

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1428/2014

Date of Institution ... 26.12.2014

Date of Decision ... 02.11.2017

Muhammad Naeem, son of Muhammad Idrees, Junior Clinical Technician  
(Radiology) King Abdullah Hospital, Mansehra. ... (Appellant)

VERSUS

1. The Secretary Health Department, Government of Khyber Pakhtunkhwa,  
Peshawar and 3 others. ... (Respondents)

MR. RIZWANULLAH,  
Advocate

... For appellant

MR. ZIAULLAH,  
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. GUL ZEB KHAN,

... CHAIRMAN  
... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- This judgment shall  
dispose of the instant service appeal as well as connected service appeal No.  
1429/2014, entitled "Babar Shahzad Vs. the Secretary Health Department,  
Government of Khyber Pakhtunkhwa, Peshawar and 3 others".

2. Arguments of the learned counsel for the parties heard and record perused.

**FACTS**

3. The appellants were appointed in BPS-9 on 12.08.2004 on contract basis. Thereafter, the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 was promulgated where under the services of the contract employees fulfilling the conditions mentioned therein were regularized but the appellants instead of being regularized were terminated vide letter dated 30.06.2007. The appellants then challenged this termination letter before the Worthy Peshawar High Court which was dismissed on 30.07.2007. In the meantime Inayatul Haq and 24 others also challenged their termination before the Worthy Peshawar High Court which was allowed on 14.1.2010. In the meantime, the appellants were again appointed on regular basis on 01.03.2008 afresh. The appellant then went to Peshawar High Court, Peshawar for re-agitating their earlier Writ filed before the Peshawar High Court on the ground that similar question had been decided in the case of Inayatul Haq etc. and the case of appellants was wrongly dismissed on 30.07.2007. On this the Worthy Peshawar High Court vide judgment dated 22.09.2011 remitted the case back to the department for a detail order by taking into consideration the case of Inayatul Haq etc. The department then passed an elaborate order dated 12.09.2012 giving the appellants the benefit of Inayatul Haq (wrongly mentioned the case of Muhammad Naeem and others in the order). But the department in the said order did not decide the issue of seniority. The appellants then again knocked the door of the Worthy Peshawar High Court by challenging the promotion of certain individuals on the ground of seniority in the year, 2013. The Worthy Peshawar High Court vide order dated 25.02.2014, dismissed the Writ Petition on the ground of Article 212 of the Constitution of Islamic Republic of Pakistan. The appellants then filed an application before the Director General Health Services, Peshawar on 07.08.2014 for their seniority. That application was dismissed on 14.11.2014 which

was communicated on 26.11.2014. Thereafter, the appellants filed the present service appeal on 26.12.2014.

### ARGUMENTS.

4. The learned counsel for the appellant argued that when the Worthy Peshawar High Court vide order dated 22.09.2011 directed the department to treat their cases at par with Inayatul Haq, then it was necessary for the department to not only regularize the services of the appellants from the date of promulgation of Civil Servants (Amendment) Act, 2005 but also give seniority to them under the said amendment as the appellants had been regularized by virtue of law. That though there is no mention of issue of seniority in the order of the department dated 12.09.2012 but Inayatul Haq etc. have been given seniority from the date of promulgation of the said Act. In this regard the departmental representative produced a seniority list today. The learned counsel for the appellants also argued that the right of the appellants cannot be denied on the ground of technicalities like limitation etc. He relied upon Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan read with a judgment reported as 2007-SCMR-834 by further augmenting his arguments that no limitation runs against illegal orders. That as per the law and directions of the Worthy High Court, the case of the appellants was to be treated at par with the case of Inayatul Haq etc. and in case of denial the principles of equality of citizens to be treated in accordance with law has been violated.

5. On the other hand, the learned Deputy District Attorney argued that the present appeal is not maintainable for the reason that firstly there is no departmental appeal against the order dated 14.11.2014 which is an original order. That the appellants have not challenged the seniority given to them from their fresh

appointment in the year, 2008. That in view of the judgment reported in 2011-SCMR-1111 in the absence of departmental appeal, this Tribunal lacks the jurisdiction and in view of judgment reported as PLD 2014-Supreme Court-338 any order passed by an authority even illegal should be challenged within time.

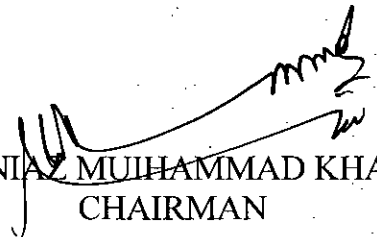
### CONCLUSION.

6. It is an admitted position that the Worthy Peshawar High Court had directed the department to pass a speaking order in the light of already decided Writ of Inayatul Haq etc. and the department did regularize the appellants on the basis of the said judgment vide order dated 12.09.2012. It is also an admitted position that the issue of seniority was not decided in this very order. It is also an admitted position that Inayatul Haq etc. were given seniority from the date of regularization under the law. The only point for determination for this Tribunal is whether the order dated 14.11.2014 is an original order or appellate order for the purpose of jurisdiction of this Tribunal. It is also an admitted position that the present service appeals were filed within 30 days of communication of this very order. This Tribunal is of the view that the appellants should have filed departmental appeals against this very order which is an original order but they instead of filing departmental appeals, filed the present service appeals within 30 days. Now the appellants cannot be non suited on the basis of this technicality however, they were also obliged as observed above to approach the appellate authority.

7. This Tribunal in the interest of justice converts the present service appeals into departmental appeals and remits this appeal back to the departmental appellate authority for determining the seniority of the appellant in the light of the judgment of Inayatul Haq and the principles on the basis of which seniority given to Inayatul

Haq etc. The appellate authority is directed to decide this departmental appeal with reasons within 90 days failing which the present appeal shall be deemed to have been accepted qua the seniority only and if the departmental authority rejected the departmental appeal of the appellant then the appellants shall have right to approach this Tribunal. Parties are left to bear their own costs. File be consigned to the record room.

  
(GUL ZEB KHAN)  
MEMBER

  
(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

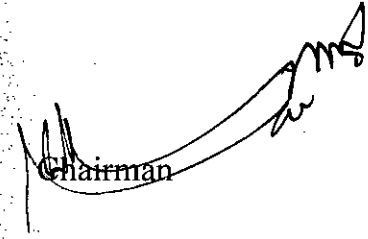
ANNOUNCED  
02.11.2017

02.11.2017

Appellant alongwith counsel and Mr. Ziaullah, Deputy District Attorney alongwith Yar Gul, Senior Clerk for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today; this appeal is remitted to the departmental appellate authority. Parties are left to bear their own costs. File be consigned to the record room.

  
Member

  
Chairman

ANNOUNCED  
02.11.2017

28.03.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. AG alongwith Yar Gul, Assistant for the respondents present. The requisite record not produced. Last opportunity granted. In case the respondents failed to produce the requisite record on the next date of hearing then adverse inference will be drawn against them as per law. To come up for final hearing before the D.B on 20.07.2017.

*MA*  
Member

*Chairman*  
Chairman

20.07.2017

Appellant alongwith his counsel present. Mr. Yar Gul, Senior Clerk alongwith Mr. Ziaullah, Deputy District Attorney for the respondents also present. Record not produced. Representative of respondent-department is directed to produce the seniority list of Inayatullah and 24 others in light of judgment which was disposed of by the worthy Peshawar High in Writ Petition No. 1166/2008 on the next date positively. Adjourned. To come up for record and arguments on 02.11.2017 before D.B.

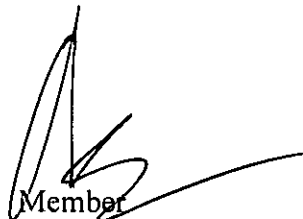
*Gul Zeb Khan*  
(Gul Zeb Khan)  
Member

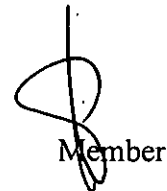
*Muhammad Amin Khan Kundi*  
(Muhammad Amin Khan Kundi)  
Member

19.08.2016

Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on

8-11-16

  
Member

  
Member

08.11.2016

Counsel for the appellant and Addl:AG for respondents present. Learned AAG requested to produce writ petition No. 1662/2007 and 1166/08 alongwith

seniority list on the next date. Request accepted. To come up for such record and further arguments on 23.02.2017.

~~On 04.11.2016, the petition was dismissed by this Tribunal dated~~

~~04.11.2016 reveals that the respondents are PIR BAKHSH SHAH,~~

~~MEMBER (PIR BAKHSH SHAH)~~

~~and the petitioner is MUHAMMAD AAMIR NAZIR.~~

~~On 04.11.2016, the Tribunal directed the respondents to produce~~

~~the record of the petitioner and to file a seniority list on~~

~~04.11.2016. The Tribunal directed that the petitioner should~~

~~be considered for promotion to the post of (BPS-18)~~

~~from the date when the vacancy was available. It was~~

~~directed that the petitioner should file a seniority list on~~

~~04.11.2016. The Tribunal directed that the petitioner should~~

~~file a seniority list on 04.11.2016. The Tribunal directed that~~

23.02.2017

~~the petitioner should file a seniority list on 04.11.2016. The~~

~~Tribunal directed that the petitioner should file a seniority~~

~~list on 04.11.2016. The Tribunal directed that the petitioner~~

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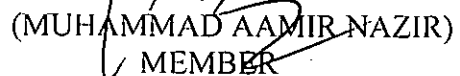
~~04.11.2016. The Tribunal directed that the petitioner~~

~~should file a seniority list on 04.11.2016. The Tribunal~~

~~directed that the petitioner should file a seniority list on~~

~~04.11.2016. The Tribunal directed that the petitioner~~

  
(AHMAD HASSAN)  
MEMBER

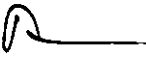
  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

Member



10.11.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to shortage of time. To come up for arguments on 2.6-2-2016.

  
Member

  
Member

26.02.2016

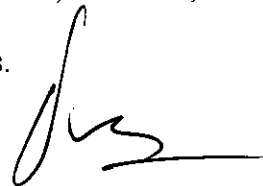
Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 4.5.16 for arguments.

  
Member

  
Member

04.05.2016

Appellant with counsel and Mr. Usman Ghani, Sr. GP for respondents present. Arguments could not be heard due to learned Member (Judicial) is on leave, therefore, the case is adjourned to 19.08.2016 for arguments.



Member

3.3.2015

Appellant with counsel and Addl. AG with Laiq Ahmad, Assistant and Dr. Ijaz Ali Shah, Coordinator for the official respondents present and requested for time. None is available on behalf of private respondent No. 4. Fresh notice be issued to him. To come up for written reply on 13.4.2015.



MEMBER

13.4.2015

Appellant with counsel and Mr. Yar Gul, Senior Clerk and Dr. Mumtaz Ahmed, Coordinator with Muhammad Asif, Assistant and learned Addl: A.G for official respondents No. 1 to 3 present. Respondent No. 4 is not in attendance. Proceeded ex-parte. Requested for adjournment. To come up for written reply/comments on 19.6.2015 before S.B.

  
Chairman

19.06.2015

Appellant with counsel and Mr. Zahir Shah, Junior Clerk alongwith Assistant A.G for respondents present. Written reply submitted, copy whereof supplied to learned counsel for the appellant. Learned counsel for the appellant submitted that he did not want to file rejoinder. To come up for arguments on 10.11.2015.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1428/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.12.2014	<p>The appeal of Mr. Muhammad Naeem presented today by Mr. Rizwanullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p style="text-align: center;"><del>(this case is entrusted to Bench for preliminary hearing to be put up there)</del></p>
2	21.1.2015	<p style="text-align: center;"><del>Chairman</del> File received from the Hon'ble Bench-I.</p> <p>Appellant with counsel present. The learned counsel for the appellant submitted before the court that the benefits of seniority-cum-promotion have been given to similarly placed person i.e. private respondent No. 4 while the appellant has been discrimination and have not been given his due &amp; legal right of seniority-cum-promotion, in violation of Article 25 of the Constitution of Islamic Republic of Pakistan. Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for submission of written reply/comments on 3.3.2015.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>

Appellant deposited  
 process fee & security  
 Rs. 350/- Bench-I. Receipt  
 attached with file.

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

Service Appeal No. 1488 /2014

1. Muhammad Naeem, Son of Muhammad Idrees, Junior Clinical Technician (Radiology)  
King Abdullah Hospital, Mansehra

**APPELLANT**

**VERSUS**

1. The Secretary Health Department, Government of Khyber Pakhtunkhwa, Peshawar  
and others.

**RESPONDENTS**


**I N D E X**

S.No	Particulars	Annexure	Pages #
1	Service Appeal	-	1-8
2	Affidavit	-	9
3	Appointment letter	A	10
4	Appointment letter	B	11
5	Copy of order of regularization	C	12
6	Fresh appointment order	D	13-14
7	Copy of order of High Court	E	15-18
8	Order of Competent Authority	F	19
9	Copy of order of High Court	G	20-23
10	Copy of departmental appeal and promotion orders of respondent No.4	H, I & J	24-28
11	Copy of rejection order	K	29
12	Wakalatnama	-	30

  
Appellant

Through

Dated: 26-12-2014

  
Rizwanullah  
M.A. LL.B  
Advocate High Court, Peshawar

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

Service Appeal No. 1428 /2014

H. W. F. Province  
1466  
26/12/2014

Muhammad Naeem, Son of Muhammad Idrees,  
Junior Clinical Technician (Radiology) King Abdullah Hospital, Mansehra

**APPELLANT**

**VERSUS**

1. The Secretary Health Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer, Mansehra.
4. Muhammad Khurshid son of Rehmatullah, Chief Clinical Technician (Radiology) District Headquarter Hospital, Kohat.

FR  
13-7-14

**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER NO. 8255 DATED  
14-11-2014 PASSED BY THE DIRECTOR  
GENERAL HEALTH SERVICES, KHYBER  
PAKHTUNKHWA (RESPONDENT NO.2).**

26/12/14

**PRAYER IN APPEAL**

By accepting this appeal, the impugned order No. 8255 dated 14-11-2014 passed by the Director General Health Services, Khyber Pakhtunkhwa Peshawar, may very graciously be set aside and the appellant may kindly be held entitled of seniority from the date of his initial recruitment alongwith two steps promotion as Clinical Technician (Radiology B-12) and

**Chief Clinical Technician (Radiology B-16) quo similarly placed colleague (respondent No.4).**

**RESPECTED SIR,**

**Short facts giving rise to the present appeal are as under:-**

1. That appellant was appointed as X-Ray Technician (BPS-9) on contract basis vide order dated 12-8-2004 passed by the District Health Officer, Mansehra (respondent No.3). He was then posted in District Headquarter Hospital Mansehra now King Abdullah Teaching Hospital, Mansehra **(Copy of appointment letter is appended as Annex-A).**
2. That one Muhammad Khurshid (respondent No.4) was also inducted in the same capacity as X-Ray Technician (B-9) with effect from 12-8-2004 **(Copy of appointment letter is appended as Annex-B).**
3. That when appellant and respondent No.4 were serving in their original cadre as X-Ray Technician, the nomenclature of the cadre of service was converted into Junior Clinical Technician (Radiology) and now called as such.
4. That the respondent No.4 being the blue eyed chap of respondent No.1-3 was regularized on 22-9-2004 on the basis of Notification dated 16-4-2003 but the benefit of this Notification was not extended to appellant without any cogent and valid reasons **(Copy of order of regularization is appended as Annex-C).**
5. That the Government of Khyber Pakhtunkhwa through proper legislation, promulgated “ **the Khyber Pakhtunkhwa Province Civil Servants (Amendment) Act-2005** ” wherein it was laid down that “ **a person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July,2001, till the commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on a regular basis** ”. So the services of the appellant were required to be regularized by operation of above law. But the Competent Authority instead of regularizing the services of the appellant, issued him fresh appointment order and put him in financial loss by receiving initial pay of grade **(Copy of fresh appointment order is appended as Annex-D).**

6. That appellant and other employees were obliged to invoke the Jurisdiction of Hon'ble Peshawar High Court, Circuit Bench Abbottabad, by filing a writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, praying therein for regularization of their project services on the basis of case of similarly placed employees of District Dir and Buner, whose services had already been regularized in their respective posts.
7. That the above writ petition was disposed of by the Hon'ble Court on 22-9-2011 and a direction was issued to the Competent Authority to consider the case of appellant etc for regularization in the light of case referred to above as well as under the relevant law **(Copy of order of High Court is appended as Annex-E).**
8. That in compliance with the order of Hon'ble High Court, the Competent Authority, after proper scrutiny, accepted the appeal and held as follows **(Copy Annex- F).**

**“ WHEREAS an appeal was lodged by the employees to the undersigned, which was examined in detail. After examining the case of appellants, it has come to know that SAC Projects launched in the Province were of the same nature and the benefit of the judgment of the Peshawar High Court in case writ petition No. 1662/2007 and 1166/2008 can also be extended to the employees of the defunct SSC Project of this District ”.**

**“Since the case of the employees mentioned above is similar to those regularized in the other districts, i.e, Dir and Buner, as evident from the replies submitted by EDO (Health) vide letter No. 3206 dated 15-6-2012 to the quarries raised by this office, therefore, the benefit of the judgment dated 22-9-2011 of the Peshawar High Court, Peshawar passed in writ petition No. 616 of 2010 (Muhammad**

of the Constitution of Islamic Republic of Pakistan, 1973. Therefore, impugned order is not sustainable in the eye of law.

- B.** That the respondent No.2 was under statutory obligation to have considered the case of appellant in respect of his seniority as well as promotion in its true perspective and in accordance with the mandate of Constitution and Law. But he failed to do so despite the facts that these benefits were duly provided to Muhammad Khurshid (respondent No.4), similarly placed employee. Thus, appellant has been discriminated and treated unfairly quo his above name colleague. This is a disparity and anomaly and is also violation of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments has maintained that equal treatment is the fundamental right of every citizen. Reliance can be placed on 2007-SCMR-410(d), 2002-SCMR-71(a) & 2011-PLC(C.S)-7(b). The relevant citations are reproduced herein for facility of reference:-

**2007-SCMR-410(d)**

**(D) CONSTITUTION OF PAKISTAN (1973)---**

**---Art. 25---Equal protection of law---Principles---Concept of equal protection of law envisages that a person or class of persons should not be denied the rights, which are enjoyed by other persons in the same situation.**

**2002-SCMR-71(a)**

**(a) Constitution of Pakistan (1973)---**

**----Art. 25---Equality of citizens---Two groups of persons similarly placed could not be treated differently---Dictates of law, justice and equity required exercise of power by all concerned to advance the cause of justice and not to thwart it.**

**2011-PLC(C.S)7(b)**

**(B) CONSTITUTION OF PAKISTAN---**

**----Art. 25--Equality before law--  
-Principles---Equality before law,  
was the basic concept of Islam and**



that concept had been borrowed by English, American and European Constitutions from Islam---Two similarly placed persons could not be treated differently---Principle of equality before law and prohibition of discrimination between the similarly placed persons, was the essence of rule of law---Even selective, discriminatory and distinctive treatment by the Government was also prohibited---Two similarly and equally placed persons, could not be treated differently.

Therefore, the impugned order is against the spirit of administration of justice.

- C. That administration of justice is not confined only to judicial system and every person discharging function in relation to the rights of people is bound to do justice, fairly and in accordance with law as per dictum laid down by august Supreme Court of Pakistan in case reported in **2003-SCMR-1140**. The relevant citation is as under:-

**2003-SCMR-1140(c)**

**(c) Administration of justice---**

---Concept---Administration of justice is not confined only to judicial system---Every person discharging functions in relation to rights of people is bound to act fairly, justly and in accordance with law—Exercise of powers by public functionaries in derogation of direction of law would amount to disobeying the command of law and Constitution--If a person holding a public office is found to have proceeded in violation of law or his acts and conduct amounted to misuse of his official authority, he should be made answerable to law and should be proceeded against

**for an appropriate action by his superiors.**

But the respondents No. 1-3 have blatantly violated the said dictum of august Supreme Court of Pakistan for the reasons that the appellant and respondent No.4 were appointed on the same date and time but the services of the latter were only regularized with effect from 22-9-2004 and that he was also given two steps promotion as Clinical Technician (Radiology B-12) and Chief Clinical Technician (Radiology B-16). Thus, they failed to do justice. Hence, the act and conduct of the said officers are discriminatory in nature. Therefore, the impugned order has no sanctity under the law.

- D. That when the project employment / services of appellant were regularized, thereafter, the Competent Authority was not justified to deprive him of his due right of seniority from the date of his initial recruitment as well as two steps promotion already given to similarly placed employee (respondent No.4). Thus, the impugned order is liable to be set aside on this score alone.
- E. That the respondent No.2 was legally bound to give an opportunity of personal hearing to the appellant to enable him to explain his view points in respect of his seniority as well as promotion as required under the law. But he failed to do .Thus, the appellant has been condemned / penalized without being heard, contrary to the basic principle of Natural Justice known as **“Audi Alteram Partem”**. Reliance in this respect can be placed on the judgment of august Supreme Court of Pakistan reported in **PLD-2008-SC-412 (a)**. The relevant citation is as under:-

**(a) Administration of justice---**

**---Natural justice, principles of---  
Opportunity of hearing---Scope---  
Order adverse to interest of a  
person cannot be passed without  
providing him an opportunity of  
hearing---Departure from such  
rule may render such order  
illegal.**

- F. That the Competent Authority has passed the impugned order in mechanical manner and the same is perfunctory as well as non-speaking

and also against the basic principle of administration of justice. Therefore, the impugned order is not tenable under the law.

- G. That the impugned order is based on conjectures and surmises. Hence, the same is against the legal norms of justice.
- H. That the impugned order is suffering from legal infirmities and as such the same is bad in law.
- I. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.


In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned order No. 8256 dated 14-11-2014 passed by the Director General Health Services, Khyber Pakhtunkhwa Peshawar, may very graciously be set aside and the appellant may kindly be held entitled of seniority from the date of his initial recruitment alongwith two steps promotion as Clinical Technician (Radiology B-12) and Chief Clinical Technician (Radiology B-16) quo similarly placed colleague (respondent No.4).

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

Dated: 26-12-2014

  
Appellant

Through

  
**Rizwanullah**  
M.A. LL.B  
Advocate High Court, Peshawar

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

Service Appeal No. \_\_\_\_\_/2014

1. Muhammad Naeem, Son of Muhammad Idrees, Junior Clinical Technician (Radiology) King Abdullah Hospital, Mansehra.

**APPELLANT**

**VERSUS**

1. The Secretary Health Department, Government of Khyber Pakhtunkhwa, Peshawar and others.

**RESPONDENTS**

**AFFIDAVIT**

I, Muhammad Naeem, Son of Muhammad Idrees, Junior Clinical Technician (Radiology) King Abdullah Hospital, Mansehra, do hereby solemnly affirm and declare that the contents of the accompanied service appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



*M. Naeem*  
**Deponent**

**BETTER COPY**

**OFFICE OF THE DISTRICT COORDINATION OFFICER MANSEHRA**

NO. \_\_\_\_\_ /Nursing  
Dated. \_\_\_\_\_ 2004

To,

Mr. Muhammad Khurshid S/o Rehmat Ullaha  
X-Ray Attendant DHQ: Hospital Mansehra

Subject:

**APPOINTMENT AS X-RAY TECH IN BPS-9**

Memo,

Reference interview dated 11/4/2004 consequent upon the approval of the department selection committee you are offered the post of X-RAY Tech BPS-9 on purely contract basis against the newly created post of X-Ray Tech in DHQ: Teaching Hospital Mansehra on the following terms and conditions.

1. You will be placed in BPS-9 (2110-145-6760) with usually allowance as permissible to the Government Servants of the same scale for contract employees.
2. Your Services will be governed under the Government of the NWFP contract policy 2002.
3. Your initial contract will be for three years, However fresh contract would be executed, if the job is required to be continued subject to your satisfactory performance.
4. Either party can terminate the contract on two months notice or two month salary in lieu thereof.
5. You will be provided the same facilities under benevolent fund as admissible to the Government servant on the rates prescribed by the Government.
6. You will avail the benefit of the contributory Provident Fund (GPF) through 5% contribution of the minimum of your pay and 5% contribution to be made by the Government.
7. If the above offer of the appointment on contract is acceptable to you on the above terms and conditions, you are advised to report to the office of the Medical Superintendent DHQ Teaching Hospital Mansehra for duty.
8. The candidate is directed to make her arrival on 1-9-2004.
9. Please bring your original documents.
10. Your previous service as X-Ray Attendant & Pay drawn are hereby protected.
11. No. TA/DA for joining the duty will be allowed.

**ATTESTED**

Sd/-  
District Coordination Officer  
Mansehra

No. 89-95/NURSING 12/804

CC

1. The Secretary to Government of NWFP Health Department for information please.
2. The Director General Health Services NWFP Peshawar for information please.
3. The Medical Superintendent DHQ Hospital Mansehra.
4. The Executive District Officer Health Mansehra.
5. The District Account Officer Mansehra.
6. Establishment Branch DHQ: Hospital Mansehra.
7. SAC Project DHQ: Hospital Mansehra.

ANNEXURE LA) (17)

Annex - B (11)

OFFICE OF THE DISTRICT COORDINATION OFFICER MANSHEHRA

NO. \_\_\_\_\_ /NADRI/HTG  
Dated: \_\_\_\_\_ 2004

To,

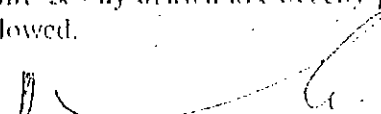
Mr. Muhammad Khurshid S/O Rehmat Ullaha  
X-Ray Attendant DHQ Hospital Manshehra

SUBJECT APPOINTMENT AS X-RAY TECH IN BPS-9

Memo,


Reference interview dated 11/4/2004 consequent upon the approval of the department selection committee you are offered the post of X-RAY Tech BPS - 9 on purely contract basis against the newly created post of X-Ray Tech in DHQ Teaching Hospital Manshehra on the following terms and conditions.


- 1 You will be placed in BPS - 9 (C 110-145-6769) with usually allowance as permissible to the Government servants of the same scale for contract employees.
- 2 Your Services will be governed under the Government of the NWFP contract policy 2001.
- 3 Your initial contract will be for Three years, However fresh contract would be executed if the job is required to be continued subject to your satisfactory performance.
- 4 Either party can terminate the contract on two months notice or two month salary in lieu thereof
- 5 You will be provided the same facilities under benevolent fund as admissible to the Government servant on the rates prescribed by the Government.
- 6 You will avail the benefit of the contributory Provident Fund (CPF) through 5% contribution of the minimum of your pay and 2% contribution to be made by the Government.
- 7 If the above offer of the appointment on contract is acceptable to you on the above terms and conditions, you are advised to report to the Office of the Medical Superintendent DHQ Teaching Hospital Manshehra for duty.
- 8 The candidate is directed to make her arrival on 1-9-2004
- 9 Please bring your original documents.
- 10 Your previous service as X-Ray Attendant & Pay drawn are hereby protected.
- 11 NO. TA/DA for joining, the duty will be allowed.

  
District Coordination Officer  
Manshehra

No. 89-95 /NADRI/HTG 12/8/04  
CC

- 1 The Secretary to Government of NWFP Health Department for information please.
- 2 The Director General Health Services NWFP Peshawar for information please.
- 3 The Medical Superintendent DHQ Hospital Manshehra
- 4 The Executive District Officer Health Manshehra.
- 5 The District Account Office Manshehra.
- 6 Establishment Branch DHQ Hospital Manshehra.
- 7 SAC Project DHQ Hospital Manshehra.

  
District Coordination Officer  
Manshehra

  
ATTESTED

ANNEXURE "C" (15)

Annex - C (12)

OFFICE OF THE DISTRICT COORDINATION OFFICER MANSHERA

ORDER.

In pursuance of Establishment and Administration Department NWFP Peshawar Notification No. SO-VI (E & A) 1-13 /2003 dated 16-4-2003 the services of following official is hereby regularized in the light letter referred to above (Amendment in contract policy) from the date of issuance of notification.

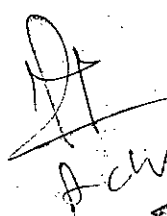
<u>S.No</u>	<u>Official</u>	<u>Appointed as</u>
1.	✓ Khurshid S/O Rehmat Ullaha Ex-X-Ray Attendant DHQ: Teaching Hospital Manshra	Appointed as X-Ray Tech in B.P.S -9 vide this office order No 88 dated 12/8/2004 in DHQ: Teaching Hospital Manshra
✓ 2.	Muhammad Shafique S/O Aziz-U-Rehman Ex-Lab Tech in B.P.S (H) 9 Manshra	Appointed as Lab Tech in B.P.S -9 vide this office order No 70/2 dated 12/8/2004 in DHQ: Teaching Hospital Manshra

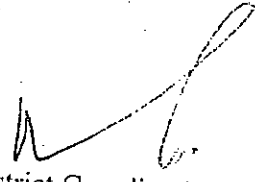
  
District Coordination Officer,  
Manshra.

No. 146-150 / dated. 22 / 9 / 2004.

Copy forwarded to the :

- 1 The Medical Superintendent DHQ: Teaching Hospital Manshra.
- 2 SO VI Establishment & Administration department NWFP Peshawar.
- 3 District Account Officer District Manshra
- 4 Official Concerned.

  
**ATTESTED**

  
District Coordination Officer,  
Manshra.

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH MANSEHRA.ORDER

Consequent upon the approval of the Departmental Selection Committee, the Competent Authority has been pleased to appoint the following candidates purely on merit /policy in BPS-9 @ (Rs.3185-190-8885) plus usual allowances as admissible under the rules posted in the Health Units as noted against each for the interest of public service subject to the following terms and conditions.

S.	Name	Father Name	Address	Nomenclature of Post	Place of Posting	Remarks
1	Muham mad Naeem	Muhammad Hreec	Muhallah Kangar Mosque Mansehra	Junior Clinical Technician (Radiology)	DHQ: Hospital Mansehra	A/V Post X-ray Tech
2	Babar Shehzad	Muhammad Zareen	Mongan Muchi Pool Mansehra	Junior Clinical Technician (Radiology)	DHQ: Hospital Mansehra	--do-- X-ray Tech
3	Nisar Ahmed	Yaseer	Muhallah Lohar Danda Mansehra	Junior Clinical Technician (Radiology)	DHQ: Hospital Mansehra	--do-- X-ray Tech.

TERMS & CONDITIONS

- 1)- They shall governed under Govt. of NWFP, Civil Servants (Amendment) Act, 2005, read with Govt. of establishment and Administration Department ( Regulation Wing) Notification No. SO (Regulation-VI) (P&AD) 1-13-2005 dated 10.8.2005.
- 2)- Their appointments are purely on temporary basis and liable to termination at any stage without assigning any reason/notice.
- 3)- They shall be governed by such rules and regulations enforce and as may be prescribed by the Government from time to time for the category of the Government Servants to which they belong.
- 4)- They shall get in that of the rule including usual allowance as admissible under the rule, they are entitled to annual increment according to the rules except pension and commutation.
- 5)- Their services are liable to termination on one month prior notice from either side in case of resignation without prior notice. Their one month pay /allowance, if any shall be forfeited to Government.
- 6)- They shall not contribute any amount towards C.P Fund however they will contribute C.P Fund.
- 7)- They shall be required to furnish copies of all their certificates/Degrees alongwith Original.

AR  
A.C.W

**ATTESTED**



8)- They shall be required to furnish copies of their certificates/Diploma/Degrees alongwith the original receipt and photo copies thereof pertaining to the verification fee of the concerned examining Agencies i.e. Board/University/Faculty to this office. This office will arrange verification of all certificates/degrees/diploma of the appointee and will issue a clearance certificate to each appointee for the release of his /her pay. His/her pay bills should not be submitted to the District Accounts Officer Mansehra before verification of all certificates/degrees/diploma from the concerned institutions of each candidate.

9)- They should produce Age & Health Certificate from the Medical Superintendent DHQ Hospital Mansehra.

10)- No travelling allowance/Daily allowance (TA/DA) etc is allowed.

11)- If the above appointee if order on contract basis is acceptable to you on the above terms and conditions, you are directed to report for duty within 10 days from the receipt of this order.

(Dr. Muhammad Javeed Khan)  
Executive District Officer  
Health Mansehra.

No. 965-10 / Appvt/2008/Dated Mansehra, the 01 / 03 / 2008.

Copy forwarded for information to the: -

1. Director General Health Services NWFP Peshawar.
2. District Nazim Mansehra.
3. District Coordination Officer Mansehra.
4. District Accounts Officer Mansehra.
5. Medical Superintendent DHQ Hospital Mansehra.
6. Candidates Concerned.

*[Handwritten signature]*  
Aew

*[Handwritten signature]*  
(Dr. Muhammad Javeed Khan)  
Executive District Officer  
Health Mansehra

**ATTESTED**

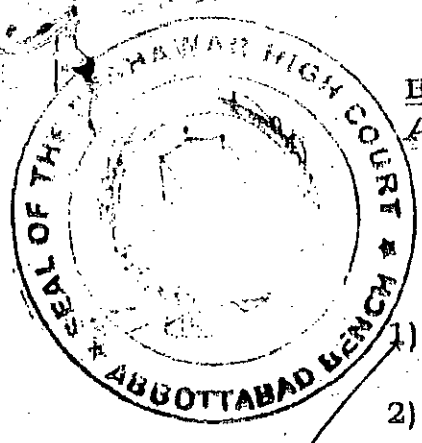
ANNEXURE "D" (14)

(1)

(15)

**BEFORE THE PESHAWAR HIGH COURT  
ABBOTTABAD BENCH**

Annex E



- 1) Muhammad Naeem son of Muhammad Idrees, X-Ray Technician,
- 2) Bakht Munir son of Ghani Gul, Blood Bank Technician,
- 3) Arshad Hussain son of Sadrul Islam, E.C.G. Technician,
- 4) Muhammad Rashad son of Muhammad Aslam, Laboratory Technician, King Abdullah Teaching Hospital, Mansehra.....Petitioners

Versus

COMPUTERIZED

- ✓ 1) Government of Khyber Pakhtunkhwa, through Secretary Health, Civil Secretariat, Peshawar.
- 2) Government of Khyber Pakhtunkhwa, through Secretary Establishment and Administration, Civil Secretariat, Peshawar.
- 3) Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
- 4) District Co-Ordination Officer, District Mansehra.
- 5) Executive District Officer (Health) District Mansehra.
- 6) Medical Superintendent, King Abdullah Teaching Hospital, Mansehra. ....Respondents

Additional Registrar  
Peshawar High Court  
Abbottabad Mansehra

No 3459  
27/10/11

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 FOR DECLARATION THAT FRESH APPOINTMENT ORDERS OF THE PETITIONERS DATED 01.03.2008 ARE BASED ON MALAFIDE OF RESPONDENTS AND AS SUCH ARE ILLEGAL AND NULL AND VOID. PETITIONERS ARE ENTITLED TO GET ALL BENEFITS INCLUDING CONFIRMATION, PROMOTION AND ALL OTHER SERVICE BENEFITS ON THE BASIS OF INITIAL RECRUITMENT ORDERS DATED 12.08.2004.**

ATTESTED

Certified to be True Copy

Examined  
Peshawar High Court  
Abbottabad Bench

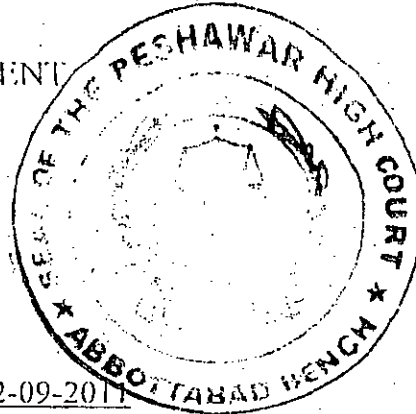
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**IN THE PESHAWAR HIGH COURT.  
ABBOTTABAD BENCH.**

JUDICIAL DEPARTMENT

W.P.No:616 of 2010

JUDGMENT



Date of hearing 22-09-2011

Appellant(s)/Petitioner (s) (Muhammad Naeem & others) by  
Malik Muhammad Asif Advocate.

Respondent (s) (Government of N.W.F.P and others) by Mr.  
Muhammad Nawaz Khan Swati AAG.

YAHYA AFRIDI:-J:- Learned counsel for the petitioners contends that the petitioners be treated at par with others similarly placed persons in other departments and particularly as decided by this Court in WP No.1166/2008 and WP No.1662/2007.

2. There is no cavil to the legal proposition advanced by the learned counsel for the petitioners. There can be no discrimination between similarly placed persons, as this is the command of Article 25 of Constitution. Moreover, 'right in rem' once declared by a competent Court of law, has to be applied to all, irrespective of whether they are parties to the 'lis' or otherwise. Reliance may be placed on the Full Court judgment of Honourable Supreme Court of Pakistan in

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Ex. 22.9.11

Peshawar High Court  
Abbottabad Bench

Authorized Under Section 44 of the Court Act, 1925

'Government of Punjab Vs Samina Parveen' (2009 SCMR 1) and 'Hamid Akhtar Niazi Vs Secretary Establishment Division' (1996 SCMR 1158), and 'Tara Chand Vs KWSB' (2005 SCMR 499).

3. The learned AAG does not dispute the aforementioned legal proposition. However, he submitted that the respondents should be allowed to consider whether the petitioners are similarly placed with the others, who have already granted the said benefit by the respondents department.

4. Accordingly, in view of the peculiar circumstances of the present case and in the light of the clear '*dicta*' of the Supreme Court of Pakistan, we hold that:

- i) Respondent No.5 shall consider the case of the petitioners and if he finds them similarly placed with others, who have been '*regularized*' as prayed by the petitioners, the petitioners be also treated in the same manner;
- ii) In case, Respondent No.5 does not find the petitioners or any one of them similarly placed with the persons who have been

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 Peshawar High Court  
 Abbottabad Bench  
 Authorized Under Sec 75 Acts Ordins

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regularized, then the same be communicated in writing with reasons to the said petitioner:

- iii) The needful be done by respondent No.5 within a period of 30 days from the receipt of this judgment, if not earlier.

5. For the reasons stated hereinabove, the present petition is disposed of in the above terms.

SD: JUDGES

Certified to be True Copy  
 22.9.11  
 Examiner  
 Peshawar High Court  
 Abbottabad Bench  
 Authorized Under Sec 75 of the Ordinance

Announced:  
22.09.2011

"MSd"

DISTRICT GOVERNMENT MANSEHRA  
OFFICE OF THE DISTRICT COORDINATION OFFICER

18

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ORDER

ANNEXURE 'F'

Whereas the following employees were appointed on contract basis under SAC Project for 03 years in the year 2004 at King Abdullah Hospital Manshra and on expiry of their contract they were issued notice by the EDO Health, Manshra for termination of their contract:-

(1) Mr. Anwar ul Haq (2) Shabbir Ahmed, (3) Bakht Munir, (4) Rashid, Laboratory Technicians (5) Jafikhar Ahmed Sahibzada (6) Abdul Hameed Khan (7) Arshad Hussain, JCT Cardiology (8) Muhammad Naeem, (9) Baber Shahzad, JCT Radiology (10) Jahingir Khan, JCT Ophthalmology (11) Syed Adil Hussain Shah, JCT Dental (12) Manzoor Ahmed, (13) Muhammad Hanif, (14) Shabbir Ahmed JCT surgical, King Abdullah Teaching Hospital Manshra.

AND WHEREAS on receipt of notices they approached High Court and filed a writ petition and after arguments the writ petition was dismissed with observation that these appointment were as contract basis for SSC Project.

AND WHEREAS after the creation of regular Posts in Health Department they were re-employed against these posts after completing all codal formalities. However in the year 2010, they again approached High Court, for regularization of their project service quoting the conditions /case of Dir and Buner District. The High Court vide his order dated 22.09.2011 directed EDO Health to consider the case of the appellants and if finds them similarly placed with others who have been regularized as prayed by the petitioners.

WHEREAS an appeal was lodged by the employees to the undersigned, which was examined in detail. After examining the case of appellants, it has come to know that SAC Projects launched in the Province were of the same nature and the benefit of the Judgment of the Peshawar High Court in case Writ Petition No. 1662 / 2007 and 1166/2008 can also be extended to the employees of defunct SSC Project of this District.

Since the case of the employees mentioned above is similar to those regularized in the other Districts, i.e. Dir and Buner, as evident from the replies submitted by EDO (Health) vide letter No.3206 dated 15.06.2012 to the queries raised by this office, therefore, the benefit of the Judgment dated 22.09.2011 of the Peshawar High Court Peshawar passed in writ petition No.616 of 2010 (Muhammad Naeem & Others Vs Govt. of Khyber Pakhtunkhwa & others) is hereby extended to these 14 (fourteen employees) of the SAC Project as well, and appeal lodged by them is hereby accepted.

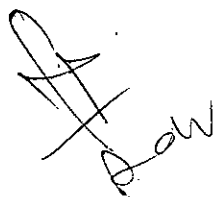
  
(Dr. Amber Ali Khan)  
District Coordination Officer,  
Manshra

No. 19501-07 /DHQ/AE/DCO (M)

Dated 12 /09/2012

Copy for information and necessary action to the:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
2. The Secretary Establishment & Administration Govt. of Khyber Pakhtunkhwa Peshawar.
3. Director General Health Services Khyber Pakhtunkhwa Peshawar.
4. Executive District Officer (Health) Manshra with reference to his letter No. 5574-77 dated 12.11.2011 and 3206 dated 15.06.2012.
5. MS King Abdullah Teaching Hospital Manshra.
6. District Accounts Officer Manshra.
7. Applicants.



ATTESTED

  
District Coordination Officer,  
Manshra

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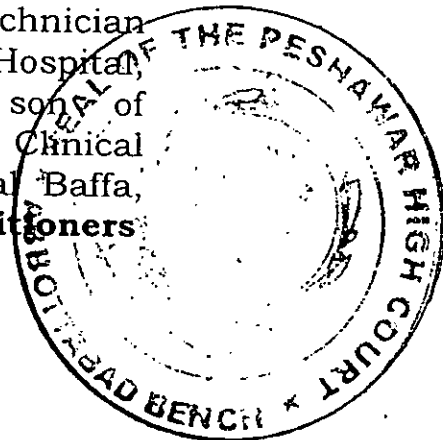
Annex-9

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**BEFORE THE PESHAWAR HIGH COURT,  
BENCH ABBOTTABAD**

W.P. 609-A/13

(1) Muhammad Naheem son of Muhammad Idrees, Junior Clinical Technician (Radiology) King Abdullah Hospital, Mansehra (2) Babar Shahzad son of Muhammad Zareen, Junior Clinical technician (Radiology) Civil Hospital Baffa, Mansehra.....**Petitioners**



**Versus**

- 1) Secretary Health Department, Government of Khyber Pakhtunkhwa Peshawar.
- 2) Director General, Health Services, Khyber Pakhtunkhwa Peshawar.
- 3) District Health Officer, Mansehra.
- 4) Muhammad Khursheed son of Rehmatullah, Chief Clinical Technician (Radiology) District Headquarter Hospital, Kohat.....**Respondents**

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 TO THE EFECT THAT PETITIONERS BEING AT PAR WITH RESPONDENT NO. 4 ARE ENTITLED FOR PROMOTION TO BPS-16 AS CHIEF CLINICAL TECHNICIAN (RADIOLOGY). PROMIOTION ORDER OF RESPONDENT NO. 4 NO. 18104-204/AE-II DATED PESHAWAR THE 24.07.2013 ISSUED BY RESPONDENT NO. 2 IS BASED ON MALAFIDE AND UNLAWFUL THROUGH WHICH PETITIONERS WERE DEPRIVED OF THEIR LAWFUL AND CONSTITUTIONAL RIGHTS AND RESPONDENT NO. 2 IS BOUND TO PROMOTE PETITIONERS IN THE CADRE AND BPS-16 AND ISSUE THE SAME ORDER IN FAVOUR OF PETITIONERS. FURTHERMORE, RESPONDENT NO. 2 MAY ALSO BE DIRECTED FOR CORRECTING THE INTERVEENING STEPS TAKEN BY HIM AND OTHER**

2447

NO 17/8/13

FILED TODAY

Additional Registrar  
Peshawar High Court  
Abbottabad Bench

17/8/13

Certified to be True Copy

96514  
Examiner  
Peshawar High Court  
Abbottabad Bench

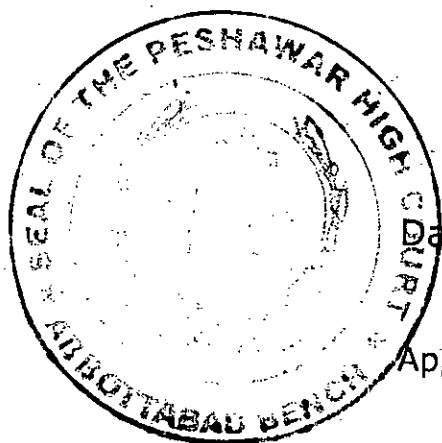
Authorised Under Section 44 of Ordinance

## JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH.

JUDICIAL DEPARTMENT

W.P No. 609-A of 2013



## JUDGMENT

Date of hearing 25-02-2014

Appellant(s)/Petitioner (s) Muhammad Naheem  
vs. M. M. Prof. Adwale

Respondent (s) Secretary Health & Family Welfare

**MRS. IRSHAD QAISER, J:-** Muhammad Naheem and Babar Shahzad, petitioners seek the Constitutional jurisdiction of this Court praying that;

"Direction should be given to respondents No.1 to 3 for promoting petitioners to the rank of Chief Technician in BPS-16 as promoted to respondent No.4 including all back benefits."

2. It is admitted fact that the controversy involved in this constitutional

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*[Signature]*  
Examiner

Peshawar High Court  
Abbottabad Bench.

Authorized under Sec 75 Acts Ordms



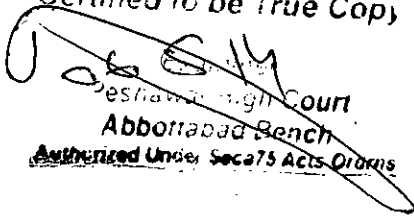
petition relates to the terms and conditions of service of civil servants, therefore, the Service Tribunal has the exclusive jurisdiction in the matter, while the constitutional jurisdiction of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. Thus, this Court cannot proceed with the present case being out of its purview.

3. Accordingly, for the reasons stated hereinabove, the present writ petition is dismissed.

**Announced:**  
**25.02.2014**

SO. JUDGES

Certified to be True Copy

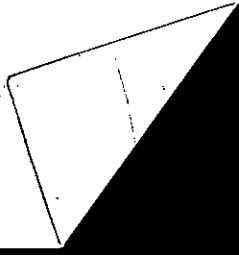
  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 75 Acts Ordins

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Approved by: [Signature]  
 Director, [Agency Name]



**Naeem and others Versus Government of Khyber Pakhtunkhwa and others) is hereby extended to these 14 (fourteen employees of the SAC Project as well, and appeal lodged by them is hereby accepted).**

9. That in view of the aforesaid decision of the Competent Authority, the appellant and other employees were given their financial benefits. However, their case regarding seniority and promotion was kept untouched illegally. Therefore, they again approached the Hon'ble High Court, Circuit Bench Abbottabad, for the above relief. This time the Hon'ble Court held that the matter exclusively falls within the domain of Service Tribunal by virtue of **Article of 212(3) of the Constitution of Islamic Republic of Pakistan 1973** and as such the writ petition was dismissed for lack of jurisdiction vide order dated 25-2-2014 (**Copy of order of High Court is appended as Annex-G**).
10. That thereafter, the appellant preferred a departmental appeal with the Director General Health Services, Khyber Pakhtunkhwa Peshawar (respondent No.2) on 7-8-2014 praying therein that his seniority may kindly be reckoned from the date of his initial recruitment and that he may also be given two steps promotion as Clinical Technician (Radiology BPS-12) and Chief Clinical Technician (Radiology B-16) which had been given to respondent No.4, similarly placed employee (**Copies of departmental appeal and promotion orders of respondent No.4 are appended as Annex- H, I & J**).
11. That the departmental appeal filed by the appellant was not accepted and he was given seniority from 1-3-2008 instead of 12-8-2004 and no finding whatsoever was given on the second issue of two steps promotion (**Copy of rejection order is appended as Annex-K**).
11. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds:-

#### **GROUND OF APPEAL**

- A. That the respondent No.1-3 have not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4**

خدمت حصار ڈائریکٹر جنرل سپاہی سرور ستر جنرل کتب خانہ پشاور  
کو اساطرت حصار میڈیکل سپرنٹنڈنٹ شاہ عبداللہ تدریسی ہسپتال مانچھرا  
عنوان درخواست برائے درستگی بیماری لیٹ

حصار عالی! گذارش ہے کہ سائل آپ حصار کے زیر سربراہ شاہ عبداللہ

تدریسی ہسپتال مانچھرا میں بطور جوئر کلینکل ٹیکنیشن ریڈیالوجی سیکشن 01/09/2004 سے  
ریگولر تعینات ہے

حصار عالی اس سائل کا نام صوبائی بیماری لیٹ میں شمار نہیں ہے  
اسد عاکشی ہے کہ سائل کا نام صوبائی بیماری لیٹ میں شمار کیا جائے  
کاغذات وغیرہ درخواست کیا تو منسلک ہے

عین نوآر ستر ہوگی

الکھتر

سیدہ

محمد لغیم ولد محمد ادیس

جوئر کلینکل ٹیکنیشن (ریڈیالوجی)

شاہ عبداللہ تدریسی ہسپتال مانچھرا

07/08/14

ACV

ATTESTED

Inman  
Recommended to  
DG Health with  
covering letter

RA

SUPERINTENDENT  
(CHINGI) HOSPITAL  
MANCHHRA

OFFICE OF THE MEDICAL SUPERINTENDENT  
KING ABDULLAH TEACHING HOSPITAL MANSEHRA

(25)

Tel: 0997-920096, Fax: 0997-304707; email: msmansehra@yahoo.com  
Website: www.kathmansehra.com

No. 28471  
Dated 07.08.2014

To

The Director General  
Health Services  
Khyber Pukhtunkhwa Peshawar

Subject: - APPLICATION OF MR. MUHAMMAD NAEEM JUNIOR  
CLINICAL TECHNICIAN (RADIOLOGY) BPS-09 OF KING  
ABDULLAH TEACHING HOSPITAL MANSEHRA

Please find enclosed herewith an application in respect of Mr. Muhammad Naeem Junior Clinical Technician (Radiology) BPS-09 of King Abdullah Teaching Hospital Mansehra regarding including of <sup>his</sup> name in the Provincial Seniority list.


It is requested that the name of above mentioned JCT Radiology may please be included in the Provincial Seniority list. (Necessary documents attached).

His bio-data is as under: -

1. Name :- Muhammad Naeem
2. Father Name :- Muhammad Idress
3. Date of appointment :- 01.09.2004.

A  
Law

ATTESTED

  
MEDICAL SUPERINTENDENT  
KING ABDULLAH TEACHING HOSPITAL  
MANSEHRA

Medical Superintendent  
King Abdullah Teaching  
Hospital Mansehra

how e.T in  
gro 12

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Annex-9

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



232  
3/8/2010

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.  
E-Mail Address: [nwfdohs@yahoo.com](mailto:nwfdohs@yahoo.com)  
Office Ph# 091 - 9210269  
Exchange# 091 - 9210187  
091 - 9210198  
Fax # 091 - 9210230

OFFICE ORDER

Consequent upon approval accorded by the Departmental Promotion Committee, the following JCT Radiology (BPS-09) are hereby promoted as Clinical Technicians Radiology BPS-12 with immediate effect:

S.NO.	NAME/F/NAME OFFICIAL	PRESENT PLACE OF POSTING.
1.	Abdur Rahman	DHQH KDA Kohat
2.	Mohaimuddin	DHQH Karak
3.	Khurshid	DHQH Manshra
4.	Abdul Aziz	BBSH Abbottabad

not yet demoted yet they promote

They will be on probation for a period of one year, extendable for another period of one year. On their promotion as Clinical Technician Radiology BPS-12 the following posting / transfer are hereby ordered with immediate effect.

S.NO.	NAME/F/NAME OFFICIAL	FROM	TO	REMARKS
1.	Abdur Rahman	DHQH KDA Kohat	DHQH KDA Kohat	Against the vacant post
2.	Mohaimuddin	DHQH Karak	DHQ.H KARAK	-do-
3.	Khurshid	DHQH Manshra	DHQH Manshra	-do-
4.	Abdul Aziz	BBSH Abbottabad	ATH Abbottabad	-do-

SD DIRECTOR GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR

DATED PESH THE 2 08/2010

19685-95

Copy forwarded to the:

1. MS. BBSH Abbottabad
2. EDO (II) KARAK Manshra
3. MS ATH Abbottabad
4. MS. DHQ (II) Manshra Kohat Karak
5. DDO Manshra Kohat Abbottabad Karak
6. P/S to Secretary to Govt of K. Pakhtunkhwa Health Department, Peshawar
7. P/A to DGHS, Khyber Pakhtunkhwa, Peshawar
8. Assistant Director (P-II) DGHS K. Pakhtunkhwa Peshawar
9. Personal files
10. Syed Faiz Ali Shahi I/c ACR/Paramedics Promotion Cell DGHS office K. Pakhtunkhwa Peshawar.
11. Mr. Sirajud Din Burki, President, PAMA, K. Pakhtunkhwa Govt. LRH Peshawar..

For information & necessary action.

affreshad

DIRECTOR GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR

26/7/2010



DIRECTORATE GENERAL HEALTH SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER:-

Consequent upon approval accorded by the competent authority in its meeting held on 01.07.2013, the following Clinical Tech: (Radiology) BS-12 and Jr. Clinical Tech: (Radiology) BS-09 have been upgraded to the post of Chief Clinical Tech: (Radiology) BS-16 in the light of Govt: of Khyber Pakhtunkhwa, Health Department Notification No. SOH-III/8-60/2005(Paramedics) dated 09.05.2012.

S. No	Name/Father's Name	Place of Present Posting
1.	Mohiuddin	DHQH Karak
2.	Khurshid	KAT Hospital Mansehra
3.	Muhammad Arshad	LRH Peshawar
4.	Ijaz Mahmood Qureshi S/O Ghulam Miskeen	ATH Abbottabad
5.	M. Riaz Akhtar S/O Muhammad Rafiq	BBSH Abbottabad
6.	Mutahir Shah S/O Syed Muhammad Karim Shah	DHQH Mardan
7.	Abdul Aziz S/O Haji Fazal Ahmad	BBSH Abbottabad
8.	Zard Ali Khan	LRH Peshawar
9.	Mubasherin	EDO Charsadda
10.	Asfar Khan	HMC Peshawar
11.	Faheem Ullah S/O Habibullah Khan	DHQH Bannu
12.	Rizwan Ullah s/o Mehr Gul khan.	KGNTH Bannu

On their up-gradation to the post of Chief Clinical Tech: (Radiology) BS-16, the following posting/ transfer adjustment are hereby ordered in the interest of public service with immediate effect:-

S. No	Name/Father's Name	From	To	Domicile	Remarks
1.	Mohiuddin	DHQH Karak	DHQ (H) Karak	Karak	Against the vacant post
2.	Khurshid	KAT Hospital Mansehra	DHQH Kohat	Mansehra	-do-
3.	Muhammad Arshad	LRH Peshawar	LRH Peshawar	Peshawar	-do-
4.	Ijaz Mahmood Qureshi S/O Ghulam Miskeen	ATH Abbottabad	ATH Abbottabad	Abbottabad	-do-
5.	M. Riaz Akhtar S/O Muhammad Rafiq	BBSH Abbottabad	ATH Abbottabad	Abbottabad	-do-
6.	Mutahir Shah S/O Syed Muhammad Karim Shah	DHQ H Mardan	STH Swat	Mardan	-do-
7.	Abdul Aziz S/O Haji Fazal Ahmad	BBSH Abbottabad	DHQ H Dir Lower	Abbottabad	-do-
8.	Zard Ali Khan	LRH Peshawar	KTH Peshawar	Peshawar	-do-
9.	Mubasherin	EDO Charsadda	ATHQ (ID) Ghallanai	Charsadda	-do-
10.	Asfar Khan	HMC Peshawar	NBM Hosp: Peshawar	Peshawar	-do-
11.	Faheem Ullah S/O Habibullah Khan	DHQH Bannu	DHQ Teaching Bannu	Bannu	-do-
12.	Rizwan Ullah s/o Mehr Gul khan.	KGNTH Bannu	KGNT Teaching Hosp: Bannu	Bannu	-do-

.Sd/xxxxxxxx

Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar

Dated Peshawar the 24 / 7 /2013

Copy forwarded to the:-

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Health Department Peshawar.
2. The DHS FATA, Khyber Pakhtunkhwa, Peshawar.
3. The Director Provincial Health Services Academy, Khyber Pakhtunkhwa, Peshawar.
4. Medical Superintendents, KTH, LRH, HMC Peshawar.
5. Director IKD, HMC Peshawar
6. The All Principals of Medical Colleges in Khyber Pakhtunkhwa
7. Medical Superintendent, Maulvi Ameer Shah Memorial Hospital Peshawar.
8. All District Health Officer in Khyber Pakhtunkhwa, Province.
9. Medical Superintendents, DHQ Hospitals in Khyber Pakhtunkhwa.
10. Medical Superintendent, City Hospital Kohat Road, Peshawar.
11. Medical Superintendent, Peshawar, Peshawar, Peshawar.

**ATTESTED**

No. 18/04-204 /AE-VII

- 12. Accountant General, Khyber Pakhtunkhwa, Peshawar
- 13. All District Accounts Officers in Khyber Pakhtunkhwa, Province.
- 14. All Agency Surgeons in FATA/ FRs Khyber Pakhtunkhwa.
- 15. The all Agency Accounts Officers in FATA/ FRs Khyber Pakhtunkhwa.
- 16. I/C Gynaecologist, Govt: Maternity Hospital Peshawar
- 17. President Paramedics Health Deptt: KPK Peshawar.
- 18. Incharge, Paramedics Promotion Cell DGHS Office Peshawar.
- 19. Officials concerned.
- 20. Personal Files.
- 21. P.A to DGHS, Khyber Pakhtunkhwa, Peshawar.
- 22. P.A to Director (Administration) DGHS Office Peshawar.
- 23. P.A to Deputy Director (Personnel) DGHS Office Peshawar.

For information and necessary action.

AA  
Aew

**ATTESTED**

Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

28/2/13





Annex - K

29

**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

No. 8256 /Personnel (Promotion),

Dated 14/11/2018

King Abdullah Teaching Hos. 1  
Mansehra

Issue No. 533

Received No. \_\_\_\_\_

Date 26-11-14

Signature \_\_\_\_\_

To

The Medical Superintendent,  
King Abdullah Teaching Hospital  
Mansehra.

**SUBJECT: APPLICATION OF MR. MOHAMMAD NAEEM JUNIOR CLINICAL  
TECHNICIAN (RADIOLOGY) BPS-09.**

Dear Sir,

I am directed to refer to your letter No. 2847/ dated 07/08/2014 on the subject noted above and to state that the name of the application has been included in the seniority list of (JCT Radiology) w.e.f 01.03.2008 from the date of his regular appointment.

*[Handwritten signature]*

No. 3948 dated 28/11/2018 ASSISTANT DIRECTOR (P-III)  
DIRECTORATE GENERAL HEALTH SERVICES KPK, PESHAWAR. 9

Copy to Mr. Mohammad Naeem 12/11/14  
JCT. Radiology BPS-9 KAT Hospital  
Mansehra

Jawaid

Pa

M-S

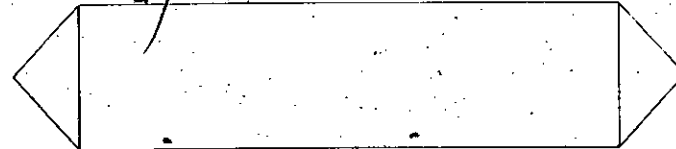
Medical Superintendent  
King Abdullah Teaching  
Hospital Mansehra.

Asw

26/11  
**ATTESTED**

وسن لیسٹ ہونے پر  
مشاور

بعدالت جناب جسٹس صاحب



Service Appeal

Muhammad Naeem

VS

Secretary Health  
etc

باعث تحریر آنکہ

اسلام آباد  
ماہ 2014ء  
بنام

مورخہ  
مقدمہ  
دعویٰ

جزم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ ۱  
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا ادا کالت نامہ لکھ دیا کہ سندر ہے۔

4/10/14

المرقوم 23 ماہ 2014ء

Muhammad Naeem

بیت

مقام



**BEFORE THE HONORABLE CHAIRMAN,**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No.1428 of 2014

MUHAMMAD NAEEM ..... (APPELLANT)

Vs

SECRETARY HEALTH & OTHERS ..... (RESPONDENTS)

**Written reply on behalf of Respondent No.1,2,3**

**PRELIMINARY OBJECTIONS**

1. That the appellant has got no cause of action.
2. That the appellant has got no locus standi.
3. That the instant appeal is not maintainable.
4. That the instant appeal is barred by Law.
5. That the appellant has filed instant appeal on malafide motive.
6. That the instant appeal is liable to be dismissed due to mis-jounder & non-jounder of necessary parties.

**Para-wise reply**

1. Para No.1 pertains to record.
2. M. Khurshid was initially appointed on 01.01.1984 as X-Ray Attendant and was promoted as X-Ray Technician on 12.08.2004.
3. Para No.3 pertains to record.
4. Para No.4 is correct to extent of regularization of M. Khurshid on 22.09.2004 rest of Para is in correct. Services of M. Khurshid were regularized in accordance with Law and benefit was rightly extended to M. Khurshid as per rules and regulations.
5. Para No.5 is incorrect. Competent authority has rightly issued the orders which are within the four corners of Law, rules and regulations.
6. Para No. 6 is correct.
7. Para No.7 is correct.
8. Para No.8 is correct.
9. Para No.9 is incorrect. The Judgment of honorable high court has been complied with in letter and spirit and all the benefits which could have been awarded to them were given, hence also the honorable high court did not entertain the petition and rejected the same.

10. Para No.10 is correct to extent of appeal rest is in correct.

11. Competent authority has legally decided the case/appeal and seniority was given in accordance with rules and regulation the appeal was rightly rejected. (order is annexed).

12. Appeal is liable to be rejected

**Grounds**

- A. Incorrect. All the departmental proceeding are within the four corners of Law and no violation of any legal right has been done.
- B. In correct, Law cited in the ground does not attracted to the case of appellatant, hence the appeal was rightly rejected.
- C. Is correct to extent of administration of Justice but no injustice has been done to appellatant and case of appellatant was dealt in accordance with Law.
- D. Incorrect. Order of authority are in accordance with Law.
- E. Incorrect, appeal was decided in accordance with Law.
- F. Incorrect. The competent authority has passed the impugned order after due application of mind by applying the principle of administration of justice.
- G. Incorrect. The impugned order is according to Law.
- H. Incorrect. Order is in accordance with Law.
- I. The respondent also seek permission of this tribunal to arise additional grounds at the time of argument.

It is humbly prayed that appeal may kindly be dismissed.

**Respondents**

1. Secretary Health  
Govt. of Khyber Pakhtunkhwa  
Peshawar

2. Director General  
Health Services  
Khyber Pakhtunkhwa  
Peshawar

3. District Health Officer  
Mansehra

Gul  
13/4/15

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.**

**APPEAL NO:** \_\_\_\_\_ 1428 OF 2014

Muhammad Naeem S/O Muhammad Idress ,------(Appellant)  
Junior Clinical Technician (Radiology)  
King Abdullah Teaching Hospital Mansehra

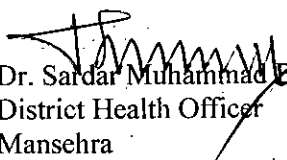
**VERSUS**

Secretary Health Khyber Pakhtunkhwa & others -----(Respondents)

**AFFIDATE**

I Dr. Sardar Muhammad Bashir District Health Officer Mansehra do hereby solemnly affirm and declare on oath as respondent that the contents of parawise written comments are correct and true to the best my knowledge and behalf of that nothing has been concealed from his Honorable Court.

**DEPONENT**

  
Dr. Sardar Muhammad Bashir  
District Health Officer  
Mansehra

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2411 /ST

Dated 2 / 11 / 2017

To


The Director General Health Services,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1428/2014, MR. MUHAMMAD NAEEM &  
OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 2.11.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.