19.09.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Dr. Muhammad Irshad, Dr. Ashfaque, Amjad Ali, Assistant and Yar Gul, Senior Clerk for the respondents present. Arguments heard and record perused. .

This appeal is also accepted as per our detailed judgment of today in connected service appeal No. 1305/2015, entitled "Yar Muhammad Vs. Government of Khyber Pakhtunkhwa through Secretary, Health Peshawar and 4 others". Parties are left to bear their own costs. File be consigned to the record room.

Chairman

Camp Court, A/Abad.

ANNOUNCED

19.09.2017

15.03.2017

Counsel for the appellant, M/Addl: A.G for respondents present. Abdur Rahim, Nursing Officer, Amjad Ali, Asstt. Dr. Muhammad Daud, M.S DHQ Hospital, Batagram and Dr. Ashfaq Pazal, SMO alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before the D.B on 19.07.2017 at camp court, Abbottabad.

Charmin Camp Court, A/Abad

19.07.2017

Clerk of counsel for the appellant and Mr. Muhammad Bilal, DDA for the respondents present. Due to general strike of the Bar, counsel for the appellant is not in attendance. Adjourned. To come up for final hearing on 19.09.2017 before the D.B.

Momber

Camp court, A/Abad

-

02.06.2016

Counsel for the appellant present. Requested for requisition of file. File requisitioned for to-day.

Counsel for the appellant submitted an application for restraining the respondents from appointment against the post previously occupied by the appellant. Notice of application shall be issued to the respondents for the date fixed i.e. 23.06.2016 before S.B at camp court, Abbottabad. Any appointment against the subject post shall be subject to final decision of this Tribunal.

Chairman

23.06.2016

Agent of counsel for the appellant, M/S. Amjad Ali, Assistant and Shah Rahman, Assistant for respondent No. 1 to 4 alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Written reply by respondent No. 1 to 4 submitted. Written reply by respondent No. 5 not submitted. The appeal assigned to D.B for rejoinder and final hearing for 21.12.2016 at camp court, Abbottabad.

Chairman Camp court, A/Abad,

21.12.2016

Appellant with counsel, Dr. M. Irshad, Dr. M. Daud, M.S, Miss Zobia, LHV, Amjad Ali, Assistant and Noor Ali, Legal Officer alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Rejoinder submitted. Due to incomplete bench arguments could not be heard. To come up for final hearing on 15.03.2017 before D.B at camp court, Abbottabad.

Chairbian
Camp court, A/Abad

15.12.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Junior PHC Technician (BPS-9) in response to advertisement dated 5th November 2011 and after assuming the duties removed from service vide impugned order dated 7.7.2015 on the ground that his certificate was not obtained from Medical Faculty Peshawar whereagainst he preferred departmental appeal on 3.8.2015 which was not responded and hence the instant service appeal on 24.11.2015.

That the appellant has secured his qualification from the Institute registered with Medical Faculty Peshawar and as such the impugned order of removal from service is against facts and law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 20.4.2016 before S.B at Camp Court A/Abad.

Charrman Camp Court A/Abad

20.04.2016

Appellant in person, M/S Muhammad Arshad, SO, Shah Rahman, Assistant DHO Office Batagram and Saifur Rahman, AAO alongwith Muhammad Siddique, Sr.GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 23.06.2016 before S.B at camp court, Abbottabad.

Camp court, A/Abad

Form- A FORM OF ORDER SHEET

	•		
Case No.	•	1307/2015	

Court of_

	Case No	1307/2015
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
. 1	2	3
1	24.11.2015	The appeal of Mr. Muhammad Waseem presented today by Mr. Sajjad Ahmad Abbasi Advocate may be entered in
		the Institution register and put up to the Worthy, Chairman for
		proper order.
2	7.C 11 11.C	REGISTRAR
2	72-11-12	This case is entrusted to Touring Bench A.Abad for
		preliminary hearing to be put up thereon $15-12-2016$.
		CHAIRMAN

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. <u>1307</u>/2015

Muhammad Waseem son of Muhammad Bashir, resident of Village Tamai, Tehsil & District, Battagram.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Health Peshawar & others.

... RESPONDENTS

SERVICE APPEAL

INDEX

S. #	Description	Page No.	Annexure
1.	Appeal alongwith affidavit	1 to 8	
2.	Copy of advertisement	9	"A"
3.	Copy of appointment letter	10	"B"
4.	Copy of relevant papers	//	"C"
5.	Copy of show cause notice	12	"D"
6.	Copy of reply	13	"E"
7.	Copy of office order	14	"F"
8.	Copy of the representation	15 to 16	"G"
9.	Copy of detailed marks sheet	177018	"H"
10.	Copy of certificate	19	"I"
11.	Copy of advertisement	20	"J"
12.	Wakalatnama.	21	·

Through;

..APPELLANT

Dated: 23-//- /2015

(SAJJAD'AHMED ABBASI)

Advocate High Court, Abbottabad.

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1307 /2015

Muhammad Waseem son of Muhammad Bashir, resident of Village Tamai, Tehsil & District, Battagram.

...APPELLANT

VERSUS

B.W.P. Province Bervice Tribund Diary No. 1374 Dated 74-11-15

- 1. Govt. of Khyber Pakhtunkhwa, through Secretary Health Peshawar.
- 2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 3. Executive District Officer Health, Battagram.
- 4. Medical Superintendent District Head Quarter Hospital, Battagram.
- 5. District Account Officer, Battagram.

... RESPONDENTS

APPEAL AGAINST THE ORDER NO. 2208-11
DATED 07/07/2015 PASSED BY RESPONDENT NO.
4, WHEREBY, THE APPELLANT WAS REMOVED
FROM SERVICE WITH IMMEDIATE EFFECT.



PRAYER: ON ACCEPTANCE OF THIS APPEAL,
THE ORDER NO. 2208-11 DATED 07/07/2015
PASSED BY RESPONDENT NO. 4, WHEREBY THE

APPÉLIANT WAS REMOVED FROM SERVICE BE DECLARED AS AGAINST LAW, FACTS, WITHOUT LAWFUL AUTHORITY AND JURISDICTION AND BE SET-ASIDE AND APPELLANT BE REINSTATED IN SERVICE FROM 07/07/2015 WITH ALL BACK BENEFITS.

Respectfully Sheweth:-

- 1. That, on 05/11/2011, the Executive District Officer
 Health, Battagram advertised the vacant posts in
 Health Department at Battagram. Copy of
 advertisement is annexed as Annexure "A".
- 2. That, the respondent No. 3 after completion of all codal formalities upon the recommendation of Selection Committee Battagram, on 28/12/2012 appointed the appellant against the post of Junior Primary Health Care Technician (Cardiology) against vacant post at DHQ Battagram. Copy of appointment letter is annexed as Annexure "B".
- 3. That, the appellant took the charge in DHQ Hospital Battagram and started serving the department with

entire satisfaction of officers. Copy of relevant papers is annexed as Annexure "C".

- 4. That, the respondents without associating the appellant in any type of enquiry on 07/05/2015 issued a show cause notice to appellant. Copy of show cause notice is annexed as Annexure "D".
- 5. That, the appellant on 18/05/2015 submitted his reply to show cause notice. Copy of reply is annexed as Annexure "E".

医牙髓线 医皮肤毛膜炎

- 6. That, the respondent No. 4, on 07/07/2015 removed the appellant from service. Copy of office order is annexed as Annexure "F".
- 7. That, on 03/08/2015, the appellant filed representation/ departmental appeal before the respondent No. 2.Copy of the representation is annexed as Annexure"G".
- 8. That, the respondent No. 2 has not decided the appeal / representation filed by the appellant against the order dated 07/07/2015 passed by respondent No. 4, hence, this appeal.

9. That, the order dated 07/07/2015 passed by respondent No. 4, whereby, the appellant was removed from service is against law, facts, record, without jurisdiction and without lawful authority on the following amongst other grounds:-

人,这种的类的。他

GROUNDS:-

- a. That, before issuance of show cause notice, no enquiry was conducted by the respondents upon the allegations leveled against the appellant nor the appellant was associated in any such inquiry.
- b. That, the appellant was not heard personally.
- requirements for appointment was appointed against the vacant post, purely on merits.
- d. That, the appellant has never, ever committed any fraud or misconduct in obtaining appointment.
- e. That, allegation leveled against the appellant,

"That appellant is F.A and was entitle for marks of one step higher instead of two steps". is totally wrong and baseless, as appellant passed his B.A examination in the year, 2008. Copy of detailed marks sheet is annexed as Annexure "H".

f. That, the other allegation leveled against the appellant is;

"That no valid diploma certificate is Cardiology from Medical Faculty Peshawar was provide".

is totally wrong and baseless as the appellant provided the respondent certificate having passed Cardiology course from Charsadda institute of medical sciences. Copy of certificate is annexed as Annexure "I".

That, the objection regarding the non-production of diploma is wrong and misconceived, as, as per advertisement only qualification required for the post of Cardiology technician was Matric with science and a certificate from institution recognized by Govt. by a faculty affiliated with medical faculty Peshawar.

- h. That, as per warning issued by the KPK

 Medical faculty in newspaper Charsadda

 institute of medical sciences was recognized as

 affiliated with KPK Medical Faculty.

 Advertisement is annexed as Annexure "J".
- i. That, the appellant was removed from service on the basis of illegal verification of certificate from KPK Medical faculty Peshawar, whereas, the respondent ignored the reply to show cause notice and departmental appeal wherein the appellant had stressed upon the respondent to get verification of the certificate of physiotherapy technician from Charsadda institute of medical sciences from where the appellant studied in relevant field and got certificate in relevant study of Cardiology.
- j. That, the order impugned herein is also against the principle of locus poententiae, as once the order of appointment was acted upon cannot be withdrawn.
- k. That, the appellant had served the department honestly and diligently and not a single

complaint from any quarter was registered against appellant.

1. That this appeal is being filed within time.

It is, therefore, humbly prayed that on acceptance of this appeal, the order No. 2208-11 dated 07/07/2015 passed by respondent No. 4, whereby the appellant was removed from service be declared as against law, facts, without lawful authority and jurisdiction and be set-aside and appellant be reinstated in service from 07/07/2015 with all back benefits.

..APPELLANT

Through;

Dated: 23-4/- /2015

(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad.

VERIFICATION;-

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

..APPÉLLANT

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

bet vice rippedi i.e. /2015	Service A	ppeal No.	/2015
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Muhammad Waseem son of Muhammad Bashir, resident of Village Tamai, Tehsil & District, Battagram.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Health Peshawar & others.

... RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Muhammad Waseem son of Muhammad Bashir, resident of Village Tamai, Tehsil & District, Battagram, do hereby solemnly affirm and declare on oath that the contents of forgoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

DEPONENT

Identified By:-

(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad



ANNEXURE À 9



DIRECTORATE OF TRANSPORT
GOVERNMENT OF KHYSER
PAKHTUNKHWA

FENDER NOTICE

untation for each Item (separately) are invited istered manufacturers/ authorized dealers." r the supply of following items under an A11P "Strengthening of Vehicular Emission Testing (VETS) Peshawar and replication of VCTS." a. Mardan and Alihottabad" as per denting.

Computer Dual Care Printer Photo Copier

Sarell Machiner Prog Station & Frein die &

Analyzer (both for Petrol & Diesel cles) Station Equipments

. Gas Meter/Exhaust Gas Tester-

tenders must be accompanied with earnest money hape of call deposit in the name of Director sport. Knyher Pakhtunkhwa Peshawar it Mende

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OR TRANSPORT Directorate of Teans whi of Khyber Pakhtiinkhwa Room No. 1 [foor: Benevolen] Fund Rullding Penaghti. Ph. 691-2261499/691-9214185

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S-1:900

OFFICE OF THE EXECUTIVE DISTRICT

Mr Mohammad Waseem S/O Mohammad Bashir R/O Village, Tamai P.O., Tehsil & District Battagram.

Subject

APPOINTMENT AS JPHCT (CARDIOLOGY)

On the recommendation of Departmental Selection Committee Battagram, You are hereby appointed as Junior Primary Health Care Technician (CARDIOLOGY) in BPS- 09 (6200-380-17600) plus usual allowances as admissible under the rule on regular basis against the vacant post at DHQ Hospital Battagram with immediate effect: with the following terms and conditions.

TERMS & CONDITION.

Initially you will be on probation for a period of two years extendable for a further period of not exceeding one year.

Your service can be dispensed with during the probation period if you work and conduct is found unsatisfactory.

3. Your appointment will be subject to provide a Medical Fitness Certificate (Health & Age) From Medical Superintenden DHQ Hospital Battagram and verification of character and Antecedents/Educational Qualification etc.

No TA/DA will be allowed for joining the duty or obtaining the Medical fitness certificate

You will be governed be such rule and orders as may be issued by the Govt: from time to time for the category of Govt: Servant to which they belong.

6. You shall for all intents and purposes by Civil Servants except for the purpose of pension and gratuity. In lieu of the same you will be entitle contributory provident fund as per Govt: rules/instructions.

7. If you wish to resign from service you should be submit 2 month prior notice or two month salary in lieu of.

Where you remain absent without leave for a period of seven (7) day you shall be deemed to have violated the relevant rule

You shall be responsible for all utility bills and other charges of the residential accommodation as is applicable to the category of staff.

10. You shall subject to all rules of Govt; pertaining to a civil servant in respect to efficiency and Discipline, conduct, Liability to criminal proceeding etc, and any special rules, Instruction issued by the Health Department specified to employee for breach of discipline or unsatisfactory service, The Health Department shall be competent to terminate the services of culpril without notice or compensation.

11. You are not permitted to do private practice open any clinics, Private dispensary or have any interest in any such private institutions.

12. No employee shall indulge in any trades, business or occupation or any activity, which is prohibited for a regular Govt; servants.

13. Your pay will be released on the verification of your professional or academic qualification certificates/degrees

14. If you accept the offer of appointment on above terms and conditions, you should report to Medical Superintendent DHQ Hospital Battagram with in 15 days from the issuance of

15.

Executive District Health Battagram. M /2 /2012.

No. 2736 - 41 / Dated Battagram the,

Copy forwarded to the:-

1. District Coordination Officer Battagram

2. Director General Health Services KPK Peshawar.

Medical Superintendent DHQ Hospital Battagram

District Accounts Officer Battagram

Accounts Section office of the undersigned.

Or Mehl of Or Rehman

Medica superintendent, DHQ Hospital Battagram



MS Office Phone No. 997-311518 Casualty Dept Phone No. 9997-310618 Fax No. 9997-311518

Email Address;

dhqətg5 [8@yahoo.ccmg

No. 72-24

/Staff dated 05.01.2013

ANNEXURE C

To.

The Executive District Officer, (Health) Battagram

Subject;

ARRIVAL/COMPLIANCE MEPORT.

Sir,

Reference your order No. 2736-41 dated 23.12.2012

I would like to inform that as per order above the following staff have resumed

Their new assignment in this hospital from the date mentioned against their names which is

submitted for three historia.

S#	Name of Incumbents	Designation	1	Date of Arriva	Kemarks.	. 1
1.	Muhammad Waseem	JCT(Cardiology)		29.12.2012 (FN)	-	1
	S/O Muhammad Bashir	BPS-09	! !		, 	3

M. dical Superintendent DHQ Hospital Battagram /

No & date even above;-

Copy forwarded to the:-

Supervisor for information to put their names in the cury KOTA as per new designation. Accountant of the undersigned office along with original order. Medical Certificate and arrival report for information and necessary across

Medical Superintendent

DIO Hospital Battagram

Alforded



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

No. <u>1586 + 92 / Dated 2/5 /2015.</u>

ANNEXURE D

SHOW CAUSE NOTICE

l, Dr. Saifullah Khalid, District Health Officer, Battagram, as competent authority under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you Mr Mohammad Waseem S/O Mohammad Bashir JPHCT (Cardiology) DHQ Hospital Battagram as follows:-

"Your documents (diploma) sent to Medical Faculty Khyber Pakhtunkhwa Peshawar which is found bogus and therefore is guilty of misconduct as provided under Rules-2 Sub; para I (vi) of the E&D Rules 2011"

I am satisfied that your recruitment is violation of the APT rules and punishable under the E&D Rules as specified in Rule-3 of the said rules.

- In terms of Rules-5 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules-2011, I, as Competent Authority dispense with the enquiry as the charge is proved against you beyond any doubt and serve you with a show cause notice under Rule-7 of the ibid Rules.
- As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:-
 - Removal from Service.
- You are therefore, required to show cause as to why the afoilesaid penalty should not be imposed upon you and also intimate whether you desire to be heard person.
- 4. If no reply to this notice is received within seven days or not more than of fifteen days of its delivery, it shall be presumed that you have no defense to put in, and in that case an ex-parte action shall be taken against you.

(Dr Saifullah Khalid) District Health Officer Battagram.

Copy forwarded to the

Copy forwarded to the

Director General Health Services KPK Peshawar with reference his No. 1206-09/Complaint

Cell/2511/2014 dated 29.05.2014 for information please

Medical Superintendent DHQ Hospital Battagram for information

Official concerned for compliance.

Information & the

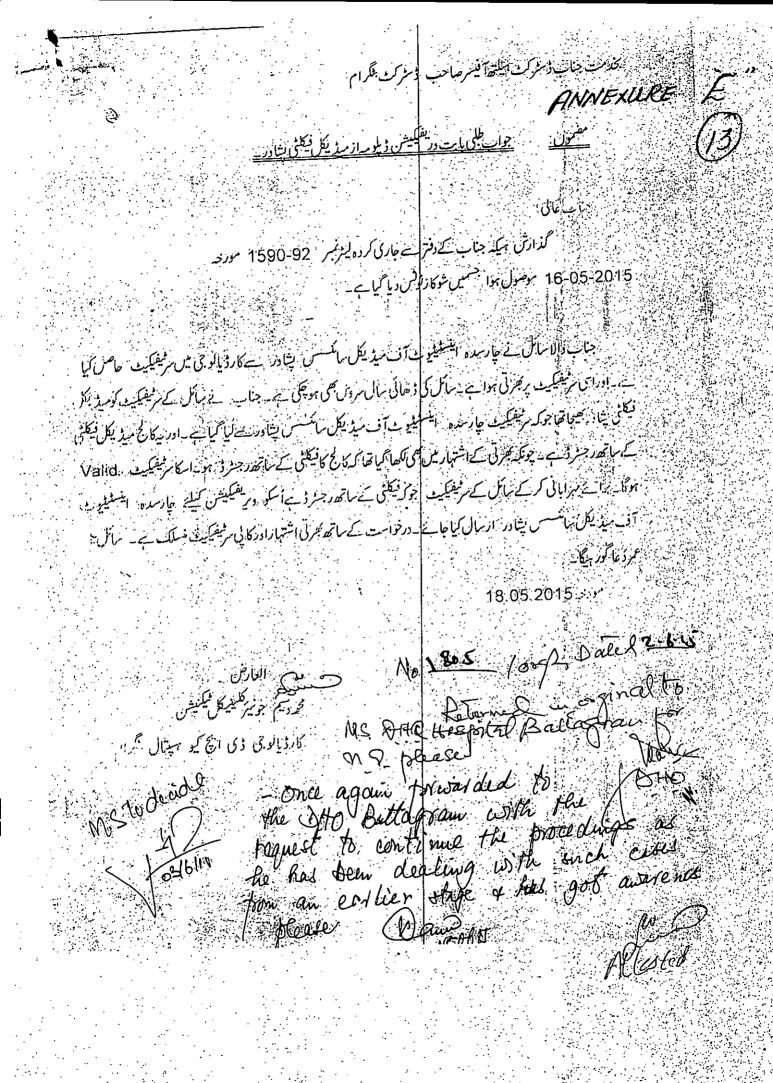
(Dr Saifullah Khalid)

District Health Officer Battagram

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Date 16/5/015





OFFICE OF THE MEDICAL SUPERINTENDENT DHO HOSPITAL BATTAGRAM

No. 0997-311518 MS Office Phone Casualty Dept Phone No. 0997-310018

No. 2208-11

NNEXURE F

OFFICE ORDER

WHEREAS, Mr. Mohammad Waseem S/O Mohammad Bashir JCT Cardiology BPS-09 attached to DHQ Hospital Battagram was proceeded against under the E&D Rules 2011 for the charges mentioned below:-

3. YOU HAVE BEEN APPOINTED IN VIOLATION OF THE RIBLES /STANDERED CRITERIA OF THE GOVT: AND THERE FORE GUILTY OF MISCONDUCT AS PROVIDED UNDER RULE-2 SUB PARA K (VI) OF THE E&D RULE 2011

AND WHEREAS, a show cause notice was served upon him vide this office letter No. 1590-92 Dated 07.05.2015 wherein major penalty of Removal from service was proposed to be imposed upon him.

AND WHEREAS upon receipt of reply to the show cause notice he was personally heard on

His reply to the show cause was not found satisfactory. He also could not prove himself as innocent in the personal hearing.

NOW WHEREAS, I, the undersigned being the competent authority in exercise of powers conferred under the Khyber Pakhtunkhwa Peshawar E&D Rules 2011 am pleased to impose major penalty of removal from service upon Mr. Mohammad Wascem S/O Mohammad Bashir JCT Cardiology BPS-09 with immediate eifect..

Sd/xx xx xx Medical Superintendent DITC: Hoopital Buttagram

No.& date even above;-

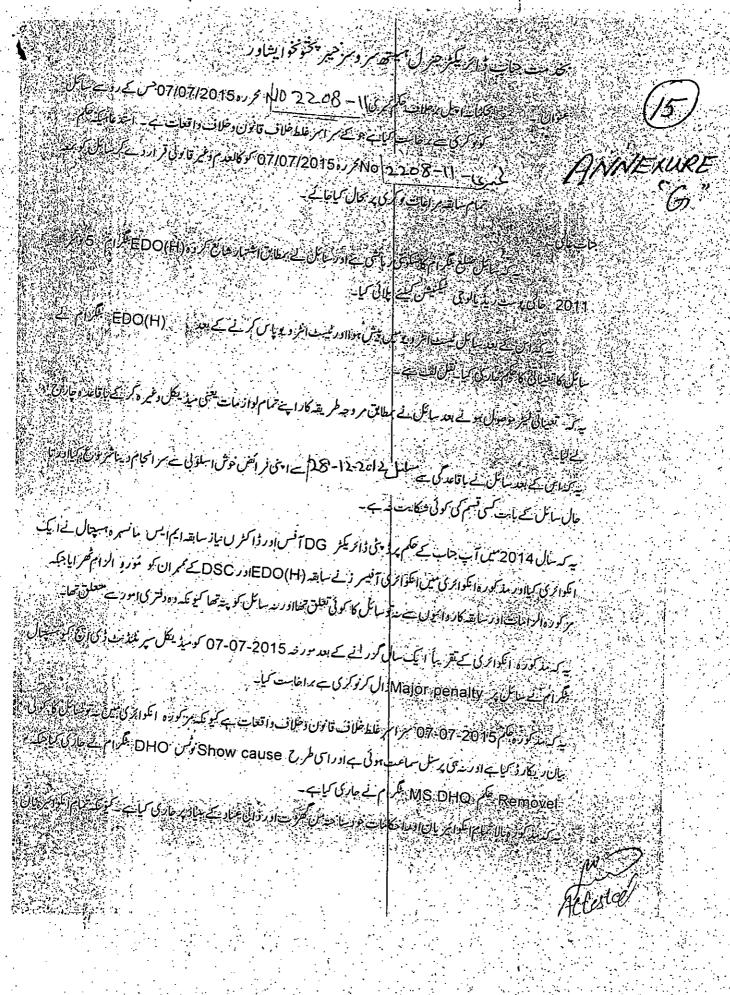
Copy forwarded to the:-

Director General Health Service Khyber Pakhtunkhwa Peshawar. 1.

DAO Battagram. 7

Mr. Mohammad Waseem S/O Mohammad Bashir JCT Cardiology BPS-09 DHQ Hospital Battagram 3. For information and necessary action.

Medical Superintendent Q Hospital Battagram



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یر مذکور وا مجلوائز فار وزف مین سائل بے خلاف فورساند الرامات لگائے مجدین جکہ Show cause فرس میں سائل بے خلاف فتلف الرائیات لگائے کے ہیں۔

ے۔ پیری پارکورڈ انگلوائیزی ویٹر ویٹن اوبکو ٹری آفیبر رو انے اصاف کے بدیادی قواعد کی خلاف ور وی کی ہے۔

لندر اجتدعا المنطقة المرافعة عنام سابقة مراعات محمد كرى يد بحال كرنے كا حكم صادر فراعا يا حادث

يرزۇ 2015 08:20

العارض

هروسي أول فركرك سَلَمَ الْحَدَا بِالْاَ عَمَالَ عَفِيلِ وَعَلِي شَكْراتُ اللهِ عَلَيْ عَفِيلٍ وَعَلِي سالعة - كارڭزالوجى شلىنى 40 شرار



HAZARA UNIVERS

MANSEHRA, NWFP, PAKISTAN

DETAILED MARKS CERTIFICATE

BA ANNUAL 2008

Roll No:

72029

Registration No: 06-P-4058

Student's Name: Muhammad Waseem

Father's Name: Muhammad Bashir

Institution/District: Battagram

Part:

Second

	Maximum Marks Marks Obtained Marks In Words	Remarks
Course Name 1. Part 1 Marks	285 One Hundred & Twenty-Five	Pass
2. English Compulsory	75 24 Twenty-Four	Pass
3. Pakistan Studies	40 20 Twenty	Pass
4. Political Science	75 45 Forty-Five	Pass
5. Pashto	75 Fifty-One	Pass

Percentage 48.18

Division

Second

Controller Examinations Hazara University, Mansehra

August 20, 2008

Checked by:

Errors and omissions are subject to subsequent recuffication.

Any mistake in Name, Father Name etc must be intimated within 60 days of the issuance date of this certificate.



Reg. No: CIMSHS/PESH-1210991-A

Roll No: 85645

Affiliated with (KPK Medical Faculty/BISE Peshawar/TTB/SDC)

Serial No: 886479



AMNEXURE "

CHARSADDA INSTITUTE OF MEDICAL SCIENCES & HEALTH SCHOOL PESHAWAR

CERTIFICATE

THIS IS TO ACKNOWLEDGE THAT

MUHAMMAD WASEEM S/O MUHAMMAD BASHEER

Has successfully completed the prescribed course of study in

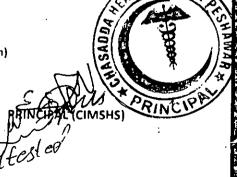
CARDIOLOGY TECHNICIAN (1years)

Passed in Grade, C, /Percentage: 58%=293/500

Duration: One Year (Passed in two semesters consisting of six months each)

Session: 2010-2011





ANNEXURE IT

نیچنے دیئے گئے انسٹی ٹیچٹس قانونی اور میڈیکل نیکلٹس کے ساتھ دوساله میڈیکل ڈیلومہ کورسر کیلٹریے رجسٹرڈ شیں باقی هر قسم کیے السَّتَى تَبِوَلُمْنَ مَبْرِ قَالُولَنَى هُنِي أَوْرَ طَلَبِهِ أَنْ مِنْ هُوَشَيَارَ رَهُين

نير يمونوا ميدين يون في ما ميدا يون و يلد كنود يون ملا كرفر داركيات كدفاظ لين سي يلياس باست كن الماركيات كرا هيئ و يم كذا با صلة إلى نيست ميد كال يكن سه ميتزاد شد سيد يا في الافران كر ملائل مودع مناب ميثهُ يُكُلِّي منتده ميذ يُكُلِّي فيكن ما إلويعتان منيثه يُكل تيكن سيمعنادو مني الدادار يريا يودة آلب الفرمية بيث اينز سيكفروا ع يحش ست وراسيا عكل المدسرك بعل المن مراهكيد تسويدي باستى اورت ال ميلا على المنافق كالرارود محق نے متدامیز بکل الحد مسکل Boy i valance رفیلی عددے شککت اور پر ایسٹنگ اور کا T.T.T. ادر سکل ودین سن اوسل (ت 830) سرم بدی حدد عدا میز مکل فیط سے خیر آنانونی در پینسے میں حرید معلومات میڈ مکل کیسکٹی

ببلك سيكثر بهرز خويذيكل انستى شيوش

(1) . كرد عمل على المدين المرث المسرية ويكل تشير الدي موات (٢) مكوم من على المستى إيرا مية يكل الستى إيرات آت ميديكل عيناله قدا عددة الدوم المرتشف وراميديكل المشي فعدف آف ميديكل عينالوى (كا أن قان (١٠) -كوفت يوسه كريج دع ها ميازيل المئل تعب ليذي ديرك مهتال بنادر (٥) - إكسان السي تعدد أف كوني تناك ويل حيات آباد ميزيكل كيكس بطاور (٢) . PIPOS المني فيرك أف ميز يكل مائشز حيات آباد بار (2)-أرى ميديكل كاريس ايدة أو (٨)- تير وسفى كيش أق ميكالوى اعريش بناد ارترك 11 كر

پواٹیویٹ سیکٹر ہیرا ضیانکل انسٹی ٹیوٹس پھاور ڈویژن

(۱)_دادَی السنی تُعرب آف میڈیکل مائٹنو دیک دوؤچک بٹاور(۲) ۔ چنان السنی ٹھوٹ آف میڈیکل سائٹنو ورمك دووليها ود (۱۳۷) .. يا مجتال السنى عجدت آف ميذ يكل لبكنالوكل بشاء و (۱۹۹) .. وازيمى السنى فيومث آف ميذيك ماتنسر على مراين بي تعدي ولاكن بينا دروه كالتيبر المنتى فيوت ونسرية يكل ماتسر فقيرة باديدا وروا دروا) و قالمد جنارة الشقى لينت آ فسيهيا يكل مهانتسود كيمرى كاملان بنا وو(عر) رحيا فأشنى تحدث السيميار يكل مهايمترا دياب دوارينا دد (٨٨) ينيزالي الشلق ليوت آ في ميازيكل منابسترح بيورشي دول بيناند (٩) سعاد (٢) في أحقق فيوت آ تب ميذيكل ما تستر يِّنا در(-۱) رباب المدين الشي ثنائب آلب مِيل نكل ماشنونينا در(۱۱) يَنظن الشيِّ ثنائب لب ينكنه ايداليِّ سسايسو ينا ور (۱۲) رسنتر وسايكسينس نارى اميدكيس ارتهدوليدك بسول وسال خيات آباد بنا در (۱۲٠) ـ وشوره المسى عدت المات ميزينل سائنسز لوهوو

(١) تعلى المعلى المعلى المعلى المستركوبات

تفيعات لويبزن

مردان ڏويڙن

(٤) بمروان عيرامية ينكُل إنسنى فيوف مثنام ينجك مروان _ (٧) _ ايست وتيت عادا مييز عكى المسلى فيوت مثنام يزوك مروان (سو) راملام بين مرد يكل النشي ليريد مسواني (م) را يبيلوكي جراء يد يكل (مني المدعدة في ملتون الان مروان ﴿ ٥) ﴿ فَإِرْمِيهِ النَّفَى يُعِدُ آل مِيدُيكُ ما تِسْرَ عادِمد ﴿ ٢) دينا أَسْنَى يُعَدْ 1 ف ميدُ يكل ما تسر موالي (2) يتمت ما في إنسن بوت " في المات المنات المات ما تشر مردان

ر برکی (۲) ما نیونی استی فعید ۲ ف سید نکره ساعشن در کی (۱۳) درسان مستودة السلق فيومف 7 قب عبية بكل سائتسر يعث تبيلس(٥) أيايخوار السنى تنوست ے (۱۰۰۰) _ اکتامائی انسٹی تغذی آزک ل اسى غيرت السيالادن ساعترسوات (مناكات باراسيد الل اللي غيرت ال یق ماشتن پیزال (۱۸) سواحت المسلی جمعت که مدیما میدانیکل ماشتن سوست (۱۹). چیزال انستی فیرست که اس رِينَ اللهُ (١٠٠) يوتفران ميل يكول المسلى العدن الله مين فكل مناتشرفو تير (١٠) مشرسته المثل العدن العدن

() بُرْنِيْرَ اسْنِيْعِت آلب ميذيكل ما تشرّ ايبت آباد (۲) _ فرهمّ اشْنِيْوت آلب مَيْدِيكل ما تشرّ برى ب (س) رفرتكم المنطيق و ١٠ أيد ميل يكل ما تشريالهم و (س) داريدي آن والشيلوت آف ميل يكل ما تشريا بدي آباد (٥) ميليند وينه بي مياريد يكن المنى محدث السمره (٧) ساوس الدالطينيون آل مية يكل ماعشرا يون آباد (٥) .. الحرم الشينيوت آف بية كالماس الشرناشمره

بيتون/ڏيره انسماعتيل خان ڏونيڙن

(الدوار الطينون أف ميديك ماعتز على (٢) منول عواميديكل الطينوك على (٣) مرالل الد المثيوت الدمية على ماتنز بول (۴) رامتال الشيئون آل ميذيكي ماتنز بوب (۱) ريبتر الشيئوت ٣ ل ميرُ يكل ما يمرزون الى خان (٠) را مرسوا الشفيوث المد مرزيك ما ممرز اى الى خان (٢) كال الشيفوك

Available on www.khyberpakhtonkhwa.gov.ok INF(P)1033

وكالرف نامه

- in Child eving

مقدمه مندرجه میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقه آل مقام o durin Experso or in M. Sun

کو وکیل مقرر کرے اقر ارکرتا ہوں کہ صاحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کوکرنے راضی نامہ وتقرر ثالث و فیصلہ برحلف ودینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ وعرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل پاکسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کواینے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختہ مجھ کومنظور و قبول ہوگا۔ دوران مقدمہ جوخر چہ وہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے ستحق وکیل صاحب ہول گے۔ نیز بقایار قم وصول کرنے کا بھی اختیار ہوگا۔اگر کوئی پیشی مقام دورہ پر ہویا حدسے باہر ہوتو وکیل صاحب موصوف یا بند ہوں گے کہ پیروی مقدمہ ندکورہ کریں اور اگر مخار مقرر کردہ میں کوئی جزو بقایا ہوتو وکیل صاحب موصوف مقدمہ کی پیروی کے پابندنہ ہوں گے۔ نیز درخواست بمراداستجارت نالش بصیعہ مفلسی کے دائر کرنے اوراس کی پیروی کا بھی صاحب موصوف کواختیار ہوگا۔

لہذاد کالت نامة تحرير كرديا تا كەسندرى ـ

بمقام:

BEFORE THE SERVIC<u>E TRIB</u>UN<u>AL KHYBER PA</u>KHTUNKHWA PESHAWAR

CAMP COURT ABBOTTABAD.

Appeal NO. 1307/2015

Mohammad Waseem

Appellant

VERSUS

1. Govt; of Khyber Pakhtunkhwa and others

Respondents

COMMENTS ON BEHALF OF RESPONDENT NO.

Respectfully Sheweth:-

Preliminary Objections:-

- 1. That the appellant did not come to this Service Tribunal with clean hands.
- 2. That the appellant has no cause of action/ locus standi to file the instant appeal.
- 3. That the instant appeal is hit by laches and barred by law of limitation.
- 4. That the appeal has been filed to pressurize the respondents.
- 5. That the appellant has suppressed the original facts from this honorable tribunal hence not entitled for any relief and appeal is liable to be dismissed.
- 6. That the competent authority has passed the order dated 7/7/2015 after fulfillment all codal formalities hence appeal is liable to be dismissed without any further proceeding.
- 7. That the appellant committed fraud with department/Government by proceeding fake documents for his appointment hence appeal is liable to be dismissed.

FACTUAL OBJECTIONS.

- Correct reveled in record.
- 2. Correct to the extent that the appointment of the appellant was made subject to appeal is liable the condition of verification of documents/certificates, rest of Para is incorrect.
- 3. Correct to the extent that the appellant performed his duties till the verification of his documents
- 4. Incorrect and hence denied. A departmental enquiry was initiated against the appellant about his fake documents.

- 5. Incorrect and denied. The reply of show cause notice did not pertain the cogent reason of allegation.
- 6. Correct. The appellant was removed from services on the recommendation of enquiry vide Director General Health Services KPK Peshawar Letter No. 3247/CC/2514/2014 Dated 14/11/2014.
- 7. Correct. The appeal of the appellant was base less which was rejected by competent authority.
- 8. The appeal of the appellant was not genuine and hence was not decided in favor of appellant because of his fake documents/ testimonial.
- 9. Correct to the extent of order dated 7/7/2015 rest of Para is incorrect in fact proper enquiry conducted by the Director General Health services Peshawar KPK and after the recommendation the competent authority passed the removal order as per law and rules.

GROUNDS.

- a. Incorrect. The enquiry of the fake documents was conducted by Dr. Niaz Mohammad and Mohammad Jamil Assistant Director, Director General Health Services KPK Peshawar vide his letter No. 3247/CC/2514/2014 Dated 14/11/2014. The appellants documents/ diplomas were found bogus.
- b. Incorrect. The appellant was given fully chance of hearing and person which issuing show cause notice.
- c. Incorrect. The appellant did not full fill the criteria of appointment on having fake documents.
- d. Incorrect. The appellant committed fraud with department/ Government by producing fake documents for his appointment in government service.
- e. Incorrect and denied. The requirement for appointment to the post of JCT(Radiology) is not only FA & BA but also require a certificate of Radiology awarded by Medical Faculty KPK Peshawar.

g. Incorrect. The Charsadda Medical Institute is not registered/ affiliated with Medical Faculty KPK Peshawar, affiliation with Medical Faculty KPK Peshawar was requirement for appointment.

h. Incorrect and denied. In this regard a letter was written by respondent No. 03 office about the certificate of Charsada Medical Institute. And Medical Faculty KPK Peshawar replied vide its letter No.2208/11 dated 07/07/2015 that the said Charsadda Medical institute was not registered with Medical Faculty KPK Peshawar.

i. Incorrect and denied. the appellant was given full chance of reply of show cause notice and hearing in person. Secondly Charsada Medical Institute was not registered and valid for Medical Faculty KPK Peshawar. It be relevant not recognized for appointment has JCT (Radiology).

j. Incorrect and denied. The order of the removed of the appellant is according to the law and rules of justice.

k. Incorrect. The appellant was not justify himself as suitable on having bogus diploma.

I. Legal treated s per law.

It is therefore in the light of above stated facts very humbly prayed that the appeal in hand being against the law/rules and policy of the Govt of Khyber Pakhtunkhwa be dismissed with

cost throughout.

Secretary to Govt of Health KPK

KPK Peshawar

Respondent No. 01

Director General Health Services

KPK Peshawar

Respondent No. 02

District Health Officer

Battagram

Respondent No. 03

Medical Superintendant DHQ Hospital Battagram

Respondent No.04

BEFORE THEHONORABLE COURT KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR ABBOTTABAD BENCH.

SUBJECT:-

WRIT PETTITION NO.1307/2015

Muhammad Waseem

Appellant

VERSUS.

GOVERNMENT OF KHYBER PKHTUNKHWA

Respondent.

AFFIDAVIT.

I Dr. Muhammad Daud Medical Superintendent DHQ Hospital Battagram do hereby affirm and declare that the comments of para wise writ petition are true and correct as per my knowledge and available record that nothing material has been suppressed this honorable court.

RESPINDANT NO. 4



DIRECTORATE GENERAL HEALTH SERVICES, KHYBERR PAKHTUNKHWA, PESHAWAR

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name. Exchange # 091-9210187, Tele # 9210196 Fax # 091-9210230

. No. 3 247 /CC/2514/2014

Dated /4 /11/2014

Τo,

The District Health Officer, Battagaram.

Subject:

ENQUIRY OF IRREGULAR APPOINTMENTS.

In continuation, of this Directorate letter No.2717-20/cc/2511/2014 dated 08/09/2014, I am directed to forward an enquiry report conducted by Dr.Niaz Muhammad SMC Civil Hospital Battal Mansehra and Mr. Muhammad Jamil Assistant Director(P-II) DGHS Office KPK Peshawar for implementation and necessary action with the following remarks.

- I. After going through the enquiry report it is observed that the said recruitment has been made against the Esta Code of the Govt, almost against the merit and rules regulation of the Govt have been violated.
- II. All those recruited against the merit may be terminated w.c.f the date of recruitment, salaries made so far be recovered from the wrong selectees/ those officers/ officials who are responsible for this illegal appointments immediately.
- III. Disciplinary action may be initiated against the culprits (Responsible for this illegal appointment).

IV. Fresh procedure as per Esta Code recruitment policy may be initiated for new recruitments.

mmal Haxord of

DIRECTOR GENERAL HEALTH SERVICES, KHYBER PAKHTUNKWA

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P 13/11/14



DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No 27/7-20/CC/2511/2014

Dated 2 /09/2014

MOST IMMEDIATE

To.

- Dr.Niaz Muhammad SMO, Ciyil Hospital Battal District Manshera.
- 2/ Mr. Muhammad Jamil
 Assistant Director(P-II), DGHS Office Peshawar.

SUBJECT: OFFICE ORDER.

I am directed to refer of this DGHS office Order bearing endorsement No.647-53/CC/2511/2014 dated 14-04-2014 on the subject noted above with the remarks to proceed to Battagram for examination /Scrutiny of the remaining documents of the candidates appointed by DHO Battagram prior to 01/07/2013.

Director (Admn)

DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Cd:

Copy forwarded to the:

- 1. District Health Officer Battagram for information and to make available all the relevant record to the enquiry committee.
- 2. Medical Superintendent DHQ Hospital Battagram for information and necessary action w/r to DHO Battagram letter No.8756-58 dated 01/09/2014, he is directed to provide the relevant record to DHO Battagram within 03 days without fail.

ENQUIRY REPORT INTO THE ALLEGED IRREGULARITIES IN THE RECRUITMENT PROCESS OF PARAMEDICS/OTHER CLASS-III STAFF AND CLASS-IV EMPLOYEES IN THE OFFICE OF THE DISTRICT HEALTH OFFICER BATTAGARAM.

BACK GROUND.

Vide Director General Health Services Khyber Pakhtunkhwa office order bearing endorsement No.647-53/complaint cell-2514 dated 14/4/2014 an inquiry committee comprising Dr.Niaz Muhammad SMO CH Battal and Mr. Muhammad Jamil Assistant Director (Personnel–II) Directorate General Health Services Khyber Pakhtunkhwa Peshawar has been constituted to probe the alleged irregularities in the recruitment process of the employees in Department of Health District Battagram (F/A)

PROCEEDINGS

The Committee proceeded to Battagram on 23/04/2014 and remained there upto 26/4/2014. The Committee scrutinized the relevant record pertaining to recruitments made by Dr. Aquel Bangash and Dr. Shehzad Ali Khan Ex-DHOs Battagram for the periods with effect from 1/7/2013 till their tenures.

This is worthwhile to mention that merit lists and documents pertaining to the recruitment issued by Dr. Aqeel Bangash Ex-DHO Battagram prior to 1-7-2013 were not produced by the DHO Office Battagram; saying that the same were taken away by the Ex-DHO Dr. Aqeel Bangash as per their written statements mentioned below. On enquiry from Dr. Aqeel Bangash, although he produced photo copies of the merit lists at F/B but showed ignorance about the documents.

While forwarding the previous Enquiry Report, the District Health Officer Battagram was asked vide DGHS letter No.1206-09/Complaint Cell/2511/2014 dated 29th May 2014 for producing the remaining documents pertaining to recruitments of Class-III and Class-IV employees made by Dr.Aqeel Bangash the then DHO for the period prior to 1-7-2013 within fifteen days. But after protracted correspondence with the District Health Officer Battagram, he

been able to produce the documents ibid that is too in piecemeal upto 10th bctober 2014.

FINDINGS.

The Committee after scrutiny found various irregularities in the recruitment process which are mentioned below:-

- Format of the merit list is not according to the standard criteria of the Government.
- As required under the relevant criteria of the Government at Flag-C, Diploma marks not included in the merit list after the marks of prescribed qualification i.e. matric. More so the marks allotted for the prescribed qualification were not according to standard criteria, e.g. certain candidates with 2nd division were allotted the marks of first division and vice versa. In certain cases marks for higher qualification have been given to the candidates although no documentary proof was produced in this regard to the Enquiry Committee which makes selection/recruitment of some of the candidates doubtful.
 - > Written test marks included in the merit list in violation of the approved Service Rules.
 - In some cases <u>more than 8 marks</u> allotted to the candidates in the column of interview marks, in violation of the criteria fixed by the Government.
 - Experience marks are not given as per Government criteria and in some cases experience marks are given on the basis of experience certificates of unregistered private institutions; even in some cases marks given without experience certificate.
 - Minutes of the Departmental Selection Committees duly signed by chairman and members of the DSC, are not recorded.
 - Candidates in various categories have been recruited by Dr.Aqeel Bangash without valid certificates/diplomas.
 - Class-IV employees have been appointed by the Ex-DHO viz: Dr.Aqeel Bangash without inviting applications through employment exchange (not available in District Battagram) or press advertisement.
 - Ward Ayas (nomenclature thereof not available in the sanctioned strength of District Battagram) have been appointed by Dr.Aqeel Bangash against the posts of Dais without observance of codal

formalities which is again violation of the rules/regulations and policy of the Government. The Committee noted with concern as to how their salaries have been allowed by the DAO Battagram.

As a matter of fact the educational qualification/technical diplomas etc of paramedics are required to be verified by the concerned Board of Intermediate and Secondary Education and Khyber Pakhtunkhwa Medical Faculty Peshawar. To the utter surprise of the committee salaries of all paramedics/other employees have been activated without verification from the above institutions.

 $ilde{}\hspace{-0.1cm}$ Inspite of the fact, meeting of the DSC was attended and merit list the Representative of by DCO Battagram and - representative of the DG Health Services, but none of them were

able to pin point the irregularities mentioned above.

CONCLUSION

Dr. Aqeel Bangash ex-District Health Officer District Battagram is responsible for the irregular recruitments and a warning in this regard has already been issued to him. wrong scheetees?

RECOMMENDATIONS

In view of the foregoing the Enquiry Committee recommends action against various categories of employees as mentioned against each below:-

T	Maria de la Companya			
S.No	Nomenclatu	Names of	Observation of the	Recommendation
	re of the	employees	Committee	
	post .	appointed.		
1	Receptionist	ljaz Ali s/o	a) BA marks added in the	If the marks of
	(merit list at	Muhammad	column of higher	prescribed/higher
,	Annex: I)	Khateeb(Battag	qualification but BA degree	qualification
		ram)Merit list	not produced.	irregularly added in
	-	at Annexure-I	b)As per matric certificate,	the merit list are
			the Official has got 2 nd	deleted, another
			divn:but marks given of 1st	candidate in the
			divn:	merit list would
			c) Matric certificate not	have been eligible
·			verified from the concerned	for / selection.

٠,	į	f .		and the state of t	
•		*		Board of Intermediate and	Therefore, show
				Secondary Education but	cause notice may
· .				salary started.	be served upon
• • • •					Mr.ljaz for removal
					from service and his
					salary stopped.
	2 2	JCT	Muhammad	a)Marks for higher	
		Cardiology	Wasim s/o	qualification allotted two	at Sl:No.a of the
		(Merit list at	Muhammad	step above while the	observations,
		Annex:II)	Bashir	employee has qualified	Muhammad Wasim
			(Battagram)Mer	FA(one step above)	has been appointed
		·	it list at	b)No certificate/diploma in	without having
			Annexure-II	Cardiology produced from	been qualified from
				Medical Faculty KPK Pesh:	the Medical Faculty;
Ì					he may be served
			•		upon with show
					cause notice for
İ					removal from
					service and his
ļ					salary stopped.
		•			
	3	Malaria	i.Sher Ali Khan	He is matric with science and	May be allowed to
		Supervisors	s/0 Ghulam	possess diploma from the	continue service as
	ler	(Merit list at	Muhammad	Medical Faculty Peshawar.	Jr.PHC Tech (MP)
	of the same	Annex:III)	(Battagram)		being qualified but
) old	rifie				after verification of
٠٧٧	0				his matric
					certificates etc.and
•	-				diploma from the
				_	Medical Faculty
					Peshawar. Till then
					his salary must be
		man planta de la managaria de			stopped and if
			·		found fake, show
.1					cause notice may
					be served upon him
					for removal from

_	<i>i</i>		<u> </u>	
				service.
	Malaria	ii.Abdul Manan	a) No documents produced	As per revised
	Supervisors	Shah s/o Syed	to the Enquiry Committee.	service structure of
	(Merit list at	Amir	b) He was already serving as	Paramedics notified
	Annex:III)	NawabShah	Insect Collector but again	in 2006, the post of
		(Battagram)	applied for Malaria	insect collector has
			Supervisor and subsequently	since been re-
	•		appointed in contravention	nomenclatured as
			of the approved S/Rules.	Jr.PHC Tech:(MP),
•	·	·		therefore, he may
				be allowed to
		,		continue as Jr.PHC
	-			Tech:(MP) and his
			·	irregular
	•		· · · · · · · · · · · · · · · · · · ·	recruitment order
				as Malaria
				Supervisor
				withdrawn
	Malaria	iii.Amjed Khan	Recruited in violation of the	May be served
	Supervisors	s/o Babu Khan	Approved S/Rules & without	upon show cause
	(Merit list at	(Battagram)	valid diploma from Medical	notice for removal
	Annex:III)	,	Faculty Peshawar.	from service and
				salary stopped.
	Malaria	iv.Muhammad	Recruited in violation of the	May be served
	Supervisors	Amjed s/o	Approved S/Rules & without	upon show
	(Merit list at	Muhammad	valid diploma from Medical	cause notice for
- ,	Annex:III)	Afzal	Faculty Peshawar.	removal from
		(Battagram)		service and salary
				stopped.
4	JCT(Physioth	Sajid Ali s/o	a)Matric with arts(science	May be served
	erapy) Merit	Bashir Khan	'	upon show
	list at	(Battagram)	b) No valid diploma from	cause notice for
	Annex:IV		Medical Faculty Peshawar.	removal from
				service and salary
				stopped.
5	JCT	Muhammad	Matric with science with	May be allowed-to
	Anaesthesia	Rafiqullah Khan	valid diploma from Medical	continue service

	/			<u></u>
,	Merit list at	s/o Muhammad	Faculty Peshawar, albeit not	but after
• • /	Annexure-V	Aslam	verified.	verification of the
1		Khan(Bannu)		matric certificate
				and diploma from
				the concerned
				Board and Medical
1				Faculty Peshawar. If
				found fake, should
			, ,	be served upon
	,	,		with Show Cause
				notice for removal
				from service.
6	Junior Clerks	i.Fahim Khan	a) Matric certificates of all	May be allowed to
	Merit list at	s/o Muhammad	the employees perused but	continue service
	Annexure-VI	Bashir	not verified from the	subject to
		(Battagram)	concerned Boards.	producing of
		ii.Shahid Ali s/o	b) Advertisement for the post	advertisement
		Adam	not produced.	notice by the DHO
		Khan(Battagra		Battagram and
		m)	•	verification of the
	_	iii.S.Maqbool		Matric Certificates,
		Shah s/o		till then their
		S.Muhammad		salaries must be
		Zahir		stopped.
		Shah(Battagram		
)		
		iv.Niaz		
		Muhammad s/o		
		Muhammad	·	
		Faroosh(Battagr		
		am)		
<u> </u>	,	v.Shah Faisal		
		s/o Muhammad		
		Afzal		
7	Store	(Battagram)		
'		Dilshad s/o Said	a) He was in-service Sweeper	May be allowed to
L	Keeper	Hazrat	but his matric and dispenser	continue service

	•					<u> </u>
			Merit list at	(Battagram)	Certificates seem to be	subject to
			Annexure-VII		doubtful.	producing of
•					b)) Advertisement for the	advertisement
					post not produced.	notice by the DHO
	1	ļ	•			Battagram and
						verification of both
1		•	•			the certificates and
			•			if found bogus, may
						be served upon
						show cause notice
	•	i		·		for removal from
				· .		service. Till then his
						salary must be
						stopped.
. {	3		JCT Dental	Ihsanullah s/o	a)Matric with science with	May be allowed to
			Merit list at	Hashim Khan	diploma from Medical	continue service
			Annexure-	(Battagram)	Faculty Peshawar and BA	subject to
			VIII	,	qualification but not verified	producing of
					b)) Advertisement for the	advertisement
					post not produced.	notice by the DHO
. •						Battagram and
						verification of
. .	-		•			<u>certifi</u> cate, diploma
		.				and degree and if
		İ				found bogus, must
'	· 	٠				be served upon
		٠.				with show cause
	·					notice for removal
.		.				from service. Till
				•		then his salary must
		1				be stopped.
2	-		JCT Surgical	i.Asadullah s/o	a)Matric with science having	May be served
			Merit list at	Azmatullah	no valid diploma	upon with show
			Annexure-IX	(Mansehra)	b)) Advertisement for the	cause notice for
					post not produced.	removal from
					,	service and salary
		-				stopped.
L		!		<u> </u>	<u> </u>	

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	`.	1	/	·		
				ii.Ehsanullah	a)Matric with science 2 nd	May be allowed to
		/	_	s/o Fazal Rahim	divn: marks allotted of first	continue service
	/	/		(Battagram)	divn:	subject to
			- 		b)Zero marks given in the	producing BA
	1	•		·	interview, even then	degree/advertisem
· · ·					selected.	ent notice by the
	1		٠,		c)Although qualified OTA	DHO Battagram &
					from Medical Faculty	verification of
1					Peshawar, yet the certificate	certificate/diploma
		-			seems to be fake.	and if failed to
	Î				d)8 marks for higher	1 -
ar.					qualification allotted but no	degree/advertisem
1					BA degree produced.	ent notice or the
					e)) Advertisement for the	documents found
				٠.	post not produced.	bogus, must be
			·		·	served upon with
						show cause notice
						for removal from
	-					service. Till then his
						salary must be
	· · ·		<u>.</u>			stopped.
		•		iii.Rashid Khān	a)No valid	May be served
				s/o Ghulam		upon show
		•	-	Akber Khan	Medical Faculty Pesh: Even	cause notice for
ŗ.				(Battagram)	not selected by the DSC but	I
٠.	7)				favoured with recruitment	
7	/	-			order by Dr. Aqeel Bangash.	stopped.
					b)) Advertisement for the	
	10		JCT	i Acif Africal: a/a	post not produced.	8.4
	10	-	Ophthalmol	i.Asif Afridi s/o Abdur Rahim	a)He has been selected on	May be allowed to
		ĺ	ogy Merit	(Battagram)	the basis of having degree in	continue service
			list at	(narragiaiii)	vision science from KMU	subject to
			Annex:X		Peshawar but the same has not been verified.	producing of
			, amena			advertisement
ا ب					b)) Advertisement for the	notice by the DHO
-					post not produced.	Battagram and
l				<u> </u>	<u>.</u>	verification of

organis (− ,		<u> </u>		
	1			
	· ·			Matric certificate/ degree and if found
				bogus, must be
1				served upon with
. / . 2 / #		.)	•	show cause notice
4				for removal from
P				service. Till then his
				salary must be
	できる。 ・			stopped.
1	JCT	ii.Tanzeelur	a)No diploma from Medical	May be served
	Ophthalmol	Rahman s/o	Faculty Peshawar.	upon with show
	ogy Merit	Himayatullah	b) BA degree not produced but marks for higher	cause notice for removal from
	list at Annex:X	(Battagram)	but marks for higher qualification allotted.	service and salary
	Aillex.X		c) Advertisement for the post	stopped.
2019			not produced.	·
1	JCT	ii Rafique	a)No recruitment order	May be allowed to
	Cardiology	Ahmad s/o	produced.	continue service
		Sherenzada	b)Matric with science having	subject to
	Annexure-XI	(Swat)	diploma from Medical	producing of
			Faculty Peshawar. c)According to Feroz Sr.Clerk	advertisement notice by the DHO
			of DHO Office Battagram the	Battagram &
			Tech: has been transferred	verification of
			to Swat.	matric certificate,
			d)) Advertisement for the	diploma and degree
			post not produced.	and if found bogus,
es.				must be served
				upon show cause
				notice for removal
The same				from service. Till
				then his salary must
10				be stopped. DHO Battagram to
				inform the DHO/MS
	•			Swat where he has
				been transferred.

	, , ,		
JCT Physiothera py Merit list at Annex:XII	i.Mufti Salahuddin s/o Noorul Wahab (Battagram)	a)Matric with science having diploma from Medical Faculty Peshawar but the same seems suspicious. b) 6 marks for higher qualification allotted but FA certificate not produced. c) Advertisement for the post not produced.	continue service subject to producing of FA certificate/Advertis ement notice by the DHO Battagram and verification of certificate/diploma and if failed to produce FA certificate or the documents found bogus, must be served upon with show cause notice for removal from service. Till then his
	ii.Mehboobulla	a)Matric with science .	salary must be stopped. May be allowed to
	h s/o Rai Khan (Karak)	b)Diploma of Med: Faculty produced, seems fairly bogus c) Advertisement for the post not produced.	continue service subject to producing of advertisement notice by the DHO Battagram and verification of certificate/diploma. If found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.

	<u> </u>			 -
12	Electrician	i.Adil s/o	a)advertisement for the post	May be allowed to
	Merit list at	Muhammad	not produced.	continue service
Ι΄	Annexure-	Niqab	b)8 marks for higher	subject to
	XIII	(Battagram)	qualification allotted but BA	producing of
			degree not produced.	advertisement
				notice by DHO
•		÷		Battagram and
	:	·		verification of
				matric certificate
				etc. If failed to
				produce the
				advertisement
				notice, must be
		·		served upon show
		-	·	cause notice for
				removal from
				service. Till then his
	· ·			stopped.
		ii.Fasiullah s/o	a)Matric certificate and BA	1
		Syed Sakhi Shah	degree produced but not	
		(Battagram)	verified as yet.	subject to
			b)Advertisement for the post	producing of
			not produced.	Advertisement
				notice and
				verification of
				certificate/diploma.
1				If failed to produce
				the advertisement
				notice by DHO
	1			Battagram and the
				documents found
-				bogus, must be
				served upon with
				show cause notice
<u>'</u>	·			for removal from
				service. Till then his
<u></u>		<u> </u>	. <u>l</u>	1

Y .			· · · · · · · · · · · · · · · · · · ·	
				salary must be stopped.
14	JCT Radiology Merit list at Annexure-XIV	i.Yar Muhammad s/o Muhammad Javed (Battagram)	a) Matric with science with no valid diploma.b) Advertisement for the post not produced.	May be served upon show cause notice for removal from service and salary stopped.
		ii.Sirajuddin s/o Firdus Khan (Mansehra)	a) Matric with science with no valid diploma.b) Advertisement for the post not produced.	May be served upon show cause notice for removal from service and salary stopped.
15	JCT Anaesthesia Merit list at Annexure-	i.Mujeebur Rahman s/o Shahroom Khan (Battagram)	a) Matric with science with diploma from Med: Faculty Peshawar but not verified as yet.	continue service subject to producing of
	XV	-	b) 12 marks for higher qualification allotted but MA degress not produced. c) Advertisement for the post	notice by DHO Battagram and verification of
			not produced.	certificate/diploma. If failed to produce the advertisement notice and the documents found
	·			bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.

	· .		·	
	· ·	ii.Yousaf Ali	a)Matric with science with	May be allowed to
		Khan s/o Fateh	certificate from Med: Faculty	continue service
/		Khan	Peshawar but not yet	subject to
		(Battagram)	verified.	producing of
		, , ,	b) Advertisement for the post	Advertisement
			not produced.	notice by DHO
٠.				Battagram and
				verification of
				certificate/diploma.
			·	If failed to produce
	·			the advertisement
				notice and the
				documents found
				bogus, must be
				served upon with
				show cause notice
				for removal from
	· .			service. Till then his
				salary must be
				stopped.
16	Plumber	Zahir Shah s/o	a)Matric with arts.	May be allowed to
	Merit list at	Abdul Khaliq	1.	l
	Annex:XVI	(Battagram)	post produced.	subject to
		(Saccagi ann)	, post produced.	producing of
,				Advertisement .
				notice by DHO
				Battagram and
ļ ·				verification of
				certificate/diploma.
		·		If failed to produce
1			•	the advertisement
				notice and the
				documents found
				bogus, must be
			\tag{2}	served upon with
1				show cause notice
1	1	1		SHOW Cause HOLICE
			_	for removal from

		and a		service. Till then his salary must be stopped.
17	Generator Operator Merit list not produced.	Sher Bahadur s/o Jan Muhammad (Battagram)	a) No advertisement notice, no merit list and no documents produced.	May be served upon with show cause notice for removal from service and salary stopped.
18	Tube Well Operator Merit list not produced	Muhammad s/o	a)No advertisement notice, no merit list and no documents produced.	May be served upon with show cause notice for removal from service and salary stopped.
19	Class-IV employees Merit list not produced	As per list at Annexure	a)No advertisement notice, no merit list and no documents produced.	May be served upon with show cause notice for removal from service and salary stopped.

Interestingly salaries of the above employees are being disbursed from the date of their recruitment but surprisingly the offices, of the present DHQ Battagram and MS DHQ Hospital Battagram badly failed to produce the relevant documents to the Enquiry Committee, resulting in late submission of the enquiry report.

The above recommendations are submitted for perusal and approval or as

the competent authority deems fit.

(Muhammad lamil)

Assistant Director (P-II)
Directorate General Health

Services, Khyber Pakhtunkhwa

Peshawar.

(Dr.Niaz Muhammad)

SMO, Civil Hospital Battal District Manshera.

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BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1307/2015

Mohammad Waseem

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa & others

...RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT TO THE COMMENTS FIELD BY RESPONDENTS NO.1 TO 4

Respectfully Sheweth;-

That the rejoinder on behalf of appellant is as under;-

REPLY TO PRELIMINARY OBJECTIONS:-

 Para No. 1 is not correct. Appellant has filed the titled appeal by disclosing all the facts before this Honourable Tribunal.

- 2. Para No.2 is incorrect. Appellant being civil servant has locus standi and cause of action to knock the door of this Honourable Tribunal.
- 3. Para No.3 is incorrect.
- 4. Para No.4 is incorrect. The titled appeal is for the rights of appellant.
- 5. Para No.5 is incorrect. Nothing has been suppressed from this Court. Even otherwise the comments filed by the respondents are silent regarding the alleged "suppressed facts".
- 6. Para No.6 is incorrect. Order passed by respondents is wrong, illegal, without lawful authority and the same is liable to be set aside.
- 7. Para No.7 is incorrect. Appellant's documents are genuine. Appellant worked against the post for about 03 years.
- 8. According to our information two persons namely Muhammad Ali Son of Muhammad Akbar Khan posted against Cardiology Technician on the basis of Certificate from Charsada institute and Safia Bibi D/o Ibaid ur Rehman Pharmacy Technician having Certificate from Tariq Jee Parmedic Institute appointed under DHO Battagram are still working, which shows discriminatory attitude with appellant

REPLY OF FACTUAL OBJECTIONS;-

- 1. Para No.1 requires no reply.
- Para No.2 requires no comments.
 Educational Documents of appellant are genuine.
- 3. In reply to Para No.3, it is submitted that appellant performed his duties till 31/07/2015.
- 4. Para No.4 of the comments is not correct.

 Show cause notice issued to appellant and enquiry was without associating the appellant in any type of inquiry.
- 5. Para No.5 is incorrect. Reply to show cause notice was in detail and based on facts and genuineness.
- 6. In reply to Para No.6, it is submitted that though appellant was removed from service but illegally and without lawful authority.
- 7. In reply to Para No.7, it is submitted that appellant's appeal was based on facts which was illegally rejected.

- 8. Para No.8 is not correct. The documents of appellant are genuine.
- 9. Para No.8 is not correct. No proper inquiry was conducted and order dated 07/07/2015 is based on improper inquiry which is liable to be set aside.

REPLY ON GROUNDS;-

- a. Incorrect. There is not an iota of evidence on file which could have suggested that the educational documents of appellants were declared as "Bogus" by any competent authority.
- b. Para "b" of comments is not correct, whereas, para "b" of appeal is correct.
- c. Para "c" of the comments is not correct. Neither any authority has termed the documents of appellant as fake nor there is any evidence on file to show that any authority has ever

declared the educational documents of appellant as fake.

- d. Para "d" is not correct the so-called inquiry report annexed with the comments does not even remotely connect the appellant in any type of commission of irregularity or fraud by the appellant.
- e. In reply to Para "e", it is submitted that appellant possesses the required qualification for appointment as JCT Radiology and that is why he was appointed.
- f. Para "f" is not correct.
- g. Para "g" again is not correct. Para "g" of appeal is in detail and is correct.
- h. Para "h" is not correct nor the appellant was ever informed about the so-called correspondence nor was associated.

- i. Para "i" of the comments is not correct. Whereas, para "i" of the appeal is correct.
- j. Para "j" of the comments is not correct.
- k. Incorrect.
- l. Legal.

It is, therefore, humbly prayed that the appeal of the appellant be accepted.

..APPELLANT

Through

Dated: 21-12- /2016

(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

AFFIDAVIT;

I, Mohammad Waseem (Appellant), do hereby solemnly affirm and declare on oath that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

DEPONENT

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Appeal No.	-A/2016
appour rio.	702010

Muhammad Waseem VERSUS Govt. of KPK & others.

Khyber Pakhtukhwa Service Tribunal

Diary No. 439

SERVICE APPEAL

Dated 02-6720/6

FOR **ISSUANCE** <u>APPLICATION</u> OF RESTRAINING ORDER INTHE NAME RESPONDENTS NOT TO CALL, AND RECEIVE APPLICATION FOR FILLING THE POST OF JUNIOR **PRIMARY** HEALTH **CARE TECHNICIAN** (CARDIOLOGY) IN DHQ, HOSPITAL BATTAGRAM AND FOR ISSUANCE OF A STATUS QUO ORDER AGAINST THE RESPONDENTS REGARDING THE POST OF JUNIOR PRIMARY HEALTH CARE **TECHNICIAN** (CARDIOLOGY) $\cdot IN$ BATTAGRAM TILL THE FINAL DISPOSAL OF THE TITLED APPEAL.

put up to the court

Respectfully Sheweth; - 16 116

1. That the applicant vide order dated 28/12/2012 was appointed in the DHQ Battagram against the

post of Junior Primary Health Care Technician (Cardiology). Copy of order is already annexed as Annexure "B" with appeal.

- 2. That the respondents without any cause on 07/07/2015 removed the applicant from service, order was received by the applicant on 01/08/2015.

 Copy is already annexed as Annexure "F".
- 3. That the appellant challenged the order dated 07/07/2015 before this Honourable Court and this Honourable Court was pleased to admit the appeal on 15/12/2015.
- 4. That after admission of appeal the respondents intends to fill the post of Junior Primary Health Care Technician (Cardiology) lying vacant in DHQ Battagram after the removal of appellant from service and for this purpose they have advertised the post in Mashriq Peshawar. Copy of advertisement is annexed as Annexure "A".
- That the respondents have appeared before this

 Honourable Court on 20/04/2016 and they are in
 knowledge of the titled appeal.

- 6. That prima facie the case of the appellant in appeal is very strong and there is every likelihood of its success.
- 7. That Balance of convenience also lies in favour of appellants.
- 8. That in case restraining order and order for status quo against the respondents as prayed in the heading of the application is not granted the appellant will suffer irreparable loss.

It is therefore humbly prayed that on acceptance of this application restraining order and order for status quo as prayed in the heading of the application be ordered till the final disposal of the titled appeal.

MOHAMMAD WASEEM
...APPELLANT/PETITIONER

Dated: /~ 6 ~/2016

Through;

(Sajjad Ahmed Abbasi)

Advocate High Court, Abbottabad.

AFFIDAVIT;

I Mohammad Waseem S/o Mohammad Bashir R/o Village Ahmedabad Tamai, Tehsil and District Battagram, do hereby declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed form this Honourable Tribunal.

DEPONENT

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