

Appeal No 1306/2015

19.09.2017

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

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

Muhammad Amin
Member


[Signature]
Chairman
Camp Court, A/Abad.

ANNOUNCED

19.09.2017


15.03.2017


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


Chairman
Camp Court, A/Abad

19.07.2017

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


Member


Chairman
Camp court, A/Abad



02.06.2016

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

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

23.06.2016

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

Chairman
Camp court, A/Abad,

21.12.2016

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


Chairman
Camp court, A/Abad

15.12.2015

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


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

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


Chairman
Camp Court A/Abad

20.04.2016

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



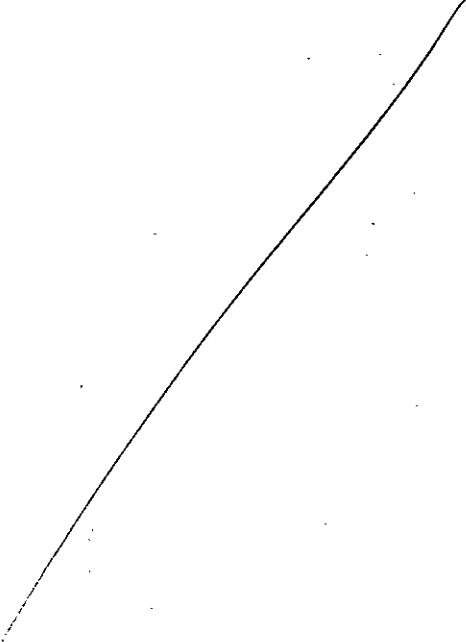

Chairman
Camp court, A/Abad

Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1306/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.11.2015	<p>The appeal of Mr. Sajid Ali presented today by Mr. Sajjad Ahmad Abbasi Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	25-11-15	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>15-12-2015</u>.</p> <p> CHAIRMAN</p> 

**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Appeal No. 1306 /2015

Sajid Ali son of Bashir Khan, resident of Village Ajmera, Tehsil & District Battagram.

...APPELLANT

VERSUS

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

...RESPONDENTS

SERVICE APPEAL


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5.	Copy of show cause notice	12	"D"
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7.	Copy of office order	14	"F"
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...APPELLANT

Dated: 23-11-2015

Through;


(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad.

**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Appeal No. 1306 /2015

Sajid Ali son of Bashir Khan, resident of Village Ajmera, Tehsil & District Battagram.

...APPELLANT

VERSUS

N.W.F. PROVINCE
Service Tribunal
Diary No. 1375
Dated 24-11-2015

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

...RESPONDENTS

**APPEAL AGAINST THE ORDER NO. 2204-7 DATED
07/07/2015 PASSED BY RESPONDENT NO. 4,
WHEREBY, THE APPELLANT WAS REMOVED
FROM SERVICE WITH IMMEDIATE EFFECT.**

~~24/11/15~~
24/11/15
Registrar

=====

**PRAYER: ON ACCEPTANCE OF THIS APPEAL,
THE ORDER NO. 2204-7 DATED 07/07/2015 PASSED
BY RESPONDENT NO. 4, WHEREBY THE**

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

Respectfully Sheweth:-

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

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

4. That, the respondents without associating the appellant in any type of enquiry on 16/05/2015 issued a show cause notice to appellant. Copy of show cause notice is annexed as Annexure "D".
5. That, the appellant on 18/05/2015 submitted his reply to show cause notice. Copy of reply is annexed as Annexure "E".
6. That, the respondent No. 4, on 07/07/2015 removed the appellant from service. Copy of office order is annexed as Annexure "F".
7. That, on 03/08/2015, the appellant filed representation / departmental appeal before the respondent No. 2. Copy of the representation is annexed as Annexure "G".
8. That, the respondent No. 2 has not decided the appeal / representation filed by the appellant against the order dated 07/07/2015 passed by respondent No. 4, hence, this appeal.

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

GROUND:-

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

"That appellant has passed his Matric with Arts, whereas the requirement was Matric with science".

is totally wrong and baseless, as appellant passed his matric with science. Copy of detailed marks sheet is annexed as Annexure "H".

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

"That no valid diploma from Medical Faculty Peshawar".

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

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

h. That, as per warning issued by the KPK Medical faculty in newspaper Charsadda institute of medical sciences was recognized as affiliated with KPK Medical Faculty. Advertisement is annexed as Annexure "J".

i. That, the appellant was removed from service on the basis of illegal verification of certificate from KPK Medical faculty Peshawar, whereas, the respondent ignored the reply to show cause notice and departmental appeal wherein the appellant had streed upon the respondent to get verification of the certificate of physiotherapy technician from Charsadda institute of medical science from where the appellant studied in relevant field and got certificate in relevant study of physiotherapy.

j. That, the order impugned herein is also against the principle of locus poentiae, as once the order of appointment was acted upon cannot be withdrawn.

k. That, the appellant had served the department honestly and diligently and not a single

complaint from any quarter was registered against appellant.

1. That this appeal is being filed within time.

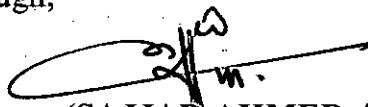
It is, therefore, humbly prayed that on acceptance of this appeal, the order No. 2204-7 dated 07/07/2015 passed by respondent No. 4, whereby the appellant was removed from service be declared as against law, facts, without lawful authority and jurisdiction and be set-aside and appellant be reinstated in service from 07/07/2015 with all back benefits.



...APPELLANT

Dated: 23-11-2015

Through;



(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad.

VERIFICATION:-

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



...APPELLANT

**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Appeal No. _____/2015

Sajid Ali son of Bashir Khan, resident of Village Ajmera, Tehsil & District Battagram.

...APPELLANT

VERSUS

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

...RESPONDENTS

SERVICE APPEAL

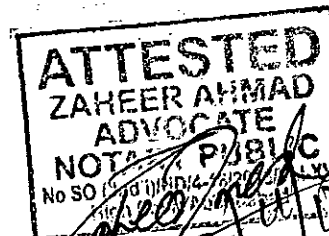
AFFIDAVIT

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


DEPONENT

Identified By:-


(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad



ANNEXURE-'A'

FOR... 25000... 2011-12... 16-11-2011... 9... 10...

... 10... 11... 12... 13... 14... 15... 16... 17... 18... 19... 20... 21... 22... 23... 24... 25... 26... 27... 28... 29... 30... 31... 32... 33... 34... 35... 36... 37... 38... 39... 40... 41... 42... 43... 44... 45... 46... 47... 48... 49... 50... 51... 52... 53... 54... 55... 56... 57... 58... 59... 60... 61... 62... 63... 64... 65... 66... 67... 68... 69... 70... 71... 72... 73... 74... 75... 76... 77... 78... 79... 80... 81... 82... 83... 84... 85... 86... 87... 88... 89... 90... 91... 92... 93... 94... 95... 96... 97... 98... 99... 100...

مہتمم کوہاٹ آبپاشی ڈویژن کوہاٹ

Also available on www.khyberpakhtunkhwa.gov.pk

... 3333... Also available on www.khyberpakhtunkhwa.gov.pk

DIRECTORATE OF TRANSPORT GOVERNMENT OF KHYBER PAKHTUNKHWA

TENDER NOTICE

otation for each Item (separately) are invited... Strengthening of Vehicular Emission Testing (VETS), Peshawar and replication of VETS in Mardan and Abbottabad

- Items: 1. Package of Office Equipments: Computer Dual Core, Printer, Photo Copier

- 2. Package of Machine Tools: 1. Analyser, 2. Analyser (both for Petrol & Diesel), 3. Gas Meter/Exhaust Gas Testers (suitable for Mobiles)

Terms & Conditions: Tenders must be accompanied with earnest money...

Office of the Manager VETS, VETS Office, Peshawar (Near District Transport Office)...

FOR TRANSPORT Directorate of Transport, Government of Khyber Pakhtunkhwa, Room No. 101, Floor, Benevolent Fund Building, Peshawar. Contact: 091-2261499/091-9214188

درخواستیں مطلوب ہیں

... 7 نومبر 2011 تک

Table with 4 columns: Sr. No., Post Name, BPS Grade, and Remarks. Includes positions like Jr. Clinical Technician (Dentistry), Jr. Clinical Technician (Surgery), etc.

... 1... 2... 3... 4... 5... 6... 7... 8... 9... 10... 11... 12... 13... 14... 15... 16... 17... 18...

Also available on www.khyberpakhtunkhwa.gov.pk

Handwritten notes: دروازہ کھولیں, 5-3-2011

Attested for

To

The Mr. Sajid Ali S/O Bashir Khan
R/O Village Ajmera District and Tehsil Battagram.

Subject APPOINTMENT AS JPHICT (PHYSIOTHERAPY).

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

TERMS & CONDITION.

1. Initially you will be on probation for a period of two years extendable for a further period of not exceeding one year.
2. Your service can be dispensed with during the probation period if you work and conduct is found unsatisfactory.
3. Your appointment will be subject to provide a Medical Fitness Certificate (Health & Age) From Medical Superintendent DHQ Hospital Battagram and verification of character and Antecedents/Educational Qualification etc.
4. No TA/DA will be allowed for joining the duty or obtaining the Medical fitness certificate
5. You will be governed by such rule and orders as may be issued by the Govt. from time to time for the category of Govt. Servant to which they belong.
6. You shall for all intents and purposes be Civil Servants except for the purpose of pension and gratuity. In lieu of the same you will be entitled contributory provident fund as per Govt. rules/instructions.
7. If you wish to resign from service you should submit 2 month prior notice or two month salary in lieu of.
8. Where you remain absent without leave for a period of seven (7) day you shall be deemed to have violated the relevant rule.
9. You shall be responsible for all utility bills and other charges of the residential accommodation as is applicable to the category of staff.
10. You shall be subject to all rules of Govt. pertaining to a civil servant in respect to efficiency and Discipline, conduct, Liability to criminal proceeding etc, and any special rules, Instruction issued by the Health Department specified to employee for breach of discipline or unsatisfactory service. The Health Department shall be competent to terminate the services of culprit without notice or compensation.
11. You are not permitted to do private practice open any clinics, Private dispensary or have any interest in any such private institutions.
12. No employee shall indulge in any trades, business or occupation or any activity, which is prohibited for a regular Govt. servants.
13. Your pay will be released on the verification of your professional or academic qualification certificates/degrees
14. If you accept the offer of appointment on above terms and conditions, you should report to Medical Superintendent DHQ Hospital Battagram with in 15 days from the issuance of this offer.

Executive District Officer (Health)
Health Battagram.

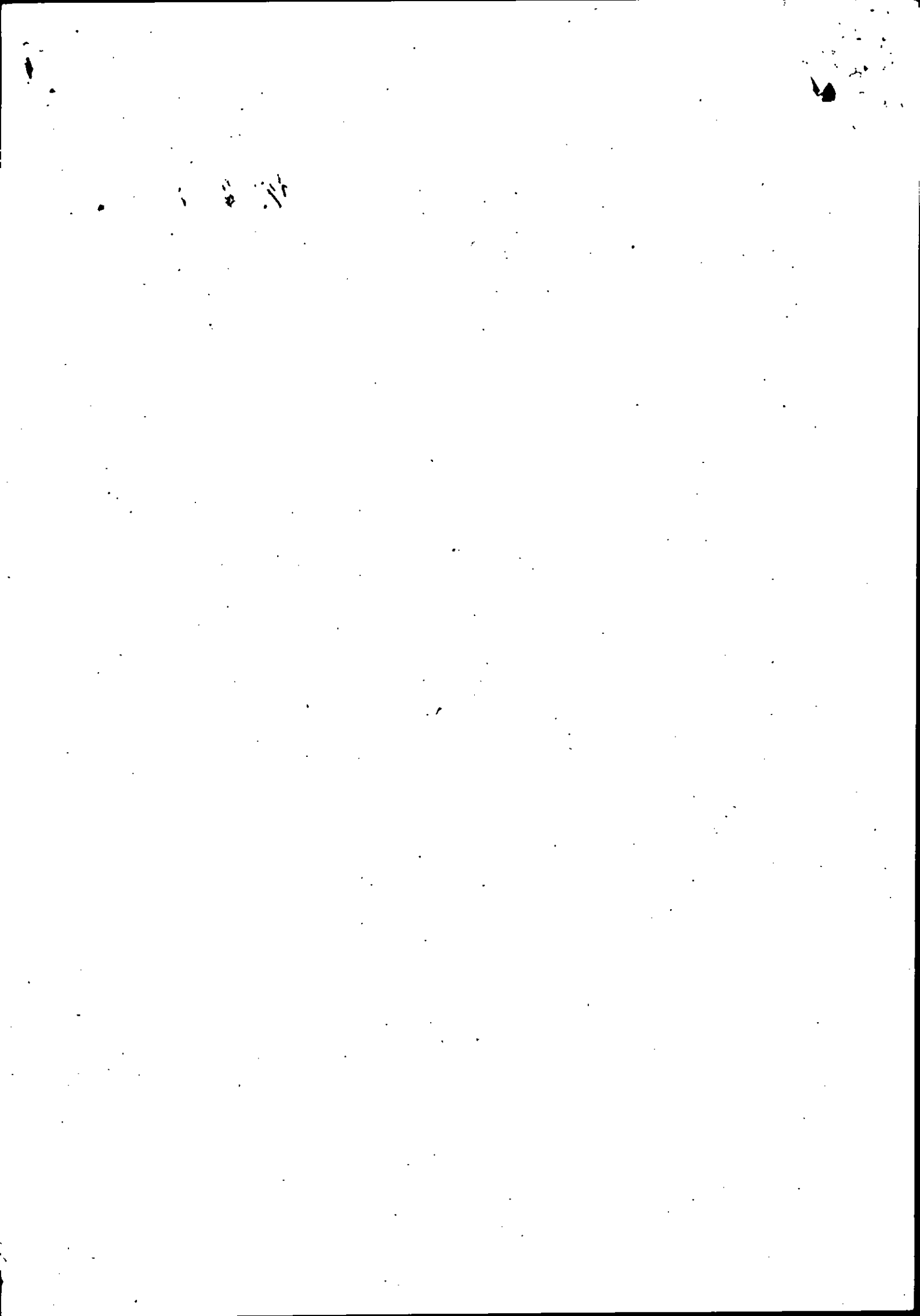
28/12/2012

No. 2667-71 / Dated Battagram the,
Copy forwarded to the:-

1. District Coordination Officer Battagram
2. Director General Health Services KPK Peshawar.
3. Medical Superintendent DHQ Hospital Battagram
4. Accounts Section office of the undersigned.

Attested
[Signature]

Executive District Officer (Health)
Health Battagram



Dr. Mehboob Ur Rehman

Medical Superintendent,
DHQ Hospital Battagram



M. No. 011 3115 5
Cell. No. 997-3 001
Fax. No. 997-3 1513

Email Address: dr.mur@p210.com

No. 72-71 /st.d dated 08/12/13

(11)

ANNEXURE G

To: The Executive District Officer,
(Health) Battagram

Subject: ARRIVAL/COMPLIANCE REPORT.

Sir, Reference your order No. 27377 /st.d 28/12/12

I would like to inform that as per order above the following staff have resumed their new assignment in this hospital from the date mentioned against their names which is submitted for information and further necessary action please.

S#	Name of Incumbents	Designation	Date of Arrival	Remarks
1	Sajid Ali S/O Bashir Khan	ECT (Physiotherapy) BPS-09	29/12/2012 (IN)	

Medical Superintendent,
DHQ Hospital Battagram

Note: date given above:-

Copy forwarded to the:-

- ✓ 1- Supervisor for information to put on file.
- ✓ 2- Accountant of the undersigned office for information and to issue arrival report for information and necessary action.

[Signature]
Medical Superintendent
DHQ Hospital Battagram

[Signature]
Altaf



**OFFICE OF THE DISTRICT HEALTH OFFICER
Battagram (Khyber Pakhtunkhwa)**

12

No. 1584-86 / Dated 7/5/2015.

ANNEXURE "D"

SHOW CAUSE NOTICE

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

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

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

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

(Dr Saifullah Khalid)
District Health Officer Battagram.

Copy forwarded to the

1. Director General Health Services KPK Peshawar with reference his No. 1206-09/Complaint Cell/2511/2014 dated 29.05.2014 for information please.
2. Medical Superintendent DHQ Hospital Battagram for information
3. Official concerned for compliance.

- Copy for information to the official concerned for compliance within stipulated time

- Salary stopped

Saifullah Khalid

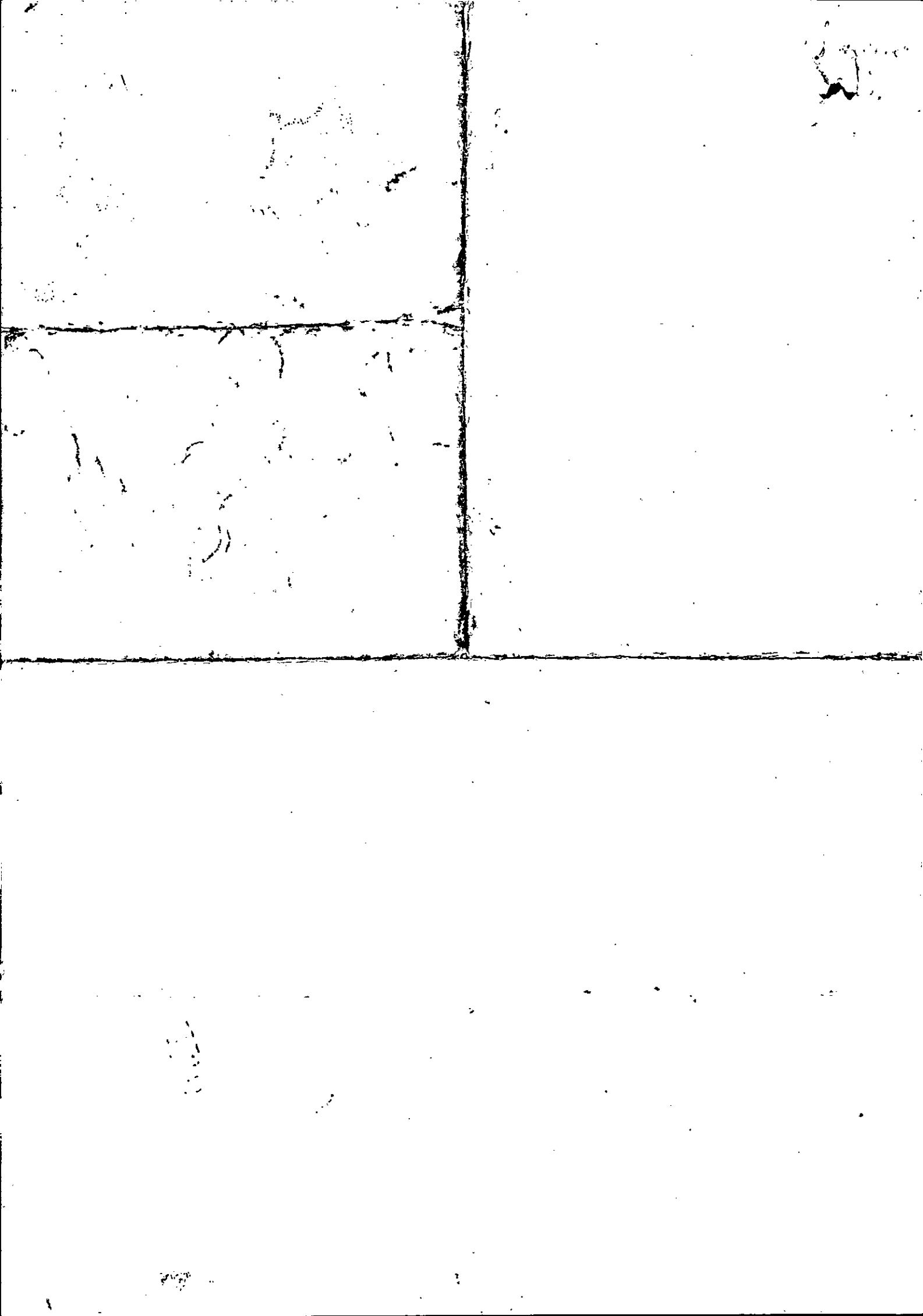
(Dr Saifullah Khalid)
District Health Officer Battagram

M

(Signature)

15/05/15
Medical Superintendent
DHQ Hospital Battagram

Attested
(Signature)



بخدمت جناب ڈسٹرکٹ ہیلتھ آفیسر صاحب ڈسٹرکٹ بٹگرام
مضمود: جواب طللی بابت، ریفریکشن ڈیلومہ از میڈیکل فیکلٹی پشاور۔

(13)

جناب عالی؛

ANNEXURE E گذارش ہیکہ جناب کے دفتر سے جاری کردہ لیٹر نمبر 1584-86 مورخہ

16.05.2015 موصول ہوا جسمیں شوکاز نوٹس دیا گیا ہے۔

جناب والا سائل نے چارسدہ اینسٹیٹیوٹ آف میڈیکل سائنسس پشاور سے فزیو
تھراپی میں سرٹیفیکیٹ حاصل کیا ہے۔ اور اسی سرٹیفیکیٹ پر بھرتی ہوا ہے۔ سائل
کی ڈھائی سال سروس بھی ہو چکی ہے۔ جناب نے سائل کے سرٹیفیکیٹ کو میڈیکل
فیکلٹی پشاور بھیجا تھا جو کہ سرٹیفیکیٹ چارسدہ اینسٹیٹیوٹ آف میڈیکل سائنسس
پشاور سے لیئے گئے ہیں۔ اور یہ کالج میڈیکل فیکلٹی کے ساتھ رجسٹرڈ ہے۔ چونکہ بھرتی
کے اشتہار میں بھی لکھا گیا تھا کہ کالج کافیکلٹی کے ساتھ رجسٹرڈ ہو۔ آسکا
سرٹیفیکیٹ Valid ہوگا۔ برائے مہرابانی کر کے سائل کے سرٹیفیکیٹ جو کہ فیکلٹی
کے ساتھ رجسٹرڈ ہے اُسکو ویریفیکیشن کیلئے چارسدہ اینسٹیٹیوٹ آف میڈیکل
سائنسس پشاور ارسال کیا جائے۔ درخواست کے ساتھ بھرتی اشتہار، لیسٹ میڈیکل
فیلٹی سے رجسٹرڈ کالج اور کاپی سرٹیفیکیٹ منسلک ہے۔ سائل تا عمر دُعا گورہیگا۔
مورخہ 18.05.2015

العارض

ساجد علی جونیئر کلینیکل

ٹیکنیشن فزیو تھراپی ڈسٹرکٹ ہیڈ

کوآرڈر ہسپتال بٹگرام

Attested
fin



OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL BATTAGRAM

MS Office Phone No. 0997-311518 Email Address;
Casualty Dept Phone No, 0997-310018 Fax No,

dhqbtg518@yahoo.com
0997-311518

No, 2204-7 / 100 dated 07/07/11.2015

ANNEXURE F

(14)

OFFICE ORDER

WHEREAS, Mr. Sajid Ali S/O Bashir Khan JCT (Physiotherapy) BPS-09 attached to DHQ Hospital Battagram was proceeded against under the E&D Rules 2011 for the charges mentioned below:-

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

AND WHEREAS, a show cause notice was served upon him vide this office letter No. 1584-86 Dated 07.05.2015 wherein major penalty of Removal from service was proposed to be imposed upon him.

AND WHEREAS upon receipt of reply to the show cause notice he was personally heard on 18.05.2015.

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

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

Sd/xx xx xx
**Medical Superintendent
DHQ Hospital Battagram**

No. & date even above:-

Copy forwarded to the:-

1. Director General Health Service Khyber Pakhtunkhwa Peshawar.
2. DAO Battagram.
3. Accountant DHO Office Battagram.
4. ✓ Mr. Sajid Ali S/O Bashir Khan JCT (Physiotherapy) BPS-09 DHQ Hospital Battagram for information and necessary action.

[Signature]
**Medical Superintendent
DHQ Hospital Battagram**

*Attested
[Signature]*

خدمت جناب ڈائریکٹر جنرل ہیلتھ سروسز خیبر پختونخوا ایشادور

(15)

ANNEXURE
"G"

عنوان:- حکمانہ اپیل برخلاف حکم نمبری 7-2204-10 مورخہ 07/07/2015 جس کے رد سے سائل

کو نوکری سے برخاست کیا ہے جو کے سراسر غلط خلاف قانون واقعات ہے۔ اسد عابیکہ حکم

ملنبری 7-2204-10 مورخہ 07/07/2015 کو کالعدم وغیر قانونی قرار دے کر سائل کو بحال

تمام سابقہ مراعات نوکری پر بحال کیا جائے۔

جناب عالی:-

یہ کہ سائل ضلع بگرام گلگت و بلتستان کا سکول رہائشی ہے اور سائل نے بمطابق اشتہار شائع کردہ EDO(H) بگرام 25/2011
2011 خالی پوسٹ ریڈیا لوجی ٹیکنیشن کیلئے اپلائی کیا۔

یہ کہ اس کے بعد سائل ٹیسٹ انٹرویو میں پیش ہوا اور ٹیسٹ انٹرویو پاس کرنے کے بعد EDO(H) بگرام لے

سائل کا تعیناتی کا حکم جاری کیا۔ نقل لفت ہے۔

یہ کہ تعیناتی لیٹر موصول ہونے کے بعد سائل نے بمطابق مروجہ طریقہ کار اپنے تمام لوازمات یعنی میڈیکل وغیرہ کر کے باقاعدہ جان

لے لیا۔

یہ کہ اس کے بعد سائل نے باقاعدگی سے مسلحہ 2-12-28 سے اپنی فرائض خوش اسلوبی سے سرانجام دینا شروع کرنا اور تا

حال سائل کے بابت کسی قسم کی کوئی شکایت نہ ہے۔

یہ کہ سال 2014 میں آپ جناب کے حکم پر وہی ڈائریکٹر DG آفس اور ڈاکٹروں کی نیاز سابقہ ایم ایس مانسہرہ ہسپتال نے ایک

انکوائری کیا اور مذکورہ انکوائری میں انکوائری آفیسر نے سابقہ EDO(H) اور DSC کے ممبران کو مورد الزام ٹھہرایا جبکہ

مذکورہ الزامات اور سابقہ کاروائیوں سے نہ تو سائل کا کوئی تعلق تھا اور نہ سائل کو پتہ تھا کہ وہ دفتری امور سے متعلق تھا۔

یہ کہ مذکورہ انکوائری کے تقریباً ایک سال گزرنے کے بعد مورخہ 07-07-2015 کو میڈیکل سپرنٹنڈنٹ ڈی ایچ کے ہسپتال

بگرام نے سائل پر Major penalty ڈال کر نوکری سے برخاست کیا۔

یہ کہ مذکورہ حکم 07-07-2015 سراسر غلط خلاف قانون واقعات ہے کیونکہ مذکورہ انکوائری میں نہ تو سائل کا کوئی

بیان ریکارڈ کیا ہے اور نہ ہی پرسنل سماعت ہوئی ہے اور اسی طرح Show cause نوٹس DHO بگرام نے جاری کیا جبکہ

Removal حکم MS DHQ بگرام نے جاری کیا ہے۔

یہ کہ مذکورہ بالا تمام انکوائریاں اور انکشافات خود ساختہ من گھڑت اور ذاتی غنا کے بنا پر جاری کیا ہے۔ کوئی نہ تمام انکوائریاں

Altedal
Gins

سائل کے لائسنس میں سرانجام دیئے ہیں۔

(16)

یہ مذکورہ انکوائری رپورٹ میں سائل کے خلاف جو ساتھ الزامات لگائے گئے ہیں جبکہ Show cause نوٹس میں سائل کے خلاف مختلف الزامات لگائے گئے ہیں۔

یہ کہ مذکورہ انکوائری ڈیپارٹمنٹ میں انکوائری آفیسر نے انصاف کے بنیادی قواعد کی خلاف ورزی کی ہے۔
لہذا استدعا ہے کہ سائل کو سزا تمام ساتھ مراعات کے نوٹس پر بحال کرنے کا حکم صادر فرمایا جائے۔

العارض

03/08/2015

سجاد علی ولد لکھنوی

سکنہ امپور کوریاؤ - کھنولہ
بلاک
سابقہ - فری لوکھنوی D.H.Q. ملتان

Attested
Gins

SG.No. 137116

ANNEXURE H

Board of Intermediate & Secondary Education
ABBOTTABAD

Duplicate

DETAILED MARKS CERTIFICATE
Secondary School Certificate Examination



17

(SCIENCE GROUP)

Session 200 1999 (Annual/Supplementary)

Name Sajid Ali

Father's Name Bashir Khan Roll No. 21813

SUBJECT	MARKS	MARKS OBTAINED	
		In figure	In words
1. English	150	54	Three hundred & Ninety one -
2. Urdu	150	81	
3. Islamiyat Comp	75	63	
4. Pakistan Studies	75	30	
5. Mathematics	100	34	
6. Physics	100	41	
7. Chemistry	100	41	
8. Biology	100	47	
Total	850	391 -	D

This certificate is issued Errors and omission excepted

Prepared by [Signature] Checked by [Signature]

Dated 18-12-2002 2012 Board of Intermediate & Secondary Education

Controller of Examinations

Abbottabad

Attested
[Signature]

Reg. No: CIMSHS/PESH-1210993-A

Roll No: 28764

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

Serial No: 786479



ANNEXURE I (18)

CHARSADDA INSTITUTE OF MEDICAL SCIENCES & HEALTH SCHOOL PESHAWAR

CERTIFICATE

THIS IS TO ACKNOWLEDGE THAT

SAJID ALI S/O BASHIR KHAN

Has successfully completed the prescribed course of study in

PHYSIOTHERAPY (1years)

Passed in Grade, B, /Percentage: 61%=308/500

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

Session: 2009-2010

[Signature]
ASSISTANT

Attested.
[Signature]

PRINCIPAL (CIMSHS)

20

20

وکالت نامہ

کورٹ فیس

بعدالت سروس ٹریبونل خیبر پختونخواہ لیساور -

عنوان: ساحر علی بنام گورنمنٹ ہسپتال

منجانب: ٹریبونل

نوعیت مقدمہ: سروس ٹریبونل
باعث تحریر آنکے

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب وہی کل کاروائی متعلقہ آں مقام

ایسٹ آف آرڈر سیکرٹری اتحاد اہل عدلیہ سے ایڈووکیٹ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 23-11-05

بمقام:

العبد

Accepted
by
M.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

CAMP COURT ABBOTTABAD.

Appeal NO. 1306/ 2015

Sajid Ali

Appellant

VERSUS

1. Govt; of Khyber Pakhtunkhwa and others Respondents

COMMENTS ON BEHALF OF RESPONDENTS .

Preliminary Objections:-

1. That the appellant did not come to this Service Tribunal with clean hands.
2. That the appellant has no cause of action/ locus standi to file the instant appeal.
3. That the instant appeal is hit by laches and barred by law of limitation.
4. That the appeal has been filed to pressurize the respondents.
5. That the appellant has suppressed the original fact from this honorable tribunal have not entitled for any relief and appeal is liable to be dismissed.

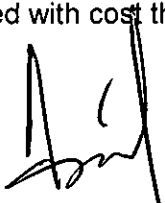
FACTUAL OBJECTIONS.

1. Correct revealed in record.
2. Correct to the extent that the appointment of the appellant was made subject to the condition of verification of documents/certificate rest of Para No. 1 incorrect.
3. Correct to the extent that the appellant performed his duties till the verification of his documents.
4. Incorrect. And hence denied that a departmental enquiry was initiated against the appellant about his fake documents.
5. Correct the extent of the reply of show cause notice but replay did not pertain the cogent reason of allegation.
6. Correct the appellant was removed from service after proper enquiry.
7. Correct. However the appeal of the appellant was base less which was rejected by competent authority.
8. The appeal of the appellant was not genuine and hence was not decide in favor of appellant because of his fake documents/ testimonials.
9. Correct to the extent of order dated 7/7/2015 remaining Para is incorrect is according to law and as per recommendation of the enquiry conducted by Director General Health Services KPK Peshawar Letter No. 3247/CC/2514/2014 Dated 14/11/2014. In fact proper enquiry conducted by the Director General Health and after that the authority passed the removal order as per law and rules.


GROUND.

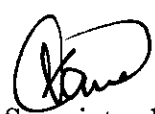
- a. Incorrect. The enquiry of the fake documents was conducted by Dr. Niaz Mohammad and Mohammad Jamil Assistant Director, Director General Health Services KPK Peshawar vide their letter No. 3247/CC/2514/2014 Dated 14/11/2014, the appellants documents/ diplomas were found bogus.
- b. Incorrect. The appellant was given full chance of hearing in person vide issuing show cause notice.
- c. Incorrect. That the appellant did not full fill the criteria of appointment on having fake documents.
- d. Incorrect. That the appellant committed fraud with department/ Government by producing fake documents for his appointment in government service.
- e. Incorrect and denied. That the requirement for appointment to the post of JCT (Physiotherapy) is not SSC with science by also required a certificate of physiotherapy by Medical Faculty KPK Peshawar.
- f. Incorrect and denied. The Charsada Medical Institution is neither recognized nor registered with Medical Faculty KPK Peshawar.
- g. Incorrect. The Charsada Medical Institute is neither registered nor affiliated with Medical Faculty KPK Peshawar, which is a definite requirement for appointment.
- h. Incorrect and denied. In this regard a letter was written by respondent No. 03 office about the certificate of Charsada Medical Institute vide this office letter No. Dated and Medical Faculty KPK Peshawar replied vide its letter No. Dated that it was not registered with Medical Faculty KPK Peshawar.
- i. Incorrect and denied. The appellant was given full chance of reply to the show cause notice and that of hearing in person. Secondly, Charsada Medical Institute was not registered and recognized with Medical Faculty KPK Peshawar. Hence appellant is not entitled for appointment for JCT (Physiotherapy).
- j. Incorrect and denied. The order of removal of the appellant is according to the law and rules of justice.
- k. Incorrect. The appellant cannot justify himself as suitable on having bogus diploma.
- l. Legal treated as per law.

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


Secretary to Govt of Health KPK
Peshawar Respondent No. 01


Director General Health Services
KPK Peshawar Respondent No. 02


District Health Officer
Battagram
Respondent No. 03


Medical Superintendent
DHQ Hospital Battagram
Respondent No.04

26/5/16

BEFORE THE HONORABLE COURT KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR ABBOTTABAD BENCH.

SUBJECT:-

WRIT PETITION NO.1306/2015

Sajid Ali

Appellant

VERSUS.

Government of Khyber Pakhtunkhwa

Respondent.

AFFIDAVIT.

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


RESPONDANT NO. 4



**DIRECTORATE GENERAL HEALTH SERVICES,
KHYBERR PAKHTUNKHWA, PESHAWAR**

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

No. 3247 /CC/2514/2014

Dated 14 /11/2014

To,

The District Health Officer,
Battagram.

Subject: ENQUIRY OF IRREGULAR APPOINTMENTS.

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

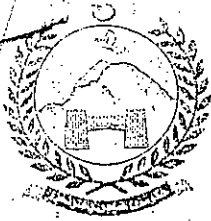
- I. After going through the enquiry report it is observed that the said recruitment has been made against the Esta Code of the Govt. almost against the merit and rules regulation of the Govt have been violated.
- II. All those recruited against the merit may be terminated w.e.f the date of recruitment,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

*Mr. Mohammad Hassan &
Shah Raisal & Inhibi documents
Class III employees only.*

DIRECTOR GENERAL HEALTH
SERVICES, KHYBER PAKHTUNKHWA,
PESHAWAR.

*Stop the pay
of Class III MK And
DHO 14/11/14*

13/11/14



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.
Office Ph (091 - 9210269 Exchange ☎ 091 - 9210187, 091 - 9210196 Fax ☎ 091 - 9210230

No 2717-20/CC/2511/2014

Dated 8/09/2014

MOST IMMEDIATE

To,

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

SUBJECT: OFFICE ORDER.

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

Director (Admn)
**DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR**

Cc:

Copy forwarded to the:

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

5/9/14

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

BACK GROUND.

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

PROCEEDINGS

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

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

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

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

FINDINGS.

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

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

unfair merit list

—

5

Exp

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

- As a matter of fact the educational qualification/technical diplomas etc of paramedics are required to be verified by the concerned Board of Intermediate and Secondary Education and Khyber Pakhtunkhwa Medical Faculty Peshawar. To the utter surprise of the committee salaries of all paramedics/other employees have been activated without verification from the above institutions.
- In spite of the fact, meeting of the DSC was attended and merit list signed by the Representative of DCO Battagram and representative of the DG Health Services, but none of them were able to pin point the irregularities mentioned above.

who was this fellow?

CONCLUSION

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

only warning - what about the wrong selectees?

RECOMMENDATIONS

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

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

			Board of Intermediate and Secondary Education but salary started.	Therefore, show cause notice may be served upon Mr.Ijaz for removal from service and his salary stopped.
2	JCT Cardiology (Merit list at Annex:II)	Muhammad Wasim s/o Muhammad Bashir (Battagram) Merit list at Annexure-II	a)Marks for higher qualification allotted two step above while the employee has qualified FA(one step above) b)No certificate/diploma in Cardiology produced from Medical Faculty KPK Pesh:	Beside irregularity at Sl:No.a of the observations, Muhammad Wasim has been appointed without having been qualified from the Medical Faculty; he may be served upon with show cause notice for removal from service and his salary stopped.
3	Malaria Supervisors (Merit list at Annex:III)	i.Sher Ali Khan s/O Ghulam Muhammad (Battagram)	He is matric with science and possess diploma from the Medical Faculty Peshawar.	May be allowed to continue service as Jr.PHC Tech (MP) being qualified but after verification of his matric certificates etc.and diploma from the Medical Faculty Peshawar. Till then his salary must be stopped and if found fake, show cause notice may be served upon him for removal from

Clear Document Verified

⊕

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

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

	Merit list at Annexure-VII	(Battagram)	Certificates seem to be doubtful. b)) Advertisement for the post not produced.	subject to producing of advertisement notice by the DHO Battagram and verification of both the certificates and if found bogus, may be served upon show cause notice for removal from service. Till then his salary must be stopped.
→ 8	JCT Dental Merit list at Annexure-VIII	Ihsanullah s/o Hashim Khan (Battagram)	a) Matric with science with diploma from Medical Faculty Peshawar and <u>BA</u> qualification but not verified b)) Advertisement for the post not produced.	May be allowed to continue service subject to producing of advertisement notice by the DHO Battagram and verification of <u>certificate</u> , <u>diploma</u> and <u>degree</u> and if found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.
9	JCT Surgical Merit list at Annexure-IX	i. Asadullah s/o Azmatullah (Mansehra)	a) Matric with science having no valid diploma b)) Advertisement for the post not produced.	May be served upon with show cause notice for removal from service and salary stopped.

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

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

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

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

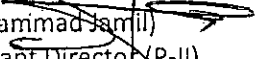
				salary must be stopped.
14	JCT Radiology Merit list at Annexure-XIV	i.Yar Muhammad s/o Muhammad Javed (Battagram)	a) Matric with science with no valid diploma. b) Advertisement for the post not produced.	May be served upon show cause notice for removal from service and salary stopped.
		ii.Sirajuddin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

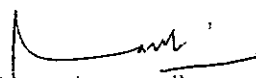
		ii. Yousaf Ali Khan s/o Fateh Khan (Battagram)	<p>a) Matric with science with certificate from Med: Faculty Peshawar but not yet verified.</p> <p>b) Advertisement for the post not produced.</p>	<p>May be allowed to continue service subject to producing of Advertisement notice by DHO Battagram and verification of certificate/diploma. If failed to produce the advertisement notice and the documents found bogus, must be served upon with show cause notice for removal from service. Till then his salary must be stopped.</p>
16	Plumber Merit list at Annex:XVI	Zahir Shah s/o Abdul Khaliq (Battagram)	<p>a) Matric with arts.</p> <p>b) No advertisement for the post produced.</p>	<p>May be allowed to continue service subject to producing of Advertisement notice by DHO Battagram and verification of certificate/diploma. If failed to produce the advertisement notice and the documents found bogus, must be served upon with show cause notice for removal from</p>

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

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

The above recommendations are submitted for perusal and approval or as the competent authority deems fit.


(Muhammad Jamil)
Assistant Director (P-II)
Directorate General Health
Services, Khyber Pakhtunkhwa
Peshawar.


(Dr. Niaz Muhammad)
SMO, Civil Hospital Battal District Manshera.

1

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

Service Appeal No. 1306/2015

Sajid Ali

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa & others

...RESPONDENTS

SERVICE APPEAL

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

Respectfully Sheweth;-

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

REPLY TO PRELIMINARY OBJECTIONS:-

1. Para No.1 is not correct. Appellant has filed the titled appeal by disclosing all the facts before this Honourable Tribunal and thus had approached this Honourable Tribunal with clean hands.

2. Para No.2 is incorrect. Appellant being civil servant has locus standi and cause of action to knock the door of this Honourable Tribunal.
3. Para No.3 is incorrect. Appeal has been filed in time.
4. Para No.4 is incorrect. The titled appeal is for the rights of appellant.
5. Para No.5 is incorrect. Nothing has been suppressed from this Tribunal. Even otherwise the comments filed by the respondents are silent regarding the alleged "suppressed facts".
6. According to our information two persons namely Muhammad Ali Son of Muhammad Akbar Khan posted against Cardiology Technician on the basis of Certificate from Charsada institute and Safia Bibi D/o Ibaid ur Rehman Pharmacy Technician having Certificate from Tariq Jee Parmedic Institute appointed under DHO Battagram are still working, which shows discriminatory attitude with appellant

REPLY OF FACTUAL OBJECTIONS:-

1. Para No.1 requires no reply, as same has been admitted as correct by the respondents.

2. Para No.2 requires no comments. Educational documents of appellant are genuine. Even otherwise there is no proof on the file which could have suggested that any authorized person had termed the educational documents of appellant "as fake".
3. In reply to Para No.3, it is submitted that appellant performed his duties till 31/07/2015. There is no proof on the file regarding the alleged verification of the documents of petitioner.
4. Para No.4 of the comments is not correct. Show cause notice issued to appellant and inquiry was without associating the appellant in any type of inquiry. There is no inquiry report on the file, which could have termed the documents as bogus after their verification from quarter concerned.
5. Para No.5 is incorrect. Reply to show cause notice was in detail and based on facts and genuineness.
6. In reply to Para No.6, it is submitted that though appellant was removed from service but illegally and without lawful authority.

7. In reply to Para No.7, it is submitted that appellant's appeal was based on facts which was illegally rejected.
8. Para No.8 is not correct. The documents of appellant are genuine who had termed the documents of appellant as bogus, the whole comments are silent.
9. Para No.9 is not correct. No proper inquiry was conducted and order dated 07/07/2015 is based on improper inquiry which is liable to be set aside.

REPLY ON GROUNDS:-

- a. Incorrect. There is not an iota of evidence on file which could have suggested that the educational documents of appellants were declared as "Bogus" by any competent authority.

- b. Para "b" of comments is not correct, whereas, para "b" of appeal is correct.

- c. Para "c" of the comments is not correct. Neither any authority has termed the documents of appellant as fake nor there is any evidence on file to show that any authority has ever declared the educational documents of appellant as fake.

- d. Para "d" is not correct. Appellant has not committed any fraud with anyone documents produced by appellant are genuine.

- e. That the appellant was appointed against the post on the basis of genuine documents. All the conditions mentioned in advertisement were fulfilled by the appellant before appointment.

- f. Para "f" is not correct. In advertisement Charsadda Medical Institute was included in the institution.
- g. Para "g" again is not correct. Para "g" of appeal is in detail and is correct.
- h. Para "h" is not correct nor the appellant was ever informed about the so-called correspondence nor was associated. Further this para is vague. No letter number and date is mentioned in comments under para "h".
- i. Para "i" of the comments is not correct. Whereas, para "i" of the appeal is correct. The order of removal is wrong and is based on surmises.
- j. Para "j" of the comments is not correct.

k. Incorrect.

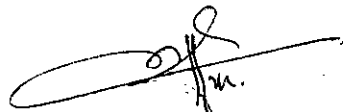
l. Legal.

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


...APPELLANT

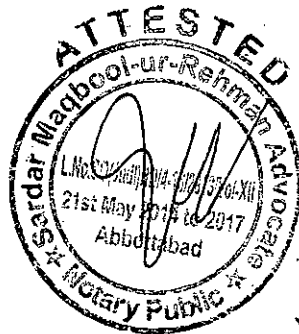
Through

Dated: 21-12-2016


(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

AFFIDAVIT:

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



21-12-2016


DEPONENT

BEFORE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Appeal No. _____ -A/2016

Sajid Ali **VERSUS** Govt. of KPK & others.

Khyber Pakhtukhwa
Service Tribunal

Diary No. 440

Dated 02-6-2016

SERVICE APPEAL

APPLICATION FOR ISSUANCE OF A
RESTRAINING ORDER IN THE NAME OF
RESPONDENTS NOT TO CALL, AND RECEIVE
APPLICATION FOR FILLING THE POST OF
PHYSIOTHERAPY IN DHQ, HOSPITAL
BATTAGRAM AND FOR ISSUANCE OF A STATUS
QUO ORDER AGAINST THE RESPONDENTS
REGARDING THE POST OF PHYSIOTHERAPY IN
DHQ BATTAGRAM TILL THE FINAL DISPOSAL OF
THE TITLED APPEAL.

*Put up to the court
with appeal.*

[Signature]
2/6/16.

Respectfully

Respectfully Sheweth;-

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

post of Physiotherapy. Copy of order is already annexed as Annexure "B" with appeal.

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

Copy is already annexed as Annexure "F".

3. That the appellant challenged the order dated 07/07/2015 before this Honourable Court and this Honourable Court was pleased to admit the appeal on 15/12/2015.

4. That after admission of appeal the respondents intends to fill the post of Physiotherapy lying vacant in DHQ Battagram after the removal of appellant from service and for this purpose they have advertised the post in Mashriq Peshawar. Copy of advertisement is annexed as Annexure "A".

5. That the respondents have appeared before this Honourable Court on 20/04/2016 and they are in knowledge of the titled appeal.

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

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



SAJID ALI
...APPELLANT/PETITIONER

Dated: 1-6-2016

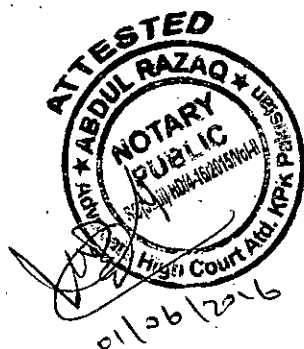
Through;



(Sajjad Ahmed Abbasi)
Advocate High Court, Abbottabad.

AFFIDAVIT:

I Sajid Ali S/o Bashir Khan R/o Village Ajmera, Tehsil and District Battagram, do hereby declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal.



DEPONENT

