19.09.2017

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

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

Chairman Camp Court, A/Abad.

Member

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 Ilospital, 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,

Charman 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.

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Member Clamp court, A/Abad

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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

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.

Charman 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 whereagainst he preferred departmental appeal on 3.8.2015 which was not responded and hence the instant service appeal on 24.11.2015.

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

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

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

Form- A FORM OF ORDER SHEET

Court of	
Case No.	1306/2015

	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	The appeal of Mr. Sajid Ali presented today by Mr.
2	25-11-15	Sajjad Ahmad Abbasi Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order. REGISTRAR This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon 15 - 12 - >e/J
-		CHARMAN
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r.		

BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 13.6 /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

INDEX

S. #	Description	Page No.	Annexure
1.	Appeal alongwith affidavit	1 to 8	
2.	Copy of advertisement	9	"A"
3.	Copy of appointment letter	10	"B"
4.	Copy of relevant papers		"C"
5.	Copy of show cause notice	12	"D"
6.	Copy of reply	13	"E"
7.	Copy of office order	14	"F"
8.	Copy of the representation	15 to 16	"G"
9.	Copy of detailed marks sheet	17	"H"
10.	Copy of certificate	18	" <u>I</u> "
11.	Copy of advertisement	19	"Ј"
12.	Wakalatnama.	20	

Through;

...APPELLANT

Dated: 23-11-/2015

(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

Diary No. 1375 2004 24-11-245

- 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.



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 REINSTATED IN SERVICE FROM 07/07/2015 WITH ALL BACK BENEFITS.

Respectfully Sheweth:-

- 1. That, on 05/11/2011, the Executive District Officer

 Health, Battagram advertised the vacant posts in

 Health Department at Battagram. Copy of

 advertisement is annexed as Annexure "A".
- 2. That, the respondent No. 3 after completion of all codal formalities upon the recommendation of Selection Committee Battagram, on 28/12/2012 appointed the appellant against the post of Junior Primary Health Care Technician (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:-

GROUNDS:-

- a. That, before issuance of show cause notice, no enquiry was conducted by the respondents upon the allegations leveled against the appellant nor the appellant was associated in any such inquiry.
- b. That, the appellant was not heard personally.
- 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".

1

- 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 poententiae, as once the order of appointment was acted upon cannot be withdrawn.
- k. That, the appellant had served the department honestly and diligently and not a single

complaint from any quarter was registered against appellant.

1. That this appeal is being filed within time.

It is, therefore, humbly prayed that on acceptance of this appeal, the order No. 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

Through;

(SAJJAD AHMED ABBASI)

Advocate High Court, Abbottabad.

VERIFICATION;-

Dated: $\frac{23-11-12015}{1}$

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
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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

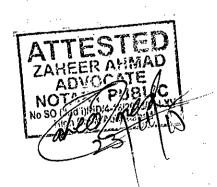
I, Sajid Ali son of Bashir Khan, resident of Village Ajmera, Tehsil & District Battagram, do hereby solemnly affirm and declare on oath that the contents of forgoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable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

DEPONENT

Identified By:-

(SAJJAB AHMED ABBASI)

Advocate High Court, Abbottabad



9

ANNEXURE - A"

1333 Also avallable on www.khyberpaknijunkhwo.gov.az

DIRECTORATE OF TRANSPORT GOVERNMENT OF KHYBER PAKHTUNKHWA

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. Gas Meter/Exhaust Gas Tester: 199 table for Mobiles)

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ad Tenders should reach Office of the understant of in 15 days of the 1st publication in newspaper, supplier mast be Sales Tax/ Income Tax Region and toward Tax/GST will be deducted at source in parameter rules.

her's authorization certificate should also in their

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OR TRANSPORT Directorate of To nent of Khöber Pakhtunkhya Room Floor Benevolent Fund Rullding/Pa and Ph. 091-3261499/09159214188

de on www.khyber/pakbiunkhya.gov.pk

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Attested

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OFFICER HEALTH BATTAGRAM.

ANNEXURE -" B"

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

Subject

APPOINTMENT AS JPHCT (PHYSIOTHROPY).

On the recommendation of Departmental Selection Committee Battagram. You are hereby appointed as Junior Primary Health Care Technician (Physiotherapy) in BPS- 69 (6200-380-17600) plus usual allowances as admissible under the rule on regular basis against the vacant post at DHQ Hospital Battagram with in . diate 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 DFIQ Flospital 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 be such rule and orders as may be issued by the Govt: from time to time for the category of Govt: Servant to which they belong.
- 6 You shall for all intents and purposes be Civil Servants except for the purpose of pension and gratuity. In lieu of the same you will be entitle contributory provident fund as per Govt: rules/instructions.
- 7. If y wish to resign from service you should be 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.
- You shall subject to all rules of Govt; pertaining to a civil servant in respect to efficiency and Discipline, conduct, Liability to criminal proceeding etc, and any special rules, Instruction issued by the Health Department specified to employee for breach of discipline or unsatisfactory service. The Health Department shall be competent to terminate the services of culprit without notice or compensation.
- 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 verificatic your professional or academic qualification
- 14. If you accept the offer of appointment on above terms and conditions, you should report to Medical Superintendent Office Hospital Ballo, am with in 15 days from the assumes of this offer.

Executive District Officer (Health)

A La Health Battagram.

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No. **2667-7/** / Dated Battagram the, Copy forwarded to the:-

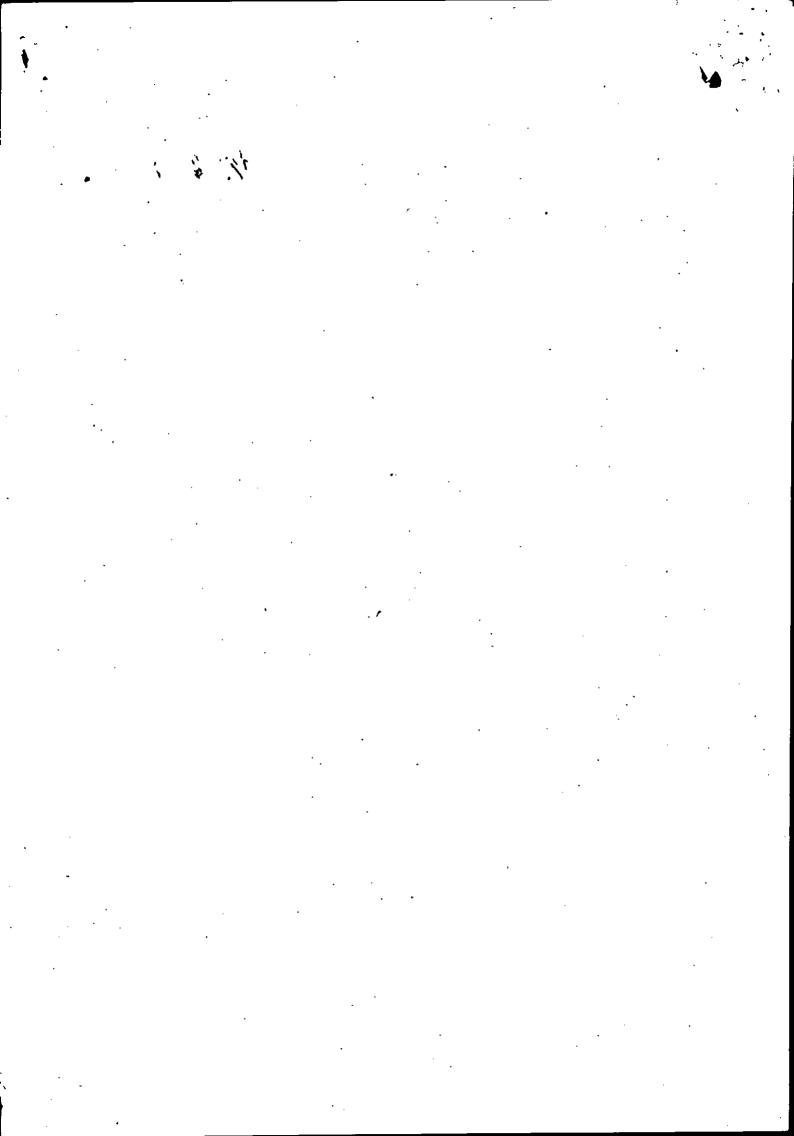
1. District Coordination Officer Battagram

2. Director General Health Services KPK Peshawar.

3. Medical Superintendent DHQ Hospital Buttagram

4. Accounts Section office of the undersigned.

Altested



Dr.Mehbooh Ur Rehman

Medical Superintendent, DHQ Hospital Battogram



ANNEXULE

To.

The Executive District Officer,

(Health) Battagram

Subject:

ARRIVAL/COMPLIANCE REPORT.

Sir.

Reference your order No. 27327 To el 28 12 112

I would like to inform that as per order above the following staff have result Their new assignment in this hospitalffrom the disc meath and age is a shell more which is submitted for information and further necessary actional base

	Said Ali S/O Bashir	Designation (CT	Date of Arrival 29 12 2012 (IN	Remark.
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No & date even above.-

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OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

No. 1584+86 / Dated 7 /

SHOW CAUSE NOTICE

NNEXURE " " I, Dr. Saifullah Khalid, District Health Officer, Eattagram, 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: parall (vi) of the E&D Rules 2011"

Lam 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, l, 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 bid 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:-
 - Removal from Service.
- 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.
- If no reply to this notice is received within seven days or not more than of litteen 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.

Director General Health Services KPK Peshawar with reference his No. 1206-09/Complaint Cell/2511/2014 dated 29.05.2014 for information phase.

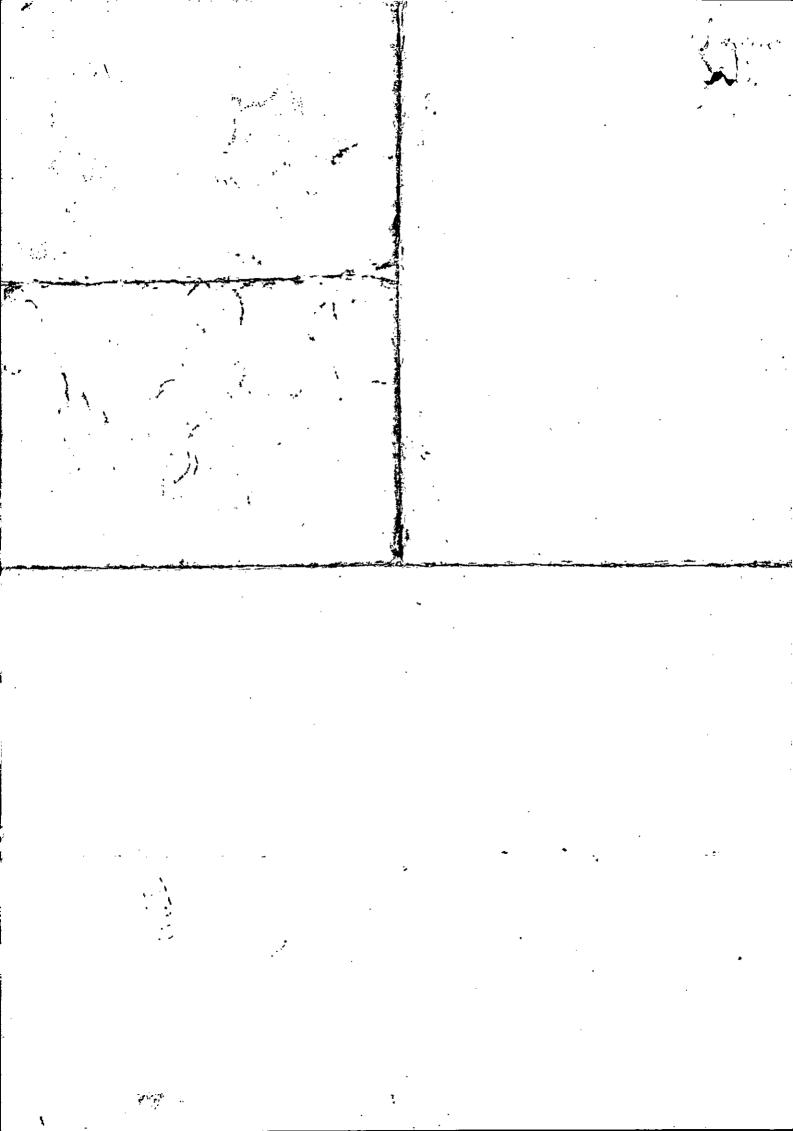
Medical Superintendent DHQ Hospital Battagram for information

Official concerned for compliance.

(Dr Saifullah Khalid)

District Health Officer Battagram

機能力 Hospital Bananse



بخدست جناب ڈسٹر کٹ سیلتھ آفیسر صاحب ڈسٹر کٹ بٹگرام

مضمور حواب طلی بایت وریفیکیشن ڈیلویه از میڈیکل فیکلٹی بشاور۔

راع الي ؛ جناب عالي ؛

ANNEXURE E گذارش ہیکہ جناب کے مفتر سے جاری کردہ لیٹر نمبر 86-1584 مورخہ 1584 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 ہوچکی 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 جو کہ فیکلٹی کے ساتھ رجسٹرڈ ہے کہ فیکلٹی کے ساتھ رجسٹرڈ ہے اسکو ویریفیکیٹن کیلئے چارسدہ اینسٹیٹیوٹ آف میڈیکل سائنسس پشاور ارسال کیا جائے۔ درخواست کے ساتھ بھرتی اشتہار ، لیسٹ میڈیکل سائنسس پشاور ارسال کیا جائے۔ درخواست کے ساتھ بھرتی اشتہار ، لیسٹ میڈیکل میاٹئی سے رجسٹرڈ کالج اور کابی سرٹیفیکیٹ منسلک ہے۔ سائل تا عمر دُعا گو رہیگا۔ مورخہ 18.05.2015

رز کر العارض ساجد علی جونیئر کلینیکل ٹیکنیشن فزیو تھراپی ڈسٹرکٹ ہیڈ کوارٹر ہسپتال بٹگرام

Alteriani.



OFFICE OF THE MEDICAL SUPERINTENDENT DHO 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 /1.201

OFFICE ORDER

ANNEXURE F

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:-

- l. Director General Health Service Khyber Pakhtunkhwa Peshawar.
- 2. DAØ 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.

Medical Superintendent DHQ Hospital Battagram Attested

بخدمت جناب ڈائر یکٹر جنرل میاتھ سر وسر جیر مختونخوایشاور سونوكري سيدخاست كيا به و يحسر اسر غلط خلاف قانون وخلاف واقعات ٢- استدعاميك فلم منيك إ-04-22 No 22 و07/07/2015 كوكالعدم وغير قانوني قر ارد ساكل الوجعد تمام سابقہ براغات و کری پر بحال کیاجائے۔ 2011 عالى يوسف ريد يالوى فيكنيش كمليم الماني كما-سائل كالعيال كا عِلْم جارى تيا فقل لفت ح یہ کہ تعدیاتی لیز موصول ہونے بعد سائل نے مطابق مر وجہ طریقہ کارا پنے تمام لواز مات مینی میڈیکل وغیر و کر پیکے یا قاعلہ و جاری ۔ یہ کہ تعدیاتی لیز موصول ہونے بعد سائل نے مطابق مر وجہ طریقہ کارا پنے تمام لواز مات مینی میڈیکل وغیر و کر پیکے یا قاعلہ و جاری بركذاى كے بعد سائل نے باقاعد كى سے الحان 2-11-82 اوئى فر اكف وش اسلوبى سر انجام دينائرون كاركيااور تا مال سائل کے بامت کسی قسم کی کوئی شکایت الم یے کہ سال 2014 میں آپ جناب سے حکم پرا وی ڈائر بکٹر DG آفس اور ڈاکٹر ل نیاز سابقدایم ایس مانسمر وہسپتال نے ایک ا مکوائری کیااور مذکور دا نکوائری میں انکوائر کی آفیسر زنے سابقہ (H)EDOادر DSC کے ممران کو مُوردِ الزام تھر ایا جبکہ مر کور والر امات اور سابقہ کار وائیوں سے نہ کوسائل کا کوئی تعلق تھا اور نہ سائل کو پہتے تھا کیو نکہ وہ دفتری امور سے متعلق تھا۔ ید کد مذکورہ انگوائری سے تقریباً ایک سال گزرنے سے بعد مور ند 2015-07-07 کومیڈیکل سپر فلڈنٹ ڈی آن کا کو ہشپتال بگرام نے سائل پر Major penalty ال کرنوکری سے براخاست کیا۔ یہ کہ مذکورہ حکم 2015-07-07 سرا کم غلط خلاف قانون وخلاف واقعات ہے کیونکہ مزکورہ انکوائزی میں نی نیز توسیائل کا کوئی بیان دیکارڈ کیا ہے اور نہی پرسل سماعت ہوئی ہے اور ای طرح Show cause وس DHO بگرام کے جاری کیا جگ Removel عکم DHQ بگر ام نے جاری کیا ہے۔ يركدمذ كور وبالاجمام اعكوائر يال اور احكامات خورسا حدمن مراجع ورواني عناد سح بدياد يرجارى كياب مراج والمراجع الموائيريال Altertal

یر کرد وا بخوار فرور شد میں سائل سے خلاف فور سا حدالا امات لگائے محمد میں جیکہ Show cause وکن کیا

ے میں اور دوانکوالیزی دھیر ہ میں ایکوس آفیس از بالے انساف سے بدادی قواعد کی خلاف ور زی کی ہے۔ پر سید کوردوانکوالیزی دھیر ہ میں ایکوس آفیس از بہران کے انساف سے بدادی قواعد کی خلاف ور زی کی ہے۔

للذا التدعامية الل ألومد تمام شاهر اعات كورى يربخال كرف كاحكم صادر فرمايا جادے.

، بورنى 03:08 20:15

العارض

ساديعلي ولرلزمان المروكورياد كورا سالة فرلوعة اليه ١٩ ما مراح

Altested

HEROCOLO SG.No. 137116

Board of Intermediate & Secondary Education

ABBOTTABAD

DETAILED MARKS CERTIFICATE Secondary School Certificate Examination

Session 200 1999 (Annual/Supplementary)

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Roll No: 28764

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

Serial No: 786479





CHARSADDA INSTITUTE OF MEDICAL SCIENCES & HEALTH SCHOOL PESHAWAR

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





(19)

ANNEXURE T

نیچنے دیئی گئے انسلی ٹیٹس قانونی اور میڈیکل نیکلٹی کے ساتھ دو سالہ میڈیکل ڈپلومہ کورسز کیلئے رجسٹر ڈھیں باقی ھر قسم کے انسٹی ٹیوٹین فیر قانونی ھیں اور طلبہ ان سے ھوشیار رھیں

يهلك سيكثر لهبرا سيأينل انسلى ثيونس

(۱) گردشت بیرامید یکل افسی بیدت آن میدیکل نیجانوی سوات (۲) گودشت بیرا میدیکل الشی بیدت آن میدیکل جینالوی ایدت آزاد (۴) گردشت بیرامیدیکل الشی نیوت آن میدیکل جینالوی ای آل تان (۳) -مرزشت بیرت کربچ بد بیرامیدیکل الشی نیوب لیدی ریدیک میتال بناور (۵) - پاکستان الشی نیوت آن کیونی آپتانالوی حیات آباد میدیکل کمهیس بناور (۱) - ۱۲ OS و السی نیوت آف میدیک ما تشریحات آباد بناور (۷) - آری میدیکل کارپس ایدن آباد (۸) - نیرانشی نیوش آن تیکنالوی ایدیکش بناور آرنگری ۱۱ کور

يرانيويت سيكشر بيبرا ميلايكل انسشى تبوش بشاور أوبيان

بود (۱) درازی المسنی نیون آف میڈیکل سائنسز دیک دوؤج ک پناور (۲) - جنان السنی نیون آف میڈیکل سائنسز ورمنک دوؤپدا ود (۱۳) به پاکستان السنی جیون آف میڈیکل لکٹنالوری چا ور (۲) به وزم محد السنی بوت آف میڈیکل سائنسز کل مراین به نیورش باوی پشاور (۵) بی تیبرالسنی نیون آف میڈیکل سائنسز نقیر آبا و پشاور (۲) - فاطر جنان الشنی بیون آف میڈیکل سائنسز دیمری گامان بنا ور (۵) به حیوالسنی تجویت آف میڈیکل سائنسز ارباب دوزبنا ود پشاور (۱۰) بیاب المدین السنی نیون آف سیڈیکل سائنسز پشاور (۱۱) بیکس السنی نیون آف میڈیکل سائنسز پشاور (۱۰) بیاب المدین المسنی نیون آف سیڈیکل سائنسز پشاور (۱۱) بیکس السنی نیون آف میڈیکل سائنسز پشاور (۱۲) بیشتر آف ایکسلنس فاری امیڈیکس ناوجود فیسک جنول دیشال جاست آباد بنا ور (۱۲) بوشود الشنی نیون آف میڈیکل سائنسز فوهمود

(١) تعليل إله على تاريد آف ميذ نكل ما تشركو إث

توعات لويبزن

مردان لاوبرن

(۱) بردان بیرا میدیگل ایسلی نیون مثام پیک مردان ر (۲) را ایست و تیست بیرا میدیگل ایسلی نیون مثام پیک مردان (۳) را ملائه بیرا میدیگل النتی نیوند موانی (۳) رئیستورکی بی امید نیکل النبلی نیونداش می ما و ان مردان سرده) رئیسرده النتی نیوند ۲ فی میدیگل ما تنسو جادمده (۲) رسیط النتی نیست ۲ ف میدیگل ما تنسز موانی (۷) رتبت بعالی النسلی نیوند آل ریافت میکندند ما تشرودان

لاكتنڌ ڌوميڙن

هذاره دويترت

(۱) زفيز الشيئوت آل ميذيكل ما تشز ايت آباد (۲) ـ نرغيز الشيئوت آل ميذيكل ما تشز برق بير (۲) ـ فرفيز الشيئورد آل سية نكل ما تشز المبعرد (۳) ـ ايست آب دا تشيئوت آف ميذيكل ما تشنز ايبت آباد (۵) ـ المينيك فيظ فالاميذيكل المنحل فيحت بالسمود (۲) ـ اومدياندا لشيوت آلت ميذيكل ما عشزا يبت آباد (۵) ـ المرا الحمل المشيئوت آف المبيديكل ما تشربالسمو

يَيْتُون/ڏيره انسماعتيل خان ڏويڙن-

()_زار النيفيون آف ميذيكر ماتمنز بول (۲)_ بول عادمية يكل الفييوث بنول (۳)_ والمثر كرد النيون آف مية يكل ماتمنز بنول (۳) رالمتاز النيفوث آف ميذ يكل ماتمنز بنول (۲) رينش الشيفوث آك مية يكل ماتمنز أي آئى فان (۲) واديسة الشيفيوت آف مية يكل ماتمنز (ي) آئى فان (۲) كال الشيفيات آك مية يكل ماتمنز لي آئى فان

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ناربح

Altested

A-

وكالب المد بعدالت سروس لر بيونل غير فيتوكول ليك ور -عنوان: سامريك بنام كورلمن طي ديايك -مقدمه مندرجه میں اپنی طرف سے واسطے بیروی و جواب دہی کل کاروائی متعلقه آل مقام 40001 = 500 (1812) 15 two 15 but کووکیل مقرر کرے اقر ارکرتا ہوں کہ صاحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کوکرنے راضی نامہ وتقرر ثالث و فیصلہ برحلف ودینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک رویبه وعرضی دعویٰ کی تصدیق اوراس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل ماکسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کواپینے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختہ مجھ کومنظور و قبول ہوگا۔ دوران مقدمہ جوخر چہ وہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔اگر کوئی پیشی مقام دورہ پر ہویا حدسے باہر ہوتو وکیل صاحب موصوف یا بند ہوں گے کہ پیروی مقدمہ ندکورہ کریں اور اگر مخار مقرر کردہ میں کوئی جز و بقایا ہوتو وکیل صاحب موصوف مقدمہ کی پیروی کے پابندنہ ہوں گے۔ نیز درخواست بمراداستجارت نالش بھیغہ مفلسی کے دائر کرنے اوراس کی پیروی کا بھی صاحب موصوف کواختیار ہوگا۔ لبذاوكالت نامةح مركردياتا كهسندر المرقع. _ 5 - 11 - 23

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

<u>COMMENTS ON BEHALF OF RESPONDENTS.</u>

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.
- 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.
- I. 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

elahu

Battagram

Respondent No. 03

Medical Superintendant DHQ Hospital Battagram

Respondent No.04

<u>PESHAWAR ABBOTTABAD BENCH.</u>

SUBJECT:-

WRIT PETTITION 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.

RESPINDANT NO. 4



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, Battagaram.

Subject:

ENQUIRY OF IRREGULAR APPOINTMENTS.

In continuation, of this Directorate letter No.2717-20/cc/2511/2014 dated 08/09/2014, I am directed to forward an enquiry report conducted by Dr.Niaz Muhammad 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.

- 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.
- \prod 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.
- Disciplinary action may be initiated against the culprits (Responsible for 111. this illegal appointment).

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

SERVICES, KHYBER PAKHTUNKW

PESHAWAR.



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 v 091 - 9210230

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

Dated 8 /09/2014

MOST IMMEDIATE

To,

- 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.

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

 $_{
m as}$ been able to produce the documents ibid that is too in piecemeal upto $10^{
m th}$ 5ctober 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: without inviting applications Bangash employment exchange (not available in District Battagram) or press advertisement.
- > Ward Ayas (nomenclature thereof not available in the sanctioned strength of District Battagram) have been appointed by Dr.Aqeel Bangash against the posts of Dais without observance of codal

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

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

> Inspite of the fact, meeting of the DSC was attended and merit list Representative of DCO Battagram the by who was this representative of the DG Health Services, but none of them were

able to pin point the irregularities mentioned above.

CONCLUSION

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

Only warning in this regard has already been issued to him.

New Marking in this regard has already been issued to him.

New Marking in this regard has already been issued to him.

New Marking in this regard has already been issued to him.

RECOMMENDATIONS

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

		·		Recommendation
S.No	Nomenclatu	Names of	Observation of the	Kecommendation
3.140	re of the	employees	Committee	
•	post	appointed.		If the marks of
1	Receptionist	ljaz Ali s/o		III THE THE
	(merit list at	Muhammad		1 ' • •
	Annex: I)	Khateeb(Battag	qualification but BA degree	irregularly added in
		ram)Merit list	not produced. b)As per matric certificate,	
		at Annexure-I	the Official has got 2 nd	deleted, another
			divn:but marks given of lst	candidate in the
		· í	divn:	merit list would
			c) Matric certificate not	1 2 - 1 1
			verified from the concerned	for / selection.
l				ſ

			,		
,	y /		· ·	Board of Intermediate and	Therefore, show
3/			;	Secondary Education but	cause notice may,
				salary started.	be served upon
	1		· ;		Mr.ljaz for removal
				5.	from service and his
	1	,			salary stopped.
á	*		0.6.1	a)Marks for higher	Beside irregularity
4	2		Muhammad	qualification allotted two	at SI:No.a of the
	ļ	Qu. 4.3.3.3	Wasim s/o	step above while the	
	-	(1114111	Muhammad		Muhammad Wasim
		Annex:II)	Bashir		has been appointed
			(Battagram)Mer	b)No certificate/diploma in	1 1 1
	Ì		it list at	Cardiology produced from	
			Annexure-II	Medical Faculty KPK Pesh:	the Medical Faculty;
				Wedical Faculty Ki K i esii.	he may be served
					upon with show
					cause notice for
	×.·				removal from
1			;		service and his
					salary stopped.
		,	٠.		Jailary 230 pp
	<u> </u>		A1' 1/1	He is matric with science and	May be allowed to
	3	Malaria			
		Supervisors	s/0 Ghulam	Medical Faculty Peshawar.	Jr.PHC Tech (MP)
l	lery	(Merit list at	_	Medical Faculty Festiawart	being qualified but
,	المناسمين	Annex:III)	(Battagram)		after verification of
Doo	drifus				his matric
Ų2	ַ װ <u>ַ</u>	·			certificates etc.and
					diploma from the
					Medical Faculty
			7-		Peshawar. Till then
					his salary must be
					stopped and if
			, ,		found fake, show
			·	· · · · · · · · · · · · · · · · · · ·	. '
				r	be served upon him
					for removal from
					101 Tellioval Hom

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J.	2	\mathcal{C}	Э	<u> </u>
y	A			service.
	Supervisors	Shah s/o Syed	a) No documents produced to the Enquiry Committee. b) He was already serving as	As per revised service structure of Paramedics notified
	(Merit list at Annex:III)	NawabShah	Insect Collector but again applied for Malaria	in 2006, the post of insect collector has
			Supervisor and subsequently appointed in contravention	since been re- nomenclatured as
			of the approved S/Rules.	Jr.PHC Tech:(MP), therefore, he may be allowed to
				be allowed to continue as Jr.PHC Tech:(MP) and his
			سس	irregular recruitment order
				as Malaria Supervisor
				withdrawn
	Malaria	iii.Amjed Khan	Recruited in violation of the	
Ì	Supervisors	s/o Babu Khan	Approved S/Rules & without valid diploma from Medical	
	(Merit list at Annex:III)	(Battagram)	Faculty Peshawar.	from service and salary stopped.
	Malaria	iv.Muhammad	Recruited in violation of the	
	Supervisors	Amied s/o	Approved S/Rules & without	upon show
	(Merit list at	1	valid diploma from Medical	
	Annex:III)	Afzal	Faculty Peshawar.	removal from
		(Battagram)		service and salary stopped.
4	JCT(Physioth erapy) Merit	Bashir Khan	a)Matric with arts(science required)	upon show
	list at Annex:IV	(Battagram)	b) No valid diploma from Medical Faculty Peshawar.	removal from service and salary
			•	stopped.
5	JCT Anaesthesia	Muhammad Rafiqullah Khan	Matric with science with valid diploma from Medica	

di	ÿ .		(
1		j	Merit list at	s/o Muhammad	Faculty Peshawar, albeit not	but after
	1		Annexure-V	Aslam	verified.	verification of the
	/			Khan(Bannu)		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
					<i>*</i>	from service.
6	·— —		Junior Clerks	i.Fahim Khan	a) Matric certificates of all	May be allowed to
			Merit list at	s/o Muhammad	the employees perused but	continue service
		•	Annexure-VI	Bashir	not verified from the	subject to
		÷		(Battagram)	concerned Boards.	producing of
			·	ii.Shahid Ali s/o	b) Advertisement for the post	advertisement
				Adam	not produced.	notice by the DHO
				Khan(Battagra		Battagram and
				m) .		verification of the
				iii.S.Maqbool		Matric Certificates,
			ĺ	Shah s/o		till then their
				S.Muhammad		salaries must be
			i	Zahir		stopped.
				Shah(Battagram		
)		
				iv.Niaz		
	,			Muhammad s/o		
				Muhammad		
				Faroosh(Battagr		
				am)		,
				v.Shah Faisal		
				s/o Muhammad		
		.		Afzal		
		;		(Battagram)		
	7		Store	Dilshad s/o Said	a) He was in-service Sweeper	
		:	Keeper	Hazrat	but his matric and dispenser	continue service

. Jaggar				
	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 certificate, diploma and degree and if found bogus, must be served upon with show cause notice for removal from service. Till
9	JCT Surgical Merit list at Annexure-IX	Azmatullah	a)Matric with science having no valid diploma b)) Advertisement for the post not produced.	upon with show

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

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				Matric certificate/
1	0			degree and if found
				bogus, must be
				served upon with
	. 1	,		show cause notice
	. · · · · ·	/	<i>y</i> .	1
				for removal from
				service. Till then his
				salary must be
	-			stopped.
	JCT	ii.Tanzeelur	a)No diploma from Medical	May be served
		Rahman s/o	Faculty Peshawar.	upon with show
	Ophthalmol ogy Merit	Himayatullah	b) BA degree not produced	cause notice for
	-01	(Battagram)	but marks for higher	removal from
	list at	(Dattagrain)	qualification allotted.	service and salary
	Annex:X		c) Advertisement for the post	stopped.
			not produced.	
			a)No recruitment order	May be allowed to
新	JCT	ii.Rafique	produced.	continue service
	Cardiology	Ahmad s/o	b)Matric with science having	subject to
3	Merit list at		diploma from Medical	producing of
	Annexure-XI	(Swat)	Faculty Peshawar.	advertisement
			c)According to Feroz Sr.Clerk	1.0
			of DHO Office Battagram the	
			Tech: has been transferred	verification of
			· .	matric certificate,
			to Swat.	diploma and degree
			d)) Advertisement for the	and if found bogus,
			post not produced.	must be served
				upon show cause
:.				notice for removal
5.	:	a or		from service. Till
			1	then his salary must
•				be stopped. DHO
				Battagram to
				inform the DHO/MS
			•	Swat where he has
				been transferred.
				peen transierreu.

			greener		
	ру	siothera Merit list .nnex: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/Advertis ement notice by the DHO Battagram and verification of certificate/diploma and if failed to produce FA certificate or the documents found bogus, must be served upon with show cause notice for removal from
-	·				service. Till then his salary must be stopped.
		÷	ii.Mehboobulla h s/o Rai Khar (Karak)	produced, seems fairly bogus c) Advertisement for the post	subject to producing of
				not produced.	advertisement notice by the DHO Battagram and verification of certificate/diploma.
	ve ^s				If found bogus, must be served upon with show cause notice for removal from
		٠.			service. Till then his salary must be stopped.

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13	Electrician	i.Adil s/o	a)advertisement for the post	May be allowed to
	Merit list at	Muhammad	not produced.	continue service
	Annexure-	Niqab	b)8 marks for higher	subject to
	XIII ·	(Battagram)	qualification allotted but BA	producing of
		·	degree not produced.	advertisement
_	•		·	notice by DHO
				Battagram and
				verification of
	-	· · · · · · · · · · · · · · · · · · ·		matric certificate
	į į			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	degree produced but not	1
		(Battagram)	verified as yet.	subject to
:			b)Advertisement for the post	1
:		:	not produced.	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

jį		-		·	salary must be
					Salary
			• •		stopped. May be served
		LCT.	i.Yar	a) Matric with science with	11107
	14	JCT		no valid diploma.	upon show
		Radiology Merit list at	Muhammad	b) Advertisement for the post	cause notice for
		Merit list at Annexure-XIV	l .	not produced.	removal from
		Alliexare mi	Javed	THOSE PROGRAM	service and salary
			(Battagram)		stopped.
				a) Matric with science with	May be served
_			ii.Sirajuddin s/o	a) Matric With science With	upon show
			Firdus Khan	no valid diploma.	ا ۔ ا
			(Mansehra)	b) Advertisement for the post	removal from
				not produced.	service and salary
					stopped.
		1.07	i.Mujeebur	a) Matric with science with	May be allowed to
1	15	JCT	1 .	diploma from Med: Facult	y continue service
	}	Anaesthesia	, manning to	l l tuorified a	s subject
		Merit list a		yet.	producing
	ļ.	Annexure-	(Battagram)	b) 12 marks for highe	er Advertisement
		XV		qualification allotted but M	A notice by DHO
				degress not produced.	Battagram and
				c) Advertisement for the po	st verification of
	}	,			certificate/diploma.
				not produced.	If failed to produce
,	1				the advertisement
					notice and the
					documents found
					bogus, must be
					served upon with
					served upon with
				·	show cause notice
					for removal from
					service. Till then his
				·	salary must be
	-				stopped.
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	·	· · · · · · · · · · · · · · · · · · ·	ii.Yousaf Ali	a)Matric with science with	May be allowed to
	İ			certificate from Med: Faculty	continue service
	,	ı	Khan s/o Fateh	Peshawar but not yet	subject to
			Khan	verified.	producing of
			(Battagram)	b) Advertisement for the post	Advertisement
	1			not produced.	notice by DHO
		ļ	🚻	not produced.	Battagram and
					verification of
					certificate/diploma.
				·	If failed to produce
					the advertisement
					notice and the
	,				documents found
	11		,	·	bogus, must be
	ļ			•	served upon with
					show cause notice
					for removal from
				:	service. Till then his
					salary must be
			1 7		stopped.
_				No and a with auto	May be allowed to
1	.6	Plumber	Zahir Shah s/o		
		Merit list at			subject to
		Annex:XVI	(Battagram)	post produced.	producing of
					Advertisement
					1
		f			
					Battagram and
					verification of
		· .			certificate/diploma.
		٤			If failed to produce
					the advertisement
					notice and the
					documents found
					bogus, must be
	•		·		served upon with
					show cause notice
			,		for removal from

S	service. Till then his 🖊
	/
	salary must be
/ s	stopped.
	and the state of the state of the
	and the second of the second
17 Generator Sher Bahadur a) No advertisement notice, I	May be served
	upon with show
	cause notice for
produced. (Battagram)	removal from
	service and salary
	stopped.
18 Tube Well Tufail a)No advertisement notice,	May be served
1 1 1	upon with show
	cause notice for
produced Muhammad	removal from
	service and salary
	stopped.
19 Class-IV As per list at a)No advertisement notice,	May be served
	upon with show
Merit list not documents produced.	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.

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:-

 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: 21-12-12016

(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.

DEPONENT

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Appeal No.	-	ì.	-A/2016

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

Khyber Pakhtukhwa Service Tribunal

Diary No. 440

SERVICE APPEAL

Dated 02-6-20/6

APPLICATION FOR **ISSUANCE** RESTRAINING ORDER IN THE **NAME** RESPONDENTS NOT TO CALL, AND RECEIVE APPLICATION FOR FILLING THE POST OF DHQ, PHYSIOTHERAPY INHOSPITAL 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.

out up to the court

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: /- 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 form this Honourable Tribunal.

DEPONENT

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For PHC Technicism (MCH); (BPS-12); Age; 18 to 30

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