

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	17.05.2018	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 721/2016</p> <p style="text-align: center;">Date of Institution 14.07.2016 Date of Decision 17.05.2018</p> <p>Dr. Muhammad Israr son of M. Akhtar Medical Officer AHQ Hospital Ghalanai Mohmand Agency Khyber Pakhtunkhwa. Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. Government of Khyber Pakhtunkhwa, through Secretary Health Civil Secretariat Peshawar. 2. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar. 3. Director General Health Services Khyber Pakhtunkhwa Peshawar. <p style="text-align: right;">Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:-</u> Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 25.03.2014 whereby the appellant was awarded minor penalty of stoppage of 3 increments for 3 years with cumulative effect on the ground of absence from duty w.e.f 20.09.2007 to 29.06.2011 and the absence period was declared as extra ordinary leave (without pay). The appellant ^{also} has also challenged the order dated 30.09.214 regarding the rejection of his departmental appeal.</p>

3. Learned counsel for the appellant argued that the appellant was appointed as Medical Officer; that after completion of DLOMS course in PGMI Lahore, the appellant on 13.09.2007 submitted his arrival report to Director General Health Services for posting. Further argued that the Health Department however failed to post the appellant within the reasonable period and the appellant had to proceed to Lahore for FCPS part-II training commencing from July 2006. Further argued that on one hand the respondent department delayed the posting order of the appellant till 01.06.2011 and on the other hand also initiated disciplinary action against the appellant on the charge of absence from duty w.e.f 20.09.2007 to 29.06.2011, which disciplinary action culminated into the issuance of the original impugned order and that the departmental appeal against the same also failed. Further argued that the appellant has not been treated in accordance with law. Further argued that the inquiry officer recommended the penalty of censure and further recommended that the absence period be treated as extraordinary leave without pay but the competent authority instead imposed the penalty of stoppage of 3 increments for a period of 3 years hence the penalty awarded to the appellant is not maintainable. Learned counsel for the appellant vehemently stressed for setting aside the impugned order.

4. As against that learned Additional Advocate General argued that the appellant just submitted paper/report of arrival and without waiting for his posting joined FCPS-II training at Lahore. Further

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argued that the appellant had already undergone DLOMS ENT 5 years training in PGMI Lahore from the year 2002 to year 2007 and that the second training i.e. (FCPS) was not allowed by the competent authority as such the appellant undergone the training at his own will without any NOC. Further argued that the appellant was required to wait for his posting but instead he preferred to proceed to Lahore and started FCPS-II Training without any permission and NOC hence the impugned orders were rightly passed and need no interference.

5. Arguments heard. File perused.

6. From the contents of para 2 of the appeal it is evident all the codal formalities and legal requirements were observed before the issuance of impugned order.

7. After the completion of 5 years training/course the appellant submitted his arrival to the Director General Health Services however without waiting for his posting he joined another training (FCPS-II) which also lasted for about 4 years. It is not disputed that the appellant joined FCPS-II training without obtaining any permission/NOC from the competent authority.

8. It merits to mention here that the appellant was appointed as Medical Officer for delivery of services to common man however he remained away from his basic duty and remained engaged in courses/trainings for about 9 consecutive years

9. Perusal of inquiry report would show that the inquiry officer has also observed in his finding part of the report as under:

Dr. M. S.

"The Doctor concerned is only at fault to the extent that he again proceeded to Lahore and started FCPS-II training without proper NOC/Permission from the competent authority, and is liable to be proceeded under the Efficiency and Disciplinary rules 2011".

Similarly in his inquiry report the inquiry officer recommended as under:

"The accused Medical Officer i.e Doctor Muhammad Israr (BS-17) may be imposed minor penalty of Censure under Efficiency and Discipline rules 2011. The period w.e.f 20.09.2007 to 29.06.2011 may be treated as EOL without pay".

"The Chief Secretary may constitute a high powered reform committee, comprising of experienced & dedicated officers of not less than BS-19. The said committee shall be tasked to properly review the hierarchical structure and Human Resource Management of the Health Department and frame its recommendation, so as to improve the delivery of basic services to common man".

10. In the light of above discussion this Tribunal is of the considered view that the appellant was rightly proceeded against. However in view of the recommendation of inquiry officer, the present service appeal is decided in terms that the minor penalty awarded to the appellant is modified and the penalty of stoppage of

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3 increments for 3 years is converted into minor penalty of censure. The impugned order to the extent of declaring the absence period i.e. the period w.e.f 20.09.2007 to 29.06.2011 as EOL (without pay) shall remain intact. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin

(Muhammad Amin Kundi)
MEMBER


Dawar


(Muhammad Hamid Mughal)
MEMBER

ANNOUNCED
17.05.2018

18.04.2018

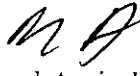
Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 16.05.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

16.05.2018

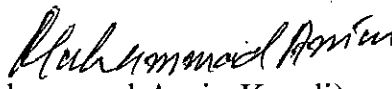
Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Arguments heard. To come up for order on 17.05.2018 before D.B



(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member

17.05.2018


Learned counsel for the appellant and Mr. Kabir Ullah Khattak; learned Additional Advocate General present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is decided in terms that the minor penalty awarded to the appellant is modified and the penalty of stoppage of 3 increments for 3 years is converted into minor penalty of censure. The impugned order to the extent of declaring the absence period i.e. the period w.e.f 20.09.2007 to 29.06.2011 as EOL (without pay) shall remain intact. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

19.12.2017


Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned DDA seeks adjournment as the case was prepared by learned Addl. AG who is not present today. To come up 19.01.2018 before the D.B.

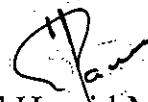

Member


Chairman

19.01.2018


Learned counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.03.2018 before D.B.



(Gul Zeb Khan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

12.03.2018

Counsel for the appellant and Mr. Riaz Ahmed Painsa Kheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.04.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

18.09.2017


Agent to counsel for the appellant present. Learned
Additional Advocate General for the respondent present.
Agent to counsel for the appellant seeks adjournment.
Adjourned. To come up for arguments on 16.11.2017 before
D.B.


Member
(Executive)


Member
(Judicial)

16.11.2017

Appellant in person and Additional AG along with
Mr. Yar Gul, Senior Clerk for the respondents present.
Representative of the department states that department has
moved an application on 11.09.2017 for allowing the
respondents to file written reply but on the file there is no
such application. The learned Additional AG submitted that
he would consult the office of Registrar for searching the
application and would file written reply on the next date
alongwith costs. The appellant has got no objection to the
filing of reply. However, counsel for the appellant is not
present today therefore, to come up for further proceedings
and arguments on 19.12.2017 before D.B.


Member


Chairman

Appeal No. 721/16
Dr. M. Israr vs Health Deptt.

06.07.2017

Appellant in person and Addl: AG for respondents present. Written reply not submitted despite extension of last opportunity and cost of Rs.500/- Another last opportunity is extended subject to payment of further cost of Rs.1500/- which shall be borne by respondents from their own pockets. To up for written reply/comments and cost on 04.07.2017 before S.B.



(Ahmad Hassan)
Member

24.07.2017

Appellant in person and Asstt. AG alongwith Yar Gul, Senior Clerk for the respondents present. To-day departmental representative again requested for time to submit written reply. Last opportunity were given to the respondents four times and the respondents were also burdened with costs. No further adjournment is granted and right of submission of written reply is closed. The appeal is assigned to D.B for final hearing for 18.09.2017.



Chairman

04.04.2017

Appellant in person and Addl. AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 25.04.2017 before S.B.


Chairman

25.04.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 500/- which shall be borne by respondents from their own pockets. To come up for written reply/comments on 23/05/2017 before S.B.


(Ahmad Hassan)
Member

23.05.2017

Clerk to counsel for the appellant and Mr. Yar Gul, Senior Clerk alongwith Addl. AG for the respondents present. Written reply not submitted despite extension of last opportunity and cost of Rs. 500/-. Another last opportunity is extended subject to payment of further cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 1500/- on 06.07.2017 before S.B.


(Ahmad Hassan)
Member

21.12.2016

Clerk to counsel for the appellant and Mr. Yar Gul, Senior Clerk alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 31.01.2017 before S.B.

(MUHAMMAD AAMIR NAZIR)
MEMBER

31.01.2017

Counsel for the appellant and Addl. AG for respondents present. Written reply not submitted. Requested for further time adjournment. To come up for written reply/comments on 13.03.2017 before S.B.

Chairman

13.03.2017

Clerk to counsel for the appellant and Mr. Yar Gul, Senior Clerk alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 04.04.2017 before S.B.

(AHMAD HASSAN)
MEMBER

28.07.2016

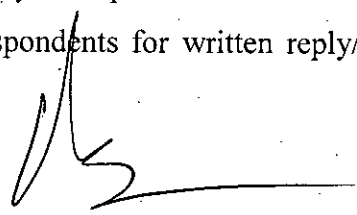
Junior to Mr. Shakeel Ahmad, Advocate present. Senior Counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Requested adjournment. To come up for preliminary hearing on 23.08.2016 before S.B.


Chairman

23.08.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 25.3.2014 vide which the appellant was awarded penalty of stoppage of three increments for three years with the accumulative effect. Against the impugned order the appellant filed departmental appeal which was decided vide order dated 29.6.2016 vide which the departmental appeal filed by the appellant was rejected hence, the instant service appeal.

Since the matter required further consideration of this Tribunal therefore, the same is admitted for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 02.11.2016 before S.B.


Member

02.11.2016

Appellant with counsel present. Security and process fee have not been deposited. The same be deposited within a week thereafter notices be issued to the respondents. To come up for written reply/comments on 21.12.2016 before S.B.

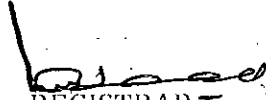

Appellant Deposited
Security & Process Fee


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 721/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/07/2016	<p>The appeal of Dr. Muhammad Israr presented today by Mr. Shakeel Ahmad Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	15-7-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>18-7-16</u></p> <p style="text-align: right;">MEMBER</p>
	18.07.2016	<p>None present on behalf of the appellant. Notice be issued to appellant and his counsel for preliminary hearing for 28.07.2016 before S.B.</p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

S.A No. 721/2016

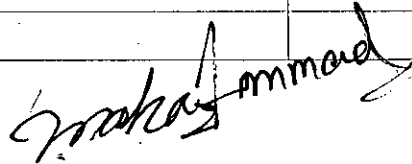
Dr. Muhammad Israr..... Appellant

VERSUS

Govt of KPK & others Respondents

I N D E X

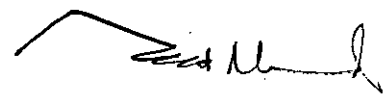
S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal alongwith affidavit		1-6
2.	Application for condonation of delay		7-8
3.	Affidavit		9
4.	Charge Sheet	A	10
5.	Statement of allegation	B	11
6.	Reply	C	12-13
7.	Inquiry report	D	14-17
8.	Show Cause Notice	E	18
9.	Impugned Notification dated 25.03.2014	F	19
10.	Copy of postal receipt	G	20
11.	Departmental Appeal	H	21-22
12.	Impugned order dated 29.06.2016	I	23
13.	Arrival Report	J	24
14.	Wakalat Nama		25



Applicant

Through

Dated: 13.07.2016



SHAKEEL AHMAD

Advocate, Peshawar

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

Service Appeal No. 721 /2016

Diary No. 702

Dated 14-7-2016

Dr. Muhammad Israr S/o M. Akhtar Medical officer AHQ
Hospital Ghlanai Mohmand Agency Khyber
Pakhtunkhwa.

..... Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat Peshawar.
2. Govt of Khyber Pakhtunkhwa through chief Secretary, civil secretariat Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

Filed to-day

Registrar

14/7/16

APPEAL FROM THE IMPUGNED ORDER

DATED 25.03.2014, WHEREBY THE

PLANARITY OF STOPPAGE OF THREE

INCREMENTS FOR 3 YEARS WITH

ACCUMULATIVE EFFECT WAS IMPOSED

UPON THE APPELLANT, & HIS ALLEGED

ABSENCE PERIOD WAS TREATED AS EOL
WITHOUT PAY AND ORDER DATED
30.09.2014 RECEIVED ON 19.06.2016
WHICH CULMINATED IN DISMISSAL OF
DEPARTMENTAL APPEAL.

Respectfully Sheweth:

1. That the Appellant was posted as Medical Officer in AHQ Hospital Ghalanai Mohmand Agency, he was proceeded against under the KPK Govt Servants (Efficiency and Disciplinary) rules 2011, on the allegation of absnce from duty w.e.f 30.09.2007 to 29.06.2011.
2. That the Appellant was charge sheeted, and statement of allegation was served upon him, he submitted detailed reply of the same, on conclusion of Department Inquiry, the inquiry Officer recommended for imposition of minor penalty, "CENSURE" on 19.11.2012, thereafter, show cause notice was served upon him, the respondent No 1 vide notification No. SO (E.11)/Health/4.01.2013 dated 25.03.2014 imposed

penalty of stoppage of 3 increments for 3 years with accumulative effect and the period from 20.09.2077 to 29.06.2011 was treated as extraordinary leave without pay, not contended with the same, the Appellant filed Department Appeal on 21.04.2014 which was not responded, however, vide office order dated 19.06.2016. the Appellant was informed that his department appeal has been declined on 30.09.2014, hence feeling aggrieved, the Appellant approaches this Hon'ble Court, inter alia, on the following grounds.

GROUND

A. That the impugned notification dated 25.03.2014 whereby penalty of stoppage of 3 increments for 3 years with accumulative effect and his alleged absence was treated EOL without leave, and order dated 30.09.2014 received on 19.06.2016 which resulted in dismissal of the department appeal is illegal, without lawful authority, without jurisdiction, malafide, void ab initio, and of no legal effect, therefore, the same may be set aside.

B. That, immediately, after completion of DLOMS, the Appellant submitted his arrival report on

13.09.2007 at DG-HS, who submitted his case to Health department for posting twice (i.e 18.10.2007 and 19.12.2007 respectively, the Health department failed to post him and issued his posting order on 01.06.2011, therefore, the allegation of absence from duty is illegal, and the charge level against him could not be proved.

C. That the Appellant has been made a SCAPE Goat by the department, he applied time and again to the health department for his posting, but, the department could not issue his posting order till 01.06.2011 and he had to proceed to Lahore for FCPS part-II training commencing from July 2006 and there was a fear of training period gap.

D. That the Inquiry Committee had recommended for penalty of "CENSURE" upon the Appellant; the respondent No. 2, instead imposed penalty of stoppage of 3 penalty of 3 annual increments for 3 years will accumulative effect & treated his alleged absence as EOL without pay without issuing show cause in this respect, hence the impugned orders are not sustainable in the eye of law.

E. That the Appellant was not apprised of the fate of his department appeal, however, he was intimated about dismissal of the appeal on 13.06.2016 which too speaks malafide on their part.

F. That the Appellant has been condemned un-heard to the extent of modification of penalty, by the respondent No 2 on this score alone, the impugned orders are liable to be set aside.

G. That the Appellant has always served the department with due diligence and never acted prejudicial to good orders.

H. That the allegation of absence from duty could not be proved against him, therefore the imposition of the penalty is illegal, the order dismissal of department appeal also suffers from legal informality, therefore, not sustainable.

It is, therefore, prayed that on acceptance of this appeal the impugned order/impugned notification dated 25.03.2014 whereby penalty of imposition of stoppage of three increments for a period of three years was imposed and

alleged absence was treated as EOL without pay & thereafter, dismissal of his departmental appeal on 30.09.2014 intimated on 19.06.2016 may be declared as illegal, without lawful authority, without jurisdiction, malafide, void ab initio and of no legal effect and the same may be set aside.

Muhammad

Appellant

Through

Shakeel Ahmad

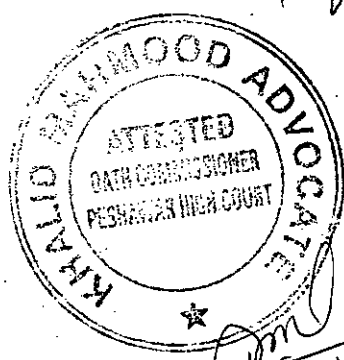
SHAKEEL AHMAD
Advocate, Peshawar

AFFIDAVIT

I, Dr. Muhammad Israr S/o M. Akhtar Medical officer AHQ Hospital Ghlanai Mohmand Agency Khyber Pakhtunkhwa, do hereby solemnly affirm and declare that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Muhammad

DEPONENT



13/7/16

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

S.A No. _____/2016

Dr. Muhammad Israr..... Appellant

VERSUS

Govt of KPK & others Respondents

PETITION FOR CONDONATION OF DELAY,
IF ANY IN FILING THE APPEAL.

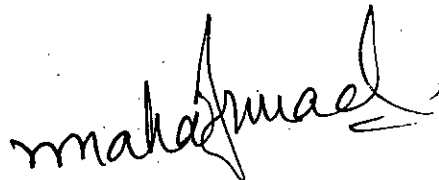
Respectfully Sheweth:

1. That the captioned Application is being filed before this Hon'ble Court alongwith accompanying appeal in which no date of hearing has yet been fixed.
2. That grounds of the accompanying appeal may be read as an integral part of this appeal.
3. That the departmental appeal against the impugned notification dated 25.03.2014 was filed on 21.04.2014, the fate of the same was never been intimated to the Appellant, however, it was communicated on 29.06.2016, hence the appeal is

well within time however, this Application is being filed as a pre-cautionary measure.

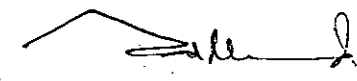
4. That the valuable rights of the Appellant is involved, the same would be defeated, delay, if any, in filling the appeal is not condoned.
5. That even otherwise the law tilts in favour of adjudication on merit rather than on technicalities.

It is, therefore, prayed that on acceptance of this petition the delay, if any, in filling the appeal may be condoned in the interest of justice.


Applicant

Through

Dated: 13.07.2016


SHAKEEL AHMAD
Advocate, Peshawar

BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR

SERVICE APPEAL No /2016

Dr. Muhammad Israr.....Petitioner

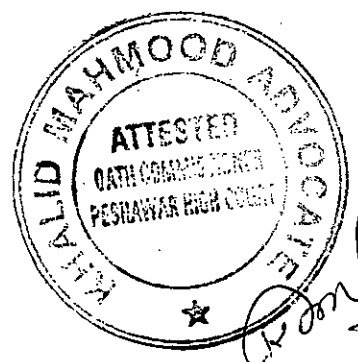
V E R S U S

Govt of KPK and others.....Respondents

AFFIDAVIT

I, Dr. Muhammad Israr S/o M. Akhtar Medical Officer AHQ Hospital Ghlani Mohmand agency Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the **APPLICATION** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Muhammad
DEPONENT



Ran
13/7/16

CHARGE SHEET

I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa Competent Authority, do hereby charge you, Dr. Mohammad Israr, Medical Officer (BS-17), AHQ Hospital Ghalanai Mohmand Agency as follows:-

- i. On completion of your DLONS course in PGMI Lahore, you submitted your arrival report in Director General Health Services KPK Peshawar on 20.09.2007.
- ii. After submitting arrival you absented yourself from duty and started FCPS-II training in services Hospital Lahore without NOC/prior permission of the competent authority.
- iii. After an absence of a lengthy period you resumed duty in AHQ Hospital Ghalanai Mohmand Agency on 30.06.20011.
- iv. You remained absent from duty w.e.f 20.09.2007 to 29.06.2011.
- v. Willful absence/misconduct.

2. By reasons of the above, you appear to be guilty of habitual absenting himself from duty without prior approval of leave; Rules 3 (b)&(d) of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules 2011 and have rendered yourself liable to one or more of the penalties specified in Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Committee.

4. Your written defence, if any, should reach the Enquiry Committee within the specified period, failing which it shall be presumed that you have nothing to offer in your defence and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person

6. A statement of allegations is enclosed.

Attested

[Signature]
(Ghulam Dastgir Akhtar)
Chief Secretary,
Khyber Pakhtunkhwa
Competent Authority

Chief Secretary,
Khyber Pakhtunkhwa
Competent Authority

(11)

B

DICIPLINARY ACTION

I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Dr. Mohammad Israr, Medical Officer (BS-17), AHQ Hospital Ghalanai Mohmand Agency has rendered himself liable to be proceeded against as he committed the following acts within the meaning of E&D Rules.

STATEMENT OF ALLEGATIONS

- i. On completion of his DLOMS course in PGMI Lahore, he submitted his arrival report in Director General Health Services KPK Peshawar on 20.09.2007.
- ii. After submitting arrival he absented himself from duty and started FCPS-II training in services Hospital Lahore without NOC/prior permission of the competent authority.
- iii. After an absence of a lengthy period he resumed duty in AHQ Hospital Ghalanai Mohmand Agency on 30.06.20011.
- iv. He remained absent from duty w.e.f 20.09.2007 to 29.06.2011.
- v. Willful absence/misconduct.

2. For the purpose of enquiry against the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under section 10 (1) (a) of the E&D Rules.

- i. Mr. Masood Yunis DS. ST&IT
- ii. _____

3. The enquiry committee shall, in accordance with the provisions of the Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well versed representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.

[Handwritten signature]

[Handwritten signature]

(Ghulam Dastgir Akhtar)
Chief Secretary,
Khyber Pakhtunkhwa
Competent Authority

12

!

"C"

The Chief Planning Officer,
St & It Peshawar (The Enquiry Officer) K.P.K

Subject:- REPLY TO THE CHARGE SHEET/STATEMENT OF ALLEGATION.

Dear Sir,

I beg to refer to your letter No. SO (IT) ST & IT / KP // 2011 Dated 08-11-2012 on the subject noted above and to submit my reply to the charge sheet Statement of allegation is as under:-

1. On completion of DLOMS course I submitted my arrival for duty on 20-09-2007. The arrival for duty means that I had present and waiting for my further posting but regrettably during this period no posting orders have been issued. After my repeated requests & representations as I am posted MO AHQ Hospital, Ghalanai on 01-06-2011 i.e after a lapse of considerable period being not my fault.
2. On submission of my arrival report on 20-09-2007 as mentioned above it is a proved fact and also admitted by the office of DG Health therefore the question of my absence seems to have been retorting the very fact as my arrival itself means the presence for further posting which the office have been failed to fulfill. As for admission in FCPS I have properly applied for NOC with a request for posting at a place to facilitate my FCPS studies in the best public interest and might be available elsewhere on my personal file with the establishment. This request was also not entertained and I have been waiting till 30-06-2011 when I posted at AHQ Hospital Ghalanai which in compliance thereto, reported for duty without hesitation.

M. Ahmad

[Signature]

3. The reply to the charge have briefly been explained at Para 2 above.

4. As a matter of fact my arrival report on 20-09-2007 means presence in corp without any doubt waiting for posting which unfortunately delayed by the office till 30-06-2011 when it is complied with after posting in AHQ Hospital at Ghalanai without any hesitation or pretext on my part.

5. As I have reported for duty on 20-09-2007 therefore the question of absence from duty is not correct and that I am eligible for pay from the date of arrival till my new place of posting at AHQ Hospital Ghalani on 01-06-2011.

In view of my reply as mentioned above I always been remained dutiful to my cause and never thought about the misconduct as a civil servant in the health services.

It is requested that my above reply is based on facts and there is nothing which I have concealed, therefore request that my absence may be regularized honorable and may please be acquitted from the charges which has no basis and without justification at any stage as for charges leveled against me are concerned.

THANKING IN ANTICIPATION.

Dated: 14-11-2012

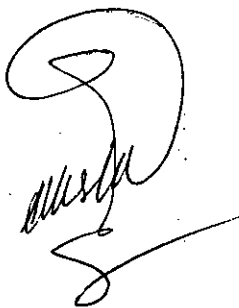
Yours sincerely

Muhammad Israr

Dr. Muhammad Israr

M.B.B.S. DLO

MO AHQ Hospital Ghalanai



14 13

D

ENQUIRY REPORT

Subject: SUSPENSION OF DR. MUHAMMAD ISRAR, MO (BS-17).

Consequent upon approval of the Chief Secretary, Govt. of Khyber Pakhtunkhwa, the Health Department constituted an Enquiry Committee comprising of the undersigned to probe into the allegations leveled against Dr. Muhammad Israr, Medical Officer (BS-17), AHQ Hospital Ghalanai, Mohmand Agency, under efficiency & discipline rules 2011 and submit findings & frame recommendations (Flag-A). The undersigned came to know about the same on 24-11-2012 vide endorsement dated 23-11-2012 of Director General Health services (DGHS) (Flag-B). The said fact was recorded vide letter dated 24-11-2012 (Flag-C).

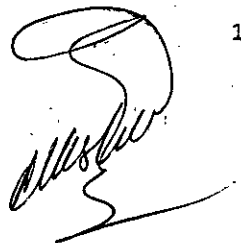
2. In pursuance of endorsement of Health Department vide NO. SO(E)H-II/4-1/2011, dated 30-08-2012, the Director General Health Services (DGHS) has served the copies of statement of allegations / charge sheet upon the accused Doctor Muhammad Israr. Dr Abd-ur-Rahman AD (Admn) DGHS, KPK, Peshawar was deputed to assist the Enquiry Officer as Departmental representative during the course of Enquiry proceedings. (Flag-B)

3. The enquiry Officer in a letter (Flag-D) addressed to the accused Doctor has asked him to appear before the enquiry committee on 14th November, 2012 and also submit his written defence. Endorsement of said letter was also made to the Health Department and DGHS as well. Accordingly the Doctor appeared for personal hearing and submission of written defence on 14th November, 2012. The written defence submitted by the accused is at (Flag-E). The concerned section of the Health department was also requested vide letter dated 8-11-2012 to share all the record available at the secretariat level for processing of the subject case (Flag-F).

5. The record of DGHS reveals the following:-

- Dr. Muhammad Israr was allowed deputation to PGMI Lahore to undergo DLOMS ENT Course vide Govt: Notification dated 14-09-2002 (Flag-G). He reported departure on 14-09-2002 to undergo the training.

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After completion of training he reported arrival back in DGHS office on 20-09-2007(Flag-H).DGHS submitted his proposal to Health Department for posting to KTH Peshawar during 10/2007 (Flag-I). Later on, upon the direction of Health Department (Flag-J), he was proposed for posting to District Charsadda during 12/2007 (Flag-K). The Government did not issue his posting order at that time.

- An absence notice was served upon him by DGHS on 10-10-2009 at his home address (Flag-L).In response the incumbent replied that he was waiting for posting, as his posting order could not be issued, so he joined FCPS-II training in Services Hospital Lahore and requested for the grant of EOL without pay till 31-07-2010 so that he may complete his training (Flag-M).
- His application was forwarded to Health Department for initiation of disciplinary action followed by six reminders (Flag-N). On 23-11-2010 he again submitted application with the request to issue his posting order (Flag-O) and his application was again referred to Health Department for necessary decision on 11-12-2010 (Flag-P). On 13-12-2010 Health Department forwarded the application of the Doctor concerned to DGHS for comments purpose. In his application he reminded about his arrival report and requested for issuance of his posting order (Flag-Q) and in response DGHS replied to the Health Department that necessary comments have already been furnished vide DGHS letter dated 11-12-2010 (Flag-R).
- On 01-03-2011 the Doctor concerned again requested for his posting preferably in AHQ Hospital Ghalanai Mohmand Agency (Flag-S). DGHS issued reminder to Health Department (Flag-T). At last he was posted at the disposal of Directorate of Health services (DHS) FATA Peshawar on 01-06-2011 (Flag-U) and DHS FATA Peshawar further adjusted him



45

at AHQ Hospital Mohmand Agency (Flag-V) and he resumed duty at his place of posting on 30-06-2011.

- On 17-09-2011 Govt forwarded application of Dr. Muhammad Israr MO AHQ Hospital Ghalanai, for comments purpose, wherein he requested for regularization of his service w.e.f 10/2007 to 29-06-2011 (Flag-W). DGHS offered comments in the case to Health Department recommending regularizing his absence period w.e.f 20-09-2007 to 29-06-2011 as EOL without pay (Flag-X). Upon which Health Department directed DGHS to initiate disciplinary proceedings against Doctor Muhammad Israr, MO (BS-17) (Flag-Y), culminating in enquiry against the accused Doctor.

Findings:

Doctor Muhammad Israr immediately upon completion of his DLOMS training submitted his arrival report on 13-9-2007 at DGHS. The DGHS furnished his case to Health Department for posting twice (i-e on 18-10-2007 & 19-12-2007 respectively). The Health Department failed to post him, and issued his positing order on 01-06-2011. The Doctor concerned is only at fault to the extent that he again proceeded to Lahore and started FCPS-II Training without proper NOC / Permission from the competent authority, and is liable to be proceeded under Efficiency and Discipline rules 2011.

Recommendation:

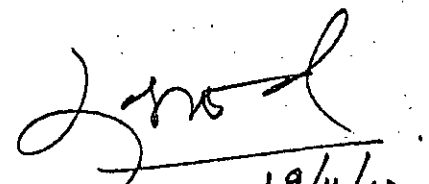
Based upon the above

- The accused Medical officer i-e Doctor Muhammad Israr (BPS-17) may be imposed minor penalty "Censure" under Efficiency and Discipline rules 2011. The period w.e.f 20-9-2007 to 29-6-2011 may be treated as EOL without pay.

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2. The Chief Secretary may constitute a high powered reform committee, comprising of experienced & dedicated officers of not less than BPS-19. The said committee shall be tasked to properly review the hierarchical structure and Human resource management of the Health department and frame its recommendation, so as to improve the delivery of basic services to common man.

46


Masood Younas 19/11/12

(Chief Planning officer/Deputy Secretary ST&IT department)



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SHOW CAUSE NOTICE.

HAWAR.
5/201

I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Dr Muhammad Israr (BS-17) Medical Officer, AHQ Hospital Ghalanai, Mohmand Agency as follows:

- (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer/enquiry committee for which you were given opportunity of hearing vide communication No.SO(IT)ST &IT/KP/2011 dated 08.11.2012.
- (ii) On going through the findings and recommendations of the enquiry officer/enquiry committee, the material on record and other connected papers including your defence before the said the said enquiry officer/enquiry committee:-

I am satisfied that you have committed the following acts/omissions specified in Rule 3 of the said rules.

(a). Misconduct

- 2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from service under Rule 4 of the said rules.
- 3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an exparte action shall be taken against you.
- 5. A copy of the findings of the enquiry officer/enquiry committee is enclosed.

(Ghulam Dastgir Akhtar)
Chief Secretary, Khyber Pakhtunkhwa

2AD

ove

Govt:

nclosed

y signe

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not

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F

TO BE SUBSTITUTED THE SAME NUMBER & DATE

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 25.03. 2014.

NOTIFICATION

SO(E.II)/(Health)/4-1/2013. WHEREAS, Dr Muhammad Israr (BS-17) Medical Officer, Agency Headquarter Hospital, Ghalanai, Mohmand Agency was proceeded against under the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules, 2011 for the charge of absence from duty w.e.f 20.09.2007 to 29.06.2011 as mentioned in the charge sheet/statement of allegation.

AND WHEREAS, Mr Masood Younas, Chief Planning Officer/Deputy Secretary Science & Technology & Information Technology Department was appointed as Inquiry Officer as provided under the aforementioned rules.

AND WHEREAS, the Inquiry Officer, after having examined the charge, evidence on record and explanation of the above mentioned accused doctor, submitted its report and recommendations.

AND WHEREAS, show cause notice was served upon Muhammad Israr, Medical Officer AHQ Hospital, Ghalanai, Mohmand Agency to which he replied.

NOW THEREFORE, in exercise of powers conferred under the aforementioned rules, the Competent Authority, after having examined the charge, findings/recommendations of the Enquiry Officer, evidence on record and explanation of the accused, is pleased to impose the minor penalty of "stoppage of three increments for three years with accumulative effect" upon Dr Muhammad Israr (BS-17) Medical Officer, AHQ Hospital Ghalanai, Mohmand Agency. Consequently the period from 20.9.2007 to 29.06.2011 is declared as EOL(without pay).

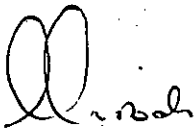
SECRETARY HEALTH
KHYBER PAKHTUNKHWA

No. SO(E.II)/(Health)/4-1/2013.

Dated Peshawar the 25th March, 2014.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Services, FATA.
4. MS AHQ Hospital, Ghalanai, Mohmand Agency.
5. Agency Accounts Officer, Ghalanai, Mohmand Agency.
6. PS to Minister Health, Khyber Pakhtunkhwa.
7. PS to Secretary Health, Khyber Pakhtunkhwa.
8. PS to Special Secretary, Health Khyber Pakhtunkhwa.
9. Doctor concerned.


(Misbah Riaz)
Section Officer.II



No. 297

20

G

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered addressed to The Director
Initials of Receiving Officer [Signature]
*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.
Insured for Rs. (in figures) 100 (in words) one hundred

Insurance fee Rs. 2 Ps. 00 (in words) two
Name and address of sender [Signature]
Weight Kilo Grams

No. 295

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

40/-

Received a registered addressed to The Director
Initials of Receiving Officer [Signature]
*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.
Insured for Rs. (in figures) 100 (in words) one hundred

Insurance fee Rs. 2 Ps. 00 (in words) two
Name and address of sender [Signature]
Weight Kilo Grams

No. 296

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

40/-

Received a registered addressed to The Chief
Initials of Receiving Officer [Signature]
*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.
Insured for Rs. (in figures) 100 (in words) one hundred

Insurance fee Rs. 2 Ps. 00 (in words) two
Name and address of sender [Signature]
Weight Kilo Grams

[Handwritten signature]

(21)

H

To

The Honorable Chief Minister
K.P.K
Copy Through DHS FATA K.P.K Peshawar
Subject: Appeal Against The Order
of Stoppage of Three increments.

Dear Sir

I big to refer to the Notification (the copy of which I received through my personal efforts) No . SO (E.II) Health 4-1-2013 dt, 25-3-2014 (Annex1) on the above noted subject under which my Three Increments have been Stopped in wake of the disciplinary Proceedings proposed by Enquiry Officer vide report (Annex-II)
The minor Penalty awarded to me in view of the Findings and Recommendation reproduced in the Report

Findings A-1

Doctor Muhammad Israr immediately upon completion of his DLOMS training submitted his arrival report on 13-9-2007 at DGHS. The DGHS furnished his case to Health Department for posting twice (i-e on 18-10-2007 & 19-12-2007 respectively). The Health Department failed to post him, and issued his posting order on 01-06-2011. The Doctor concerned is only at fault to the extent that he again proceeded to Lahore and started FCPS-II Training without proper NOC/ Permission from the competent authority, and is Liable to be proceeded under Efficiency and Discipline rules 2011

Recommendation: B -1,2

Based upon the above

1. The accused Medical officer i-e Doctor Muhamamad Israr (BPS-17) may be imposed minor penalty Censure under Efficiency and Discipline rules 2011. The period w.e.f 20-9-2007 to 29-6-2011 may be treated as EOL without pay.
2. The Chief Secretary may constitute a high powered reform committee, comprising of experienced & dedicated officers of not less then BPS-19. The said committee shall be tasked to properly review the hierarchical structure and Human resource management of the Health department and frame its recommendation, so as to improve the delivery of basic services to common man.
3. In View of The Above I Submit my appeal against the above orders under which Penalty of stoppage of three increments for three years with accumulative effect have been awarded and imposed on me which is unjustified without any reason and and liable to be set aside on the following Grounds
 1. The Enquiry Reports Categorically mentioned That the under signed had reported Arrival for duty on 13-9-2007

2. The under signed property applied many times but Health Department kept the matter pending without any taking action or at least to inform me about the fate af the case.

But the Department failed to issue posting order till 1-6-2011 so I proceeded Lahore for further studies because my FCPS- II Training was started in July 2006 and there was fear of training period gap & actual uncertainty for future posting order.



My report Recommended the Censure and asked the health Department to ensure the delivery of the
to all and the undersigned as a particular Case but no Such action have been taken before awarding the above
y on me
The undersigned has reported his arrival on 13-09-2007 but the Health Department Failed to honor my arrival Report
till 1-6-2011 When Posted as MO Report AHQ Hospital Ghalanai Mohmand Agency FATA with out any fault on my part
In view of the above I Request that the Penalty awarded on me may be set a side and may Kindly be considered the
Period as on full pay with affect from 13-9-2007 Because I Submitted my arrival report for Duty But the health Department
Failed to Consider my posting order till 1-06-2011 with out any fault on my part as for the grant of NOC for Higher
Qualification from the department I properly Applied for but with no response from the health department.

Thanking in anticipation for kind Consideration

Yours truly.

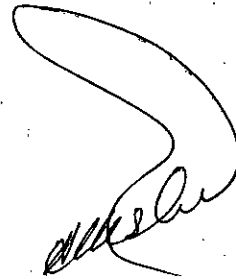
Mohammad

DR. MOHAMMAD ISRAR
MO, AHQ, Hospital Ghalanai
Mohmand Agency FATA

Cell: 0333-9127736

0345-4777243

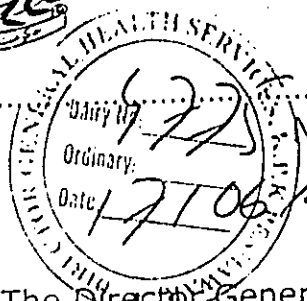
Date: 21-04-2014



23



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT



No. SO (H) E-II/4-1/2014/Dr. Muhammad Israr
Dated Peshawar, the 13th June-2016

To

The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar.

[Signature]
17/6/16

Subject:

APPEAL AGAINST THE NOTIFICATION DATED 25.03.2014 OF SECRETARY HEALTH KHYBER PAKHTUNKHWA PESHAWAR WHEREBY THE APPLICATN WAS IMPOSED THE PENALTY OF "STOPPARY OF THREE INCREMENTS FOR THREE YEARS WITH ACCUMULATIVE EFFECT".

I am directed to refer to your letter No. 9891-92/E.I, dated 15.05.2014 on the subject noted above, in respect of Dr. Muhammad Israr, MO (BS-17), AHQ: Hospital Ghalanai Mohmand Agency (FATA), wherein he has requested for consideration of his appeal for the subject purpose. The competent authority has already rejected the appeal of the doctor concerned and has upheld the minor penalty of "stoppage of three increments for three years with accumulative effect" vide this department letter of even number dated 30.09.2014 hence the doctor concerned may kindly be informed accordingly.

[Signature]
(Obaidullah)
Section Officer (E-II)

OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR

No. 3584-86 /E.I (M-457)

Dated: 29/06/2016

Copy of the above is forwarded to:-

1. DHS FATA, Peshawar.
2. A/S Mohmand Agency.
3. Officer concerned.

For information and necessary action.

[Signature]

Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

[Signature]
29/6

(24)

Annex (B)

Handwritten initials and marks at the top right corner.

U. S. Health Services
20711
20/09/07

20/09/07

TO: The Director General
Health Services
NWFP.

Subject: Arrival Report

Respected Sir,

It is stated that I am student of DLOMS- ENT course at PGMI / Services Hospital Lahore, Via Order No.24339/E-I dated 14-09-2002 which is to be completed on 13-09-2007.

So I submit my arrival report.

It is requested that I may be posted in RNH Peshawar to continue my duty in related unit and get experience in ENT.

Yours faithfully,


Mohammad

Dr. Mohammad Israr (OSD)
Post Graduate Student
PGMI / Services Hospital,
Lahore.

September 13, 2007

Annex

Handwritten signature or mark at the bottom right.

		60443
ایڈووکیٹ/دستخط: بار کونسل ابار ایسوسی ایشن نمبر: رابطہ نمبر: 0391-9129188	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	

بعدالت جناب: مسرور سٹیٹوٹل کے لئے لکھا گیا ہے

منجانب: ایڈووکیٹ   کوٹلہ سوسائٹی	دعویٰ: علت نمبر: مورثہ: جرم: تھانہ:
بابت تحریر آنکہ	

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

آن مقام لکھنؤ کے اقرار صحیحاً جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت فیصلہ برطرف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق زریں مدد دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی حملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ مدد اختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا مختار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ ایتر ذی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 13/7/2016

_____ واہ شد _____
 مقام کے لئے منظور ہے۔

نوٹ: اس کالت نامہ کی ذمہ داری ہونے والی ہے

Attested & Capted
 Muhammad
 Advocate

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 721/2016

Dr. Muhammad Israr.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat Building Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Chief Secretary.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
.....Respondents

APPLICATION FOR SETTING ASIDE EX-PARTE ORDER DATED

24/07/2017

Respectfully Sheweth:

The respondents submit as under:

1. That the above titled appeal is pending before this Tribunal in which 18/09/2017 is fixed before Double Bench for final hearing.
2. That in the instant case the right of the respondents to submit reply has been closed by the Honorable Tribunal.
3. That submission of reply was late due to the reason that obtaining signature from the respondents consume time.
4. That the reply in the instant appeal is ready and the respondents want to submit it into the Honorable Tribunal.
5. That non submission of reply within the give time was not intentional but due to unavoidable circumstances.

Prayer:

Keeping in view of the above, it is humbly prayed that in the best interest of natural Justice, the respondent may be allowed to submit reply and the order dated 24/07/2017 may be changed.

Dairy No - 744

Dated - 11-9-17

Yar Gul
11/9/17
Yar Gul

Representative
Of Respondents No. 2 & 3.

Yar Gul
Through
Additional Advocate General
Khyber Pakhtunkhwa Service Tribunal

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 721/2016

r. Muhammad Israr.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat Building Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Chief Secretary.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

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24/07/2017

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5. That non submission of reply within the give time was not intentional but due to unavoidable circumstances.

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11/9
Yar Gul '17

Representative
Of Respondents No. 2 & 3.

Through
Additional Advocate General
Khyber Pakhtunkhwa Service Tribunal

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 721/2016

Dr. Muhammad Israr.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat Building Peshawar.
 2. Govt. of Khyber Pakhtunkhwa through Chief Secretary.
 3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
-Respondents

Respectfully Sheweth:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 3

Preliminary Objections:-

1. That the appellant has no cause of action/locus standi.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in the present form and also in the present circumstances of the issue.
5. That the appellant has filed the appeal in non proper form and may be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is time barred.

ON FACTS:

1. Correct. Dr. Mohammad Israr was appointed as MO (BPS-17) on contract basis on 20/12/1995. His services were regularized by Khyber Pakhtunkhwa Public Service Commission on 12/12/1998.
2. Correct to the extent that he was Charge Sheeted and then recommended Censure in a result of a Show Cause notice, however, not correct to the extent that he was not informed about the decision of the Departmental appeal. The decision of Departmental appeal issued vide Govt. letter No. SO(H)E-II/4-1/2014 dated 30/09/2014 was properly conveyed to Director Health FATA and Medical Superintendent AHQH Ghalanai, Mohmand Agency vide Directorate General Health Services letter bearing endorsement No. 18208-II/E-I dated 21/10/2014 (copy attached).

GROUND:

- A. Incorrect. As the appellant just submitted paper arrival on 20/09/2007 in the Director General Health Services, Khyber Pakhtunkhwa office and started to undergo FCPS-II ENT Training in Lahore (2nd fellowship). It is further added that he had already undergone DLO MS ENT 5-years

training in PGMI, Lahore t2007. For the 2nd training i.e. (FCPS) he was not allowed by the Competent Authority and undergone the said course at his own will/without NOC.

- B. Incorrect. On the submission of arrival report to Health Department, the concerned was required to wait for his posting but instead of waiting for his posting, the appellant proceeded to Lahore and started FCPS-II training without any NOC/permission from the Department.
- C. Incorrect. Already explained in para-b above.
- D. In response to para-d, it is stated that the allegation has been proved against the appellant and the Competent Authority was authorized to impose any penalty. The penalty was rightly imposed on the appellant.
- E. Incorrect. The decision of Departmental appeal issued by the Govt. vide letter No. SO(H)E-II/4-1/2014 dated 30/09/2014 was properly conveyed to DHS FATA and Medical Superintendent AHQH Ghalanai Mohmand Agency vide Directorate Health letter bearing endorsement No. 18208-11/E.I dated 21/10/2014 (copy attached).
- F. Incorrect. Codal formalities were fulfilled before imposition of penalty.
- G. Incorrect. As replied above.
- H. No comments.
- I. The appellant was properly proceeded against under E&D Rules, 2011. After completion of all the codal formalities, the appellant was awarded the due penalty. It is pertinent to mention that the officer concerned has himself requested for the grant of EOL without pay in his application dated 26/10/2009, when he was undergoing training in Lahore without NOC (copy attached).

Prayer

It is therefore, prayed that the instant appeal may please be dismissed with cost.

Shahina
Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
Respondent No 03

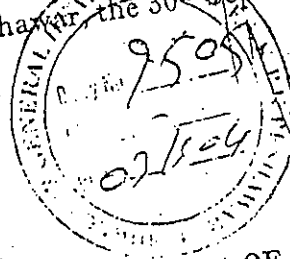
[Signature]
Secretary Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 01

GOVERNMENT OF KHYBER
HEALTH DEPARTMENT

(HWA)

Dated Peshawar the 30th September, 2014.

The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar.



Subject:

**APPEAL AGAINST THE NOTIFICATION DATED 25.03.2014 OF SECRETARY
HEALTH KHYBER PAKHTUNKHWA PESHAWAR WHEREBY THE
APPLICANT WAS IMPOSED THE PENALTY OF "STOPPAGE OF THREE
INCREMENTS FOR THREE YEARS WITH ACCUMULATIVE EFFECT".**

I am directed to refer to your letter No. 9891-92/E.I, dated 15.05.2014 on the subject noted above, in respect of Dr. Muhammad Israr, MO (BS-17), AHQ: Hospital Ghalanai Mohmand Agency (FATA), wherein he has requested for consideration of his appeal for the subject purpose.

I am further directed to state that the competent authority has rejected the appeal of the doctor concerned and has upheld the minor penalty of "stoppage of three increments for three years with accumulative effect".

(Kashif Iqbal Jilani)
Section Officer (E-II)

OFFICE OF THE DIRECTORATE GENERAL HEALTH KPK PESHAWAR
Dated: 21/10/2014

No. 18208-11/E.I

Copy of the above is forwarded to:-

1. DHS FATA Peshawar.
2. MS AHQ Hospital Ghalanai Mohmand Agency.
3. AAO Ghalanai Mohmand Agency.

For information & necessary action.

Assistant Director (P-I)
DIRECTORATE GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Cc: Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar for information.

GROUNDS:

- a. Incorrect. As the petitioner just submitted paper arrival on 20/09/2007 in the Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

9011
2659

26857
26108

The Director-General Health Services, NWFP, Peshawar.

Subject:- ABSENCE NOTICE.
Dear Sir,

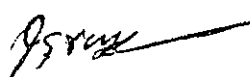
P-257

With reference to your letter No. 40325/E.I, dated 10.10.2009, on the subject noted above, I have the honour to state that I was granted deputation for M.S ENT at PGMI Lahore. On expiry of my deputation period I submit my arrival report in Directorate General Health Services, NWFP Peshawar on 20.09.2007, for further posting, but after waiting for a considerable period, ^{but} I have not received my posting order. In the mean time I have passed FCPS-II (ENT) and started my FCPS-II training in Service Hospital, Lahore and asking about my posting order time to time. Now my FCPS-II training is near to completion and at this stage I cannot report for duty in DGHS Office NWFP Peshawar.

It is humbly requested that I may please be granted EOL without up to 31.07.2010 to enable me to complete my remaining portion of FCPS training and obliged.

Dated /2009.

Yours faithfully,


Dr. Muhammad Israr MO

see 1-261

UNDS:

ncorrect. As the petitioner just submitted paper
he Director General Health Services
arted to undergo



BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 721 /2016

Duty No. 702

Dated: 14-7-2016

Dr. Muhammad Israr S/o M. Akhtar Medical officer AHQ
Hospital Ghlanai Mohmand Agency Khyber
Pakhtunkhwa.

..... Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat Peshawar.
2. Govt of Khyber Pakhtunkhwa through chief Secretary, civil secretariat Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

ad-to-day

1/7/16
gistrar APPEAL FROM THE IMPUGNED ORDER

DATED 25.03.2014, WHEREBY THE

PLANARITY OF STOPPAGE OF THREE

INCREMENTS FOR 3 YEARS WITH

ACCUMULATIVE EFFECT WAS IMPOSED

UPON THE APPELLANT & HIS ALLEGED

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Appeal No. 721/2016
Dr. M. Issar vs Health Deptt.

24.07.2017

Appellant in person and Asstt. AG alongwith Yar Gul, Senior Clerk for the respondents present. To-day departmental representative again requested for time to submit written reply. Last opportunity were given to the respondents four times and the respondents were also burdened with costs. No further adjournment is granted and right of submission of written reply is closed. The appeal is assigned to D.B for final hearing for 18.09.2017.

[Signature]
Chairman

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation 25-7-17
Number of Words 800
Copying Fee 6-
Urgent 6-
Total 6-
Name of Applicant *[Signature]*
Date of Completion 26-7-17
Date of Delivery 26-7-17

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 1134 /ST

Dated 31 /05/2018


To

The Secretary Health,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 721/2016, MR.MUHAMMAD
ISRAR.**

I am directed to forward herewith a certified copy of Judgment/Order dated 17/05/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

