.2019 are attached as "N, N/1 & N/2" receptively).
10. That on 08.11.2019, despite the interim order of this Hon'ble Tribunal, the appellant services were placed under suspension for a period of 90 days. It is worth to mention here that the order of suspension of appellant dated 08.11.2019 was passed on the basis of an illegal FIR No.1417 dated 06.11.2019 which FIR has already been set aside /quashed by the Hon'ble Peshawar High

Court, Bannu Bench. (Copy of the order dated 08.11.2019 is attached as Annexure "O").

11. That on 14.11.2019 another order was passed w.r.t the posting transfer which was modified on 18.11.2019 whereby on Dr. Abdul Rehman (respondent No.6) was transferred from Director General Health Services, Peshawar and was posted as D.HO Bannu. (Copies of Order dated 14.11.2019 and 18.11.2019 are attached as Annexures "P" & "Q" respectively).
12. That the appellant being aggrieved of impugned orders dated 24.06.2019 and then orders passed during pendency of the service appeal i.e. 07.10.2019, 08.11.2019, 14.11.2019 & 18.11.2019 prefers this amended service appeal before this Hon'ble Tribunal for the following amongst other grounds:

GRUNDS:-

- A. That admittedly the impugned transfer dated 24.06.2019 is premature order as by then the appellant has performed his duty as DHO for just 06 Months and thus respondents themselves

have violated their own tenure policy of three years.

- B. That the ill-will and malafide on the part of respondents is floating on the surface of record as initially impugned order dated 24.06.2019 was issued and thereafter during the pendency of his service appeal and interim relief granted to him, respondents issued order dated 07.10.2019, (whereby additional charge of DHO Bannu was entrusted to Dr. Hameed ur Rehman/respondent No.5) order dated 08.11.2019 (whereby the services of appellant were placed under suspension) and order dated 14.11.2019 (whereby services of one Abdul Rehman were transferred as DHO, Bannu)

In view of the matter, all the aforesaid impugned orders are the result of excess of their authority and are thus liable to be set aside.

- C. That recently the Supreme Court of Pakistan in case of Anita Turab reported as PLD 2013 SC 195 has categorically held that Federal and Provincial Governments are bound to adhere to

the posting/transfer and tenure policy however the said ruling of the Supreme Court was violated by the respondents.

- D. That the appellant is at the verge of his retirement therefore on this ground too, the impugned premature posting transfer order is unjustified.
- E. That the repeated adverse orders passed against the appellant shows that the respondents are all out to drag him in unnecessary litigation.
- F. That the impugned orders are result of political victimization as the high-up's have approached the appellant for appointment of their favorites which their request was rejected by the appellant and on this ground too, the impugned order are illegal and unlawful.
- G. That the appellant has been treated against the law and has also been deprived of equal protection of law.

H. That any other ground not specifically mentioned, may be raised at the time of arguments, with the prior permission of this Hon'ble Tribunal.

It is, therefore most humbly prayed that by accepting this amended appeal, the impugned orders/notifications passed by the respondents dated 24.06.2019, 07.10.2019, 08.11.2019 and 14.11.2019 and 18.11.2019 be declared as illegal, unlawful against the Rules/policy governing the subject and thus the same may accordingly be set aside and consequently the appellant may please be allowed to perform his duty as District Health Officer Bannu. OR.

Any other relief deems fit and appropriate in the circumstances of the instant case may please be passed.


Appellant

Through


Muhammad Ijaz Khan Sabi
Advocate Supreme Court

&


Adnan Aman
Advocate High Court

Dated 26.11.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Amended Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....**Petitioner**

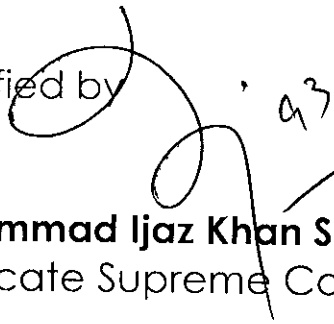
VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar & others.....**Respondents**

AFFIDAVIT

I, Dr. Muhammad Taus Khan, District Health Officer Bannu, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

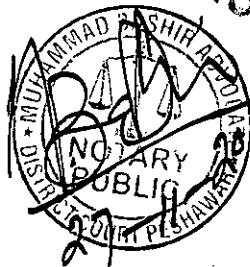
 93


DEPONENT

CNIC#: 121016365807-1

Muhammad Ijaz Khan Sabi
Advocate Supreme Court

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____/2019

In

Amended Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....**Petitioner**

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar & others.....**Respondents**

**APPLICATION FOR SUSPENSION OF THE
IMPUGNED ORDERS DATED 24.06.2019,
07.10.2019, 08.11.2019, 14.11.2019 AND
18.11.2019 TILL THE FINAL DECISION OF THE
SERVICE APPEAL. AND MAINTENANCE OF
STATUS QUO MAY PLEASE BE ORDERED.**

Respectfully Sheweth:

1. That the accompanying amended service appeal is being filed before this Hon'ble Tribunal which is yet to be fixed for its hearing.
2. That the grounds agitated in the main appeal be treated as part and parcel of instant application.
3. That the appellant has a good prima facie case and is sanguine of its success

4. That if the impugned order 24.06.2019, 07.11.2019, 08.11.2019, 14.11.2019 and 18.11.2019 are not suspended, the appellant will suffer an irreparable loss.

It is, therefore prayed that by accepting this application, the impugned orders/notification 24.06.2019, 07.10.2019, 08.11.2019, 14.11.2019 and 18.11.2019 may please be suspended, till the final decision of instant appeal and maintenance of status quo may please be ordered and no adverse order be passed against the appellant.


Applicant/Appellant

Through


Muhammad Ijaz Khan Sabi
Advocate
Supreme Court of Pakistan

&


Adnan Aman
Advocate High Court

Dated 26.11.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____/2019

In

Amended Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....**Petitioner**

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar & others.....**Respondents**

AFFIDAVIT

I, Dr. Muhammad Taus Khan, District Health Officer Bannu, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

[Handwritten signature]
93

Muhammad Ujaz Khan Sabi
Advocate Supreme Court

[Handwritten signature]
DEPONENT

CNIC#: 121016365807-1

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Amended Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....**Petitioner**

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar & others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:

Dr. Muhammad Taus Khan,
District Health Officer Bannu

RESPONDENTS

1. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Secretary Health, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. The Director General Health Service, Khyber Pakhtunkhwa, Peshawar
4. The Provincial Coordinator, Lady Health Worker, Programme, Khyber Pakhtunkhwa, Peshawar
5. Dr. Hamid ur Rehman, Deputy District Health Officer, Bannu

6. Dr. Abdul Rehman, Additional Director General
(HR), Director General Health Service, Peshawar


Appellant

Through


Muhammad Ijaz Khan Sabi
Advocate Supreme Court

&


Adnan Aman
Advocate High Court

Dated 26.11.2019

تھون ڈرالر

17



0-03 GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 2nd January, 2019

Annexure
"A"

Handwritten signature and date 01/07/19

NOTIFICATION

NO.SOH(E-V)1-131/2007 The Competent Authority is pleased to order posting/transfer of the following doctors with immediate effect in the public interest:-

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

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

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

Handwritten signature and date 02/01/2019
(HAMID IQBAL)
SECTION OFFICER (E-V)



GOVERNMENT OF KHYBER PAKHTUNKHWA

Annexure

HEALTH DEPARTMENT

B

Dated Peshawar the 24th June, 2019

NOTIFICATION

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

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

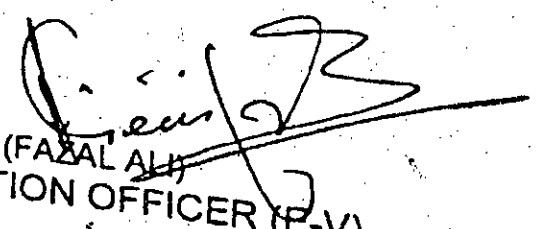
S#	Name of Doctor	FROM	TO
1.	Dr.Muhamamd Taus Khan Management Cadre BS-20	District Health Officer Bannu	Report to the Director General Health Services Khyber Pakhtunkhwa
2	Dr.Fahim Hussain Management Cadre BS-20	Provincial Coordinator Lady Health Worker Program Khyber Pakhtunkhwa.	District Health Officer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

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

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


(FAZAL ALI)
SECTION OFFICER (E-V)

19

Annexure

" C "

To,

Worthy Chief Secretary
Govt of Khyber Pakhtunkhwa
Peshawar

(Through Proper Channel)

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

R/Sir,

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

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

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

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

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

ii. The Appellant involved maximum Doctors in Polio as UCMO i.e upto 30 in January 2019 campaigns which were only seven before appellant took charge as DHO Bannu.

iii. The Appellant also strengthened the EPI program by rationalization of the EPI workers.

iv. The Appellant also take measures to control the TB, Leshminia and other vector programs.

4. That instead of, to encourage the appellant due to the his outstanding performance, with excellent/very good ACRs and the competent authority knowing the fact of the retirement, in near future, i.e on 2/2/2020, the appellant was transferred vide impugned order date 24-06-2019 with malafide intension and for no any good reason and justification.

5. That the appellant always perform his duties with full Zeal and Zest and there is/was no complaints, inquiry or other departmental proceeding pending before any competent authority.

6. That the impugned order is based on victimization and just to accommodate a blue eyed person which is against the law, rules and regulation governing the subject matter.

7. That there may be a proper enquiry for Polio epidemic in Bannu Division with the following submission.

i. That the environmental sample of five drainage UC in Bannu was positive in October 2018 which means that the virus was circulating in Bannu and nearby Districts.

ii. The first case of Polio was confirmed in District Lakki Marwat in December, 2018 near the boundary of Bannu District.

iii. From 08-01-2019 Polio cases started coming positive from Bannu District and reached upto 6 in April, 2019.

The under five children population in Bannu District is 192995.

Out of 11 Polio cases confirmed in FR Bannu 05 cases are from FR Bannu where under five populations is 49337.

It is pertinent to mention that FR Bannu is separately controlled by Deputy DHO FR Bannu Previously known as agency surgeon FR Bannu. The Deputy DHO FR Bannu is fully authorized for hiring and firing of all his staff like DHO Bannu being the DDO of FR Bannu, but

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

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

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

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

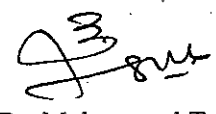
The Appellant has also submitted an email against PEO Dr.Arsalan against his non cooperation and arrogant behavior in Polio campaign with the appellant.

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

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

Date: 28-06-2019

Appellant



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

2019

24/6 2019
 SOH(E-V) 1-131/2007
 DHO
 SOH(E-V) 1-131/2007
 SOH(E-V) 1-131/2007

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SOH(E-V) 1-131/2007
 SOH(E-V) 1-131/2007

Annexe
 22
 Φ

کے لیے جو کہ اس وقت کے لیے ہے۔ اور اس کے لیے ہے۔

اس وقت کے لیے ہے۔ اور اس کے لیے ہے۔

اس وقت کے لیے ہے۔ اور اس کے لیے ہے۔

اس وقت کے لیے ہے۔ اور اس کے لیے ہے۔

اس وقت کے لیے ہے۔ اور اس کے لیے ہے۔

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Main body of handwritten text, appearing to be a medical or legal document, written in a cursive script. The text is oriented vertically and includes various lines and paragraphs.

Handwritten signature or name at the top left.

Handwritten text in the upper left section, possibly a date or reference.

Handwritten text at the top right, possibly a name.

Handwritten text in the upper right section.

Main body of handwritten text, including a date '1-7-19' and various illegible words.

26

Annexure
"E"

IN THE COURT OF CIVIL JUDGE-XI, BANNU

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

Order-03
01.07.2019

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

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

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

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

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

Adjourned to 05.07.2019

Announced.
01.07.2019

ATTESTED
03 JUL 2019

Copying Agency
Lower Court (Bannu)

Malik Zeeshan Gul
Civil Judge-XI, Bannu

- | | |
|--|--------|
| 1- Registration No: | 5041 |
| 2- Date of Presentation of Application | 3-7-19 |
| 3- Date of Receipt of the file | 3-7-19 |
| 4- Date of Preparation of copy | 3-7-19 |
| 5- Date of Delivery of copy | 3-7-19 |
| 6- No: of copies / words | 2 |
| 7- Ordinary Fee | 4 |
| 8- Urgent Fee | 5 |
| 9- Total Fee | 5 |
| 10- Signature of Copyist | A |

The Post Office is not responsible in the case of inland revenue also insured. and restrictions current edit upon every rule.

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annex (B)

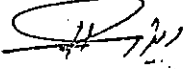
بند صاحب آری ج صاحب نو

۱۶۶ روضہ ۱۰۶۶ سٹی ۱۶۶
ڈائریکٹوریٹ سیکرٹریٹ

نوٹریڈر

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

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



Order---4
05-07-2019

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

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

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



Inam Ullah
Civil Judge-XIII
Bannu/MOD

- 1- Registration No: 5104
- 2- Date of Presentation of Application 05-07-2019
- 3- Date of Receipt of the file 05-07-2019
- 4- Date of Preparation of copy 05-7-19
- 5- Date of Delivery of copy 05-7-19
- 6- No: of copies / words 1
- 7- Ordinary Fee 2
- 8- Urgent Fee 1
- 9- Total Fee 3
- 10- Signature of Copyist AJ

ATTESTED

05 JUL 2019

Copying Agency
Lower Court Bannu

28
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(4)

1 of 2

Civil Suit No. 149/1 of 01-07-2019 titled "Dr. M. Tawos Khan VS Secretary Health Peshawar etc"

Order-05
08-07.2019

Plaintiff through learned counsel present.

Learned District Attorney Bannu present for the defendants

One Mr. Bakhtiar Ali (Section officer litigation) Health Department for defendant No.1, present.

Mr. Saifullah Advocate present for defendant No.2.

Mr. Sher Muhammad Khan Advocate present for defendant No.3.

Written reply on behalf of defendant No.1 has been submitted today, which is placed on file.

Perusal of the file transpired that question of the jurisdiction of this Court is involved in the instant matter. In this regard both the parties through their learned counsel were confronted with the point of the jurisdiction of this Court.

On the strength of available record and nature of the case, this Court is of the following opinion:

Pending adjudication before this Court is a suit for declaration and permanent mandatory injunction. The suit is filed to the effect that a notification bearing No. SOH (E-V) 1-131/2007 dated 24-06-2019 through which the plaintiff has been transferred, should be declared null and void.

ATTESTED

24 JUL 2019

Copying Agency
Lower Court, Bannu;

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Civil Suit No. 149-1 of 01-07-2019 filed "Dr. M. Tawos Khan US No. 149-1 Health Peshawar etc"

Since it is well settled principle of law that jurisdiction of the Court should be determined first of all. Therefore, before proceeding with the case in hand, this Court observed that;

Admittedly, the plaintiff is a civil servant. He has challenged a notification of his in service transfer in shape of a declaratory suit before this Court.

BY VIRTUE OF ARTICLE 212 OF THE CONSTITUTION OF PAKISTAN 1973 READ WITH SECTION 3, SECTION 10 AND SECTION 23-B OF THE N.W.F.P CIVIL SERVANT ACT, 1973 THIS COURT LACKS THE JURISDICTION TO ENTERTAIN THE SUIT IN HAND.

For what is discussed above, by virtue of Order 7 Rule 10 CPC, 1908 the plaint in hand which was filed by the plaintiff on 01-07-2019 is hereby returned today on dated 08-07-2019. The plaintiff is directed to appear before the proper forum. Original plaint alongwith documents be returned to the plaintiff while copies of the plaint and documents be retained on the case file of this court. Photocopies of the plaint and documents and order sheets of this court be consigned to the record room after its necessary completion and compilation.

Announced
08-07-2019

- 1- Registration No. 5207
- 2- Date of Presentation of Application 8-7-19
- 3- Date of Receipt of the file 8-7-19
- 4- Date of Preparation of copy 8-7-19
- 5- Date of Delivery of copy 8-7-19
- 6- No. of copies / words 21
- 7- Ordinary Fee 9
- 8- Urgent Fee 1
- 9- Total Fee 9
- 10- Signature of Copyist [Signature]

Malik Zeeshan Gul
Civil Judge-XI,
Bannu

Copyist
Lower Court

30
—

Annexure
"F"

①

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2019

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

..... Petitioner

Versus

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

..... Respondents

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

RESPECTFULLY SHEWETH:

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

②

and contributing his share in serving the community. It would be relevant to mention that the petitioner after issuance/promulgation of North West Frontier Province Health (Management) Service Rules, 2008, duly opted for Management Cadre of health department.

{True copy of option letter dated: 11-09-2009 is attached, marked as Annex-A}

3. **That** the petitioner who was posted as District Health Officer, Lakki Marwat vide office order dated: 10-03-2017 was working on the said since taking over charge of the said post when all of a sudden the respondents issued office order dated: 12-04-2018 (impugned through W.P No. 2250-P/2018) vide which the petitioner was transferred from the post of DHO, Lakki Marwat and placed at the disposal of respondent No. 3. It would be relevant to state that the petitioner is at the verge of his retirement, as he is going to be retired on superannuation on 01-02-2020.

{True copy of transfer order dated; 10-03-2017 and 12-04-2018 and CNIC are attached, marked as Annex-B, C & D}

4. **That** the Petitioner being aggrieved of the order dated: 12-04-2018, was left with no other remedy but to approach the competent authority along with departmental appeal, but to no avail.

{True copy of departmental appeal is attached, marked as Annex-E}

5. **That** the illegal order was passed by Respondent No.02 without giving any opportunity of hearing to the Petitioner, so the petitioner challenged the said order dated: 12-04-2018 through W.P No. 2250-P/2018 which was disposed of vide order dated: 14-06-2018 by directing the respondents to decide the departmental appeal within 14 days of the decision.

{True copy of W.P & order dated: 14-06-2018 is attached, marked as Annex-F & G}

6. **That** the petitioner after disposal of the Writ petition, was again constrained by the respondents to approach the Service Tribunal by filing Service

③

Appeal No. 939/2018 and during the pendency of Service Appeal, the respondents issued office order dated: 02-01-2019 by posting the petitioner as DHO, Bannu. It would be note worthy that the petitioner also filed Contempt petition before the Hon'ble Service Tribunal against the respondents, as they were not honoring the orders of the Hon'ble Tribunal and the respondents in order to save themselves from the contempt proceedings, lateron issued the posting order of petitioner.

{True copy of Service appeal, contempt petition & office order dated: 02-01-2019 is attached, marked as Annex-H, I & J}

7. **That** astonishingly, the petitioner while holding the office of DHO Bannu where the proceedings over the advertised post were ongoing, suddenly, the respondents with their dishonest attitude and malafide intentions issued the transferred order dated 24.06.2019 against the petitioner for no any good reason but just to harass and punish the petitioner for disobeying the illegal and unlawful directives of high-ups regarding the appointments of their own will wishers.

{True copy of impugned order dated: 24-06-2019 is attached, marked as Annex-K}

8. **That** the petitioner who is otherwise at the verge of his retirement, however, he preferred departmental appeal against the impugned order to the respondents specifically requesting them to cancel the impugned transfer order by stating the violation of transfer policy of the Govt.

{True copy of departmental appeal is attached, marked as Annex-L}

9. **That** Petitioner feeling aggrieved and dissatisfied with the actions and inactions of the Respondents, and having no other alternate adequate remedy because the service tribunal is defunct due to retirement of chairman of Service Tribunal, seeks the indulgence of this Hon'ble Court on the following among other grounds.

(4)

GROUNDS

- A. **Because** the impugned order dated: 24-06-2019 of respondent No. 2 is against law, facts, hence liable to be set-aside.
- B. **Because** the respondents in **utter disregard to the principles of the fairness, merit and transparency** passed the present impugned order dated: 24-06-2019, hence the impugned order of the respondent is against the law, illegal, unlawful and void ab initio and liable to be turned down.
- C. **Because** the impugned order has been passed on political influence, rather on merit which speaks volume of the ill-will and malafide of the respondents.
- D. **Because** the impugned transfer of the petitioner without adopting proper criteria and codal requirements by the respondents is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be un-held on this score also.
- E. **Because** the malafide of the department is so apparent that the petitioner has been made a rolling stone as the petitioner was transferred from the post of Deputy DHO, Dera Ismail Khan and posted as MS. DHO Hospital Dera Ismail Khan vide order dated: 26-09-2016 and just after one month of his transfer, the petitioner was again transferred vide order dated: 27-10-2016. Thereafter, the petitioner was again transferred and posted as DHO, Lakki Marwat vide order dated: 10-03-2017 and just after one year of the said order, the petitioner was once more transferred vide order dated: 12-04-2018. The malafide of the respondents did not stopped here as they posted the petitioner as DHO Bannu vide order dated: 02-01-2019 and just after almost 6 months of the transfer order, once again transferred vide impugned order dated: 24-06-2019 which shows that the petitioner has been transferred frequently from one post to another and that too before completion of his normal tenure of three years, hence the case of petitioner is of repeated transfer without adhering to law and dicta of the Superior Courts.

(5)

{True copy of transfer order dated: 26-09-2016 and dated: 27-10-2016 are attached, marked as Annex-M & N}

F. **Because** the petitioner has been made victim of political influence, as he has recently been advertised certain posts in District Bannu and the respondents/ political bosses wants to recruit their blue eyed on those posts and upon refusal, the petitioner was made victim which is highly condemnable which is evident from the correspondence made by the MPA Shah Muhammad as well as by the worthy Health Minister KP.

{True copies of advertisement along with correspondence are attached, marked as Annex-O & O/1}

G. **Because** the petitioner had been made victim of discrimination, demerits, partiality and favouritism without any just and reasonable cause thereby offending the fundamental rights of the petitioner as provided by the constitution of 1973, hence the impugned order detailed above is liable to be set at naught.

H. **Because** the impugned order has been passed without applying proper law and rules over the subject.

I. **Because** the petitioner who is at the verge of his retirement, so under the law and policy of the Govt. civil servant who is at the verge of his retirement should not be disturbed by making his transfer.

J. **Because** the petitioner was condemned unheard, his departmental appeal was not adjudicated till date. Further no chance of personal hearing was given to the present petitioner in order to redress his grievances which shows the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.

K. **Because** the present impugned order is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence the same is untenable and liable to be struck down.

L. **Because** the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new Pandora box in clear violation

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of Service law, hence, the said impugned order is liable to be set aside, and the petitioner may kindly be allowed to work on the post of District Health Officer, Bannu.

M. The petitioner craves for leave of the Hon'ble court to raise additional grounds at the time of arguments.

PRAYER:-

It is humbly submitted that on acceptance of the present writ petition, this Hon'ble court may graciously be pleased to:


- i. **Declare** the impugned order dated: 24-06-2019 of Respondent No. 2 as illegal, unlawful, without lawful authority and void ab initio by setting aside the said order.
- ii. **Direct** the respondents to allow the petitioner to work on the post of DHO, Bannu till his retirement.
- iii. **Any** further better relief may also kindly be granted in the circumstances of the appellant's case.

Interim Relief:

The impugn order dated 24.06.2019 may be suspended till final disposal of the present case.

Petitioner

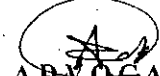
Through


 Asad Zeb Khan
 Advocate High Court

Dated: 09.07.2019

CERTIFICATE

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter. Further according to rules, the petition may kindly be placed before Divisional Bench of this august court for hearing.


 ADVOCATE

LIST OF BOOKS.

- 1. Constitution of Islamic Republic of Pakistan, 1973.
- 2. Case laws according to need.
- 3. Any other law books according to need.


 ADVOCATE

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1

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

FORM OF ORDER SHEET



Annexure

" "

Court of
Case No. of

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

ATTESTED
EXAMINER
Peshawar High Court

ATTESTED

M. Iqbal (D.B)

Hon'ble Mr. Justice Iqbal
Hon'ble Mr. Justice Shaukat Ahmad

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

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

Announced
15.07.2019

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 217 of
The Pakistan Constitution of 1973
16 JUL 2019

JUDGE

JUDGE

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

ATTESTED
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38



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

Service Appeal No. 993 /2019

Diary No. 1032
Dated 24/7/19

Annexure
" H "

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

.....Appellant

VERSUS

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

.....Respondents

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

Filed today
 Registrar
 24/7/19

ATTESTED

[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal

30.07.2019

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



Annexure

Counsel for the appellant present.

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

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

On the strength of admitting note in appeal No. 866/2016 instant appeal is admitted for regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.08.2019 before S.B.

Appellant Deposited
Security & Process Fee

31/7/19

ATTESTED

Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]

Appeal No. 993/2019
Dr. M. Taus Khan vs Govt ⁴⁰

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


Chairman

Certified true copy

K. S. Peshawar

Date

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7-11-19

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Date of

7-11-19

Date of Delivery

7-11-19



41
Annexure
"J"

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the August 5, 2019

NOTIFICATION

NOSOH(E-V)1-131/2016 In compliance of the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, Order dated 30/07/2019 in Appeal No. 993/2019, this Department Notification of even number dated 24/06/2019 in respect of Dr. Muhammad Taus Khan (BS-20) Management Cadre is hereby withdrawn till the final decision of Honorable Service Tribunal Peshawar.

SECRETARY HEALTH

Govt of Khyber Pakhtunkhwa.

Endst. No. & Date Even.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
4. District Health Officer Bannu
5. Health Department Notification No. SOH (E-V)7-818/2019 dated 24/07/2019 is hereby withdrawn.
6. Section Officer (Litigation-II) Health Department.
7. PS to Minister Health Khyber Pakhtunkhwa.
8. PS to Secretary Health Department.
9. Computer Programmer Health Department.
10. Officer concerned.


SECTION OFFICER-V

42

Annexure
"K"

Service Appeal No. 993/2019

Dr. Muhammad Taus Khan

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and 3 others.

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

03.10.2019

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

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

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

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

MUHAMMAD HAMID MUGHAL



(1)

3.10.2019

43

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

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

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

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

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

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

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3.10.2019

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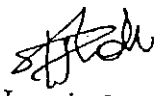
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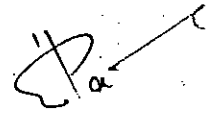
in 2005 SCMR 890 is not applicable to the facts and circumstances of the present case.

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

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

File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

Certified to be true copy

ANNOUNCED
03.10.2019

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

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- 787

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9803
29-10-19

Dated, Peshawar the 07th October, 2019

NOTIFICATION

Annexure
"L"

NO. SOH(E-V)1-131/2016 In pursuance of Honourable Khyber Pakhtunkhwa Service Tribunal, Order dated 03-10-2019 in Appeal No. 993/2019, this Department Notification of even number dated 05-08-2019, in respect of Dr. Muhammad Taus Khan Management Cadre BS-19 District Health Officer, Bannu is hereby withdrawn/cancelled with immediate effect in the public interest.

2. Consequent upon above, this Department Notification No. SOH (E-V)7-818/2019 dated 24-07-2019 in respect of Dr. Hameed-ur-Rehman, Deputy District Health Officer BS-19 is hereby restored by assigning DDO Power of the post of DHO, Bannu till further orders.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even.

Copy to the -

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa
3. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. Section Officer (Lit-II), Health Department.
5. District Health Officer Lakki Marwal.
6. Deputy District Health Officer, Bannu.
7. District Accounts Officer, Bannu.
8. PS to Minister Health Khyber Pakhtunkhwa.
9. PS to Secretary Health Department.
10. PS to Special Secretary Health Department.
11. Computer Programmer Health Department
12. Doctors concerned.

(FAZAE UR REHMAN)
SECTION OFFICER (E-V)

OFFICE OF THE DG HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No. 2022831 /E-1

Dated 31/10/2019

Copy of the above is forwarded to the:

1. District Health Officer, Bannu.
2. Dr. Muhammad Taus Khan S/O Rangin Khan, Resident of Mohallah Shakhi, Village & P.O Kulachi, District DI Khan. He is directed to immediately report to this Director General Health Services and intimate as to why the Government orders have not been obeyed
3. DAO Bannu.
4. AE-IV, DGHS, Khyber Pakhtunkhwa Peshawar.

For information and necessary action.

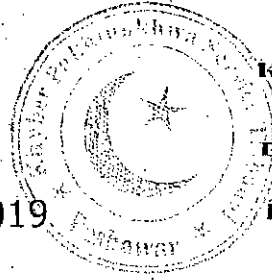
DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

31-10-19

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

46

9/10/19
Subscribed
under



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1342

Dated 04/10/2019

Service Appeal No. 1219/2019

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

.....Appellant

VERSUS

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

.....Respondents

**SERVICE APPEAL U/S 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST
TRANSFER ORDER DATED 24.06.2019,
HENCE THE PRESENT APPAL.**

ATTESTED

REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Filed to-day

Registrar

4/10/19

Respectfully Sheweth:-

- 1) That the appellant hails from a respectable family of Dera Ismail Khan and holds MBBS degree. Besides MBBS, the appellant also obtained Degree of DHPM from Institute of Management Sciences,

Annexure
"M"



09.10.2019

Mr. Muhammad Sajjed Khan, Advocate has submitted Wakalatnama on behalf of the appellant which is placed on record.

Learned counsel contends that on 02.01.2019 the appellant, awaiting for posting, was adjusted as DHO Bannu. Consequently he started performing his duty there. In utter disregard of Provincial Government policy regarding posting/transfer of civil servants a notification dated 24.06.2019 was issued by respondent No. 1 whereby the appellant was required to report to the Director General, Health Services Khyber Pakhtunkhwa. Further the respondent No. 4 was transferred and posted as DHO Bannu vice appellant. The impugned act of respondents smacks of malafide and the result of political interference as copy of the notification was duly and officially endorsed to P.S to Minister Health Khyber Pakhtunkhwa. It was further argued that the relevant policy of the Government provides normal tenure of two years for posting/transfer of a civil servant which was not completed by far in the case of appellant when the impugned notification was issued. It is also added that the appellant is to retire on reaching superannuation on 2.2.2020.

In view of the arguments of learned counsel and available record, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

the respondents. To come up for written reply/comments on 28.10.2019 before S.B.

Alongwith the appeal there is an application for suspension of operation of notification dated 24.06.2019. Notice of the application be also given to the respondents for the date fixed. In the meanwhile the operation of impugned notification shall remain suspended, if not complied with already.



Amount Deposited
Court & Process Fee

10/10/19



Chairman

28.10.2019

Appellant with counsel and Mr. Usman Ghani District Attorney alongwith Sher Baz Khan, S.O for the official respondents present. Nemo on behalf of respondent No. 4.

The representative of respondents requests for time to submit reply/comments to the appeal as well as in respect of Misc. Application No. 386/2019. Adjourned to 12.11.2019 before S.B.

The respondents shall positively submit the requisite reply on or before next date of hearing. The Misc. application shall also be argued on the adjourned date. In the meanwhile, the order of suspension of impugned notification, passed on 09.10.2019, shall remain operative subject to the condition laid therein.



Chairman

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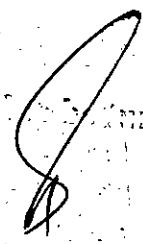
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

12.11.2019


Appellant alongwith counsel and Addl. AG alongwith Sher Baz Khan, S.O for the respondents present.

Representative of respondents requests for further time to submit the reply/comments to the appeal as well as application (C.M No. 386/2019). Appellant also makes a request for adjournment in order to submit an amended appeal impugning the notification dated 07.10.2019 issued by the Secretary Health Department Government of Khyber Pakhtunkhwa.

Adjourned to 27.11.2019, on which date the needful shall positively be done by the parties. Till next date the order of suspension of impugned notification, passed on 09.10.2019 shall remain operative subject to the condition laid therein.

Certified true copy

Chairman


Chairman

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12-11-2019

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OFFICE OF THE DISTRICT HEALTH OFFICER BANNU

Ph: 0928-9270132

Email: dhobannu311@yahoo.com

No: 24446/

Dated: 30/10/2019

S.S. H/ASE

To,

The Secretary to the Government
Of Khyber Pakhtunkhwa Health Department
Peshawar.

*Need to initiate
legal action against him
immediately and if
required may suspend
his services. Further*

Subject:-

ILLEGAL OCCUPATION/DECLARATION AS DHO BANNU

Respected Sir,

It is stated for your kind information please that today on dated: 30-10-2019, I was monitoring an ILIN distribution at various distribution points. Meanwhile at 02:30 PM, I received a message from my Office that Dr. Muhammad Taous Khan, the then DHO Bannu, arrived in the Office of the undersigned and forcibly opened the lock of the personal office of DHO Bannu with a keys which he was already bearing with him without my permission and also illegally occupied the designated Chair of DHO Bannu without the Notification of the competent authority.

*the DHO Bannu
directed to be
FIR against
Mr. M. Taous
for interfering
Govt work
using illegal
and force to
enter office of
DHO Bannu*

In the mean time, the above named doctor concerned called the Establishment in charge to the Office of DHO which he illegally occupied and instructed him to circulate an Office order that Dr. Muhammad Taous Khan has assumed the Charge of the Post of DHO Bannu and Government of Khyber Pakhtunkhwa Health Department Notification regarding the assignment of the additional Charge of the Office of DHO entrusted to Dr. Hamid ur Rehman Deputy DHO Bannu is hereby withdrawn

Beside this, he has retained the designated vehicle of DHO Bannu bearing No. A1064-Buner and the same is still in his use without any authorization since 07-10-2019 till date.

It is further added that he is intentionally creating hurdles in the smooth running of the office DHO Bannu for his own vested interests.

Therefore, the day to day affairs of the Office of the undersigned are completely halted.

Report is hereby submitted for your information and further necessary action please.

District Health Officer,
Bannu

Cc:-

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner Bannu
3. The District Police Officer Bannu
4. PS to Minister Health Khyber Pakhtunkhwa.
5. PS to the Commissioner Bannu Division Bannu.

The above statement is 100% correct

District Health Officer
Bannu

- ① *Muhammad Ali*
- ② *DR. Afzar Ali Coord N/A*
- ③ *DR. Khan Muhammad Asif*

*30-10
30/10
SO-V
P/cast
Muzaffar
H/S4
20/10*

		19-10-2019	1477
		30-10-2019	1477
		05-11-2019	1477
		19-11-2019	1477
		03-12-2019	1477
		17-12-2019	1477
		31-12-2019	1477
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		11-02-2020	1477
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		10-03-2020	1477
		24-03-2020	1477
		07-04-2020	1477
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		22-09-2020	1477
		06-10-2020	1477
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		17-11-2020	1477
		31-11-2020	1477

ابتدائی اطلاع نیچے درج کر دستفرد مذکورہ خانہ نمبر 2 نے ایک دفعہ درخواست
 دیکھی اور ایسی حالت قانونی کارروائی پر مشتمل مذکورہ خانہ نمبر 5 لپسٹ کی تھی۔ جسکے درخواست
 کنندہ کی نوکری پر 9 روزہ عرصے میں 31 مارچ 2019ء کو نوبت نکلی تھی۔ جو بعد میں خانہ نمبر 1
 پر منتقل ہو گیا۔ بعد میں مذکورہ خانہ نمبر 2 کے درجہ کے اندر میں حضور تعالیٰ نے ایک بار
 میں نے 31 مارچ 2019ء کو خانہ نمبر 5 میں حضور تعالیٰ کے وقت 20:08 بجے
 ایک دفعہ درخواست کنندہ کو اطلاع دی کہ اس کی دعا پوری ہوئی ہے اور وہ اپنے
 تمام کاموں سے آزاد ہو گیا ہے۔
 Dated 05-11-2019. 2041-461
 Office of the District Health Officer Bannu, Khyber Pakhtunkhwa
 30-10-2019, To The Secretary of Government of Peshawar. Subject: Illegal occupation /
 Khud Health Department Peshawar. Respected Sir, It is stated for
 Declaration As DHO Bannu. Respected Sir, It is stated for
 your kind information please that today on dated 30-10-2019.
 I was monitoring on 111N distribution at various distribution
 points. Meanwhile at 02:30 PM I received a message from
 my office that Dr. Maud: Taus Khan the then DHO Bannu, arrive
 in the office of the Under signed and forcibly opened the
 lock of the personal office of DHO Bannu with a key which
 he was already bearing with him with out my permission
 and also illegally occupied the designated. chair of DHO's

In
 human times, the above named doctor concerned, called the
 Establishment in charge to the office of DHO which he illegally
 occupied and instructed him to circulate an office order
 that Dr. Muhammad Taous Khan has assumed the charge of the
 post of DHO Bannu and government of Khyber Pakhtunkhwa
 Health department notification regarding the assignment of
 the additional charge of the office of DHO entrusted to Dr. Harid
 W. Rehman. Deputy DHO Bannu is hereby withdrawn. Beside
 this, he has retained the designated vehicle of DHO Bannu
 bearing no A-1064 Buner and the same is still in his
 use without any authorization. Since on 10.2.2019, he
 is further added that he is intentionally creating hardship
 in the smooth running of the office DHO Bannu for his own
 vested interests. Therefore the day today affairs of the
 if the undersigned are completely halted. Report is
 hereby submitted for your information and further
 necessary action please. District head officer Bannu
 cc: 1 The District General Health Services Khyber Pakhtun
 Khwa Peshawar 2. The Deputy Commissioner Bannu 3. The
 District Police Officer Bannu. 4. P.S to Minister Health Khyber
 Pakhtunkhwa. 5. P.S to Commissioner Bannu Division
 6. P.S to Commissioner Bannu District. 7. P.S to
 To the SHO City Bannu Subject: Launching of FIR against
 Muhammad Taous Khan. In continuation of the letter no 244-60
 dated 30.10.19 regarding illegal occupation of the office of DHO
 Bannu by Dr. Muhammad Taous Khan, it is further added that
 the official regard may be tempered & misplaced lying in
 the office of DHO Bannu. So on the basis of contents given in
 of are mentioned letter and stated in the letter on F.I.R. may
 be launched against him. Dr. Harid W. Rehman DHO Bannu
 dated 30-10-19.

SHO City
 06-11-2019

Handwritten notes and signatures at the bottom of the page, including a signature that appears to be "Harid W. Rehman".

سرکار پاکستان
وزارت صحت
پشاور

گیت

The District Health Officer Bannu
 dated 30-10-2019 To, The Secretary of Government
 Higher Pakhtunkhwa Health Department Peshawar.
 Subject: Illegal occupation / Declaration as DHO Bannu. Respected Sir,
 As stated for your kind information please that today on
 dated 30-10-2019, I was monitoring on ILLN distribution at
 various distribution points. Meanwhile at 02:30 PM, I received
 a message from my office that Dr. Muhammad Taus Khan,
 as then DHO Bannu, arrived in the office of the under signed
 and forcibly opened the lock of Personal office of DHO Bannu
 with a key which he was already bearing with him with out
 my permission and also illegally occupied the designated
 chair of DHO Bannu without the notification of the competent
 authority. In the meantime, the above named doctor concern
 called the Establishment in charge to the office of DHO who
 he illegally occupied and instructed him to circulate an
 office order that Dr. Muhammad Taus Khan has assumed the
 charge of the post of DHO Bannu and Government of
 Higher Pakhtunkhwa Health Department notification
 regarding the assignment of the additional charge
 of the office of DHO entrusted to Dr. Hamid ul Haq

Deputy DHO, Bannu is hereby with drawn. Beside this, he was retained the designated vehicle of DHO Bannu bearing no. A-1064- Bannu and the same is still in his use without any authorization since 07.10.2019 till dated. It is further added that he is intentionally creating hindrance in the smooth running of the office DHO Bannu for his own & vested interest. Therefore, the day to day affairs of the office of the undersigned are completely halted.

Report is hereby submitted for your information and further necessary action please. District Health Officer Bannu. cc

- 1- The Director general Health Services Pkhtun Khawa Peshawar.
- 2- The Deputy Commissioner Bannu.
- 3- The District police officer Bannu.
- 4- Ps to minister Health Pkhtun Khawa.
- 5- Ps to Commissioner Bannu Division Bannu.

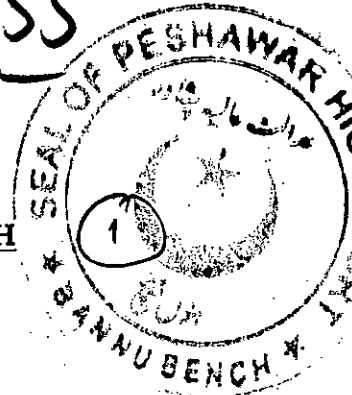
To the SHO city Bannu. Subject: Launching of FIR against Mr. Muhammad Taus Khan. In continuation of his letter No. 244-46. Dated 30.10.19 regarding illegal occupation of the office of DHO, Bannu by Dr. Muhammad Taus Khan, it is further added that the official record may be tampered/misplaced lying in the office of DHO Bannu. So, on the basis of contents given in the of are mentioned letter and stated in his letter on FIR may be launched against him, Dr. Hamid ur Rehman, DHO Bannu dated 30/10/19

امیدوارم کہ اس کی کاپی آپ کو بھیجی جائے گی۔
Rahim Pasai

Annexure

55

"N/1"



BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

Writ Petition No. 1115-B /2019

Dr. Muhammad Taus R/O Rangeen Khan R/O Presently Bannu City, Tehsil & District Bannu
.....(Petitioner)

w-p
Judgment
11/11

V E R S U S

- 1- The State through Additional Advocate General Bannu Bench
- 2- Hamid Ur Rehman Deputy DHO, Bannu..(Complainant)
- 3- District Police Officer Bannu
- 4- SHO Police Station City, Bannu
.....(Respondents)

**CASE FIR NO.1417 DATED 06-11-2019
U/S 186 PPC, P.S CITY BANNU**

**WRIT PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973 UPTO DATE AMENDMENT.**

PRAYER:-

**ON ACCEPTANCE OF INSTANT WRIT PETITION, THE
ABOVE MENTIONED CASE FIR NO.1417 MAY VERY
KINDLY BE QUASHED AND ANY PROCEEDINGS IN
PURSUANCE OF SAID FIR AGAINST THE
ACCUSED/PETITIONER MAY VERY KINDLY BE**

12 NOV 2019
Additional Registrar

ATTESTED
Additional Registrar
Peshawar High Court
Bannu Bench

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**DECLARED AS NULL AND VOID TO MEET THE ENDS
OF JUSTICE.**

Respectfully Sheweth:-

FACTS:-

1. **That** the petitioner was posted as District Health Officer at Bannu and posted in BPS-20 on 02-01-2019.
2. **That** petitioner was performing his duties with great zeal and zest.
3. **That** some posted were advertised for premedical staff and for BPS-12 and interview date was fixed as 02-07-2019.
4. **That** the political party pressurize the petitioner for appointment of their favorite candidates as Class-IV without observing legal formalities but the petitioner repeated told them he will follow the merits.
5. **That** on 24-06-2019, transfer order of petitioner was issued by the Government and the DDHO Dr. Hamid Ur Rehman give additional charge, thereafter, petitioner approach to Service Tribunal and order was suspended on 30-07-2019 but on 03-10-2019 his appeal was rejected on the ground of immature and sent to high court for representation and again his transfer order was

12 Nov/2019
Additional Registrar

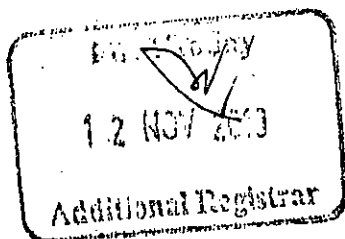
ATTESTED
Peshawar High Court
Bannu Bench

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suspended by Service Tribunal vide order dated 09-10-2019.

6. **That** as petitioner had not requisitioned the charge, so he came to his office and start his duty.
7. **That** on 30-09-2019, the DDHO made complaint to SHO Police Station City that petitioner has forcibly occupied the office and open the lock with key, which is in possession of petitioner.
8. **That** SHO PS City sent the report to DPP without conducted any inquiry and how without conducted any inquiry FIR was lodged. (Copy of the FIR is annexure "A").
9. **That** on 01-11-2019 the DDHO lock the office on own power and relock the office with intention to mad deadlock and he has been succeed and the office is still lock.
10. **That** petitioner has also submitted report before the SHO Police Station City.
11. **That** respondent No.2/complainant falsely charged the accused/petitioner just for harassment and humiliate him, therefore, seeking no other adequate remedy the petitioner, invokes the jurisdiction of this Honourable Court for Quashment of FIR, inter alia on the following amongst other grounds:-



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EXCISE
Peshawar High Court
Banaru Bench

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GRUNDS:-

- a. **That** accused/petitioner is innocent and falsely implicated in the instant case, which is liable to be quashed for the interest of justice.
- b. **That** the act of respondent No.2 is totally wrong, baseless, totally malafide has no existence in the eye of law.
- c. **That** the FIR as well as all proceedings tent with malafide and only object of local police is to humiliate the accused in the society because petitioner by profession and posted as District Health Officer in BPS-20.
- d. **That** threats was also given by the respondent NO.2 Hamid Ur Rehman but having approach to high-ups the false case was registered against the petitioner.
- e. **That** the accused is innocent and falsely rope the accused and once concocted bogus case was registered which have no legal effect and locus standi.
- f. **That** by profession the petitioner is a Management Cadre Doctor and having 20 grade, petitioner

Filed Today
12/10/2019
Additional Registrar

ATTESTED
EXAMINER
Peshawar High Court
Banna Bench

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cannot thought about the offence as alleged by the respondent No.2.

- g. **That** respondent No.2 having political influence and pressure registered a false case against the petitioner.
- h. **That** the offence for which petitioner is charge is bailable in nature and only want to defame the petitioner in public.
- i. **That** petitioner being the peaceful citizen of country and no criminal case is exists.
- j. **That** no evidence is available against the petitioner.
- k. **That** no prima facie case is made out against the petitioner.
- l. **That** any other relief if not prayed by petitioner which according to honourable court are deem fit be granted.
- m. **That** the petitioner seek permission to rely and advance additional arguments at the time of hearing of instant petition.

12/10/19
Additional Registrar

It is most humbly prayed that on acceptance of instant Writ Petition, the above mentioned case FIR No.1417 may very kindly be quashed and any proceedings in pursuance

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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of said FIR against the accused may very kindly be declared as null and void to meet the ends of justice.

DATED 11/11/2019

(Petitioner)

Through counsel

ll
(Khush Amir Khattak)
Advocate High Court,

Interim Relief:-

In shape of suspension of all the proceedings on the FIR as well as consequent upon the FIR may kindly be suspended till the final disposal of the instant petition.

ll
Advocate

CERTIFICATE:-

This is to certify that no other such like petition is filed or pending disposal before any other forum or before this august court, except the instant petition, as per information conveyed by my Clients.

LAW OF BOOKS:-

- I) Constitution of Islamic Republic of Pakistan, 1973,
- II) Other case law according to need

Filed Today
12/11/2019
Additional Registrar

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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**IN THE PESHAWAR HIGH COURT,
BANNU BENCH.**

Annexure
"N/2"

(Judicial Department)

W.P No. 1115-B of 2019.

**Dr. Muhammad Taus Khan
Vs**

The State through Addl: A.G Bannu etc:

JUDGMENT

Date of hearing 13.11.2019

Appellant-Petitioner ~~by Mr. Usman~~
~~Amir Waheed~~

Respondent(s) ~~Govt/State by Mr.~~
~~Qasim Ali Khan A.G.~~

IKRAMULLAH KHAN, J.--- Through the instant writ petition, petitioner has prayed for the following relief:-

"On acceptance of the instant writ petition, the above mentioned case F.I.R No. 1417 may very kindly be quashed and any proceedings in pursuance of said F.I.R against accused/petitioner may very kindly be declared as null and void to meet the ends of justice."

2- In essence, respondent No.2 on 30.10.2019 made a report to the respondent No.4 that "Respected Sir, It is stated

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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for your kind information please that today on dated 30.10.2019, it was monitoring on ILLN distribution at various distribution points. Meanwhile at 02:30 PM, I received a message from my office that Dr. Muhammad Taus Khan, the then, District Health Officer, Bannu, arrived in the office of the under signed and forcibly opened the lock of the personal office of DHO, Bannu with a key which he was already bearing with him without my permission and also illegally occupied the designated chair of DHO, Bannu without the notification of the competent authority. In the meantime, the above named doctor concerned called the establishment in charge to the office of DHO which he illegally occupied and instructed him to circulate an office order that Dr. Muhammad Taus Khan has assumed the charge of the post of DHO, Bannu, and Government of Khyber Pakhtunkhwa Health Department notification regarding the assignment of the additional charge of the office of DHO entrusted to Dr. Hamid-ur-Rehman Deputy DHO Bannu is hereby withdrawn. Besides this, he has retained the designated vehicle of DHO, Bannu, bearing No. A-1064-Buner and the

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

same is still in his use without any authorization since 07.10.2019 till date. It is further added that he is intentionally creating hurdles in the smooth running of the office of DHO, Bannu, for his own vested interests. Therefore, the day today affairs of the undersigned are completely halted. Report is hereby submitted for your information and further necessary action please. District Health Officer, Bannu. CC. 1. The District General Health Services, Khyber Pakhtunkhwa Peshawar. 2. The Deputy Commissioner, Bannu. 3. District Police Officer Bannu. 4. PS to Commissioner Bannu Division Bannu. "

3- The record reveals that the petitioner was performing his duty as District Health Officer, Bannu, however, he had transferred vide notification dated 24.6.2019, but the same order had suspended by the worthy Service Tribunal vide his order dated 30.7.2019. The record further reveals that on suspension of his order, petitioner had resumed his duty and did nothing but to come to his office for performance of his official duty, while respondent No.2 on the date when he lodged the report with police was not performing his duty of District Health

ATTESTED
JANUARY
Peshawar High Court
Bannu Bench

Officer, so the report lodged to the police is without jurisdiction and lawful authority, thus, while no any offence keeping in view the contents of the letter sent to police come out to be an offence, therefore, this writ petition is allowed and the F.I.R lodged against the petitioner is set-aside as well as all the proceedings conducted thereafter the F.I.R are nullity in the eye of law which is set-aside accordingly.

Announced.
13.11.2019.

Sd/Justice Ikramullah Khan, J
Sd/ Justice Sahibzada Asadullah, J

CERTIFIED TO BE TRUE COPY

Examiner

Peshawar High Court Bannu Bench
Authorised Under Article 87 of

The Qanun-e-Shahadat Ordinance 1984
Imranullah (D.B) Mr. Justice Ikramullah Khan & Mr. Justice Sahibzada Asadullah

Handwritten signature and date: 21/11/19

7987
 Date of Presentation 15-11-79
 No of Pages 06
 Copying Fee 10/-
 Urgent Fee
 Total 10/-
 Date of Receipt 21-11-79
 Date Given 21-11-79
 Date of Delivery 21-11-79
 Received By



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Annexure

Dated Peshawar the 8th Nov, 2019

" 0 "

NOTIFICATION

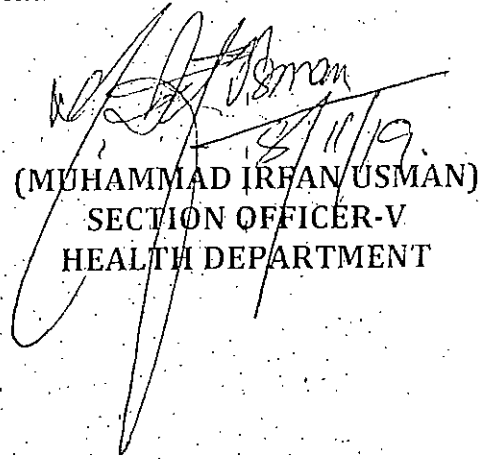
65

NO. SOH(E-V)131/2007:- In exercise of the powers conferred under Rule-2, sub-rule(1), clause (f) in sub-section(ii) of Khyber Pakhtunkhwa Efficiency & Discipline Rules-2011, the competent authority has been pleased to place under suspension Dr. Muhammad Taus Khan (BS-20) Management Cadre (waiting for posting) for a period of ninety (90) days as admissible under Rule-6 of the rules ibid.

SD/-
**CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Mr. Farakh Sair (PCS EG BS-21), Secretary Auqaf, Hajj, Religious Affairs Department / Inquiry Officer.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
4. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
5. Dr. Muhammad Taus Khan through Director General Health Services, Khyber Pakhtunkhwa.
6. Dr. Fazal Rehman, Deputy Director (Implementation), Directorate General of Health Services, Peshawar.
7. Section Officer (Lit-II), Health Department for information & necessary action.
8. PS to Secretary Health Department.


(MUHAMMAD IRFAN USMAN)
SECTION OFFICER-V
HEALTH DEPARTMENT



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

66 Annex
"P"

Dated Peshawar the 14th Nov, 2019

NOTIFICATION

NO. SOH(E-V)/131/2016:-

The competent authority (Chief Minister, Khyber Pakhtunkhwa) has been pleased to order posting / transfer of the following Doctors of Management Cadre (BS-20) in the best of public interest, with immediate effect and until further orders:-

Sr.#	Name of Dr.	From	To
1.	Dr. Abdur Rehman Management Cadre (BS-20)	Additional Director General (HR), O/o DGHS, Peshawar	District Health Officer Bannu, Relieving Dr. Hameed-ur- Rehman, Deputy District Health Officer, Bannu from additional charge of the post of DHO Bannu.
2.	Dr. Tahir Bashiruddin Management Cadre (BS-20)	Additional Director General (Health Services), O/o DGHS, Peshawar.	Additional Director General (HR), O/o DGHS, Peshawar (Vice SR.#1).
3.	Dr. Shad Ali Management Cadre (BS-20)	Additional Director General (Admin), O/o DGHS, Peshawar	Report to Directorate General of Health Services, Peshawar.
4.	Dr. Muhammad Javed Management Cadre (BS-20)	Waiting for posting	Additional Director General (Health Services), O/o DGHS, Peshawar (Vice Sr.#2).
5.	Dr. Muhammad Haroon Management Cadre (BS-20)	Director Nutrition, O/o DGHS, Peshawar	Additional Director General (Admin), O/o DGHS, Peshawar (Vice Sr.# 3).

SD/-
SECRETARY HEALTH

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Services, Merged Districts, Khyber Pakhtunkhwa, Warsak Road Peshawar.
4. Deputy Commissioner District Bannu.
5. District Account Officer, District Bannu.
6. All concerned for information and necessary action. Charge assumption / relinquish report may be provided for record.
7. Deputy Director (IT) Health Department for uploading on official website.
8. PS to Minister, Health Khyber Pakhtunkhwa, Peshawar.
9. PS to Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
10. Office Order File.

(MUHAMMAD IRFAN USMAN)
SECTION OFFICER-V
HEALTH DEPARTMENT

Scanned by CamScanner



HEALTH DEPARTMENT

Dated Peshawar the 18th Nov, 2019

Annexure

"Q"

67

NOTIFICATION

NO.SOH(E-V)/131/2016:- The competent authority has been pleased to modify the posting / transfer of Management Cadre (BS-20) issued vide this department notification of even No. dated 14/11/2019 to the following extent in the best of public interest, with immediate effect and until further orders:-

Sr.#	Name of Dr.	From	To
1.	Dr. Abdur Rehman Management Cadre (BS-20)	Additional Director General (HRM), O/o DGHS, Peshawar	District Health Officer Bannu. Relieving Dr. Hameed-ur- Rehman, Deputy District Health Officer, Bannu from additional charge of the post of DHO Bannu.
2.	Dr. Tahir Bashir Ud Din Management Cadre (BS-20)	Additional Director General (Health Services), O/o DGHS, Peshawar.	Report to Directorate General of Health Services, Peshawar.
3.	Dr. Muhammad Javed Management Cadre (BS-20)	Waiting for posting	Additional Director General (Monitoring), O/o DGHS, Peshawar.
4.	Dr. Haroon Khan Management Cadre (BS-20)	Director Nutrition, O/o DGHS, Peshawar	Additional Director General (Health Services), O/o DGHS, Peshawar (Vice Sr.#2).

2. Consequent upon the above, Dr. Shad Ali, Management Cadre (BS-20) Additional Director General (Admin) is hereby authorized to hold additional charge of the post of Additional Director General (HRM) in addition to his own duties.

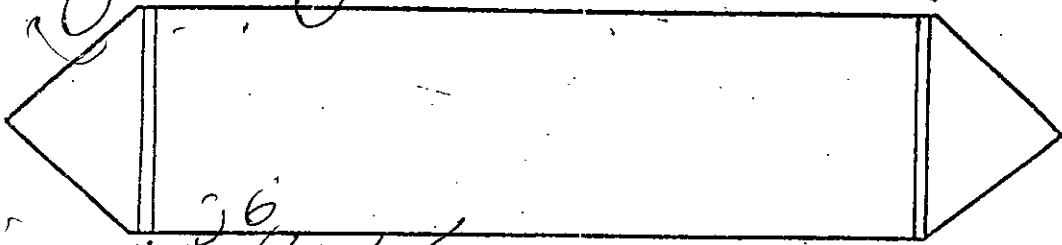
SD/-
SECRETARY HEALTH

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Services, Merged Districts, Khyber Pakhtunkhwa, Warsak Road Peshawar.
4. Deputy Commissioner District Bannu.
5. District Account Officer, District Bannu.
6. All concerned for information and necessary action. Charge assumption / relinquish report may be provided for record.
7. Deputy Director (IT) Health Department for uploading on official website.
8. PS to Minister, Health Khyber Pakhtunkhwa, Peshawar.
9. PS to Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
10. Office Order File.

(MUHAMMAD IRFAN USMAN)
SECTION OFFICER-V
HEALTH DEPARTMENT

بعدالت عنوان اس پر قبول کا



ڈاکٹر محمد جاوید بیاضی
ڈاکٹر محمد جاوید بیاضی

شورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ -
 آن مقام لسانہ کیلئے ڈاکٹر محمد جاوید بیاضی کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے وہ ہوگا۔
 کوئی تاریخ 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۔

المرقومہ کا 27/11/2018
 ماہ نومبر 2018

43

کے لئے منظور ہے۔

بمقام

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1219/2019

Dr. Muhammad Taus Khan.....Appellant

VERSUS

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

I N D E X

S.No.	Description of documents.	Annexure	Pages
1.	Service Appeal with Affidavit		1-7
2.	Stay application with affidavit		8-9
3.	Addresses of parties		10
4.	Copy of posting order dated 02.01.2019 and transfer order dated 24.06.2019	A & A/1	11-11A
5.	Copy of departmental appeal	B	12-14
6.	Copy of advertisement etc.	C	15
7.	Copies of necessary documents	D	16-19
8.	Copy of transfer order / Notification dated 18.07.2019	E	20
9.	Wakalatnama		21

Through Appellant

Ahmad Farooq Khattak
Advocate High Court

&

Muhammad Rafiq Mohmand

Dated: 04.10.2019 Advocate High Court

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1342

Service Appeal No. 1219/2019

Dated 04/10/2019

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

.....Appellant

VERSUS

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

.....Respondents

**SERVICE APPEAL U/S 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST
TRANSFER ORDER DATED 24.06.2019,
HENCE THE PRESENT APPAL.**

Filed to-day


Registrar

4/10/19

Respectfully Sheweth:-

- 1) That the appellant hails from a respectable family of Dera Ismail Khan and holds MBBS degree. Besides MBBS, the appellant also obtained Degree of DHPM from Institute of Management Sciences,

Peshawar which is compulsory for management cadre health professional.

- 2) That the appellant while posted as DHO, Bannu on 02.01.2019 and was transferred vide order dated 24.06.2019 (hereinafter impugned) at the disposal of respondent No.3. (Copy of posting order dated 02.01.2019 and transfer order dated 24.06.2019 is attached as Annex "A" & "A/1")
- 3) That immediately, after the impugned order, the appellant preferred departmental appeal on 28.06.2019 before the competent Authority, but of no avail. (Copy of departmental appeal is attached as Annex "B")
- 4) That the appellant after availing other remedies available, filed service Appeal before this Hon'ble Tribunal which was returned on the sole ground that the appeal is premature on dated 03.10.2019.
- 5) That now the appellant approaches this Hon'ble Tribunal as the requisite period of maturity of departmental appeal has lapsed on the following amongst other grounds:-

GROUND

- A. Because the act, commission and omission of the respondents by way of transferring the appellant vide the impugned order dated 24.06.2019, is

- B. patently illegal, unlawful, without lawful authority, against the law, rules and regulation governing the subject matter, thus liable to be set-aside and the appellant may kindly be allowed to keep and continue his duties as DHO, Bannu.
- C. Because the impugned order is the in fact the result of an advertisement wherein application for some posts of medical technician (BPS-12) were invited and during the process, appellant was approached by the political leaders (MPAs and high ups) to appoint their blue eyed ones and when the appellant refused to honour the same orders without merit, the impugned order was issued, on this score alone, the impugned transfer need to be recalled. (Copy of advertisement etc. is attached as Annexure "C").
- D. Because the respondents are badly failed to follow the law, rules and regulation, more so, the policy of retirement on superannuation has also been violated, as appellant is going to be retired on 02.02.2020 and astonishingly the posting /transfer policy is further been violated as the appellant is holding the office of DHO Bannu since 02.01.2019, but the impugned order is also violation of laid down polices, hence invites consideration of this Hon'ble Tribunal.
- E. Because the respondents are/ were bound down under the law to disposed-of the departmental appeal/representation, but even upon the clear

cut direction of the Hon'ble Peshawar High Court, Peshawar. The appeal has not yet decided which shows the malafide, high handedness on part of the respondents.

- E. Because the impugned order is the result of political interference in the proceedings of appointments against the advertised posts and the appellant always follow the merit and never accept the unfair and illegal orders of his superiors, thus have unblemished career of about 32 years, but the impugned order is stigmatize the whole career of the appellant.
- F. Because the respondents in utter disregard to the principles of the fairness, merit and transparency passed the present impugned order dated 24.06.2019, hence the impugned order of the respondent is against the law, illegal, unlawful and void ab-initio and liable to be turned down.
- G. Because the impugned transfer of the appellant without adopting proper criteria and codal requirements by the respondents is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be un-held on this score also.
- H. Because the malafide of the department is so apparent that the appellant has been made a

rolling stone as the appellant was transferred from the post of Deputy DHO, Dera Ismail Khan and posted as MS DHQ Hospital Dera Ismail Khan vide order dated: 26.09.2016 and just after one month of his transfer, the appellant was again transferred vide order dated: 27.10.2016. Thereafter, the appellant was again transferred and posted as DHO, Lakki Marwat vide order dated: 10.03.2017 and just after one year of the said order, the appellant was once again transferred vide order dated: 12.04.2018. The malafide of the respondents did not stopped here as they posted the appellant as DHO Bannu vide order dated 02.01.2019 and just after almost 6 months of the transfer order, once again transferred vide impugned order dated: 24.06.2019 which shows that the appellant has been transferred frequently from one post to another and that too before completion of his normal tenure of three years, hence the case of appellant is of repeated transfer without adhering to law and dicta of the Superior Courts. (Copies of necessary documents are attached as Annex "D")

- I. Because astonishingly, the impugned order upto to the extent of respondent No.4 have been recalled and the respondent No.4 have been shown adjusted against the post of Chief Medical Officer (CMO), Karak, hence the order may graciously be considered in toto, thus the appellant has the right to hold the office of DHO,

Bannu. (Copy of transfer order / Notification dated 18.07.2019 is attached as Annexure "E").

- J. Because the impugned order has been passed without applying proper law and rules over the subject.
- K. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new Pandora box in clear violation of Service law, hence, the said impugned order is liable to be set aside, and the appellant may kindly be allowed to work on the post of District Health Officer, Bannu.
- L. Because it is highly condemnable that the respondents are adopting the policy of "MIGHT IS RIGHT", which is evident from the frequent posting/ transfer order of the appellant as well as respondent No.4 of BPS-20 officers, as no summary have been moved nor any approval has been made, thus the act, commission and omission of the respondents is in violation of law and rules, hence invites consideration of this Hon'ble Tribunal.
- M. That the appellant belongs to management cadre BPS-20 and according to the dictums of service Tribunal as well as the superior Courts and decisions, doctors belonging general cadre cannot be adjusted against the managing posts (DHO/Deputy DHO and Projects).

N. That any other ground which has not been specifically mentioned will be agitated at the time of arguments with kind permission of this Hon'ble Tribunal.

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

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


Appellant

Through


Ahmad Farooq Khattak
Advocate High Court Peshawar

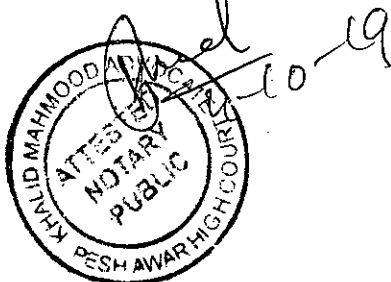
&



Muhammad Rafiq Mohmand

Dated: 04.10.2019 Advocate High Court Peshawar

AFFIDAVIT

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




Deponent
12101-6365807-1
0333-9278873

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

C.M.No. _____/2019

IN

Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....Appellant

VERSUS

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


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

Respectfully Sheweth:

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

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

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


Appellant/ Applicant

Through


Ahmad Farooq Khattak
Advocate High Court

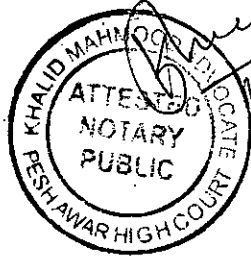
&

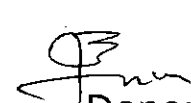

Muhammad Rafiq Mohmand

Dated: 04.10.2019 Advocate High Court

AFFIDAVIT

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




Deponent
12101-6365807-11
0333-9278873

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019

Dr. Muhammad Taus Khan.....Appellant

VERSUS

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

ADDRESSES OF PARTIES

APPELLANT

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

RESPONDENTS

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


Appellant

Through


Ahmad Farooq Khattak
Advocate High Court

&


Muhammad Rafiq Mohmand

Dated: 04.10.2019 Advocate High Court



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 2nd January, 2019NOTIFICATION

NO.SOH(E-V)1-131/2007 The Competent Authority is pleased to order posting/transfer of the following doctors with immediate effect in the public interest:-

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

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

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

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

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GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 24th June, 2019

NOTIFICATION

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

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

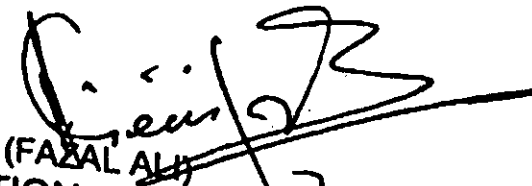
S#	Name of Doctor	FROM	TO
1.	Dr. Muhamamd Taus Khan Management Cadre BS-20	District Health Officer Bannu	Report to the Director General Health Services Khyber Pakhtunkhwa
2	Dr. Fahim Hussain Management Cadre BS-20	Provincial Coordinator Lady Health Worker Program Khyber Pakhtunkhwa.	District Health Officer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

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

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


(FAZAL ALI)
SECTION OFFICER (E-V)

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

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

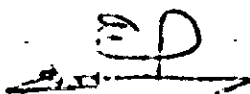
The appellant has written to the high ups for his non cooperation and asks of interest in polio program etc for his transfer out of District Bannu (Reference Number 17044-48)

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

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

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

It is therefore humbly submitted that the impugned transfer order dated 26/05/2019 may kindly be withdrawn as being void and the appellant may graciously be allowed to keep and continue his duties as DHO Bannu till his superannuation age.


Appellant

Date: 28-06-2019

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

ATTESTED
TO BE TRUE COPY

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

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

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

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

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

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

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


Appellant

Date: 28-06-2019

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


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SITUATION VACANT

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

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

TERMS AND CONDITIONS

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

INF(P)

2707/19

DR. MUHAMMAD TAOUS KHAN

District Health Officer Bannu-0928-9270132

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**DIRECTORATE
GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

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

E-Mail Address: dg@kphs.gov.pk
Office # 091-9210269
Exchange # 091-9210187, 9210196
Fax # 091-9210230

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

Dated: 02.07.2019

OFFICE ORDER

Subject: Cancellation of interviews/selection process at Distt. Health Office Bannu

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

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

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

This issues with the approval of the competent Authority.

94-1-10-19
Director Administration
Director General Health Services
Khyber Pakhtunkhwa Peshawar

No. 1-10/2019

Copy forwarded to:

1. P.S to Minister Health, Khyber Pakhtunkhwa
2. P.A to Secretary Health, Khyber Pakhtunkhwa
3. P.A to Director General Health Services, DGHS, Khyber Pakhtunkhwa
4. District Health Officer, Bannu for immediately withhold the process till further orders

Received what's
up at 2 PM by MPA
Shah Muhammad SB
to stop the interview
- illu wae wae
use free.
21/7/19
at 2 PM

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 10th March, 2017

NOTIFICATION

NO.SOH(E-V)1-131/2016 The Competent Authority is pleased to order the posting/transfer of Dr. Muhammad Taus Khan (BS-19) Member of Service (waiting for posting) against the post of District Health Officer Lakki Marwat (BS-20) in his own pay and scale in the public interest with immediate effect.

Consequent upon the above Dr. Abdul Ghaffar PMO (BS-19) is hereby relieved from the Additional charge of the post of District Health Officer Lakki Marwat.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:-

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


SECTION OFFICER (E-V)

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CORRIGENDUM

GOVERNMENT OF KHYBER
PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 25th September, 2016NOTIFICATION

NO.SOH(E-V)2-248/2009 The Competent Authority is pleased to order transfer of Dr. Tariq Masood (BS-19) MS Mufti Mehmood Memorial Hospital DIKhan and post him against the vacant post of Principal Public Health School DIKhan in the public interest with immediate effect.

On his promotion to BS-19) Dr. Tawas Khan (BS-19) Deputy DHO DIKhan is hereby posted/transferred against the vacant post of MS DHQ Hospital (BS-20) in his own pay and scale with immediate effect in the public interest.

Consequent upon the above Dr. Faziur Rehman Vice Principal Gomal Medical College DIKhan is hereby relieved of the additional charge of the post of MS DHQ Hospital DIKhan.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

Endst. No. & Date Even

Copy to the:

1. Accountant General Khyber Pakhtunkhwa
2. Chairman Board of Governor MMM Teaching Hospital DIKhan
3. Director General, Health Services, Khyber Pakhtunkhwa
4. MS MMM Teaching Hospital DIKhan.
5. MS DHQ Hospital DIKhan
6. District Health Officer DIKhan
7. Principal Public Health School DIKhan.
8. Deputy District Health Officer DIKhan.
9. Vice Principal Gomal Medical College DIKhan.
10. District Accounts Officer DIKhan.
11. PS to Minister Health Khyber Pakhtunkhwa.
12. PS to Secretary Health Department.
13. Computer Programmer Health Department
14. Doctor concerned.

-sd-

(MUHAMMAD ARSHID)
SECTION OFFICER (E-V)

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar the 27th October, 2016

NOTIFICATION

NO.SOH(E-V)1-131/2007 Consequent to relieving the Services of Dr. Tawas Khan (BS-19) Management Cadre MS DHQ Hospital DIKhan by the Board of Governor's DHQ Teaching Hospital DIKhan vide Order No.167-72/BOG/MTI/DIK dated 22.10.2016, the Competent authority is pleased to place his services at the disposal of **Director General Health Services Khyber Pakhtunkhwa** for further posting in the public interest with immediate effect.

**SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa**

Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. Chairman Board of Governor DHQ Hospital DIKhan.
4. Hospital Director DHQ Teaching Hospital DIKhan
5. Medical Director DHQ Teaching Hospital DIKhan.
6. District Accounts Officer DIKhan.
7. PS to Minister Health Khyber Pakhtunkhwa.
8. PS to Secretary Health Department.
9. DHIS Cell DGHS Office Peshawar.
10. Computer Programmer Health Department
11. Doctor concerned.

(MUHAMMAD ARSHID)
SECTION OFFICER (E-V)

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PS-20

TO BE SUBSTITUTED BEARING THE SAME NUMBER AND DATE.



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 18th July, 2019

NOTIFICATION

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

The competent authority has been pleased to transfer Dr.Fahim Hussain Management Cadre BS-20 District Health Officer Bannu and to post him against the vacant (Notional) post of Provincial Coordinator Lady Health Worker Program in the public interest.

2. The Officer concerned is hereby allowed to draw his pay and allowances against the vacant post of Chief Medical Officer BS-20 at DHQ Hospital Karak.
3. Consequent upon the above Dr.Muhammad Rahim Khattak is hereby relieved from the additional charge of the post of Provincial Coordinator Lady Health Worker Program Khyber Pakhtunkhwa.

SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

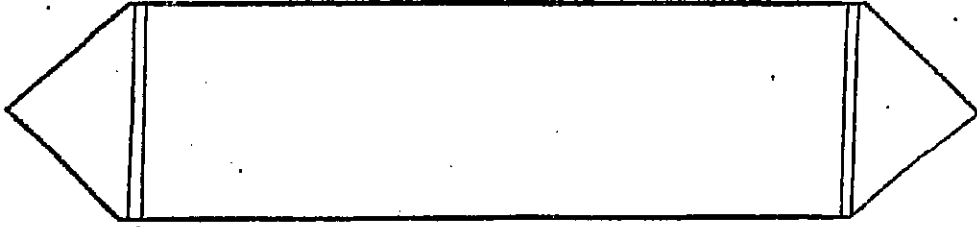
Endst. No. & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa
2. Director General, Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Bannu
4. MS DHQ Hospital Karak.
5. District Accounts Officer Bannu/Karak
6. Provincial Coordinator LHW Program Khyber Pakhtunkhwa
7. PS to Minister Health Khyber Pakhtunkhwa.
8. PS to Secretary Health Department.
9. Computer Programmer Health Department
10. DHIS Cell DGHS Office, Peshawar.
11. Doctor concerned.

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بعدالت عالیہ سروس ٹریبونل پشاور



2 منجانب

ڈاکٹر محمد طاہر منجم گورنمنٹ آف
پشاور

- مؤرخہ
- مقدمہ
- دعویٰ
- جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب ذہنی و کل کاروائی متعلقہ

آن مقام پشاور کے لیے محمد طاہر منجم گورنمنٹ آف پشاور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقررات ہاتھ فیصلہ بر حلقہ دیئے جواب وہی اور اقبال دعویٰ اور
 بسورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 اور ریس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مشورتی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
 پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔
 سوئی تاریخ یعنی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا اوکالت نامہ لکھنا یا کہ مندر ہے۔

الرقوم 04 ماہ المئی 2019

العبد _____ واہ العبد _____

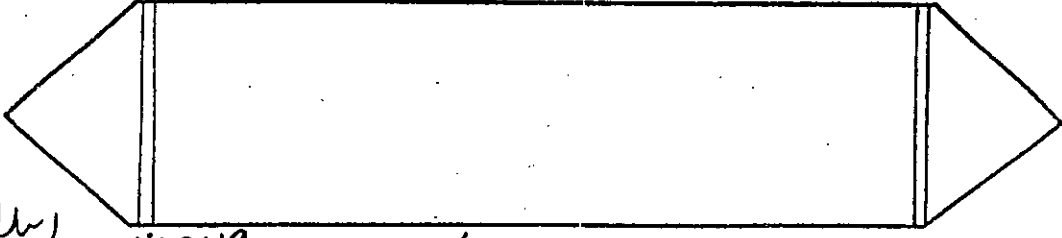
بمقام _____ کے لئے منظور ہے۔

Attested

Accepted

ڈاکٹر محمد طاہر منجم خان

بعدالت جناب سروس ٹریبونل حیدرآباد خواہ پشاور



خالد ایدانہ ڈاکٹر طاہر خان

موزخہ
مقدمہ
دعویٰ
جرم

اسپیل نمبر 1219/19 : ڈاکٹر طاہر خان بینام گورنمنٹ و غیرہ

باعث تحریر آنکے

آن مقام پشاور کے لیے محمد اعجاز خان صاحب، عدنان امان ایڈووکیٹس

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ 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 سندر ہے۔

ڈاکٹر طاہر خان
(appellant)

المرقوم 09 ماہ اکتوبر 2019

Attested & Accepted
M. Qiaz Khan Sabi
ASC
9.10.2019

Attested & Accepted
Adnan Aman
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Amended Service Appeal No.1219/2019.

Dr. Muhammad Taus Khan.....Appellant.

VERSUS

Govt. of Khyber Pakhtunkhwa through
Chief Secretary and others.....Respondents.

PARAWISE COMMENTS FOR AND ON BEHALF OF THE RESPONDENTS

NO. 1, 2 AND 3.

Preliminary objections:

- i. That the reply submitted in main/earlier in appeal may be treated as integral part of this reply.
- ii. That the appellant has neither cause of action nor locus standi.
- iii. That the appeal is not maintainable in its present form.
- iv. That the appellant has not come to the Tribunal with clean hand and hit by laches.
- v. The appeal is bad due to mis-joinder and non joinder of necessary parties.
- vi. That the Tribunal has no jurisdiction to adjudicate the appeal.

On Facts:

1. Para-1 of the appeal pertains to record, hence no comments.
2. Correct.
3. Correct. The appellant is liable to be transferred by the Competent Authority u/s 10 of Civil Servant Act, 1973. Rest the reply given in the main appeal may be considered to be adjudicated.
4. Para 4 of the appeal is incorrect and misleading. The appellant was transferred on 24-06-2019 wherein he was directed to report to the office of the respondent no 03. The appellant filed declaratory suit in the court of the Senior Civil Judge XI Bannu on dated which was returned on dated

08-07-2019 to appear before the proper forum **(Annex-I)**. The appellant then assailed the impugned order dated 24-06-2019 before the Hon'ble High Court Bench (Dar-ul-Qaza) Swat which was disposed of on dated 15.07.2019 being not maintainable with the direction to respondents for disposing appellant's departmental appeal/representation within seven days **(Annex-II)**. On expiry of the time given by the Peshawar High Court, Bench (Dar-ul-Qaza) Swat the appellant filed premature Service Appeal No. 993/2019 with CM Application soliciting for suspension of impugned order which was suspended on dated till next date which was rejected on 03-10-2019. **(Annex-III)**.

The appellant instituted another Service Appeal No.1219/2019 with C.M application No. 386/2019 in service appeal No. 1219/2019 for suspension of impugned order 24.06.2019. The Hon'ble Service Tribunal suspended the impugned order conditionally on 09.10.2019 **(Annex-IV)**.

It is worth mentioning that the after the rejection of the pre-mature service appeal No. 993/2019, the respondents issued an order dated 07.10.2019. The appellant impugned the order dated 07.10.2019 through CM No. 386/2019 for suspension but the same was not granted by this Hon'ble Tribunal on dated 28.10.2019 and 12.11.2019 was fixed for reply **(Annex-V)**. The respondents suspended the appellant. Proceedings under E&D rules 2011 have been initiated against the appellant which are under process **(Annex-VI)**.

The competent authority issued the lawful order on 14.11.2018 against which the appellant filed the instant COC application No. 423/2019 in service appeal No. 1219/2019. Hence the respondents has done nothing contemptuous or against law for the time being in force.


5. As explained in answering para-4 above.
6. Pertains to record. The W.P No. 3731/P/2019 was filed in the Peshawar High Court Peshawar according to the appellant while the W.P has been disposed of by Darul Qaza Swat on 15/07/2019.
7. As explained in answering para-4 above.
8. As explained in answering para-4 above.
9. As explained in answering para-4 above.
10. Correct. The appellant has been suspended by the Competent Authority on 08-11-2019.

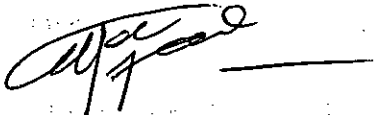
11. The respondents suspended the appellant (under transfer) on 08.11.2019 by the competent authority. Proceedings under E&D rules 2011 have been initiated against the appellant which are under process. Orders dated 14-11-2019 and 18-11-2019 are passed by competent authority within the ambit of law and rules in vogue accordingly.
12. Correct. All the orders made impugned by the appellant i.e. 07-10-2019, 08-11-2019, 14-11-2019, 18-11-2019 etc have been passed by the competent authority lawfully and accordingly.

GROUNDS.

- A. As explained in para-3 & 4 above.
- B. Incorrect. In terms of Section-10 of the Khyber Pakhtunkhwa (Civil Servants) Act, 1973 every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government. Detail reply has already been given in the preceding paras.
- C. This para pertains to record/interpretation on Judgement. It is well settled principle of Jurisprudence/Law that each and every case has own footings and circumstances.
- D. Para-D of the appeal is incorrect and misleading. The appellant shall attain the age of superannuation in 2023 and not in 2020.
- E. As explained in answering para-3 & 4 above.
- F. As explained in answering para-4 and " C" above.
- G. That the appellant was treated in accordance with law.
- H. That the respondents have issued lawful order according to rules/policy and the appellant has not complied to the lawful order till now.

It is, therefore, humbly prayed that the earlier/amended appeal, being without any lawful substance, may kindly be dismissed with cost upon the appellant.


Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.3)


Secretary to Govt of Khyber Pakhtunkhwa
Health Department
(For Respondent No.1 & 2)

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~~Annex IV~~
Annex I

1 of 2

Civil Suit No. 1494 of 01-07-2019 titled "Dr. M. Tawos Khan VS Secretary Health Peshawar etc."

Order-05
08-07-2019

Plaintiff through learned counsel present.

Learned District Attorney Bannu present for the defendants

One Mr. Bakhtiar Ali (Section officer litigation) Health Department for defendant No. 1, present.

Mr. Saifullah Advocate present for defendant No. 2.

Mr. Sher Muhammad Khan Advocate present for defendant No. 3.

Written reply on behalf of defendant No. 1 has been submitted today, which is placed on file.

Perusal of the file transpired that question of the jurisdiction of this Court is involved in the instant matter. In this regard both the parties through their learned counsel were confronted with the point of the jurisdiction of this Court.

On the strength of available record and nature of the case, this Court is of the following opinion:

SO (W.T.)
Handwritten notes in the left margin.

Pending adjudication before this Court is a suit for declaration and permanent mandatory injunction. The suit is filed to the effect that a notification bearing No. SOH (E-V) 1-131/2007 dated 24-06-2019, through which the plaintiff has been transferred, should be declared null and void.

ATTESTED
03 JUL 2019

Copying Agency
Lower Court Bannu

Civil Suit No. 14971 of 01-07-2019 titled "Dr. M. Tawos Khan VS Secretary Health Peshawar etc"

Since it is well settled principle of law that jurisdiction of the Court should be determined first of all. Therefore, before proceeding with the case in hand, this Court observed that:

Admittedly, the plaintiff is a civil servant. He has challenged a notification of his in service transfer in shape of a declaratory suit before this Court.

BY VIRTUE OF ARTICLE 212 OF THE CONSTITUTION OF PAKISTAN 1973 READ WITH SECTION 3, SECTION 10 AND SECTION 23-B OF THE N.W.F.P. CIVIL SERVANT ACT, 1973 THIS COURT LACKS THE JURISDICTION TO ENTERTAIN THE SUIT IN HAND.

For what is discussed above, by virtue of Order 7 Rule 10 CPC, 1908 the plaint in hand which was filed by the plaintiff on 01-07-2019 is hereby returned today on dated 08-07-2019. The plaintiff is directed to appear before the proper forum. Original plaint along with documents be returned to the plaintiff while copies of the plaint and documents be retained on the case file of this court. Photocopies of the plaint and documents and order sheets of this court be consigned to the record room after its necessary completion and compilation.

Announced
08-07-2019

- 1- Registration No: 5205
- 2- Date of Presentation of Application: 8-7-19
- 3- Date of Receipt of the file: 8-7-19
- 4- Date of Preparation of copy: 8-7-19
- 5- Date of Delivery of copy: 8-7-19
- 6- No. of copies / words: 2
- 7- Ordinary Fee: 9
- 8- Urgent Fee: 1
- 9- Total Fee: 5
- 10- Signature of Copyist: AD

Malik Zeeshan Gul
Civil Judge-XI,
Bannu

ATTESTED

08-07-2019

RECORD ROOM

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~~Annex A~~
Annex B



BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No: _____/2019

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

..... Petitioner

Versus

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

..... Respondents

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

RESPECTFULLY SHEWETH:

ATTESTED
EXAMINER
Peshawar High Court

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

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



FORM OF ORDER SHEET

Court of

Case No. of

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	15.07.2019	<p><u>W.P No.3731-P/2019</u></p> <p>Present: M/s. Asad Zeb Khan and Muhammad Arif Jan, Advocates for the Petitioner.</p> <p>Mr. Rab Nawaz Khan, AAG for the respondents.</p> <p style="text-align: center;">***</p> <p><u>ISHTIAQ IBRAHIM, J.</u>- This writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan has been filed by Dr. Muhammad Taus Khan, petitioner, praying that:</p> <p style="text-align: center;"><i>"It is, humbly submitted that on acceptance of the present writ petition, this Hon'ble Court may graciously be pleased to:</i></p> <ol style="list-style-type: none"><li data-bbox="711 1645 1263 1897">i. <i>Declare the impugned order dated 24.06.2019 of respondent No.2 as illegal, unlawful, without lawful authority and void-ab-initio by setting aside the said order.</i><li data-bbox="711 1922 1263 2048">ii. <i>Direct the respondents to allow the petitioner to work on the post of DHO, Bannu till his retirement.</i><li data-bbox="711 2073 1263 2124">iii. <i>Any further better relief may also</i>

ATTESTED
EXAMINER
Peshawar High Court

ATTESTED

Label (D.B)

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

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

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

Announced
15.07.2019

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 97 of
The Qanun-e-Shahadat Order 1988
16 JUL 2019

JUDGE

JUDGE

No. 27100
Date of Presentation of Application 15-07-2018
No of Pages 3P
Copying fee 12/-
Total 12/-
Date of Preparation of Copy 15-07-2018
Date of Delivery of copy 15-07-2018
Received By Dr. M. Tars

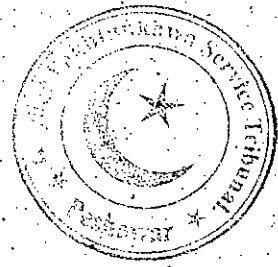
ATTESTED
A

M. Iqbal (D.B)

Hon'ble Mr. Justice Iqbal Ibrahim
Hon'ble Mr. Justice Shafeeq Ahmad

Service Appeal No. 993/2019

Dr. Muhammad Taus Khan



Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and 3 others.

Order: MUHAMMAD HAMID MUGHAL, MEMBER:

03.10.2019

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

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

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

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

03.10.2019

ATTESTED

SEAL OF THE TRIBUNAL

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

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

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

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

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

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

3.10.2019

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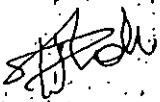
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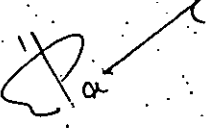
in 2005 SCMR 890 is not applicable to the facts and circumstances of the present case.

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

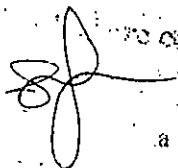
Before parting with this judgment/order it may be mentioned that as per documents annexed with the service appeal, selection of Paramedics is in process in District Bannu. It is desired that the Secretary Health Khyber Pakhtunkhwa (respondent No.2) shall ensure selection of Paramedics on merit through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

File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
03.10.2019.


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Date of Presentation of 3-10-2019
Number 1600
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7-10-2019
7-10-2019

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Annex-~~III~~
IV

09.10.2019

Mr. Muhammad Sajjed Khan, Advocate has submitted Wakalatnama on behalf of the appellant which is placed on record.

Learned counsel contends that on 02.01.2019 the appellant, awaiting for posting, was adjusted as DHO Bannu. Consequently he started performing his duty there. In utter disregard of Provincial Government policy regarding posting/transfer of civil servants a notification dated 24.06.2019 was issued by respondent No. 1 whereby the appellant was required to report to the Director General, Health Services Khyber Pakhtunkhwa. Further the respondent No. 4 was transferred and posted as DHO Bannu vice appellant. The impugned act of respondents smacks of malafide and the result of political interference as copy of the notification was duly and officially endorsed to P.S to Minister Health Khyber Pakhtunkhwa. It was further argued that the relevant policy of the Government provides normal tenure of two years for posting/transfer of a civil servant which was not completed by far in the case of appellant when the impugned notification was issued. It is also added that the appellant is to retire on reaching superannuation on 2.2.2020.

TESTED

OFFICE OF THE
JUDGE IN CHARGE
JUDICIAL OFFICE
PESHAWAR


In view of the arguments of learned counsel and available record, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to

the respondents. To come up for written reply/comments on 28.10.2019 before S.B.

Alongwith the appeal there is an application for suspension of operation of notification dated 24.06.2019. Notice of the application be also given to the respondents for the date fixed. In the meanwhile the operation of impugned notification shall remain suspended, if not complied with already.


Chairman

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Preparation

800	9-10-19
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	9-10-19

Annex V Chairman

28.10.2019

Appellant with counsel and Mr. Usman Ghani District Attorney alongwith Sher Baz Khan, S.O for the officials respondents present. Nemo on behalf of respondent No. 4.

The representative of respondents requests for time to submit reply/comments to the appeal as well as in respect of Misc. Application No. 386/2019. Adjourned to 12.11.2019 before S.B.

The respondents shall positively submit the requisite reply on or before next date of hearing. The Misc. application shall also be argued on the adjourned date. In the meanwhile, the order of suspension of impugned notification, passed on 09.10.2019, shall remain operative subject to the condition laid therein.

District Attorney
Sherbaz Khan
Peshawar

Chairman



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 8th Nov, 2019

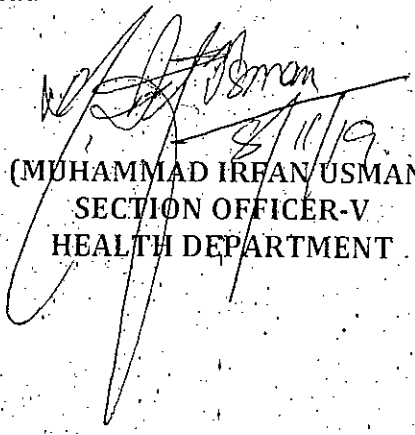
NOTIFICATION

NO. SOH(E-V)131/2007:- In exercise of the powers conferred under Rule-2, sub-rule(1), clause (f) in sub-section(ii) of Khyber Pakhtunkhwa Efficiency & Discipline Rules-2011, the competent authority has been pleased to place under suspension Dr. Muhammad Taus Khan (BS-20) Management Cadre (waiting for posting) for a period of ninety (90) days as admissible under Rule-6 of the rules ibid.

SD/-
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Mr. Farakh Sair (PCS EG BS-21), Secretary Auqaf, Hajj, Religious Affairs Department / Inquiry Officer.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
4. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
5. Dr. Muhammad Taus Khan through Director General Health Services, Khyber Pakhtunkhwa.
6. Dr. Fazal Rehman, Deputy Director (Implementation), Directorate General of Health Services, Peshawar.
7. Section Officer (Lit-II), Health Department for information & necessary action.
8. PS to Secretary Health Department.


(MUHAMMAD IRFAN USMAN)
SECTION OFFICER-V
HEALTH DEPARTMENT



Annex-

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No.SOH(E-V)1-131/2007
Dated Peshawar the 8th Nov,2019

To

Mr. Farakh Sair (PCS.SG BS-21)
Secretary to Govt: of Khyber Pakhtunkhwa
Auqaf, Hajj, Religious & Minority Affairs Department.

Subject:- **ILLEGAL OCCUPATION / DECLARATION AS DISTRICT HEALTH OFFICER
BANNU**

Dear Sir,

I am directed to refer to the above captioned subject and to state that a Note for Chief Secretary was moved for initiation of Disciplinary Proceedings against Dr. Muhammad Taus Khan (BS-20) (awaiting for posting in Directorate General Health Services Peshawar). The competent authority has been pleased to appoint you as inquiry officer to conduct a fact finding inquiry within stipulated time.

I am, therefore, directed to enclose herewith Copies of Charge Sheet / Statement of Allegation duly signed by the competent authority for further necessary action. It is further to inform that Dr. Fazal Rehman, Deputy Director (Implementation), Directorate of Health Services, Khyber Pakhtunkhwa, Peshawar is hereby attached as departmental representative to assist in the inquiry proceedings. His contact No. is 0300-5678111.

Yours faithfully


(MUHAMMAD IRFAN USMAN)
SECTION OFFICER-V
(HEALTH DEPARTMENT)

Copy of the above is forwarded to the:-

1. Dr. Hameed-ur-Rehman, Deputy District Health Officer (holding additional charge of DHQ, Bannu).
2. Dr. Dr. Muhammad Taus Khan (BS-20) Management Cadre (awaiting for posting) (Through Director General, Health Services, Peshawar. Copies of Charge Sheet / Statement of Allegation attached. He should be further directed to appear before the Inquiry officer as & when summoned. Receiving may be sent to this department for record).
3. Dr. Fazal Rehman, Deputy Director (Implementation), Directorate of Health Services, Khyber Pakhtunkhwa, Peshawar (Copies of Charge Sheet / Statement of Allegation are attached).
4. PS to Secretary Agriculture, Department.


SECTION OFFICER-V