

09.11.2017

Petitioner in person present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Petitioner requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for further proceedings on 05.12.2017 before D.B alongwith main appeal.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

05.12.2017

Counsel for the petitioner and Mr. Usman Ghani, District Attorney for respondents present. Since the main appeal has been decided as per detailed judgment, therefore the instant Misc. application is also disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.


Announced:
05.12.2017


(MUHAMMAD AMIN KHAN KUNDI)
Member


(AHMAD HASSAN)
Member


15.0.2017

Counsel for the appellant and Mr. Yar Gul, Assistant
alongwith Asstt: AG for the respondents present. To come up for
further proceedings alongwith main appeal before the D.B on
02.08.2017.


Ahmad Hassan
Member

02.08.2017

Junior to counsel for the petitioner and Asst: AG for
respondents present. Seeks adjournment as learned senior
counsel for the petitioner is busy in the august Supreme
Court of Pakistan. Adjourned. To come up for further
proceedings on 17.08.2017 before D.B alongwith main
appeal.



Member


Chairman

17.08.2017

Petitioner in person present. Mr. Kabirullah Khattak,
Assistant AG for the respondents present. Petitioner seeks
adjournment on the ground that his counsel is not available
today. Adjourned. To come up for further proceedings on
09.11.2017 before D.B alongwith main appeal.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

02.03.2017

Petitioner with counsel and Mr. Yar Gul Assistant
alongwith Assit. AG for the respondents present. Requested
for adjournment. Last opportunity is granted to the
respondents. For resolution of the controversy. To come up for
further proceedings/written reply on 11.04.2017 before S.B.


CHAIRMAN

11.04.2017

Counsel for the appellant and Mr. Yar Gul, Senior
Clerk alongwith Addl. AG for the respondents present.
Learned Addl. AG requested for further adjournment. On
the request of Learned Addl. AG one more opportunity is
given to the respondents. To come up for resolution of the
controversy/further proceedings/written reply on
10.05.2017 before S.B.


Chairman


10.05.2017

Clerk to counsel for the appellant and Mr. Dr. Khuram
Shehzad alongwith Addl. AG for the respondents present. To
come up for resolution of the controversy/further proceedings/
written reply on main appeal on 15.06.2017 before S.B.


Chairman

23.12.2016

Petitioner with counsel and Dr. Shafique, Medical Officer alongwith Asst: AG for respondents present. Through instant misc: application petitioner seeks implementation order of this Tribunal in service appeal No. 940/16, however this office inadvertently registered the misc: application as execution petition, hence the same be relisted and renumber and misc: application be clubbed with the service appeal referred above which is fixed on 12.01.2017. To come up for further proceedings on 12.01.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER

12.01.2017

Counsel for the petitioner and M/S Yar Gul and Shafiq, Medical Officer alongwith Addl. AG for the respondents present. To come up for further proceedings on 26.01.2017 before S.B alongwith main appeal.


Chairman





26.01.2017

Appellant with counsel and M/S Yar Gul, Assistant and Dr. Muhammad Shafique alongwith Addl. AG for the respondents present. To come up for further proceedings alongwith main appeal on 02.03.2017 before S.B.


Chairman

FORM OF ORDER SHEET

Execution Petition No. 209 /2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.11.2016	<p>The Execution Petition of Mr. Ikram Ullah submitted to-day by Mr. Shumail Ahmad Butt Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	11.11.2016	<p>This Execution Petition be put up before S. Bench on - <u>11-11-16</u></p> <p style="text-align: right;"> MEMBER</p> <p>Counsel for the petitioner and Additional AG for respondents present. Notice be issued to the DHO, Nowshera here to appear in this Tribunal alongwith record on next date. To come up for implementation report/further proceedings on 25.11.2016 before S.B.</p> <p style="text-align: right;"> (ABDUL LATIF) MEMBER</p>
	25.11.2016	<p>Since learned Member (Judicial) Mr. Pir Bakhsh Shah is on leave, therefore, the case is adjourned for the same on <u>23-12-2016</u> before S.B.</p> <p style="text-align: right;"> Reader</p>

(10)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition no. 209/2016

Misc. Application No. 209 /2016

vide order sheet dt. 23-12-16

IN

Service Appeal No. 941 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1104

Dated: 7-11-16

Ikram Ullah, Porter
Office of the EDO Health Pirpai,
District Nowshera.

.....Applicant/ Appellant

Versus

1. **Government of Khyber Pakhtunkhwa,**
Through Secretary, Health Department,
Civil Secretariat, Peshawar.
2. **Directorate General Health Services,**
Through Director General,
Attached Department Complex,
Khyber Road, Peshawar.
3. **District Health Officer,**
Nowshera.
4. **Medical Superintendent,**
Saidu Group of Teaching Hospitals,
Saidu Sharif, Swat.

.....Respondents

**APPLICATION FOR THE IMPLEMENTATION OF THE
ORDER OF THIS HONORABLE TRIBUNAL DATED:
07.09.2016, PESHAWAR IN SERVICE APPEAL. NO. 94/2016.**

Respectfully Sheweth:

1. That the Petitioner had earlier filed a Service Appeal. No. 94/2016 for the redressal of his grievance against the Respondents which is pending before this Honorable Service Tribunal and next date of hearing is 28.11.2016.

- 2. That the Applicant/ Appellant also filed an application along with appeal for Interim Relief and sought the suspension of the transfer order as well as release of salary. This Honorable Tribunal was kind enough to grant interim relief dated 07.09.2016 in favor of the Applicant while suspending the impugned transfer order and directed the Respondent. No. 2 to make immediate arrangement for the release of Applicant salary furthermore the Applicant was also directed to report immediately to the office of the Respondent. No. 2.

(Copy of the Order dated 07.09.2016 is Annexure "A")

- 3. That the Applicant/Appellant immediately approached the office of Director General Health Services for the implementation of the Order of this Honorable Tribunal but till date the Applicant has neither been adjusted on his previous post of work nor his salary has been released.
- 4. That due to this behavior of the Respondents there is possibility that the Applicant and his family will die because of starvation as he is a Class-IV civil servant performing his duties since last over decades and he has got no other source of income.
- 5. That in the Order dated 07.09.2016 this Honorable Tribunal directed the Respondent. No. 2 to implement the Order in true letter and spirit but till date the order is not implemented in its true spirit as the Respondent. No. 2 directed Respondent. No. 3 to make arrangement for their adjustment but in vain however this honorable Tribunal through order suspended the impugned transfer order and further directed Respondent. No. 2 to make immediate arrangements for the release of salary which is stopped since last 6/7 months.

(Copy of the DG Letter to DHO Nowshera is Annexure "B")

- 6. That the Respondent. No.3 in response to Director General Health Services letter, refused to implement the Court order while stating a false reason that all the Applicants/Appellant were transferred to their home districts which is totally a wrong statement as the Applicant and his colleagues belong to the district of Nowshera and one each to district Charsadda and Peshawar however they were transferred hundreds of kilometers away to Swat.

(Copy of DHO Letter to DG Health Services is Annexure "C")

- 7. That the Respondents are reluctant to implement the order of this Honorable Tribunal and are repeating the previous story while shifting the burden to each other and no one is ready to adjust the Applicant or release his salary however there is much possibility that due to their

delaying tactics and shifting burden the Applicant and his family will die because of starvation.

8. That the act of the Respondents are against the law and natural justice as well as the order of this honorable Tribunal.

It is therefore most humbly prayed that on acceptance of this Application/Petition, the Respondent. No.2 & 3 may kindly be directed to implement the order dated 07.09.2016 in its true spirit and essence in Service Appeal. No. 941 of 2016, passed by this honorable Tribunal to meet the ends of justice.

Any other remedy if not specifically asked for may also be granted if deemed fit, just and appropriate to this honorable Tribunal.

Applicant/ Appellant

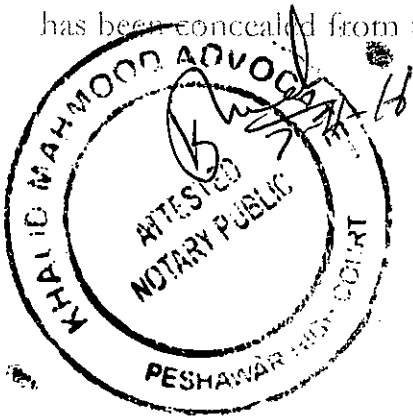
Through

Shumail Ahmad Butt,
Advocate Supreme Court of
Pakistan,
&
H Bilal Khan
Advocate High Court,
Peshawar.

Dated: 31/10/2016

AFFIDAVIT

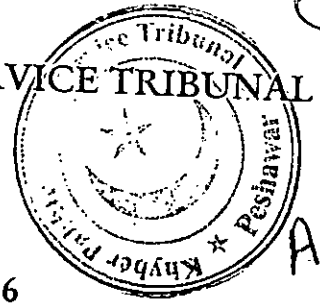
I, Kyam Ullah, Porter, do hereby solemnly declare that the contents of the above Application are true and correct to the best of my Knowledge and belief and nothing has been concealed from this Honorable Tribunal.



DEPONENT

[Handwritten signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



Service Appeal No. 941 /2016

Ikram Ullah, Porter
Office of the EDO Health Pirpai,
District Nowshera.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 951

Dated 05/9/2016

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa,
Through Secretary, Health Department,
Civil Secretariat, Peshawar.
2. Directorate General Health Services,
Through Director General,
Attached Department Complex,
Khyber Road, Peshawar.
3. District Health Officer,
Nowshera.
4. Medical Superintendent,
Saidu Group of Teaching Hospitals,
Saidu Sharif, Swat.

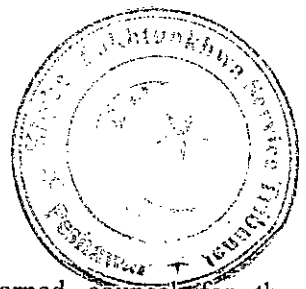
Filed to-day

[Signature]
Registrar
05/9/2016

.....Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE
IMPUGNED TRANSFER ORDER. NO. 3905-17/PERSONNEL/NSR
DATED 12/05/2016 WHEREBY THE APPELLANT HAS BEEN
ILLEGALLY AND UNLAWFULLY TRANSFERED FROM DISTRICT
NOWSHERA TO SAIDU GROUP OF TEACHING HOPITALS, SAIDU
SHARIF SWAT BY DIRECTOR GENERAL HEALTH SERVICES AND
ALL SUBSEQUENT ~~ORDERST~~ CONSEQUENT THERE TO OR
ARISING THERFROM.

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



(5)

07.09.2016

Counsel for the appellant present. Learned counsel for the appellant submitted that the appellant is a Class-IV employee, who is a bonafide resident of District Nowshera who was transferred from District Nowshera to Swat contrarily to rules and with malafide so that the post of the appellant might become vacant. He argued that minutes of the meeting dated 23.05.2016, copy of which is available on file, is proof of the contention that the transfer of the appellant was made on malafide. While routing this Tribunal through record, the learned counsel for the appellant further argued that the post at Swat was also not available to the appellant in view of the order of the Hon'ble Peshawar High Court Swat Bench as reflected in the M.S letter dated 25.05.2016. The learned counsel urged that the appellant while rendering services for sufficient long time in the Health Department, was forced to seek for duty from post to pillar and pillar to post, for the sake of his children and family and presently future of the appellant and his family has been made bleak and precarious. The learned counsel stressed that the impugned order is based on malafide as well as against principle of natural justice and is in conflict with the rules and policy of the government. He also submitted that the appeal is within time. He requested that the impugned order may be suspended and the respondents may be directed to regularly pay salary to the appellant.

Points urged at the Bar need further consideration. Admit. Subject to deposit of security and process fee within 10 days where-after notices be issued to the respondents for written reply/comments for 06.10.2016 before S.B. Meanwhile the impugned transfer order stands suspended. Since it is not clear that the post at Nowshera is presently available to the appellant, therefore, the appellant is directed to immediately report to the office of DG Health Peshawar who is directed to ensure arrangements for payment of salary to the appellant per rules.

Appellant Deposited Security & Process Fee

Certified to be true copy

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Self-Number
~~Signature~~

Date of Presentation of Application 03-11-16
 Number of Words 800
 Copying Fee _____
 Urgent _____
 Total _____
 Name of Applicant ADD
 Date of _____ 03-11-16
 Date of Delivery _____ 03-11-16

(6)

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR**

E-Mail Address: nwfpdghs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax# 091-9210230



B

OFFICE ORDER

In pursuance of Judgment passed by Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeals No.940/2016 to 945/2016 the posting/ transfer order of Class-IV employees of District Nowshera issued vide this office order bearing Endst: No. 3905-17/Personnel/NSR dated 12.05.2016 stands suspended till final verdict of the Court.

Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR.
Dated _____/10/2016.

No _____/Personnel/NSR

Copy forwarded to:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. P.S to Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar.
3. DHOs Nowshera, Charsadda, Peshawar.
4. Medical Superintendent Saidu Group of Teaching Hospitals Swat.
5. Assistant Director (Litigation), DGHS Khyber Pakhtunkhwa Peshawar.
6. Officials concerned.

For information and necessary action.


DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR

6/10/2016



OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

No. 9125 / DHO NSR

Date: 24 / 10 / 2016

To

The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

(7)
C

Subject: OFFICE ORDER
Sir,

With reference office order bearing endorsement No. 6567-72/Personnel/NSR, dated 07-10-2016. I have the honour to submit that there is no vacant post of Class-IV under the control of this office to adjust them as their posts has already been filled after their transfers to home district on need and emergency basis.

Report is submitted for information please.

[Signature]
District Health Officer
Nowshera