

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 7587 OF 2021

Seema Gul.....Appellant

Versus

Through Secretary Health & others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 TO 03

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
10. That the appeal is badly barred by law and limitation.

ON FACTS:

1. Needs to be proved.
2. Correct.
3. Incorrect as per report of Respondent No. 1 (Annex-A), the appellant had very poor performance and irresponsible attitude towards performance of her duties through her service tenure.
4. Incorrect as in preceding para.
5. Incorrect as per report of Respondent No. 1, the appellant was poor performer, absent and refused her legitimate duties specially when she was assigned emergency duties at CVC Sadda for female vaccination via DHO office letter dated 17/05/2021, informed her by the Focal person of LHWs Program, she refused to perform her emergency duties at CVC Sadda, resultantly DHO being competent has terminated the appellant order dated 18/05/2021 already attached with the appeal of the appellant.
6. Pertains to record.

7. Incorrect. Due to the above reasons, the appellant has no right to file the instant appeal.

ON GROUNDS:

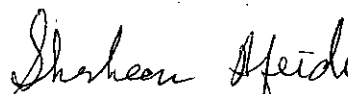
- A. Incorrect. The impugned order was issued under E&D Rules, 2011 due to her habitual absenteeism, irresponsible attitude towards legitimate duties and refusal from emergency duties.
- B. Incorrect as in preceding para.
- C. Incorrect as in the preceding paras.
- D. Incorrect, irrelevant provision as per E&D Rules duly complied with.
- E. Incorrect as per attached report, proper procedure was adopted in her termination process.
- F. Incorrect, as explained in para-A above.
- G. Incorrect, as per attached report, proper procedure was adopted in her termination process.
- H. Incorrect & denied.
- I. Incorrect. Relevant provisions as per E&D Rules duly complied with.
- J. Incorrect and denied, as the appellant was absent from duty therefore, provision of personal hearing was against the spirit of law, hence denied.
- K. Incorrect, as per the E&D Rules no such statement required while taking the adverse action against the Govt. Servant.
- L. Incorrect and denied.
- M. Incorrect and denied, as the appellant was absent.
- N. Incorrect and denied.
- O. Incorrect and denied. No such fundamental rights of the appellant violated.
- P. Answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

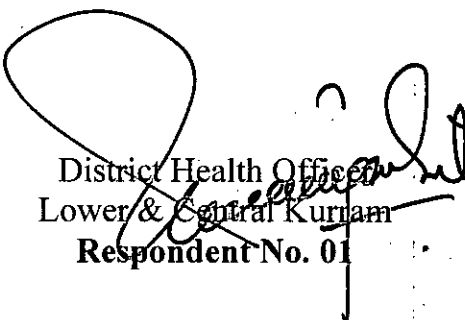
PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.



Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Respondent No. 02


Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 03


District Health Officer
Lower & Central Kurram
Respondent No. 01



OFFICE OF THE DISTRICT HEALTH OFFICER
DISTRICT LOWER & CENTRAL KURRAM

Ph: 0926-520522

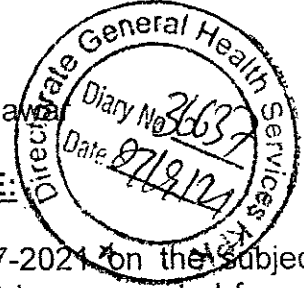
Fax: 0926-52052

No. 4272-78 /DHO/LK/CK/Admin

Dated: 21/09/2021

To


The Add: Director General (HRM),
Directorate General Health Services, KP-Peshawar



Subject: **REQUEST FOR RE-INSTATEMENT INTO SERVICE:**

Please refer your office letter No;8259/AE.VI,Dated:08-07-2021 on the subject cited above wherein Mst:Seema Gul Ex-PHC Tech (MCH) BS-12 has requested for re-instatement into service. In this connection below are detail comments,

1. That she was working at MCH Centre THQ Hospital Sadda, District Kurram.
2. That her performance was not satisfactory and was habitual absentee from her duties.
3. That her personal file is self-explanatory wherein explanations has been called from her vide this office letter No. 411/THQ dated 06.07.2017, letter No. 2565-88/AAS dated 07.07.2017, letter No. 4379-84/AAS dated 21.11.2017, letter No. 339-44/AAS dated 16.01.2018, letter No. 4345-51/DHO/EXP dated 16.08.2019, letter No. 4815-21/DHO/EXP dated 04.09.2019 and letter No. 230-34/DHO/EXP dated 10.01.2020.
4. That she failed to submit her replies to any explanation.
5. That she was issued final warning vide this office letter No. 4917-23 dated 12.09.2019, but again she did not submit her reply to final warning letter.
6. That in wake of COVID-19 emergency situation all type of leaves were cancelled vide this office Notification No. 1230-38/DHO/Admin dated 13.03.2020.
7. That she was assigned morning shift duty at MCH Centre THQ Hospital Sadda but she was reported absent from her duties by incharge THQ Hospital Sadda vide his office letter 195/THQ/Sadda dated 06.03.2020.
8. That an inquiry was constituted against her vide letter No. 1917-26/DHO/LK/CK dated 08.04.2020, wherein was asked to appear before the inquiry committee for recording her statement and was directed for the submission of her Educational documents/Certificate of LHV Diploma along with PNC Card vide this office letter No. 2423-33/DHO/Admin dated 16.04.2020, but she failed to submit it.
9. That inquiry committee recorded her statement and concluded their recommendation as to either issue her final warning or terminate her as she has accepted that she cannot perform morning shift duties without any solid justification except for that she was running her private clinic at sadda at morning and also she failed to submit her original diploma and PNC card.
10. That final Show Cause Notice was issued to her via this office letter No. 2862-76/DHO/LK/CK/Admin dated 28.04.2020 and wherein she failed to submit her reply to the subject notice.
11. That she was assigned the duty at CVC Sadda for female client vaccination via this office letter No. 2027-31/DHO/LK/CK/Admin dated 17.05.2021 and wherein she has also been informed about the subject duty by Focal Person Dr. Muhammad Javid Khan NP Coordinator telephonically and wherein she refused to perform the subject duty despite the fact that she was well aware that


27-9-21



OFFICE OF THE DISTRICT HEALTH OFFICER
DISTRICT LOWER & CENTRAL KURRAM

Ph: 0926-520522

Fax: 0926-52052

No. _____ /DHO/LK/CK/Admin

Dated: ____ / ____ /2021

Government of Khyber Pakhtunkhwa, Health department has declared health emergency in the province.

12. That because of her disobedience, unprofessional attitude and refusal from COVID-19 Emergencies duties without any justification she tried to creates disturbances in the administrative affairs of the office of the undersigned.
13. That Consequent upon the above, chronic poor performance, negligence, irresponsible, unprofessional attitude, disobedience and lack of interest in her duties, she was terminated from her services with immediate effect, in the best public interest.

Submitted for information, record and further necessary action please.


~~District Health Officer~~

District Lower & Central Kurram

No. & Date is Even:

Copy forwarded to:

1. The Secretary Health Department, Govt of Khyber Pakhtunkhwa.
2. The Director General Health Services, Khyber Pakhtunkhwa.
3. The Add Director General Health Services, Khyber Pakhtunkhwa.
4. The Deputy Commissioner, District Kurram.
5. The Assistant Commissioner, Lower & Central Kurram.
6. Incharge THQ Hospital Sadda for information.


~~District Health Officer~~

District Lower & Central Kurram

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 7587/2021

Seema Gul

-----Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary

-----Respondent

AFFIDAVIT.

I Mohammad Tufail Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No. 7587/2021 at Page-1-2 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.

M. Tufail 19/7/22

Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

Identified by:-

[Handwritten signature]



DIRECTORATE OF HEALTH SERVICES FATA
1st FLOOR BENT VEIENT UDSDHE BLDING PESHAWAR

PST-2
02/05/2008

Offer of Appointment

Consent upon the approval of Departmental Selection Committee, the Competent Authority is pleased to offer appointment to

Ms Secunda Gul *→* Muhammed Sadiq
Resident of Majra 11 No. 824 Hoshangri Peshawar P.O. Karampora
as Lady Health Visitor BPS - 9 (1605-97-3060) Plus usual allowances as admissible under the Rules.

Her appointment will be subject to the following terms and conditions:-

1. That her appointment is purely on contract basis for a period of one year or till the life of the project which ever comes first, under the developmental scheme "13 MCH centers in rented building"
2. That she is declared Medically fit for Government Service.
3. That she will be governed by such Rules and order as may be issued by the Government of NWFP from time to time for the category of Government servants to which he belongs.
4. That if she wishes to resign at any time, she will resign in written with 30 days notice or pay in lieu thereof and will continue to serve the Government till the acceptance of his/her resignation by the competent authority.
5. That she will be posted any where in FATA.
6. That she will not be entitled to any TA/DA for Medical Examination and joining the 1st appointment.
7. That if she accept the post on these conditions, she should report for duty to AS...KURRAMI within 15 fifteen days. The offer will be cancelled if she fails to report duty within above mentioned period.
8. That the offer will be subjected to the availability of vacant post.
9. That her appointed is subject to verification of qualification certification and domicile by issuing authority etc.
10. That she will not be entitled to any pension or gratuity for the service rendered by her.
11. That her appointment is subject to productions of bond for serving for the life of the project in health institutions in FATA on Government Stamp Paper duly countersigned by magistrate 1st class.

9058-64

Director Health Services,
FATA, Peshawar.

No. /SAP/Admn/Interview of paramedics.

Date: 10/5/2008.

Copy forwarded to the:

1. Director General Health Services, NWFP, Peshawar.
2. Accountant General AGPR Peshawar.
3. Agency Surgeon/District Health Officer/Medical Superintendent Concerned.
4. Agency/District Accounts Officers Office.
5. Person File.
6. Official Concern.

File. - seen file
15/5/2008

Director Health Services,
FATA, Peshawar.