

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1229 OF 2022

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 11839
Dated 20/3/24

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department
2. Director General Health Services Khyber Pakhtunkhwa
3. Ex-Director FATA Health Services Khyber Pakhtunkhwa Peshawar
4. District Health Officer, District Khyber at Jamrud
5. District Account Officer Khyber at Jamrud **Petitioners**

Versus

Uzair Khan **Respondents**

**PETITION ON BEHALF OF THE PETITIONERS / RESPONDENTS IN
THE MAIN APPEAL FOR SETTING ASIDE THE ORDER DATED
03/02/2023 OF THE HONORABLE TRIBUNAL WHEREBY THE
PETITIONERS/ RESPONDENTS WERE PLACED EX-PARTE.**

Respectfully Sheweth,

1. That the above titled Service Appeal is pending before the Honorable Tribunal which is fixed for hearing on 11/06/2024.
2. That the petitioners respondents received a pre-Admission Notice along with copy of subject Service Appeal for submission of Parawise comments/reply on 03/02/2023 in which date of hearing was fixed as 15/02/2024. (**Copy of the notice in the subject Service Appeal is Annex-A**).
3. That the representative/focal person of the petitioners namely Muhammad Yousaf Jamal was engaged before another bench of the Honorable Tribunal in the proceeding of another Service Appeal, however when he attended the bench of Honorable Chairman, he came to know that the petitioners have been placed Ex-parte.
4. That the absence of the representative of the petitioners before the bench of Chairman of the Honorable Tribunal was not intentional/willful but for the reasons mentioned in para-3 above.
5. That there is no Ex-parte judgment but the Ex-parte proceedings have been initiated against the petitioners, therefore the same may be set aside at any time by the Honorable Tribunal in the interest of justice.
6. That in case if the petitioners have not been allowed to defend/submit parawise comments affect/cause an irreparable loss to the public exchequer.

7. That it is a well settle principle of law that cases are to be decided on merits, rather than technicalities.

It is therefore humbly prayed that the Ex-parte order/proceedings dated 03/02/2023 may kindly be set aside in the interest of justice and petitioners may kindly be provided an opportunity of submission of comments/defense in the interest of justice.



(Dr. Shoukat Ali)
Director General Health Services
Khyber Pakhtunkhwa
(Petitioner No. 01 to 04)

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AFFIDAVIT

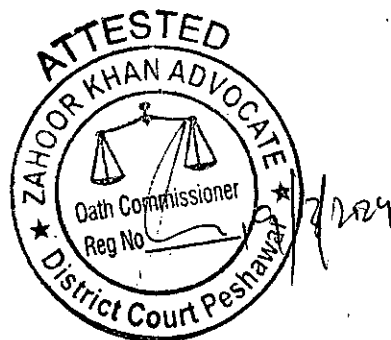
I Dr. Shoukat Ali, Director General Health Services Khyber Pakhtunkhwa do hereby state on oath that contents of the above petition is correct to the best of my knowledge and nothing has been concealed.

Deponent



Dr. Shoukat Ali


Director General Health Services
Khyber Pakhtunkhwa
(On behalf of the Petitioners)



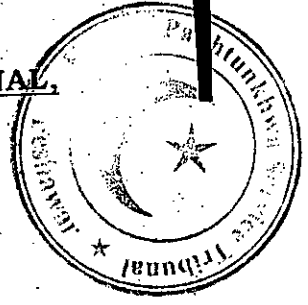
3rd Feb, 2023

Appellant in person present: Mr. Muhammad Riaz Khan
Paindakhel, Assistant Advocate General for the respondents present.

Today there is nobody present on behalf of the respondents nor did they submit written reply/comments. The time provided in Rule-12 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 for filing reply is seven days before the date fixed but despite providing opportunity the respondents have not filed the comments. They are thus placed ex-parte and their right to file reply stands struck off. To come up for arguments on 11.05.2023 before D.B.


(Kalim Arshad Khan)
Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.



Service Appeal No. 1229 /2022

Uzair Khan S/o Gohar Ali R/o Dag Kalay, Warsak Road,
Peshawar.....(Appellant)

V E R S U S

1. The Secretary, Government of Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. That Director Health Service, Newly Merged Area/ Old FATA, Warsak Road, Peshawar.
4. The District Health Officer, District Khyber at Jamrud.
5. District Account Officer, Khyber at Jamrud....(Respondents)

SERVICE APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE ORDER DATED
25/10/2019 AND ANY OTHER ORDER PASSED
BY THE RESPONDENTS UPON THE
DEPARTMENTAL APPEAL FILED BY THE
APPELLANT.

Respectfully Sheweth:

1. That appellant is the permanent and bonafide residents of District Peshawar and has never ever violated any law of the land in his entire life.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar