

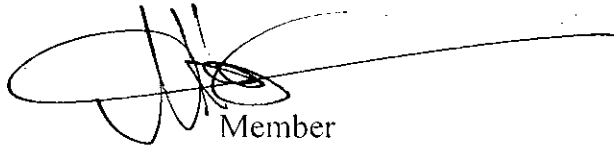
723/2015

30.11.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant states that the grievance of appellant has been redressed, therefore he is under instruction to withdraw the instant appeal.

Dismissed as withdrawn. File be consigned to the record room



Member



Chairman

Announced:  
30.11.2018

17.04.2018

Junior counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Junior counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 02.07.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

02.07.2018

Junior to Counsel for the appellant and Addl: AG for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 21.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

21-8-2018

Due to Eid-ul-Azha  
celebration the case is adjourned  
to 17-10-2018

  
Reader

17.10.2018

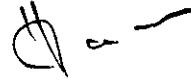
Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 30.11.2018 before D.B.

  
Member

  
Member

05.10.2017

Clerk to counsel for the appellant and Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for ~~30.11~~ 2017 alongwith the connected appeals before D.B.



(MUHAMMAD HAMID MUGHAL)  
MEMBER



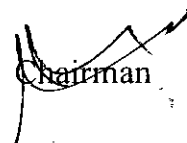
(AHMAD HASSAN)  
MEMBER

30.11.2017

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment Adjourned. To come up for arguments on 12.02.2018 before D.B.



Member



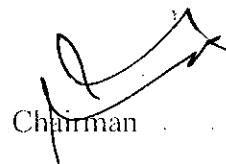
Chairman

12.02.2018

Clerk of the counsel for appellant present. Mr. Muhammad Jan, DDA for the respondent present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for arguments on 17.04.2018 before D.B.



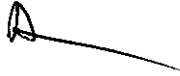
Member



Chairman

20.10.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 24.02.2017.




(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER.

24.02.2017

Counsel for the appellant and Assistant AG for respondents present. Arguments could not be heard ~~due to~~<sup>as</sup> learned Member (Judicial) is on leave. To come up for arguments on 09.06.2017 before D.B.



(AHMAD HASSAN)  
MEMBER

09.06.2017

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on ~~05.09~~<sup>05</sup>.2017 before D.B.



(GUL ZEB KHAN)  
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

03.12.2015

Counsel for the appellant and Mr. Maaz Madni, Assistant Litigation Officer alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 22.2.2016 before S.B.

  
Chairman


22.02.2016

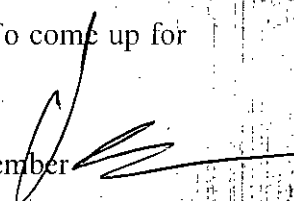
Counsel for the appellant and Mr. Maaz Madni, Assistant Litigation Officer alongwith Assistant AG for respondents present. Para-wise comments by respondents No. 1 and 2 submitted. The learned Assistant AG relies on the same on behalf of respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 2.6.2016.

  
Chairman

2.6.2016

Counsel for the appellant and Ziaullah, GP for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 20.10.2016.

  
Member

  
Member

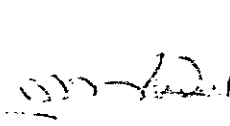
02.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Lady Health Visitor when vide impugned order dated 4.12.2014 she was terminated from service on the allegations of wilful absence which order was communicated to the appellant on 21.3.2015 regarding which she preferred departmental appeal on 24.3.2015 which was not responded and hence the instant service appeal on 26.6.2015.

That the word "termination" is not prescribed by the law and moreover no regular inquiry was conducted nor law/rules under which the inquiry conducted was mentioned in the proceedings.

Point 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 15.10.2015 before S.B.

Appellant Deposited  
Security & Process Fee



71-5-50


Chairman

Reader

15.10.2015

Since 15.10.2015 has been declared as public holiday on account of 1<sup>st</sup> Muharram-ul-Haram, therefore, case is adjourned to



~~3-12-15~~ for the same.



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 723 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.06.2015	<p>The appeal of Mst. Neelam presented today by Mr. Noor Muhammad Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	30-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>02-7-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

APPEAL NO. 723 /2015

**NEELAM**

**VS**

**HEALTH DEPTT:**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1.	Memo of appeal	.....	1- 3.
2.	Condonation application	.....	4.
3.	Educational testimonials	<b>A</b>	5- 9.
4.	Appointment order	<b>B</b>	10.
5.	Posting order	<b>C</b>	11.
6.	Arrival report	<b>D</b>	12.
7.	Application	<b>E</b>	13.
8.	Arrival report	<b>F</b>	14.
9.	Termination order	<b>G</b>	15.
10.	Attendance	<b>H</b>	16.
11.	Departmental appeal	<b>I</b>	17- 18.
12.	Vakalat nama	.....	19.

**APPELLANT**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**



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

APPEAL NO. 723 /2015

A.W.P. Provincial  
Service Tribunal

Diary No. 748

Dated 26-6-2015

Mst: Neelam, Ex: Lady Health Visitor,  
BHU Kotki Larsadin, Bajaur Agency.

..... PETITIONER

**VERSUS**

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Health Services FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Surgeon Bajaur Agency at Khar.

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 4.12.2014 COMMUNICATED TO THE APPELLANT ON 21.3.2015 WHEREBY THE APPELLANT WAS TERMINATED FROM SERVICE WITHOUT CONDUCTING REGULAR INQUIRY IN THE MATTER AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 04-12-2014 communicated to the appellant on 21-03-2015 may very kindly be set aside and the respondents may be directed to re-instate the appellant into service with all back benefits. Any other remedy which this august Court deems fit may that also be awarded in favor of appellant.

Filed to the  
Registrar  
26/6/15

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant was appointed as Lady Health Visitor in respondent Department on regular basis and on the proper recommendations of Departmental Selection Committee vide order dated 29.12.2009. That subsequently the appellant was posted as LHV in BHU Kotkai Larsadin Bajaur Agency vide order dated 4.1.2010. Copies of the Educational testimonials, appointment order and posting order are attached as annexure

..... **A, B & C.**

- 2- That in response to the said order dated 4.1.2010 the appellant submitted her arrival report on the very next day and started performing her duty quite efficiently and up to the entire satisfaction of her superiors. Copy of Arrival Report is attached as annexure ..... **D.**
- 3- That appellant while serving the respondent Department at BHU Kotkai Bajaur Agency she became ill and due to that reason the appellant submitted application before the Agency surgeon Bajaur Agency for medical leave but no reply was received from the said quarter. That after recovery from illness the appellant submitted her arrival report and started performing her duty. Copies of leave application and arrival report are attached as annexure ..... **E & F.**
- 4- That astonishingly the Agency Surgeon Bajaur Agency (respondent No.3) issued the impugned termination order of the appellant vide dated 4.12.2014 on account of absentia though the appellant was serving the respondent Department at the concerned station at that relevant time. That it is very pertinent to mention that the appellant have submitted her arrival report on 2.3.2015 and have served the concerned quarter for more than 9 days. Copies of the termination order and attendance register are attached as annexure ..... **G & H.**
- 5- That feeling aggrieved from the impugned order dated 4.12.2014 the appellant filed Departmental appeal before respondent No.2 but no heed was paid by the respondent No.2 within the statutory period. Copy of Departmental Appeal is attached as annexure ..... **I.**
- 6- That feeling aggrieved the appellant filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned order dated 4.12.2014 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the concerned authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafidy manner by issuing the impugned order dated 4.12.2014.

- D- That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 4.12.2014 against the appellant.
- E- That no show cause notice has been served on the appellant before issuing the impugned order dated 4.12.2014.
- F- That No chance of personal hearing/defense has been given to the appellant before issuing the impugned order dated 4.12.2014.
- G- That the word "**termination**" has not been mentioned in any of the penalty lists of E&D Rules 2011, therefore the impugned order dated 4.12.2014 is void ab initio in the eye of law.
- H- That no regular inquiry has been conducted before issuing the impugned order dated 4.12.2014 which is as per Supreme Court Judgment is necessary in punitive actions against the civil servant.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may very kindly be accepted as prayed for.

Dated: 16.6.2015

**APPELLANT**



**NEELAM**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

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

APPEAL NO. \_\_\_\_\_/2015

**NEELAM**

**VS**

**HEALTH DEPTT:**

**APPLICATION FOR CONDONATION OF**  
**DELAY IN FILING THE ABOVE NOTED**  
**APPEAL**

**R.SHEWETH:**

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

**GROUND OF APPLICATION:**

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

**APPELLANT**

  
**Neelam**

**THROUGH:**  
  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

SERIAL No. 03410

Diploma No. N.W.F.P. 3815 /NEB/DM. SEC-II

A - (5)



Roll No. 77

Nursing Examination Board N.W.F.P. Peshawar



DIPLOMA IN MIDWIFERY SECTION II

This is to Certify that Noelam Ribi

Daughter/wife/of Pervez Khan

having been trained in the PHS, Nishterabad Peshawar

has passed the **MIDWIFERY EXAMINATION** of the Nursing Examination Board N.W.F.P. held in April/November, 2007 and is considered qualified to attend Cases of **NORMAL LABOUR.**

She Passed in First Division,

*Sherang Joseph*  
Vice-Chairman

*Basir*  
Controller

NURSING EXAMINATION BOARD N.W.F.P.

Peshawar 29-Mar-08

ATTESTED

*[Signature]*

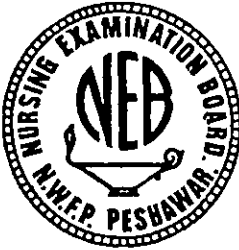
SERIAL No. 03339

Diploma No. N.W.F.P. 3675 /NEB/LHV



Roll No. 42

Nursing Examination Board  
N.W.F.P. PESHAWAR



LADY HEALTH VISITORS DIPLOMA

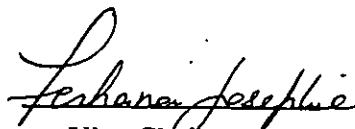
This is to Certify that Neelam Bibi

Daughter/wife/of Pervez Khan

having been trained in the PHS, Nishterabad Peshawar

has passed in the LADY HEALTH VISITOR EXAMINATION of the Nursing Examination Board N.W.F.P. held in April/November, 2008 and is considered qualified to act as HEALTH VISITOR AND MATERNITY SUPERVISOR

She Passed in First Division,

  
Vice-Chairman

  
Controller

NURSING EXAMINATION BOARD N.W.F.P.

ATTESTED

Peshawar 02-Mar-09







671

S.No. \_\_\_\_\_

# NURSING EXAMINATION BOARD



## LHV Section 2 Examination

November 2007

### Detailed Marks Certificate

Name: Miss Neelam Bibi D/O Pervez Khan

Roll No. : 77

The candidate secured the following marks and is placed in First division.

Subjects	Marks		
	Allotted	Obtained	In words
Obstetrics			
Theory	100	74	SEVENTY FOUR
Practical	100	50	FIFTY
Obstetrical Nursing			
Theory	100	71	SEVENTY ONE
Practical	100	68	SIXTY EIGHT
English 'A'	100	47	FOURTY SEVEN
<b>Total</b>	<b>500</b>	<b>310</b>	<b>THREE HUNDREDS AND TEN</b>

Note: The marks obtained in English 'A' are not counted in division.

Date 30-Jan-2008


Prepared by \_\_\_\_\_

for Controller

Nursing Examination Board

NWFP, Peshawar.

ATTESTED



NOTE: Errors &amp; Omission are Subject to subsequent rectification.



PRINCIPAL  
HEALTH SCHOOL NIS



Certified that Miss. Neelam bibi D/O M  
Health training at Public Health  
*Session Septen*

  
Created by Bilal Khan

ATTESTED



B-910

**OFFICE OF THE**  
**AGENCY SURGEON BAJAUR**

**OFFICE ORDER**

On the recommendation of departmental selection Committee, the competent authority is pleased to appoint Miss. Neelum Begum D/O Perviz Khan r/o Bajaur Agency as Lady Health Visitors at BPS-09(3820-230-10720) against the vacant Post on the following terms and conditions:-

1. If she declared medical fit for this job
2. Her appointment is purely on temporary basis (prescribed under Govt of NWFP) and can be terminated at any time with out any notice.
3. If she wants to resign from services, she will resign in written with 30 days notice or will forfeit one month pay in lieu thereof or will continue to serve the Government till the acceptance of her resignation by the competent authority.
4. she will be governed with such rules and regulations belong to such category of staff.
5. she shall not indulge herself in any trade, business or any other activity what so ever which has been declared prohibited for the Government servant in elaboration of civil servant Act 1973.
6. she will not be entitle for any TA/DA for joining service and the offer shall be automatically held cancelled if she failed to join the service in 15 days after the receipt of this offer.

If she accepts the above terms and conditions she is directed to report to the office of the under-signed for further posting in the health facilities.

Sd/xxxxxxxxxxxxxx  
AGENCY SURGEON  
BAJAUR AT KHAR

No. 1991-92 /PF/C-5/BJR

dated 29/12/2009

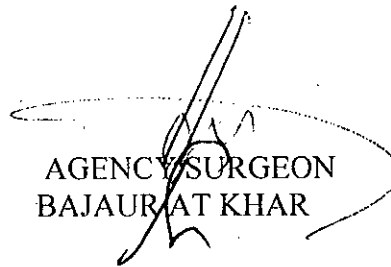
Copy to the: -

1. Agency Accounts Officer Bajaur at Khar for information and necessary action please
2. Miss. Neelum Begum D/O Perviz Khan r/o Bajaur Agency for compliance.

**ATTESTED**



AGENCY SURGEON  
BAJAUR AT KHAR



C- (11)

OFFICE OF THE  
AGENCY SURGEON BAJAUR

**OFFICE ORDER**

Consequent upon the arrival of the following Lady Health Visitors, they are hereby posted at various Health facilities noted against each name. they are directed to report to the their palce of duty with immediate effect in the interest of public service.

S#	Name of lady Health visitor	Place of posting
1	Miss: Samina	CD Gardai
2	Miss: Neelum	BHU Kotki Larsadin
3	Miss: Razai Mehmood	BHU Tali
4	Miss: Razia	RHC Barang
5	Miss: Dil Passand	RHC Barang

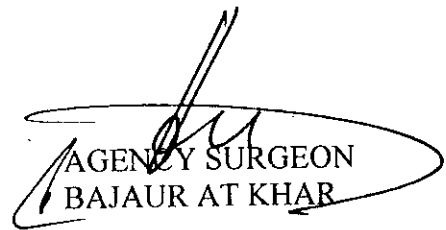
Sd/xxxxxxxxxxxxxxxxxxxxx  
AGENCY SURGEON  
BAJAUR AT KHAR

No. 2054-60 /C-10/BJR

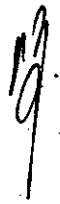
Dated 4 /01/2010

Copy to the:-

1. I/C RHC Barang, BHU Kotki Larsadin, BHU Tali and CD Gardi for information and necessary action.
2. LHVs concerned for compliance

  
AGENCY SURGEON  
BAJAUR AT KHAR

**ATTESTED**



سرفور رضا، ایما جی، بی، ایچ، ایچ، کوٹکے لہر سدھن

درخواست - ایس ایس او

D-17

صوبہ عالی

گورنمنٹ ڈپارٹمنٹ سے۔ کہندی کی بطور LHV

پوسٹنگ BHU کوٹکے میں ہوگی ہے۔ جس کی

آرڈر 2054-60/c-11/BTR ہے

لہذا اچ فرم 2010-1-05 سے کہندی

آئیے مائٹری رپورٹ پیش کرتی ہے۔

اس لیے اسے اتصال مہر مانی کر کے کہندی کی

مائٹری رپورٹ منظور فرمادیں

توعمری ڈپارٹمنٹ ہدی

الکارس

سید  
منیم بی LHV بی، ایچ، ایچ، کوٹکے

ATTESTED

Received on d. Excepted

at 12/2/10

[Signature]

[Signature]

M/S/c

[Signature]

بھارتیہ عوامی اتحاد کی تاریخ پورا کر کے دینا کوئی

(13) - E

دیکھو اشتہار عطا نہیں ہو سکتا

ضابطہ عالی اور دیگر سہولتیں حسب ذیل عطا کی گئی ہیں۔

کہتا ہے کہ عوامی اتحاد میں بطور اہل ایج وی BHA کر سکتے ہیں اور  
میں انہیں ایجنڈا کی سہولت دینی چاہیے اور انہیں ایجنڈا

بھارتیہ عوامی اتحاد کے ساتھ ساتھ ایجنڈا کی سہولت دینی چاہیے۔ اور  
نہیں آرام کرنے کا مشورہ دیا ہے۔ جس کے ساتھ ساتھ  
کو بھی کامیاب کرنا ہے۔

گھنٹہ گھنٹہ کے ساتھ ساتھ ایجنڈا کی سہولت دینی چاہیے۔ اور  
عند ذرا سے ظاہر ہے۔ اس کے ساتھ ساتھ ایجنڈا کی سہولت دینی چاہیے۔

30/6/2014

بھارتیہ عوامی اتحاد کی تاریخ پورا کر کے دینا کوئی

Signature

Attested  
Signature

بزرگواران! میں نے اپنی ساری دولتیں اور جائیدادیں

F-14

میراثی طور پر

میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر  
2019/12/13 کو میراثی طور پر میراثی طور پر میراثی طور پر  
میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر

میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر  
میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر  
میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر

میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر

میراثی طور پر میراثی طور پر میراثی طور پر میراثی طور پر

Attested  
[Signature]

G- (13) (15)

**OFFICE OF THE  
AGENCY SURGEON BAJAUR**

OFFICE ORDER

In exercise of the power delegated to me under ES&D rules, the following officials are hereby terminated from Government services on account of absence from official duties. They were served show-cause notice through daily newspaper but they did not appear for personal hearing before the under-signed nor joined their duties within the stipulated period.

S#	Name of officials	Designation
1	Mst. Neelum	LHV
2	Mst. Nurgas Rehman	LHV
3	Mr. Majid Khan	EPI Technician
4	Mr. Pacha Gui	N/Qasid
5	Mr. Rahimullah	Behishti

Sd/XXXXXXXXXXXXXXXXXXXXXXXXXX  
AGENCY SURGEON BAJAUR

No. 2052-60 /F-6/BJR

dated December 4, 2014

Copy to the:-

1. Director Health Services FATA, Peshawar
2. Additional Political Agent Bajaur of information.
3. Agency accounts Officer Bajaur for information and necessary action
4. Mst. Neelum for information
5. Mst. Nurgas Rehman for information
6. Mr. Majid Khan for information
7. Mr. Pacha Gui for information
8. Mr. Rahimullah for information
9. Accountant of this office for necessary action.

**ATTESTED**

*[Signature]*

AGENCY SURGEON BAJAUR

*[Signature]*



Daily Attendance Register of the C.H. Kote

DATE AND

Serial NO	Name	Rank	1	2	3	4	5	6	7	8
1	SAID KARIM	MT								
2	MUHAMMAD AZAM	DISP								
3	Fazal Akbar C.P.I.			P	P	P	P	P	P	
4	WAZIR W/O			P	P	P	P	P	P	
5	M. NABI Chokeday			P	P	P	P	P	P	
6	Amsheda Dai			P	P	P	P	P	P	
7	Musarat Dai			P	P	P	P	P	P	
8	Nee Jam L.H.V			P	P	P	P	P	P	
						A	T			

TO

I - (2) (17)

The Director Health Services FATA,  
Warsak Road, Khyber Pakhtunkhwa Peshawar.

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE  
IMPUGNED ORDER DATED 4.12.2014  
COMMUNICATED TO THE APPELLANT ON  
21.3.2015 WHEREBY THE APPELLANT WAS  
TERMINATED FROM SERVICE WITH OUT  
CONDUCTING REGULAR INQUIRY IN THE  
MATTER**

Respected sir,

Most humbly appellant begs to submit as under:

- 1- That appellant was appointed as Lady Health Visitor in Health Department on regular basis and on the proper recommendations of Departmental Selection Committee vide order dated 29.12.2009. That subsequently the appellant was posted as LHV in BHU Kotkai Lasadin Bajaur Agency vide order dated 4.1.2010.
- 2- That in response to the said order dated 4.1.2010 the appellant submitted her arrival report on the very next day and started performing her duty quite efficiently and up to the entire satisfaction of her superiors.
- 3- That appellant while serving the Health Department at BHU Kotkai Bajaur Agency she became ill and due to that reason the appellant submitted application before the Agency surgeon Bajaur Agency for medical leave but no reply was received from the said quarter. That after recovery from illness the appellant submitted her arrival report and started performing her duty.
- 4- That astonishingly the Agency Surgeon Bajaur Agency issued the impugned termination order of the appellant vide dated 4.12.2014 without conducting regular inquiry in the matter. That it is very pertinent to mention that the appellant have submitted her arrival report 2.3.2015 and have served the concerned quarter for more than 9 days.
- 5- That feeling aggrieved from the impugned order dated 4.12.2014 the appellant filed this Departmental appeal before your good self on the following grounds amongst the others.

ATTESTED

**GROUND:**

18

- A- That the impugned order dated 4.12.2014 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules on the subject noted above and as such the concerned authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the concerned authority acted in arbitrary and malafidy manner by issuing the impugned order dated 4.12.2014.
- D- That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 4.12.2014 against the appellant.
- E- That no show cause notice has been served on the appellant before issuing the impugned order dated 4.12.2014.
- F- That chance of personal hearing has been given to the appellant before issuing the impugned order dated 4.12.2014.
- G- That the word termination has not been mentioned in any of the penalty lists of E&D Rules 2011, therefore the impugned order dated 4.12.2014 is void ab initio in the eye of law.

It is therefore most humbly prayed that on acceptance of this Departmental appeal the appellant may very kindly be reinstated into service with all back benefits. Any other remedy which Your good self deems fit that may also be awarded in favor of the appellant.

Dated: 24-3-2015

Your's Sincerely,



**Mst: Neelam,**  
**Ex-Lady health visitor, BHU Kotki, Larsadin,**  
**C/O Room No.1, upper floor, islamia club,**  
**Khyber Bazar, Peshawar City.**

**ATTESTED**



**VAKALATNAMA**

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2015

Neelam

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Health Department

(RESPONDENT)  
(DEFENDANT)

I/We Neelam

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2015

(Signature)  
CLIENT

(Signature)  
**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
**(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141



**BEFORE THE SERVICES TRIBUNAL**

**KHYBER PAKHTUNKHWA, PESHAWAR**

**Appeal No. 723/2015**

Mst. Neelum, Ex-LHV BHU Larsadin

..... Appellant

**Versus**

Additional Chief Secretary (FATA) & Others

..... Respondents

**Para wise joints comments on behalf of respondent No. 1 & 2.**

**Preliminary objections**

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

**Respectfully Sheweth;**

**ON FACTS**

1. Incorrect, the appellant was appointed by Respondent No. 3 in the Respondent department on temporary basis.
2. Pertains to the record needs no comments.
3. Incorrect, no such application for leave have been forwarded rather the appellant absented herself wilfully.
4. Incorrect, if the appellant was on duty then what was the reason that she submitted her arrival report on 02-03-2015 in the concerned duty station.

(2)

5. Incorrect, the appellant is not an aggrieved person, hence the departmental appeal filed in this respect on 24-03-2015 was badly time barred.
6. Incorrect, as stated above the appellant is not an aggrieved person.

**ON GROUNDS**

- A. Incorrect, the order dated 04-12-2014 is according to law, facts & material on record, hence tenable and may not be set aside.
- B. Incorrect, the appellant has been treated by the respondents in accordance with Law & Rules and no violation of Article-4 have been made.
- C. Incorrect, the respondents have not acted in arbitrary and no malafidae is involve while issuing the impugned order dated 04-12-2014.
- D. Incorrect, proper codal formalities were adopted for the issuance of the impugned order dated 04-12-2014.
- E. Incorrect, as stated in the para-D above.
- F. Incorrect, proper explanation was called from the appellant hence she was not left condemned unheard.
- G. Correct, but it is clearly been mentioned in para-2 of the appointment order that her services could be terminated at any time without any notice which she accepted while joining duty at BHU Kotki Larsan.
- H. Incorrect, she absented herself from official duties, in this explanation was called from her which was finally reflected in the daily leading newspaper "AAJ" on dated 15-10-2014. (Annex-A&B).
- I. That the respondents also seeks permission of this Honourable court to advance other grounds & proof in support of the reply at the time of argument.

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

*Jansam*  
FOT.

**Additional Chief Secretary (FATA)**  
FATA Secretariat, Peshawar  
Respondent No. 01

*AD*  
17/2/16  
**Director Health Services,**  
FATA Peshawar  
Respondent No. 02

OFFICE OF THE  
AGENCY SURGEON BAJAUR

No. 2067-69 /M-1/BJR

Dated December 9, 2013

To

1. Mst. Neelum Lady Health Visitor Kotki Larsadin
2. Mr. Toor Khan Dental Technician RHC Pashat
3. Mst. Sajida Dai Dehrakai

Subject


EXPLANATION- ABSENCE FORM DUTY

Memo:

You were found absent from your place of duty to-day on 09-12-2013 with any prior permission or application. You are directed to explain your position regarding your willful absence, with<sup>in</sup> three days after the receipt of this communication. Other wise strict disciplinary action will be taken against you under the E&D rules wich may lead to your termination from services.

Your reply should reach this office through the incharge of your respective facility.

AGENCY SURGEON BAJAUR

*Attested*  




ered.

### روشنی

2011 کیلئے سالانہ کارڈز سے درج ذیل آئٹمز کی خریداری  
 ترمیم شدہ مطلوب ہیں جو کہ معزز ڈاک کے ذریعے  
 بھیجے جانے چاہیے۔ جو کہ اس دن 12 بجے ڈپارٹمنٹ کے دفتر  
 تک پہنچنے کیلئے کے اجلاس میں کھولے جائیں گے۔

بھارتی ٹیکسٹائلز  
 6) حرق اشیا (Contingency Items)  
 7) مرمت لٹچرٹ (Instalment Transport repair)

ملک کے لازمی ہے ٹیکسٹائلز فرم کے پٹے پر ہونے چاہیے۔  
 ان کے تحت کاپی جانگی، برآمدات کوئی ٹیکسٹائلز قابل قبول  
 نہیں کیے ہیں۔

### بینائیں اظہار وجوہ غیر حاضری

آپ مضمین ا مضمینہ  
 (1) ایم ایل اے کی دلہہ (2) ڈس ایچ ای کی دلہہ (3) ایم ایل اے کی دلہہ (4) ایم ایل اے کی دلہہ (5) ایم ایل اے کی دلہہ  
 آپ تمام کی صورت میں اس وقت سے کہیں کی اطلاع کا یہی لائن سے فرمائیں۔ آپ سب کو کر کے پتہ لگائی  
 ہوا ہے کہ اس اہتمام کے ذریعے آخری اطلاع دی جانی ہے کہ اس اشاعت کے 15 دن کے اندر اندر دفتر  
 میں حاضر ہو کر اپنی جانچ فرمائیں کی وضاحت پیش کریں بصورت دیگر آپ کی طرف سے کوئی پاور آڈیشن  
 2000 کے تحت کیلئے کارروائی میں لائی جائیگی جو بلا مدت سے رہ جائیگی۔

18/11/2014  
 2011  
 2014

بھارتی ٹیکسٹائلز  
 6) حرق اشیا (Contingency Items)  
 7) مرمت لٹچرٹ (Instalment Transport repair)

## SWABI IRRIGATION DIVISION-I SWABI

پشاور ایبٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشنی کی شان آج کا ہے

# آج

پشاور  
 پاکستان

ایڈیٹر  
 عبدالواحد یوسفی

صفحہ 12  
 جلد 25  
 15 اکتوبر 2014ء تا 19 اکتوبر 1435ھ۔ قیمت 12 پیسے بولے ہی 1 روپیہ 275

## حکومت کے ایکشن پلان کا حیران کن

مستقل چیف ایکشن کیشن کی تعیناتی نہ ہوئی تو اپنا جانچ واپس  
 اسلام آباد (آئی این پی) ہریم گورٹ نے وفاقی گورٹ کو 28 اکتوبر تک چیف ایکشن کیشن کی تعیناتی کا حکم  
 دینے ہونے بلدیاتی انتخابات میں قانون سازی سے متعلق سندھ حکومت کے جواب منظور کروا دیے۔  
 کوہریم گورٹ میں بلدیاتی انتخابات سے متعلق کسی کی سماعت چیف جسٹس ناصر اللنگاہ کی سربراہی میں  
 منعقد تصدیق تحریک انصاف کو ہفتے کی مہلت دی

ارکانہ کوہریم کی تقریریں آج

# حکومت کے ایکشن پلان کا حیران کن

بھارتی جارحیت کا ہر محاذ پر مقابلہ کیا جائے گا، عوام نے جسٹم لیک کو 5 سال کا مینڈیٹ دیا ہے غیر ملکی سربراہوں کے دورے احتجاج کرنے والوں

اسلام آباد (آئی این پی) وزیراعظم نواز شریف نے کہا تمام سازشیں ناکام ہو چکی ہیں جمہوریت کی بقا اور فروغ کیلئے ہوری  
 ہے کہ کئی ترقی اور عوامی مسائل کا حل اور اس کے نتیجے میں پارلیمنٹ متحد ہے اور کان اسپیکر نے عوام کے مسائل کے  
 ہیں پھر آئی اور غیر جمہوری طریقوں سے ہماری حکومت کو ہٹانے کی  
 اس دوران ملکی سیاسی صورتحال پر تبادلہ خیال کیا گیا ملاقات میں  
 ارکان قومی اسمبلی نے وزیراعظم کو اپنے مکتوں میں ہونے والے  
 سرکار اور کان قومی اسمبلی سے ملاقاتوں میں بات چیت کرنے سے  
 خواجہ چوہدری محمد سرور  
 مہدی خان نیال سے ملنا

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

**WRIT PETITION NO.723/2015**

**Neelam**

**VS**

**Health Department**

**REJOINDER ON BEHALF OF APPELLANT IN**  
**RESPONSE TO THE REPLY SUBMITTED BY THE**  
**RESPONDENTS**

**PRELIMINARY OBJECTIONS:**

**1 TO 7:**

All the objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are estopped by their own conduct to raise any objection at this stage of the case.

**R/SHEWETH:**

- 1- Incorrect and not replied accordingly. That appellant was appointed by the respondent No.3 vide order dated 29.12.2009 and after appointment appellant performed her duty quite efficiently and up to the entire satisfaction of her superiors.
- 2- Admitted correct hence need no comments.
- 3- Incorrect and not replied accordingly. That during performing duty at BHU Kotkai Bajaur Agency appellant became ill and due to that reason appellant filed an application for medical leave but no response has been given on the said application from the concerned quarter. That after recovery from the said illness appellant submitted her arrival report and started performing her duty.
- 4- Incorrect and not replied accordingly. That appellant was performing her duty at that time respondent No.3 issued the termination vide order dated 4.12.2014. it is also pertinent to mention that respondent Department has not been showed that appellant terminated from her services and also the respondents accepted arrival report of the appellant submitted on 2.3.2015 after which appellant performed duty for more than 9 days and then after the respondent department handed over termination order on 21.3.2015.

- 5- Incorrect and not replied accordingly. That the impugned order dated 4.12.2014 was communicated to the appellant on 21.3.2015 and appellant filed Department appeal on 24.3.2015.
- 6- Incorrect and not replied accordingly hence denied.

**GROUND:**

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That the impugned order dated 4.12.2014 which has been communicated to appellant on 23.3.2015 is against the law, facts, norms of natural justice and materials on the record. That appellant has not been absented herself from her lawful duty but due to the illness about which appellant informed the respondent Department through an application and on the said application no response has been given by the respondents.

It is therefore most humbly prayed that on acceptance of this rejoinder the writ petition of the petitioner may be accepted as prayed.

**APPELLANT**



**NEELAM**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**