

12.03.2020

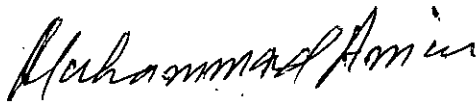
This order shall disposed of an application filed by Mr. Amjid Ali Assistant on behalf of respondent department for correction of title of the judgment dated 08.10.2019 passed by this Tribunal.

File was requisitioned. Brief facts are that the appellant Dr. Saleem Iqbal filed service appeal No.162/2016 against the Govt. of Khyber Pakhtunkhwa through Chief Secretary Peshawar and three (03) others. The appeal was contested by the respondent department and after hearing the arguments the appeal of the appellant was accepted vide judgment dated 08.10.2019 but inadvertently the title of the appeal of the judgment was mentioned as, Dr. Saleem Iqbal, Versus The Secretary Higher Education Department.

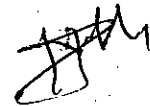
Mr. Amjid Ali Assistant Health Department submitted application for correction of the above mistake. The reason mention in application appear to be genuine hence the application is accepted and the title in the judgment delivered by this Tribunal on 08.10.2019 be read as Dr. Saleem Iqbal Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Peshawar.
2. Secretary Health, Government of Khyber Pakhtunkhwa Peshawar and two (02) others, instead of The Secretary Higher Education Department Government of Khyber Pakhtunkhwa Peshawar & three (03) others.

This order will be considered as part and parcel of the judgment dated 08.10.2019



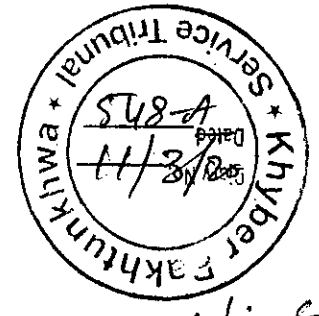
(M. Amin Khan Kundi)
Member



(Hussain Shah)
Member

Announced
12.03.2020

محترم جناب جسٹس ایف ایف ایف



محترم سربراہ ایف ایف ایف اور

عنوان :- درخواست لبرائے درستی (اپریل 2016/16)

سید اقبال بیگم حکومت

جناب عالی!

مذکورہ بالا اپریل میں Health کی

بجائے Haigher Eder لکھا گیا ہے۔

لہذا عہدہ باجی عترما کے عذرہ کو جسٹس

کرات کا حکم ہوا۔ عترما کے مسئلہ پر عترما کی۔

محکم دلائل سے مزین و متنوع ومنفرد موضوعات پر مشتمل مفت آن لائن مکتبہ

اللہ اعلم

آپ کے بارے میں

Attached
11/3/2020

الحمد للہ

محترم سربراہ ایف ایف ایف اور

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	08.10.2019	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>AT CAMP COURT SWAT</u></p> <p style="text-align: center;"><u>Appeal No.162/2016</u></p> <p>Date of Institution ... 22.02.2016 Date of Decision ... 08.10.2019</p> <p style="text-align: center;">-----</p> <p>Dr. Salim Iqbal, (Ex-Assistant Professor Urology, Gomal Gomal Medical College, D.I Khan) resident of House No.2, Haji Ghamy Lar near Telephone Exchange (PTCL) Makin Bagh Mingora Swat.</p> <p style="text-align: right;">-----*----- Appellant</p> <p style="text-align: center;"><u>Versus</u></p> <p>The Secretary Higher Education Department Government of Khyber Pakhtunkhwa Peshawar and (03) other ----- Respondents</p> <p style="text-align: right;">Muhammad Amin Khan Kundi.....Member(J) Mr. Hussain ShahMember (E)</p> <p><u>JUDGMENT</u></p> <p><u>Mr. HUSSAIN SHAH</u>:-Learned counsel for the appellant and Mr. Anwar Ul Haq learned Deputy District Attorney for the respondents present.</p> <p>2. The instant appeal preferred with the prayer that the impugned order dated 07.10.2015 may be set aside and the appellant may be allowed to continue his service as Assistant Professor (BPS-18) in Urology Department of Gomal Medical College, D.I Khan.</p> <p>3. As per the facts mentioned in the memo of the appeal the appellant went abroad on study leave/Ex-Pakistan leave which was to be expired on 28.10.2014. Prior to the expiry of his leave, the appellant approached respondent No.2 through an application for extension of leave due to non completion of the Research of his PHD and his treatment in the United Kingdom. The appellant also provided documentary evidence from the University of Glasgow Caledonian University in UK and certificate regarding his ill health and necessary treatment of Pulmonary Fibroses from Garth evil Hospital Glasgow. However, the penalty of removal from</p>

service was imposed by the competent authority vide impugned order. The appellant preferred a departmental appeal through his counsel which was not responded hence preferred the instant service appeal, U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The learned counsel for the appellant argued that the impugned order was issued without any notice to the appellant at his address in U.K hence the impugned order is illegal as the appellant was penalized without giving him a chance of personal hearing. Further argued that the application for extension of study leave was not considered by the respondents despite the reasons of non completion of PHD research work and the treatment of extremely serious disease of Cancer. Further argued that the absence of the appellant was not willful/deliberate and he was compelled to stay for the completion of his PHD Research as well as continuing the treatment of his Pulmonary fibroses. Learned counsel for the appellant further explained that the respondents failed to fulfill the mandatory provisions of law in letter and spirit. Further contended that the appellant applied for extension of Ex-Pakistan leave well in time and provide authentic documentary evidence pertaining to two (02) grounds i.e. a letter from the University and also a certificates from the hospital concern where he has being treated for a health condition Pulmonary fibroses. Learned counsel for the appellant further explained that the respondents imposed major penalty of removal from service in-violation of the relevant laws and rules. The learned counsel for the appellant relied upon the judgment of this Tribunal, Service appeal No. 868/2012 titled Dr. Abdul Sattar Versus Secretary Government of Khyber Pakhtunkhwa, Health Department.

4. The learned Deputy District Attorney contested the facts, grounds of the appeal and arguments of the learned counsel for the appellant and stated that the application of the appellant for further extension of leave

was not accepted by the competent authority and was regretted vide notification dated 08.01.2015. As the appellant did not join his duty hence he was removed from service on the grounds of absence vide impugned order. Further argued that notice of absence was issued at its home address as well as his foreign address and two leading national daily newspaper but no response was received from the appellant. As regarding the non completion of research work of the PHD of the appellant and his treatment abroad the respondent authorities approached through e-mail and the concern university and the hospital and the response did not substantiate the claim of the appellant. He further contended that the appeal may be dismissed as carries no merit. Moreover, the respondent authorities also referred in there Para-wise comments certain instance pertaining to his previous service record.


ST/2014


5. Arguments heard. File perused.

6. After the detailed scrutiny of the document record on file arguments and counter arguments of learned counsel for the appellant, it is and observed that the respondents authorities admitted the fact that the appellant was abroad after getting Ex-Pakistan leave for doing his PHD. The same Ex-Pakistan leave was further extended and before the expiry of the said leave, the appellant submitted another application for extension on the grounds of his ill health and incomplete study of PHD. Contention of the respondents department regarding the verification of his ill health and non completion of his PHD work, the Learned counsel for the appellant explained the mistake causing confusion. In this regarding he explained that the E-mail sent by the respondent department to the university for verification of admission was for Saleem Iqbal while in the United Kingdom and other Western Countries in official documents the second name is written first which means instead of

Saleem Iqbal he is to be addressed as Iqbal Saleem. To substantiate his contention the learned counsel for the appellant showed the credit card and Driving License of the appellant, wherein the name is written as Iqbal Saleem. This Tribunal agreed to the contention of the appellant. The absence of the appellant from duty was not willful and was beyond the control of the appellant. It appears that his application for extension in his leave without pay should have been accepted keeping in view of his health condition.

07. In view of the above discussion we are of the considered opinion that the appellant was compelled by his ill health condition to continue his treatment abroad hence the appeal is accepted, the impugned order is set aside and the period of his absence i.e. 29.10.2014 till the issuance of the impugned order i.e. 07.10.2015 and the period thereafter till his rejoining the duty after this judgment to be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member
At Camp Court Swat

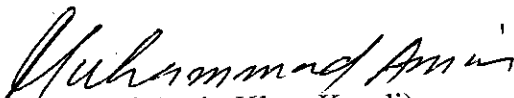

(Hussain Shah)
Member
At Camp Court Swat.

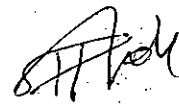
ANNOUNCED
08.10.2019

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	08.10.2019	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>AT CAMP COURT SWAT</u></p> <p style="text-align: center;"><u>Appeal No.162/20186</u></p> <p>Date of Institution ... 22.02.2016 Date of Decision ... 08.10.2019</p> <p style="text-align: center;">-----</p> <p>Dr. Salim Iqbal, (Ex-Assistant Professor Urology, Gomal Medical College, D.I Khan) resident of House No.2, Haji Ghamy Lar near Telephone Exchange (PTCL) Makin Bagh Mingora Swat.</p> <p style="text-align: right;">----- Appellant</p> <p style="text-align: center;"><u>Versus</u></p> <p>The Secretary Higher Education Department Government of Khyber Pakhtunkhwa Peshawar and (03) other ----- Respondents</p> <p style="text-align: center;">Muhammad Amin Khan Kundi.....Member(J) Mr. Hussain ShahMember (E)</p> <p><u>JUDGMENT</u></p> <p>Mr. HUSSAIN SHAH:- Learned counsel for the appellant and Mr. Anwar UI Haq learned Deputy District Attorney for the respondents present.</p> <p>2. The instant appeal preferred with the prayer that the impugned order dated 07.10.2015 may be set aside and the appellant may be allowed to continue his service as Assistant Professor (BPS-18) in Urology Department of Gomal Medical College, D.I Khan.</p> <p>3. As per the facts mentioned in the memo of the appeal the appellant went abroad on study leave/Ex-Pakistan leave which was to be expired on 28.10.2014. Prior to the expiry of his leave, the appellant approached respondent No.2 through an application for extension of leave due to non completion of the Research of his PHD and his treatment in the United Kingdom. The appellant also provided documentary evidence from the University of Glasgow Caledonian University in UK and certificate regarding his ill health and necessary treatment of Pulmonary Fibroses from Garth evil Hospital Glasgow. However, the penalty of removal from</p>

08.10.2019

Learned counsel for the appellant and Mr. Anwar Ul Haq learned Deputy District Attorney for the respondents present. Vide our detail judgment of today of this Tribunal placed on file, the present service appeal is accepted, the impugned order is set aside and the period of his absence i.e. 29.10.2014 till the issuance of the impugned order i.e. 07.10.2015 and the period thereafter till his rejoining the duty after this judgment to be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member
At Camp Court Swat


(Hussain Shah)
Member
At Camp Court Swat.

ANNOUNCED
08.10.2019

07.10.2019

Learned counsel for the appellant present. Mr. Anwar Ul Haq learned Deputy District Attorney for the respondents present. Arguments on restoration application heard.

Record reveals that the main service appeal was dismissed in default on 09.04.2019. The appellant submitted application for restoration application on 25.04.2019. Learned counsel for the appellant contended that he was busy before the Hon'ble Peshawar High Court Mingora Bench in connection of numerous cases on 09.04.2019 while the appellant was abroad at the relevant day therefore, the absence was not deliberate and requested for acceptance of restoration application.

Learned Deputy District Attorney opposed the contention of learned counsel for the appellant and contended that neither the appellant nor his counsel was present, therefore requested for dismissal of restoration application.

Perusal of record reveals that the ground mentioned in the restoration application and the contention of the learned counsel for the appellant appear to be genuine moreover it is also well settled law that the cases should be decided on merit rather than technicality, therefore in the interest of justice we accept the restoration application accordingly. Arguments on main appeal also heard. To come up for order on main appeal for 08.10.2019 before D.B.




(Hussain Shah)
Member
Camp Court Swat



(M. Amin Khan Kundi)
Member
Camp Court Swat


06.05.2019

Learned counsel for the petitioner present. Notice of the present application be issued to the respondents for reply to the instant restoration application and arguments on 10.06.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.


10.06.2019

Learned counsel for the petitioner present. Mr. Mian Amir Qadir learned District Attorney present. Fresh notice be issued to the respondents for reply. Adjourn. To come up for reply and arguments on 02.09.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.

02.09.2019


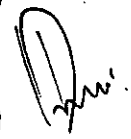
Petitioner with counsel present. Notice of the present application be issued to the respondents for 07.10.2019. Adjourn. To come up for reply and arguments on the date fixed before D.B at Camp Court, Swat.


Member
Camp Court, Swat.

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 191/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.04.2019	<p>The application for restoration of appeal No. 162/2016 submitted by Mr. Adnan Khan 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 25/4/19</p>
2	30.4-19	<p>This restoration application is entrusted to touring D. Bench at Swat to be put up there on <u>06-05-19</u></p> <p style="text-align: right;">CHAIRMAN </p>

BEFORE THE HON'BLE SERVICE TRIBUNAL,

KHYBER PAKHTUNKHWA, PESHAWAR

Restoration Appli. No. 191/2019
In Service Appeal No.162/2016

Dr. Saleem Iqbal..... *Appellant/Applicant*

VERSUS

Government of Khyber Pakhtunkhwa & others

..... *Respondents*

INDEX

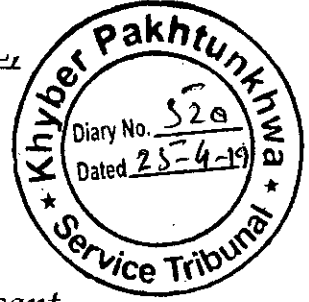
S. No.	Description	Annexure	Pages No.
1.	Restoration Application with certificate		1 - 2
2.	Copy of relevant cause list		3 - 8
3.	Copy of order		9 (A)

Adnan Khan
Appellant/Applicant
Through Counsel

Adnan Khan
Dr. Adnan Khan, Barrister-at-Law
Office: Adnan Law Associates,
Opposite Grassy Ground Mingora Swat
Cell No. 0346-9415233

BEFORE THE HON'BLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Restoration Appli. no. 191/2019
 In Service Appeal No.162/2016



Dr. Saleem Iqbal..... *Appellant/Applicant*

VERSUS

Government of Khyber Pakhtunkhwa & others

..... *Respondents*

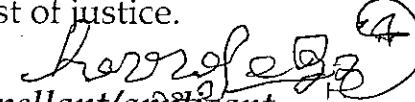
APPLICATION FOR RESTORATION OF APPEAL
DISMISSED IN DEFAULT.

Respectfully Sheweth;

- 1) That the captioned appeal was fixed for hearing on 09-04-2019 for final arguments.
- 2) That on the date fixed, counsel for the appellant was busy before the Hon'ble Peshawar High Court, Mingora Bench in connection with numerous cases (Copy of relevant cause list is attached).
- 3) That being so, counsel for the appellant could not appear before the Hon'ble Tribunal on the date fixed. Furthermore, the appellant resides abroad and hence, no question of his personal appearance on the date fixed.
- 4) That the applicant produced the aforementioned cause list before this Hon'ble Tribunal through his colleague in legal fraternity, however it may have lost sight because of rush of work.
- 5) That because of non-appearance by the appellant and his counsel, the instant appeal was dismissed in default on 09-04-2019 (Copy of order is attached).

- 6) That the default was inadvertent and because of compassionate and compelling circumstances.

It is, therefore, humbly prayed that on acceptance this application, the titled appeal may be restored in the interest of justice.

 (4)
Appellant/applicant

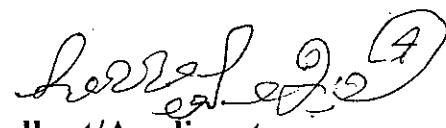
Through Counsel



Dr. Adnan Khan, Barrister-in-Law.

CERTIFICATE:

It is certified that no such application has earlier been filed before this Hon'ble Court.

 (4)
Appellant/Applicant
Through Counsel



Dr. Adnan Khan, Barrister-at-Law.

3

PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA, SWAT
SINGLE BENCH CAUSE LIST FOR TUESDAY, THE 9th APRIL, 2019.
BEFORE Mr. JUSTICE SYED ARSHAD ALI

MOTION CASES

1. Cr.M 74-M/2018
(B.C.A)
{u/s 304, 324, 34-PPC} Mst. Yasmeen
(Abdul Qayum) Vs The State & 1 other

2. Cr.M 107-M/2018
With Cr.M 32/2019
(Bail Cancellation)
{u/s 337-A (iv), 337 (F) (i)
147,149/34-PPC} Sher Gul
(Abdul Ghaffar) Vs Fazal Rehman & others

3. Cr.M 108-M/2018
(Bail Cancellation)
{u/s 302/34-PPC} Sher Zaman
(Naeemuddin) Vs The State & 1 other

4. Cr.A 320-M/2018
With Cr.M 255/2018
(Acquittal Appeal)
{u/s 379/34-PPC} Raza Khan
(Habibullah Khan Shamakhel) Vs Muhammad Iqbal & others

5. Cr.A 340-M/2018
(Against Acquittal)
{u/s 324 / 337-A (I) / 337-
D /34-PPC} Arif Shehzad
(Gohar Ali) Vs The State & others

6. Cr.A 384-M/2018
(Against Acquittal)
{u/s 337-A (ii), 337-F (vi),
448-PPC} Mst. Asari
(Mushtaq Ahmad Khan) Vs Shir Alam Khan & 1 other

7. Cr.M 90-M/2018
(Quashment) Mst. Asari
(Mushtaq Ahmad Khan) Vs The State & others

4

8. Cr.A 349-M/2018
With Interim Relief
{us 8(A) of illegal
Dispossession Act} Mst. Fatima
(Fazal Rabi Tawaskhel) Vs Rozi Gul & others
9. Cr.R 33-M/2019
With C.M 101/2019
& C.M 102/2019
{others} Dilawar Syed
(Saadat) Vs The State & others
10. C.M 564-M/2019
In R.F.A 8/2016
{Withdrawal of Case} Muhammad Khalid Khan
(In Person) Vs Rahmat Ali & others
11. W.P 603-M/2018
With Interim Relief Naik Zada & 1 other
(Fayaz Muhammad Qazi &
Attaullah Khan) Vs Mst. Riasat & others
12. W.P 1214-M/2018
With Interim Relief
& C.M 305/2019
{General} Haji Inayat Khan
(Qazi Zakiuddin) Vs Haji Shams ur Rehman & others
13. W.P 1215-M/2018
With Interim Relief
& C.M 309/2019
{General} Haji Inayat Khan
(Qazi Zakiuddin) Vs Haji Shams ur Rehman & others
14. W.P 1216-M/2018
With Interim Relief
& C.M 310/2019
{General} Haji Inayat Khan
(Qazi Zakiuddin) Vs Haji Shams ur Rehman & others
15. W.P 1217-M/2018
With Interim Relief
& C.M 308/2019
{General} Haji Inayat Khan
(Qazi Zakiuddin) Vs Haji Shams ur Rehman & others

5

16. W.P 1218-M/2018 With Interim Relief & C.M 306/2019 {General} Haji Inayat Khan (Qazi Zakiuddin) Vs Haji Shams ur Rehman & others
17. W.P 1219-M/2018 With Interim Relief & C.M 307/2019 {General} Haji Inayat Khan (Qazi Zakiuddin) Vs Haji Shams ur Rehman & others
18. W.P 1230-M/2018 {Family} Omar Hayat (Faridullah Khan) Vs Mst. Shagufta & othes
19. W.P 1238-M/2018 With Interim Relief {Family} Sher Zullah (Syed Abdul Haq) Vs Mst. Refath Begum & others
20. C.R 207-M/2019 With C.M 572/2019 {Declaration Suit} Ibrahim (Sardar Zulfiqar) Vs Mst. Sardara & others

NOTICE CASES

1. Cr.M 154-M/2018 (N) In Cr.A 189/2018 {Suspension Application} Muhammad Nazir (Muhammad Imran) Vs X.E.N PESCO, Swat & 1 other (M. Ahmad Zeb Khan)
2. Cr.M 143-M/2019 (For Bail) {u/s 376/511-PPC 53-CPA} Muhammad Farid (Sardar Zulfiqar) Vs The State & 1 other (A.A.G) (Date By Court)
3. Cr.M 12-M/2017 Alam Zeb (B.C.A) (Barrister Dr. Adnan Khan) Vs The State & others (Engr. Shah Faisal Khan & A.A.G) {u/s 365-B, 506, 337-J, 147, 149-PPC}
4. Cr.M 9-M/2018 Muhammad Suleman (B.C.A) (Barrister Dr. Adnan Khan) Vs The State & others (A.A.G) {u/s 498, 496-B, 34-PPC}

6

5. Cr.M 48-M/2018
(Quashment) Fazal Halim
(Muhammad Nabi) Vs The State & others
(A.A.G)
6. Cr.A 15-M/2019
(Against Conviction)
{u/s 334-PPC} Anwar Syed
(Ayaz Muhammad) Vs The State & 1 other
(Syed Azizuddin Kaka Khel & A.A.G)
7. Cr.R 4-M/2019
(Enhancement)
{u/s 334 PPC} Imran Khan
(Syed Aziz ud ddin Kakakhel) Vs Anwar Syed & 1 other
(Ayaz Muhammad & A.A.G)

OLD CASE

1. C.R 1150-P/2009
{Declaration Suit etc} Nawab Khan & others
(Abul Halim Khan) Vs Khaista Zar & others
(M. Saeed Khan Shangla)
2. C.R 609-P/2010
With C.M 529/2014
& C.M 523/2018
{Possession Suit} Bakhtyar Khan
(M. Ikram Khan) Vs Zar Kamin Khan & others
(Allah Dad Khan & M.Ilyas Khan)
3. C.R 239-M/2011
With C.M 164/2011
& C.M 888/2018
{Declaration Suit} Muhammad Sher Ali Khan
(Fazli Ghafoor) Vs Sardar-ul-Mulk & 1 other
(Saif-ul-Malook Saif & Sabir Shah)
4. C.R 287-P/2011
{Declaration Suit etc} Malik Nawab
(Amir Gulab Khan) Vs Imroze Khan
(Bakhtyar Khan)
5. C.R 476-M/2011
{Permanent Injunction etc} Sajid Khan & others
(Abdul Mabood Khattak & Farman
Ali Khan) Vs Sardar Ali & 1 other
(Muhammad Zahir Shah)

PRE-ADMISSION NOTICE CASES

1. C.R 434-M/2013
With C.M 663/2013 (N)
{Declaration Suit etc} Attaullah & others
(Sher Muhammad Khan) Vs Mst. Ulfat & others
(Javed Ahmad & Arshad Iqbal)

57

2. C.R 535-M/2013
{Pre-Emption Suit} vs Molvi Abdur Rahman & others
(Muhammad Amin Khan) (Abdul Halim Khan)
3. C.R 555-M/2014
{Possession/ Pre-Emption} vs Fazal Mehboob & others
(Abdul Halim Khan) (Muhammad Amin Khan)
4. C.R 65-M/2017
With C.M 1163/2018 vs Nasir & others
{Permanent Injunction} (Azim Khan) (Amjad Hussain & Zahir Shah)
5. C.R 7-M/2018
With C.M 26/2018 vs Raza Shah & others
& C.M 462/2018 (Hazrat Yousaf & Suliman Shah)
{Redemption Suit} (Murad Akmal Mirkhail)
6. C.R 174-M/2018
{Recovery Suit} vs Afzal Khan
(Hazrat Rehman) (Javaid Ahmad)
7. C.R 188-M/2018
With C.M 764/2018 vs Zeshan
{Recovery Suit} (Javaid Ahmed)
{Motion}

OTHER NOTICE CASES

1. C.M 424-M/2018
& C.M 1528/2018 vs Rab Nawaz through LR's
In R.F.A 30/2018 ()
{Suspension Application} (Akhtar Munir Khan)
2. C.M 1327-M/2018(N) vs Yousaf Khan & others
In C.R 322/2018 (Amir Gulab Khan & Fayaz M. Qazi)
{Suspension Application} (Syed Abdul Haq)
3. Interim Relief (N) vs Mst. Sahira Bibi & others
In W.P 440/2018 (Haji Bahadar)
{Family} (Shaibar Khan)

2

4. C.R 771-M/2012
With C.M 496/2013 (N)
{Declaration Suit etc} Vs Mst. Fatima & others
(Zia-ur-Rahman, M. Zahir Shah &
Habib-ur-Rahman) Vs Abdul Raziq & others
(Abdul Jalal & Saeed Ahmad)
5. C.R 250-M/2014
With C.M 561/2015
{Declaration Suit} Vs Mosa Khan & others
(Siraj Ali) Vs Muhammad Sherin & others
(Abdul Jalal)
6. C.R 278-M/2017
{Declaration Suit etc} Vs Abdul Majeed
(Barrister Dr. Adnan Khan) Vs Director General, NADRA
& others
()
7. C.R 279-M/2017
{Declaration Suit etc} Vs Zafar Hussain Mian & others
(Abdul Halim Khan) Vs Mst. Kharo Bibi & others
(Fazli Ghafoor)
8. C.R 303-M/2017
{Declaration Suit etc} Vs Umar Bacha
(Qazi Midrarullah) Vs Mst. Kharo through LR's &
others
(Abdul Halim Khan)
9. C.R 304-M/2017
{Declaration Suit etc} Vs Umar Bacha
(Qazi Midrarullah) Vs Mst. Kharo through LR's & others
(Abdul Halim Khan)
10. C.R 314-M/2017
{Declaration Suit etc} Vs Sardar Alam
(Usman Ali) Vs Mst. Kharo & others
()

9

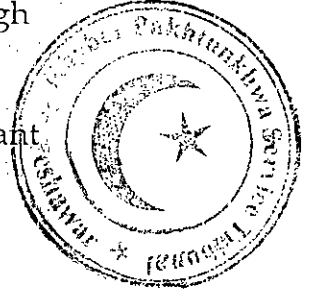
**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

R.A. 191/12

Appeal No. 162 of 2016

M.W.P. Province
Service Tribunal
Duty No. 129
22-2-2016

Dr. Salim Iqbal, (Ex-Assistant Professor Urology, Gomal
Medical College, D.I. Khan) resident of House No.2, Haji
Ghamy Lar near Telephone Exchange (PTCL) Makan Bagh
Mingora Swat.



.....Appellant

VERSUS

- ✓ 1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar
- ✓ 2. Secretary Health, Government of Khyber Pakhtunkhwa at Peshawar.
- 3. Chief Executive, DHQTH/MMMTH, D.I. Khan.
- ✓ 4. Principal Gomal Medical College, D.I. Khan.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE SERVICES
TRIBUNAL ACT, 1974 AGAINST THE ORDER OF
DISMISSAL FROM SERVICE AND IMPOSITION OF
MAXIMUM PENALTY ON THE APPELLANT**

09.04.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Hazrat Shah, Superintendent for the respondents present. Called several times but no one appeared on behalf of the appellant nor he was present in person. Therefore, the appeal in hand is dismissed in default. File be consigned to the record room.

ANNOUNCED
09.04.2019

(Signature)
(AHMAD HASSAN)
MEMBER

(Signature)
(M. AMIN KHAN KUNDI)
MEMBER

Certified to be true copy
(Signature)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Copy: 24-4-18
Number of Words: 400
Copying Fee: 4
Urgent: 2
Total: 6
Name of Copyist: [Signature]
Date of Completion of Copy: 24-4-18
Date of Delivery of Copy: 24-4-18

10

BEFORE THE HON'BLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

In Service Appeal No.162/2016

Dr. Saleem Iqbal..... *Appellant/Applicant*

VERSUS

Government of Khyber Pakhtunkhwa & others

..... *Respondents*

APPLICATION FOR CONDONATION OF DELAY IN FILING
THE ANNEXED APPLICATION;

Respectfully Sheweth:

- 1) That the above titled restoration application is being filed before this Hon'ble Tribunal.
- 2) That the application seems to be time barred by a single day.
- 3) That the delay is because of some compassionate and compelling circumstances. In fact attorney for the appellant has gone abroad for performing Umra. The appellant resides abroad while counsel for the appellant was busy before the PHC Mingora Bench on the relevant date.
- 4) That in the above mentioned scenario, counsel for the appellant was informed at belated stage about the order to be revisited.

It is, therefore, humbly prayed that on acceptance of this application, any delay in filing the instant application be condoned and the appeal be restored and decided on merits.

Harza B
Appellant/Applicant
Through Counsel

91

Adnan Khan

Dr. Adnan Khan, Barrister-at-Law

CERTIFICATE:

It is certified that no such application has earlier been filed before this Hon'ble Court.

Appellant/ Applicant

**Appellant/Applicant
Through Counsel**

Adnan Khan

Dr. Adnan Khan, Barrister-at-Law.

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

In Service Appeal No.162/2016

Dr. Saleem Iqbal.....Appellant/Applicant

VERSUS

Government of Khyber Pakhtunkhwa & others

---Respondents

*Put up to the court with
relevant appeal.*

INDEX

S. No.	Description	Annexure	Pages No.
1.	Civil Miscellaneous Application with certificate		1-2
2.	Copies of documents	A-1	3-12

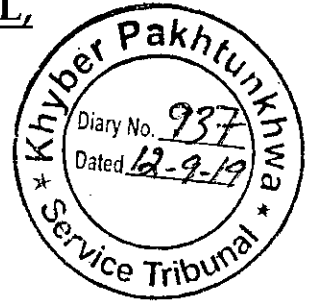
[Signature]
Appellant/Applicant
Through Counsel

[Signature]
Dr. Adnan Khan, Barrister-at-Law
Office: Adnan Law Associates,
Opposite Grassy Ground Mingora Swat
Cell No. 0346-9415233

BEFORE THE HON'BLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

C.M No. _____ of 2019

In Service Appeal No.162/2016



Dr. Salim Iqbal..... *Appellant/Applicant*

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Secretary Health, Government of Khyber Pakhtunkhwa at Peshawar.
3. Chief Executive, DHQTH/MMMTH, D.I. Khan
4. Principal Gomal Medical College, D.I. Khan.

..... *Respondents*

*Application for placing on file certain documents necessary for
the just disposal of the Appeal;*

Respectfully Sheweth:

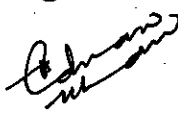
1. That the above captioned Service Appeal is pending before this Hon'ble Tribunal, wherein date of hearing is fixed for 07-10-2019.
2. That the appellant/applicant wants to file the appending documents before this Hon'ble Tribunal (Copies of documents are attached as Annexure "A-1").
3. That the appending documents are necessary for the just disposal of the main appeal.

4. That there is no bar in accepting this application, it is rather in the interest of justice that each party is provided an opportunity to plead his case by way of documentary evidence.

It is, therefore, humbly prayed that on acceptance of this application, the attached documents may be placed on main file of the captioned appeal.



Appellant/Applicant

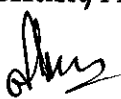
Dr. Salim Iqbal
Through Counsel

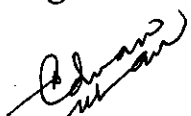

Dr. Adnan Khan, Barrister-at-Law,
Advocate Supreme Court of Pakistan.

CERTIFICATE:

It is certified that no such like application has earlier been filed before this Hon'ble Tribunal on the cited subject.


Appellant/Applicant


Dr. Salim Iqbal
Through Counsel


Dr. Adnan Khan, Barrister-at-Law,
Advocate Supreme Court of Pakistan.

② ③

Letter to Patient: Letter to patient



Gartnavel General Hospital
1053 Great Western Road
Glasgow
G12 0YN
p141 211 3000

Salim Eqbal
11 Oran Place
Glasgow
Lanarkshire
G20 8BB

Main
Switchboard:
Department:
Contact Tel:
Enquiries to:
Letter Date:
Reference:
Dictated
Date:
Transcribed
Date:

Respiratory medicine
0141 451 6093
margaret.lynch@ggc.scot.nhs.uk
10/11/2015
ER/AD
04/11/2015
09/11/2015

Dear To Whom it May Concern

Salim EqbalS
11 Oran Place
Glasgow lanarkshire
G20 8BB

~~Dear To Whom it~~ ^{Whom} May Concern

This letter should be viewed in conjunction with my previous letters dated 9/11/2015 and 25/01/2019. Mr S. Eqbal is suffering from type 2 diabetes and a serious lung disease known as Pulmonary fibrosis. Unfortunately, his health has gotten worse during the last few months and he is currently under investigations to make a full assessment for a potential lung transplant in the near future.

I would be grateful if this could taken into account when considering his application for leave to remain in the UK.

For any further details regarding his health please do not hesitate to contact me.

Yours sincerely

Ewen Ross
Consultant Physician Respiratory Medicine
Electronically signed: Dr Ewen Ross

C.T.C
AW

4

Letter to Patient: Letter to patient



Gartnavel General Hospital
1053 Great Western Road
Glasgow
G12 0YN
0141 211 3000

Salim Eqbal
11. Oran Place
Glasgow
Lanarkshire
G20 8BB

Main
Switchboard:
Department:
Contact Tel:
Enquiries to: margaret.lynch@ggc.scot.nhs.uk
Letter Date: 10/11/2015
Reference: ER/AD
Dictated: 04/11/2015
Date:
Transcribed: 09/11/2015
Date:

Dear To Whom it May Concern,

This gentleman continues under specialist observation for a potentially progressive and serious lung condition. It is a form of lung fibrosis for which he is receiving the drug Pirfenidone. This is a drug that requires specialist supervision. He has been commenced on this on recommendation of our regional interstitial lung disease multidisciplinary meeting. It is not a drug which is widely available and would not be available to him were he unable to remain within the UK. In that circumstance one would anticipate that his lung fibrosis would deteriorate as there are no other recognised widely useful therapies at present.

I would be grateful if this could be taken into account when considering his request to remain within the UK.

Yours sincerely

Ewen Ross

Consultant Physician in Respiratory

Electronically Signed: Dr Ewen Ross, Consultant

cc.

C.T.C
ER

5



Gartnavel General Hospital
1053 Great Western Road
Glasgow G12 0YN

DEPARTMENT OF RESPIRATORY MEDICINE

Direct Line to Secretary: 0141 451 6099

TO WHOM IT MAY CONCERN

25th January 2019

Salim Eqbal 1010625659

Flat 1-2, 7 Rupert Street, Glasgow G4 9AP

Dr Eqbal has asked for an update regarding his diagnosis and progress. We had previously provided information at the end of 2015 and this letter should be viewed as supplementary to the information provided at that time.

Dr Eqbal is 56 years old. He was originally reviewed in my clinic in 2014 at which time he complained of exertional breathlessness. Physical examination revealed fine end inspiratory crackles and spirometry revealed a vital capacity of 72% of predicted. TLCO (gas transfer) was 49% of predicted values. An HRCT at that time was compared with a CT pulmonary angiogram performed in February 2012. The CT had demonstrated established pulmonary fibrosis affecting all zones of the lung, most marked in the lower zones and lung periphery. Fibrosis was peripheral with a sub-pleural reticulation traction bronchiolectasis and honeycomb formation. There was no ground glass opacity. No pleural plaques were noted. The pattern, radiologically, looked typical of usual interstitial pneumonia. The appearances were more pronounced than on the CTPA from 2012 when the changes were very non-specific in nature. The diagnosis in this circumstance, therefore, is UIP/IPF. He was discussed at one of our ILD MDTs towards the end of 2014 and was commenced on the antifibrotic Pirfenidone.

He has remained breathless throughout although he has tolerated the Pirfenidone fairly well. He does describe gradually worsening breathlessness such that he is breathless on moderate exertion. A 6 minute walk test in October 2017 demonstrated a total distance of 388 metres which is significantly reduced. Currently, he would have to stop to catch his breath after about 100 metres on the flat.

Since 2014, and since commencing Pirfenidone, there has been a reduction in pulmonary function testing both measured via vital capacity, lung volumes and gas transfer and was therefore switched to the alternative antifibrotic Nintedanib at the end of 2018.

It is likely this gentleman's disease will continue to progress. Current available evidence suggests that antifibrotics will slow the rate of decline of disease but not prevent progression. Predicted survival on an

C.T.C
Am

(6)

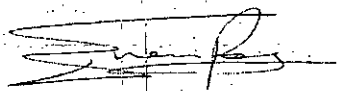
individual basis is difficult but a recent large cohort study from Japan suggested that patients with typical IPF pattern disease had median survival of 5 years. It is therefore likely that his disease will limit his life expectancy although I do think that antifibrotics have likely positively influenced outcome.

Currently the antifibrotics, Pirfenidone and Nintedanib are only available via hospital prescription within the UK and therefore require specialist follow up. They remain costly with a month's treatment costing a little over £2,000 per month. I am unaware of their availability or cost in the developing world.

In summary, this gentleman has typical IPF as per radiology and clinical and physiological assessments. His disease has progressed but my impression is that the rate of change of disease has been slowed by his drug therapy which therefore in my mind should continue.

I hope this information is helpful and would be willing to provide further detailed information should it be required, assuming Dr Eqbal has provided his written informed consent.

Yours sincerely



Dr Ewen Ross, Consultant Respiratory Physician

C.T.G.
AW



Letter to Patient: Letter to patient



Gartnavel General Hospital
1053 Great Western Road
Glasgow
G12 0YN
0141 211 3000

Salim Eqbal
11 Oran Place
Glasgow
Lanarkshire
G20 8BB

Main
Switchboard:
Department:
Contact Tel:
Enquiries to:
Letter Date:
Reference:
Dictated
Date:
Transcribed
Date:

Respiratory medicine
0141 451 6093
margaret.lynch@ggc.scot.nhs.uk
10/11/2015
ER/AD
04/11/2015
09/11/2015

Dear To Whom it May Concern

This gentleman continues under specialist observation for a potentially progressive and serious lung condition. In this condition life expectancy is often significantly reduced, on average 3 to 5 years depending on the severity of the case. It is a form of lung fibrosis for which he is receiving the drug Pirfenidone. This is a drug that requires specialist supervision. He has been commenced on this on recommendation of our regional interstitial lung disease multidisciplinary meeting. It is not a drug which is widely available and would not be available to him were he unable to remain within the UK. In that circumstance one would anticipate that his lung fibrosis would deteriorate as there are no other recognised widely useful therapies at present.

Yours sincerely

Ewen Ross

Consultant Physician in Respiratory

Electronically signed: Dr Ewen Ross, Consultant

cc.



8

Bank Street Surgery

Excellence in Primary Care

26 Bank Street, Glasgow, G1 2 8 ND

Tel: 0141 339 5513 Fax: 0141 357 5554

15/06/18

To Whom It May Concern:

Re: Salim Eqbal - D.O.B. - 10/10/1962
Flat 1-2, 7 Rupert St., Glasgow, G4 9AP

I can confirm that the aforementioned 55 year old gentleman is a patient at Bank Street Surgery. He suffers from a number of medical co-morbidities including Pulmonary Fibrosis for which he attends a Respiratory clinic, Insulin controlled Diabetes with attendance at the Diabetes centre in Gartnavel General hospital and Osteoarthritis. In addition he is awaiting an Ophthalmology review regarding multifocal lens implants.

Furthermore he attends the practice for his health needs as and when required as well as associated clinics such as Retinal screening in relation to his diabetes.

He is on 17 different medications, creams and nasal sprays on repeat prescription.

It would be important for him to attend timeously for appointments to maintain optimum management of these conditions.

Yours Faithfully

CTC
Me

DR ASIF J KHAN
GP

9

DIRECTORATE GENERAL HEALTH SERVICES, N.W.F.P. PESHAWAR.

OFFICE ORDER.

As decided by the Committee in its meeting held on 22.12.1992 in the Office of the Secretary Health NWFP, the following postings and transfers of Medical Officers/Woman Medical Officers are hereby ordered in the interest of Public Service with immediate effect :-

S.NO.	NAME.	FROM.	TO.	REMARKS.
01.	Dr. Attaur Rehman.	SMO, RHC: Gulabad Dir.	RHC: Ziarat Talash (Dir).	Vice No. 2 below.
02.	Dr. Faqir Mohammad.	SMO, RHC, Ziarat, Talash (Dir).	RHC, Gulabad, (Dir).	Vice No. 1 above.
03.	Dr. Gul Man Shah.	MO, BHU, Karo Dara (Dir).	BHU, Rashakai (Nowshera).	Against the vacant post.
04.	Dr. Amir Rehman.	MO, TB Hospital, Rang Mohallah Malakand Agy.	BHU Osakai, Dir.	-do-
05.	Dr. Haya Said.	MO, Para Medl: Institute S. Sharif, Swat.	MO, DHA: Hosp: Timergarah.	-do-
06.	Dr. Mohammad Iqbal.	MO, S.S.S, Swat (Under posting to BHU, Tirat, Swat).	CDC, Office, DHO, Office, Swat.	-do-
07.	Dr. Fazal Ali.	MO, BHU, Bagh, Swat.	BHU Taghma (Swat).	-do-
08.	Dr. Saadat Anwar.	MO, S.S.S, Malakand.	BHU, Kharkai Dherai Dir.	-do-
09.	Dr. Mohammad Riaz.	MO, D.A.T.C, Chamla, Swat.	MO, BHU: Narai Ubo Malakand Agency.	-do-
10.	Dr. Sardar Ali.	MO, S.G. of Hosp: S. Sharif, Swat.	D.A.T.C, Chamla, Swat.	Vice No. 9 above.
11.	Dr. Mohammad Uzair.	MO, DHA: Hosp: Timergarah.	District Jail, Timergarah.	Against the vacant post.
12.	Dr. Saleem Iqbal.	MO, BHU, Rehab Kot Swat.	District Jail Swat.	-do-
13.	Dr. Mohammad Nawaz.	MO, BHU Tangi, Payson, Dir.	BHU, Beshgram Dir.	-do-
14.	Dr. Mohammad Uzair.	MO, BHU Mian Killi Swat.	BHU Dherai, Swat.	Vice No. 15.
15.	Dr. Mohammad Saeed.	MO, BHU, Dherai Swat.	BHU, Mian Killi Swat.	Vice No. 14.

O/P....2...

C.T.C
Me



DRIVING LICENCE

11



1. EQBAL
 2. SALIM
 3. 10.10.1962 PAKISTAN
 4a. 12.10.2017 4c. DVLA
 4b. 04.05.2026
 5. EQBAL610102S99UY 24



7.
 8. 1/2 7 RUPERT STREET, GLASGOW, G4 9AP
 9. AM/A/B1/B//k/p/q

13

	9	10	11	12
AM	05:05:16	09:10:32	122	
A1				
A2				
A	19:01:13	09:10:32	79(3)	
B1	25:04:06	09:10:32		
B	25:04:06	09:10:32		
C1				
C				
D				
BE				
C1E				
CE				
D1E				
DE				
l/p/q	25:04:06	09:10:32	118:122	

12-115

FC81169099

1. Name 2. First name 3. Date and place of birth
 4a. Date of issue 4b. Date of expiry 4c. Issued by
 5. Licence number 10. Valid from 1. Valid to 12. Codes

C.T.C
 Au

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2195 /ST

Dated 13 - 12 - / 2019


To

The Secretary Health Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 162/2016. DR. SALIM IQBAL.

I am directed to forward herewith a certified copy of Judgement dated 08.10.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.