

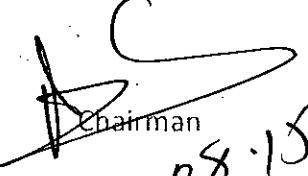
12.08.2015

Counsel for the appellant present. Learned counsel for the appellant requested for withdrawal of appeal.

Dismissed as withdrawn. File be consigned to the record.

ANNOUNCED

12.8.2015


Chairman
12.08.15

05.05.2015

Clerk of counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 22.06.2015 before S.B.



Member

22.06.2015

Counsel for the appellant is not in attendance due to strike of the Bar. To come up for preliminary hearing on 13.7.2015 before S.B.



Chairman

13.07.2015

None present for appellant. Adjourned for preliminary hearing to 30.7.2015 before S.B.



Chairman

30.07.2015

None present for appellant. Notice to counsel for the appellant be issued for 12.8.2015 for preliminary hearing before S.B.



Chairman

Noted for.

6.2.015

M. R. B. Clerk

16.01.2015

No one is present on behalf of the appellant. To come up for preliminary hearing on 06.02.2015.

Member

06.02.2015

No one is present on behalf of the appellant. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 19.03.2015.

Member

19.03.2015

Counsel for the appellant present. Learned counsel for the appellant submitted application for placing on file the impugned final order passed on departmental appeal filed by the appellant dated 05.01.2015 and requested that the same be considered as impugned final order and set aside the same. Counsel for the appellant further argued that the absence period has been regularized; therefore, there was no ground for the respondents to penalize him with major penalty. The matter required further clarification, therefore, pre-admission notice be issued to the learned AAG to assist the Tribunal on the point of limitation/maintainability on 05.05.2015.

Member

Noted for



19-3-015

ملک

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1353/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.11.2014	<p>The appeal of Dr. Muhammad Ayub presented today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to Bench <u>III</u> for preliminary hearing to be put up there on <u>16-1-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

not to
1-2-15
li

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1353 /2014

Dr. Muhammad Ayub Ex-MO
(BPS-17) BHU Pano Dheri
Mansehra, District Mansehra
.....Appellant

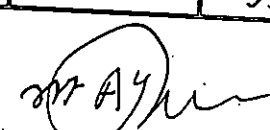
Versus

The Chief Secretary Govt: of
Khyber Pakhtunkhwa and
others.....Respondents

INDEX

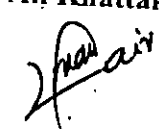
S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit.			
2.	Copy of appointment letter/order			
3.	Copy of deputation order		A	11-18
4.	Copy of Charge Sheet		B	19-21
5.	Copy of reply to the charge sheet		C	22-23
6.	Copy of Inquiry report		D	24
7.	Copy of Show Cause Notice		E	25-26
8.	Copy of reply to the show cause notice		F	27
			G	28
9.	Copy of impugned Notification No.SOE(H-II/4-1/2012 Dated Peshawar, the 13 th May, 2014		H	29
10.	Copy of Departmental Appeal		I	30-32
11.	Wakalat Nama			33

Through


Appellant


Ashraf Ali Khattak

and


Nawaz Khan Khattak
Advocates, Peshawar

Dated: 15/3 /2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No. 1353 /2014

1386
24-11-2014

Dr. Muhammad Ayub Ex-MO (BPS-17) BHU Pano Dheri
Mansehra, District Mansehra.....Appellant.

Versus

1. The Chief Secretary Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Health Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED/NOTIFICATION NO.SOE(H-II/4-1/2012 DATED PESHAWAR, the 13th May, 2014 PASSED BY RESPONDENT NO.2.

PRAYER:-

On acceptance of the instant service appeal this Honourable Tribunal may graciously be pleased to declare the impugned Notification No.SOE(H-II/4-1/2012 Dated Peshawar, the 13th May, 2014 passed by respondent No.2 is illegal, void abinito and of no legal effect and set aside the same and also re-instate the appellant with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant is doctor by profession. He was appointed in the year 1991 by respondent No.1 (Annexure-A). He has got about 20 years service at his credit with unblemished and clean sheeted conduct record.

24/11/14

2. That appellant was allowed for proceeding on deputation to the Kingdom of Saudi Arabia with effect from 08-09-2005. Appellant remained on deputation till 31-10-2009 (Annexure-B).
3. That after expiry of deputation period; appellant again submitted application for further one year extension in the deputation period as per law and rules. The law and rules governing the subject are very clear. The case of appellant was very genuine and more so he was assured by the dealing authorities that his case would be approved. On the solid assurance, appellant continued his job in KSA.
4. That on 01-07-2010, the request of the appellant was regretted and therefore, appellant left his job at KSA and made his arrival on 12-07-2010.
5. That it is alleged that respondent No.3 has issued appellant's temporary posting order on 05-08-2010. This Order has never been communicated to the appellant in spite of his repeated request and in spite of his repeated continuous visit to the dealing offices.
6. That disciplinary action was initiated against the appellant for his alleged absence w.e.from 01-11-2009 to 12-07-2010.
7. That appellant submitted reply to the show cause and explained the whole situation.
8. That appellant waited for further proceeding, but no proceeding has been taken place. Appellant requested for his posting but neither he was posted nor the fate of disciplinary proceeding was communicated.
9. That recently another disciplinary action initiated, where appellant has been again served with another Charge Sheet (Annexure-C) of the same nature. Appellant

submitted reply to the charge sheet (Annexure-D). Inquiry conducted (Annexure-E). The inquiry officer vide his report has almost exonerated the appellant and recommended him for minor penalty.

10. That respondent No.1 served the appellant with Show Cause Notice (Annexure-F), wherein penalty of stoppage of 03 annual increments was proposed.
11. That appellant submitted reply to the show cause notice (Annexure-G).
12. That respondent No.2, vide Notification No.SOE(H-II/4-1/2012 Dated Peshawar, the 13th May, 2014 imposed upon the appellant major penalty of removal from service (Annexure-H).
13. That being aggrieved from penal order; appellant submitted departmental appeal (Annexure-I), but the same is still pending without disposal, hence the instant service appeal inter alias on the following grounds.

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. Appellant after rejection of his application for extension of his deputation period; immediately approached the respondent, but was not adjusted rather disciplinary action was initiated, and he was charge sheeted to which appellant submitted reply. The disciplinary action was delayed for almost two year without any result. Recently another fresh disciplinary action has been initiated and culminated into removal from service. The action of the

authorities is against the provision of Article 13 of the Constitution of Pakistan 1973.

- B. That the impugned penalty is against the law laid down by the Honourable Supreme Court of Pakistan. The authority while enhancing penalty in dis regard of the recommendation of the inquiry officer for imposing minor penalty has to give valid, plausible and convincing reasons. In the instant case, the inquiry officer vide his report recommended minor penalty and whereas the punishing authority imposed major penalty of removal from service without assigning any reason. On this score the impugned penalty is very harsh and does not commensurate with alleged guilt and therefore, liable to set aside and rescind.
- C. That respondent No.1 vide his final Show Cause Notice proposed penalty of stoppage of 03 annual increments, but respondent No.2 vide impugned order has penalized the appellant with major penalty of removal from service, which is illegal, unlawful and without lawful authority, hence not maintainable in the eyes of law.
- D. That it is very astonishing that charge sheet has been served by respondent No.1. The inquiry has also been conducted vide his order. The final show cause has also been served by him and whereas the penal Notification has been issued by respondent No.2. Departmental disciplinary action could only be initiated by the appointing authority. In the instant case the so called disciplinary action has been initiated by the respondent No.1, who is not the appointing authority of the appellant

and therefore, the whole disciplinary action is void abinitio and liable to be struck down on this score alone.

- E. That where an authority had been authorized to make some order under the rules of law, such authority alone can exercise power in question.....Where anything was prescribed by law to be done in a particular manner, it must be done in that manner or not at all. Order passed by authority other than competent authority, even though of higher rank would be nullity in the eyes of law, more so, when such order was penal one. Reliance is placed on 1989 MLD 3676, 1998 CLC 770, PLD 1997 Lah 692, 2001 PLC(CS) 771, 2000 PLC(CS) 21, 1988 PLC(CS) 387 and so many other numbers of judgments of the Honourable Supreme Court of Pakistan. In the instant case, the very impugned disciplinary action has been exercised by incompetent authority, therefore, nullity in the eyes of law and liable to be set aside.
- F. That when initial order or act relating to initiation of disciplinary proceedings was contrary to law, than all subsequent proceedings and action taken there on would have no base and would fall. If mandatory condition for exercise of jurisdiction by the judicial or qasi judicial authority was not fulfilled, entire proceedings, which followed, would become illegal and would suffer from inherent defect of jurisdiction. Any order passed in continuation of those proceeding would equally suffer from illegality and would be without jurisdiction. Reliance is placed on 2003 PLC(CS) 748 and 2009 SCMR 339(A). More over the appellant has been prosecuted under wrong law.

- G. That major penalty has been imposed without giving reason for disregarding appellant's defense constitute violation of Section 24A of the General Clauses Act, 1897, therefore, the impugned order is not sustainable in the eyes of law and liable to be struck down.
- H. That the Honourable Supreme Court of Pakistan has in thousands of cases has held that no major punishment could be imposed without regular inquiry, the subject impugned order based on slipshod inquiry has therefore, no base in the light of the decision of the Apex Court, thus liable to be set aside.
- I. That so called slipshod inquiry has been conducted in the absence and at the back of the appellant. Appellant active participation during inquiry proceeding has been willfully and deliberately ignored. Inquiry proceedings are of judicial in nature in which participation of accused civil servant as per law condition sine qua non. On this ground the impugned orders are coarm non judice and liable to be set back.
- J. That the well-known principle of law "Audi altram Partem" has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.
-An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the

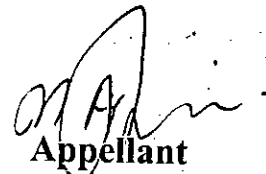
impugned order is liable to be set aside.

K. That no inquiry report has been provided nor final show cause notice. Failure to supply copy of inquiry report to a civil servant proceeded against would be sufficient circumstances to hold that either no inquiry was held at all or if inquiry was held, the inquiry report was held as a secret document. Delivery of copy of inquiry report to civil servant proceeded against being a mandatory requirement; disciplinary action taken against a civil servant would not be sustainable in the eyes of law. Reliance is placed on the reported judgment 2010 TD (Service)19.


L. That petitioner is jobless since impugned order, there fore entitled to be re instated with all back benefits.

For the aforesaid reasons, it is therefore, humbly prayed that the appeal may kindly be allowed as prayed for above.

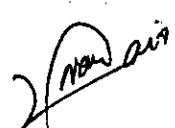
Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.


Appellant

Through


Ashraf Ali Khattak,

and


Nawaz Khan Khattak
Advocate, Peshawar.

Dated: _____ / _____ / 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No. _____/2014

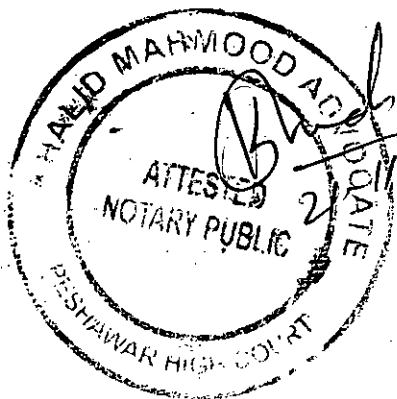
Dr. Muhammad Ayub Ex-MO (BPS-17) BHU Pano Dheri
Mansehra, District Mansehra.....Appellant.

Versus

The Chief Secretary Govt: of Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar and others.....Respondents.

Affidavit

I, Dr. Muhammad Ayub Ex-MO (BPS-17) BHU Pano Dheri
Mansehra, District Mansehra do hereby solemnly affirms on
Oath that the contents of the instant service appeal are correct
and true to the best of my knowledge and belief and nothing has
been concealed from the notice of this Honourble Tribunal.



Deponent.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No. _____/2014

Dr. Muhammad Ayub Ex-MO (BPS-17) BHU Pano Dheri
Mansehra, District Mansehra.....Appellant.

Versus

The Chief Secretary Govt: of Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar and others.....Respondents.

Application for condonation of delay if any.

Respectfully Sheweth,

1. That the title service appeal has been filed, which is yet to be fixed for hearing.
2. That appellant has been assured by the departmental authorities for disposal of his appeal well within time, but they did not adhered with their promise.
3. That the delay if any is not willful, but due to unavoidable circumstances.
4. That valuable rights of the appellant are involved, therefore, it would be in the interest of justice to condoned delay if any in filing the instant service appeal.
5. That law favour adjudication on merit. The Honourble Supreme Court of Pakistan has also laid down the cases should be decided on merit and litigant shall not be non suit on mere limitation.
6. That the very disciplinary action has been initiated by incompetent authority, therefore, as per law laid down by the Honourable Supreme Court of Pakistan no limitation runs against void action/order.

It is therefore, very humbly prayed that limitation in filling of service appeal if any may kindly be condoned


in the best interest of justice.


Appellant

Through


Ashraf Ali Khattak,

and

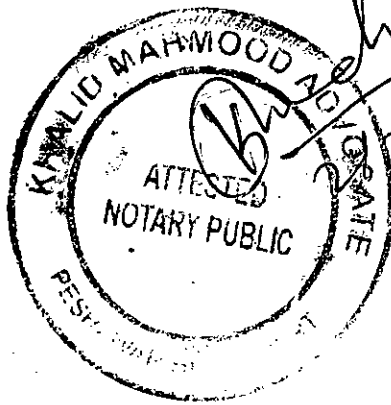

Nawaz Khan Khattak
Advocate, Peshawar.

Dated: _____ / ____ / 2014

Affidavit

I, Dr. Muhammad Ayub Ex-MO (BPS-17) BHU Pano Dheri Mansehra, District Mansehra do hereby solemnly affirms on Oath that the contents of the instant application are correct and true to the best of my knowledge and belief and nothing has been concealed from the notice of this Honourble Tribunal.


Deponent.



Annex A

(11)

37

Government of N.W.F.P.,
Health & S.W. Department.

Dt - 9-12-71.

Notification No. IV-39/70. On the recommendations of the NWFP Public Service Commission, the Governor, NWFP is pleased to appoint the following candidates as Medical Officers (BS-17) in the Health Department on regular basis on the usual terms and conditions with immediate effect :-

S.No.	Name of Doctor with Father's name	Domicile.
1.	Dr. Askar Mahmood S/O Hussain Bakhh	D.I.Khan
2.	Dr. Muhammad Fayaz S/O Muhammad Masud	Manshra
3.	Dr. Hashimud Din Azam S/O Nasirud Din Azam Khan.	Abbottabad
4.	Dr. Habib Ahmad S/O Haji Maroon Shah	Mohmand Ag.
5.	Dr. Muhammad Asghar Khalil S/O Ghulam Sarwar	Peshawar.
6.	Dr. Parvez Shaukat S/O Malik Bashirul Haq	Peshawar.
7.	Dr. Muhammad Bashir S/O Nawab Khan	SW Agency
8.	Dr. Sharifullah S/O Aurangzeb Shah Shinwari	Mohmand Ag.
9.	Dr. Asghar Kamal S/O M. Janan	Karak
10.	Dr. Noor Alam S/O Haji Abdur Rauf	Charsadda.
11.	Dr. Hazrat Ali S/O Umar Dali	Bajaur Ag.
12.	Dr. Abdul Nasir Awan S/O Khalid Mahmood Awan	Abbottabad.
13.	Dr. Zubair Ahmad Khan S/O Muhammad Aslam Khan	Peshawar.
14.	Dr. Muhammad Aurangzeb Khan S/O Saadullah Khan	.do.
15.	Dr. Abid Aslam Awan S/O Muhammad Aslam Awan	.do.
16.	Dr. Saleem Iqbal S/O Sakhi Gul	Kohat
17.	Dr. Jehanzeb Afridi S/O Haji Khan Afzal	Kohat FR
18.	Dr. Qazi Abid Qadoos S/O Qazi Abdul Qadoos	Abbottabad
19.	Dr. Bakhtawar Shah S/O Sher Muhammad	Mohmand Ag.
20.	Dr. Rahil Aamir Malik S/O Ijaz Ahmad Malik	Peshawar.
21.	Dr. Tahir Saeed Siddiqui S/O Muhammad Saeed Siddiqui.	Manshra.
22.	Dr. Muhammad Ali Jan S/O Ghulam Jan	Swat
23.	Dr. Amjad Hayat S/O Hayatullah Khan	D.I.Khan, FR
24.	Dr. S. Abdul Majid Shah S/O S. Abdul Waheed Shah	Peshawar
25.	Dr. Razaur Rashid S/O Abdur Rashid	Abbottabad
26.	Dr. Khawaja Laeeq Ahmad S/O Khawaja Bashir Ahmad.	Peshawar.
27.	Dr. Nasir Khan S/O Mohd. Baidar Khan	Abbottabad.
28.	Dr. Noohul Muqim S/O Fazale Subhan	Peshawar
29.	Dr. Safdar Hayat S/O Umar Hayat Khan	Bannu.
30.	Dr. Azizul Hassan Amir S/O Azizur Rehman	Peshawar.
31.	Dr. Zafar Mahmood Malik S/O Khalid Mahmood Malik.	Abbottabad
32.	Dr. Mazhar Iqbal S/O Muhammad Iqbal Durrani	Peshawar.
33.	Dr. Abdur Rehman S/O Abdul Latif	D.I.Khan
34.	Dr. Muhammad Jehangir Gandapur S/O Muhammad Alamgir Gandapur	D.I.Khan
35.	Dr. Muntaz Ali S/O Zainul Abidin	Mardan.

Attested
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-: 18 :-

141.	Dr. Fazle Khaliq S/O Ghulam Haji.	1st Apptt: P.S.C.	MO BHU, Ghandari, Against Peshawar.	the V/Pos t
142.	Dr. Nadeem Khan S/O Salim Khan.	.do.	MO BHU Sheikh Abad, Charsadda.	.do.
143.	Dr. Faridullah Shah S/O Karim Shah.	.do.	MO BHU, Shinwa Gudi Khel, Karak.	.do.
144.	Dr. Samiullah Jan S/O Said Mohammad Jan.	.do.	MO, BHU Chinagai, Bajaur Agency.	.do.
145.	Dr. Babar Sultan S/O Mohammad Aslam.	.do.	MO, BHU, Bagnotar, Abbottabad.	.do.
146.	Dr. Garib Nawaz S/O Abdul Mutalib.	.do.	MO, BHU Tarkai, Swabi.	.do.
147.	Dr. Arifullah Khan S/O Haq Nawaz Khan.	.do.	MO, BHU Patool Khel, Bannu.	.do.
148.	Dr. Sahabud Din S/O Khalilur Rehman.	.do.	MO, BHU Bin Payeen Dir.	.do.
149.	Dr. Attaullah S/O Nawab Khan.	.do.	MO, BHU Gabar Bagh, Bannu.	.do.
150.	Dr. Namdar Khan S/O Hashim.	.do.	MO, BHU, Ranolia, Kohistan.	.do.
151.	Dr. Aqil Ahmad S/O Mohammad Hafiz Ali.	.do.	MO, BHU, Akbarabad, Charsadda.	.do.
152.	Dr. Mukamil Khan S/O Samandar Shah.	.do.	MO, BHU, Jalbai, Swabi.	.do.
153.	Dr. Miyaullah S/O Mir Habib Shah.	.do.	MO, BHU, Khwajaki, Karak.	.do.
154.	Dr. Waheedur Rehman S/O M. Ilyas Qureshi.	.do.	MO, BHU, Badda, Abbottabad.	.do.
155.	Dr. Mohammad Naeem Akhtar, S/O Ahmad Yar Khan.	.do.	MO, BHU, Fateh, D.I. Khan.	.do.
156.	Dr. Muhammad Arif S/O Mohammad Usman.	.do.	MO, Kotlaji, Swat.	.do.
157.	Dr. Tariq Mehmood S/O Latif Khan.	.do.	MO, BHU Pindialy, Mohmand Agency.	.do.
158.	Dr. Naveed Fida S/O Fida Mohammad Khan.	.do.	MO, RHC, Toru, Mardan.	.do.
159.	Dr. Abdul Jabbar Khan S/O Abdul Hamid Khan.	.do.	MO, BHU, Shagai, Dir.	.do.
160.	Dr. Mohammad Munir Babar S/O Mohammad Raza.	.do.	MO BHU Chinar Kot, Mir.	.do.
161.	Dr. Tariq Jabbar Khan S/O Mohammad Akram.	.do.	MO, BHU, Gulabad, Charsadda.	.do.
162.	Dr. Mohammad Ayub S/O Mohammad Housaf.	.do.	MO, BHU Mong, Abbottabad.	.do.
163.	Dr. Ayaz Ayub S/O Mohammad Ayub.	.do.	MO, BHU, Bahadur Abad Swabi.	.do.
164.	Dr. Ali Haider S/O Gul Wali.	.do.	MO, BHU Bila Chand, Dir.	.do.
165.	Dr. Sartaj S/O Sajid Gul.	.do.	MO, Dargai, Malakand Agency.	.do.
166.	Dr. Imtiaz Ahmad S/O Sardar Din Mohammad Khan.	.do.	MO, SHS, D.I. Khan.	.do.

... ..19.....

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1st Apptt: PSC.

MO, RSC, Uetarzai, Kohat.

- 115. Dr. Mohammad Basil Rizvi S/O Syed Fazal Ali Rizvi. .do. MO, RSC, Uetarzai, Kohat.
- 116. Dr. Altaf Hussain S/O Abdul Khaliq. .do. MO BHC, Siri Kot, Abbottabad. .do.
- 117. Dr. Mohammad Riaz Khan S/O Sultan Hussain Khan. .do. MO BHU, Mashokomai, Swat. .do.
- 118. Dr. Abdul Ahad Afridi S/O Khail Akbar Afridi. .do. MO, AHQ, Hospital, Khyber Agy. .do.
- 119. Dr. Mohammad Saeedullah Shah Dawar S/O Malik Qalandar Shah. .do. MO, BHU, Nawal N.W. Agency. .do.
- 120. Dr. Mohammad Shehzad S/O Mohammad Ali Tauni. .do. MO, SHS, Pesh. .do.
- 121. Dr. Mohammad Riaz Akram S/O Khawaja Mohammad Akram (SRCS, Part-I). .do. MO, SHS, Charsadda. .do.
- 122. Dr. Inayatullah Khan S/O Murtaza Khan. .do. MO, RHC, Shahbaz, Garhi Mardan. .do.
- 123. Dr. Bakht Jehan S/O Firdos Khan. .do. MO, AHQ, Ghallanai, Mohmand Agency. .do.
- 124. Dr. Qaisar Khan S/O Dawar Khan. .do. MO, BHU Shingrai, Malakand Agency. .do.
- 125. Dr. Jehanzeb Khan S/O Aamir Khan. .do. MO, BHU Datta Khel, N.W. Agency. .do.
- 126. Dr. Alamgir S/O Aman Gul. .do. MO, BHU, Jamra, Mardan. .do.
- 127. Dr. Kamran Iqbal, S/O Faizur Rehman. .do. MO, BHU, Mohra, D.I, Khan. .do.
- 128. Dr. Aurangzeb S/O Abdul Hakim. .do. MO, RHC, Sarai, Gambilla Bannu. .do.
- 129. Dr. Mujibur Rehman S/O Abdur Rehman. .do. MO, Rorri, D.I, Khan. .do.
- 130. Dr. Mohammad Iqbal S/O Said Ahmad. .do. MO, BHU Kohi Barmol Mardan. .do.
- 131. Dr. Ghulam Murtaza Shah, S/O S.A. Jabbar Shah. .do. MO, BHU, Dingi, Abbottabad. .do.
- 132. Dr. Ziaud Din Khan S/O Saeeduddin. .do. MO, BHU Tarnab, Charsadda. .do.
- 133. Dr. Sajjad Hassan Orakzai, S/O M. Din Shah. .do. MO, BHU Daran, Orakzai Agency. .do.
- 134. Dr. Attaullah Jan S/O Mohammad Shah. .do. MO, BHU, Bag.e. Bakh-tiar Charsadda. .do.
- 135. Dr. Mohammad Azam S/O Abdul Hameed. .do. MO, AHQ Hosp: Ghallanai Mohmand Ag. .do.
- 136. Dr. Mohammad Javed S/O Habibur Rehman. .do. MO, BHU, Kalabat, Swabi. .do.
- 137. Dr. Jan Ahmad Afridi S/O H. Jura Baz. .do. MO, AHQ, Hosp: Landikotal, K. Agy. .do.
- 138. Dr. Mohammad Abid Shah S/O Mohammad Ayub Shah. .do. MO, BHU, Rajoya, Abbottabad. .do.
- 139. Dr. Usama Aslam Faridi S/O Mohammad Aslam Farooq Faridi. .do. MO, BHU, Telaband, Peshawar. .do.
- 140. Dr. Shah Nawaz Ali S/O Mohib Ali Akhundada. .do. MO, AHQ Hosp: Ghallani Mohmand Agency. .do.

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16

141.	Dr. Fazle Khaliq S/O Ghulam Haji.	1st Apptt: P.S.C.	MO BHU, Ghandari, Against Peshawar.	the V/Post
142.	Dr. Nadeem Khan S/O Salim Khan.	.do.	MO BHU Sheikh Abad, Charsadda.	.do.
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144.	Dr. Samiullah Jan S/O Said Mohammad Jan.	.do.	MO, BHU Chinagai, Bajaur Agency.	.do.
145.	Dr. Babar Sultan S/O Mohammad Aslam.	.do.	MO, BHU, Bagnetar, Abbottabad.	.do.
146.	Dr. Garib Nawaz S/O Abdul Mutalib.	.do.	MO, BHU Tarkai, Swabi.	.do.
147.	Dr. Arifullah Khan S/O Haq Nawaz Khan.	.do.	MO, BHU Patool Khel, Bannu.	.do.
148.	Dr. Sahabud Din S/O Khalilur Rehman.	.do.	MO, BHU Bin Payeen Dir.	.do.
149.	Dr. Attaullah S/O Nawab Khan.	.do.	MO, BHU Gabar Bagh, Bannu.	.do.
150.	Dr. Namdar Khan S/O Hashim.	.do.	MO, BHU, Ranolia, Kohistan.	.do.
151.	Dr. Aqil Ahmad S/O Mohammad Hafiz Ali.	.do.	MO, BHU, Akbarabad, Charsadda.	.do.
152.	Dr. Mukamil Khan S/O Samandar Shah.	.do.	MO, BHU, Jalbai, Swabi.	.do.
153.	Dr. Liaullah S/O Mir Habib Shah.	.do.	MO, BHU, Khwajaki, Karak.	.do.
154.	Dr. Waheedur Rehman S/O M. Ilyas Qureshi.	.do.	MO, BHU, Badda, Abbottabad.	.do.
155.	Dr. Mohammad Naeem Akhtar, S/O Ahmad Yar Khan.	.do.	MO, BHU, Fateh, D.I. Khan.	.do.
156.	Dr. Muhammad Arif S/O Mohammad Usman.	.do.	MO, Kotlaji, Swat.	.do.
157.	Dr. Tariq Mehmood S/O Latif Khan.	.do.	MO, BHU Pindialy, Mohmand Agency.	.do.
158.	Dr. Naveed Fida S/O Fida Mohammad Khan.	.do.	MO, RHC, Toru, Mardan.	.do.
159.	Dr. Abdul Jabbar Khan S/O Abdul Hamid Khan.	.do.	MO, BHU, Shagai, Dir.	.do.
160.	Dr. Mohammad Munir Babar S/O Mohammad Raza.	.do.	MO BHU Chinar Kot, Mir.	.do.
161.	Dr. Tariq Jabbar Khan S/O Mohammad Akram.	.do.	MO, BHU, Gulabad, Charsadda.	.do.
162.	Dr. Mohammad Ayub S/O Mohammad Housaf.	.do.	MO, BHU Mong, Abbottabad.	.do.
163.	Dr. Ayaz Ayub S/O Mohammad Ayub.	.do.	MO, BHU, Bahadur Abad Swabi.	.do.
164.	Dr. Ali Haider S/O Gul Wali.	.do.	MO, BHU Bila Chand, Dir.	.do.
165.	Dr. Sartaj S/O Sajid Gul.	.do.	MO, Dargai, Melakand Agency.	.do.
166.	Dr. Imtiaz Ahmad S/O Sardar Din Mohammad Khan.	.do.	MO, SHS, D.I. Khan.	.do.

Attested
True Copy

275.	Dr. Kashmir Khan S/O Aslam Khan.	1st Apptt: (P.S.O.)	MO, Sai Ma Mohmand Agency.	
276.	Dr. Naseeud Din S/O F. Mohammad.	.do.	MO, BHY, Masa Nika, Birmol SW Agency.	.do.
277.	Dr. Mohammad Faraz Khan, S/O Haji Sakhi Sardar.	.do.	MO, BHU, Saidga, N.W. Agency.	.do.
278.	Dr. Mohammad Ashfaq Afridi, S/O Anwar Shah Afridi.	.do.	MO, CH Lowra Maina Khyber Agency.	.do.
279.	Dr. Mohammad Haroon S/O Malang Shah.	.do.	MO, C.H. Kalaya, Orakzai Agency.	.do.
280.	Dr. Mohammad Bilal S/O Kaman Ellahi.	.do.	MO, BHY, Datta, Mansehra.	.do.
281.	Dr. Sher Bahadur Khan S/O Ajmal Khan.	.do.	MO, BHU Prang Ghar, Mohmand Agency.	.do.
282.	Dr. Abdur Rashid S/O Hayaud Din.	.do.	MO, BHU Kot Tarnab, Charsadda.	.do.
283.	Dr. Shahid Hussain S/O S. Ghulam Mustafa.	.do.	MO, BHU Pingal, Dir.	.do.
284.	Dr. Mohammad Uzair S/O Mohammad Jan.	.do.	MO, Mian Kill, Swat.	.do.
285.	Dr. Rafiullah Khan S/O Wazir Khan.	.do.	MO, BHU, Baidara, Swat.	.do.
286.	Dr. Manzoor Ahmad S/O Wali Mohammad Khan.	.do.	MO, Ag:HQ:Hosp: Batkhela.	.do.
287.	Dr. Ihsanullah Khan, S/O A.J. Khan.	.do.	MO, BHU, Zarkunda, S.W. Agency.	.do.
288.	Dr. Khalilur Rehman S/O Haji Gul Farosh.	.do.	MO, BHU, Qazafi, Bajaur Agency.	.do.
289.	Dr. Khalid Zamir S/O Gul Zamir.	.do.	MO, DHQ, Hosp: Karak.	.do.
290.	Dr. Inayatullah Khan, S/O Jan Mohammad.	.do.	MO, BHU, Saiful Dara, Orakzai Agency.	.do.
291.	Dr. Waqar Ali S/O Mohammad Karam Khan.	.do.	MO, BHU Mera Besham, Swat.	.do.
292.	Dr. Mohammad Saleem S/O Mohammad Amin.	.do.	MO, BHU Sher Palm, Swat.	.do.
293.	Dr. Manzoor Ullah Jan S/O Tajullah Noor.	.do.	MO, DHQ, Charsadda.	.do.
294.	Dr. Mohammad Salim Khan S/O Haji Mehtab Khan.	.do.	MO, BHU Nazar Abad, Swat.	.do.
295.	Dr. Asadullah Khan S/O B. Khan.	.do.	MO, BHU, Ramora, Dir.	.do.
296.	Dr. Mohammad Said S/O Nazar Hussain.	.do.	MO, CH, Loe Agra, Malakand Agency.	.do.
297.	Dr. Tahir Mahmood S/O Wali Ahmad.	.do.	MO, BHU, Ziarat Masoom Abbottabad.	.do.
298.	Dr. Qasim Asad Tahir Kheli, S/O M.A.K.	.do.	MO, BHU, Pogra, Abbottabad.	.do.
299.	Dr. Fida Mohammad S/O Din Mohammad.	.do.	MO, BHU Shakowali, Dir.	.do.
300.	Dr. Waqar Ahmad S/O M.R. Awan.	.do.	MO, BHU Rajwal, Mansehra.	.do.

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Attested
Copy

301. Dr. Gul Badshah S/O Fazal Nabi.	1st Apptt: (P.S.C.).	MO, Civil Hosp: Dargai, Swat.	Against the vacant post.
302. Dr. Mohammad Javed S/O S. Din.	.do.	MO, BHU, Kharakai, Dir.	.do.
303. Dr. Masud Akhtar Malik, S/O Malik Sher Zaman.	.do.	MO, BHU, Brag, Abbottabad.	.do.
304. Dr. Capt. Hanifullah S/O Haji Shakirullah.	.do.	MO, RHC, Gullagran, Malakand Agency.	.do.
305. Dr. Mirza Jehan S/O Rahim Khan.	.do.	MO, BHU, Nawan Kili, Swat.	.do.
306. Dr. Mohammad Iqbal Siddique S/O Sahib Dola.	.do.	MO, BHU, Darwal, Abbottabad.	.do.
307. Dr. Naveed Alam S/O Abdul Wahab.	.do.	MO, BHU, Brah, Malakand Agency.	.do.
308. Dr. Yahya Khan S/O Zakria Khan.	.do.	MO, RHC, Ayun, Chitral.	.do.
309. Dr. Shabir Ahmad S/O Faqir Ahmad.	.do.	MO, DHQ, Timargara, Dir.	.do.
310. Dr. Mohammad Riaz, S/O M.A. Gul.	.do.	MO, C.H. Alpurai, Swat.	.do.
311. Dr. Inamullah Khan S/O Ihsanullah.	.do.	MO, CH Alpuri, Swat.	.do.
312. Dr. Ihsanul Haq S/O Ghulam Sarwar.	.do.	MO, BHU Panian, Abbottabad.	.do.
313. Dr. Mohammad Rafique, S/O Umar Khan.	.do.	MO, BHU Salam Khund Abbottabad.	.do.
314. Dr. Khalid Javed S/O Abdur Rehman.	.do.	MO, BJU Khair Abad, Mandehra.	.do.

SECRETARY TO GOVERNMENT OF NWFP,
HEALTH & SOCIAL WELFARE DEPTT:
PESHAWAR.

ENDS: NO. & DATED EVEN

Copy forwarded for information and necessary action to the:-

1. The Director Health Services, NWFP, Peshawar.
2. The Accountant General, NWFP, Peshawar.
3. The Secretary to Chief Minister NWFP, Peshawar.
4. The P.S. to Minister for Health NWFP, Peshawar.
5. All District Accounts Officers/Agency Accounts Officers in NWFP.
6. The Manager, Government Printing Press for publication in the Government Gazette.
7. The Officers concerned.
8. P.S. to Secretary Health, NWFP, Peshawar.
9. All Divisional Directors Health Services, DHO's, M.S's/Agcy: Surgeons. in NWFP.
10. Secretary NWFP Public Service Commission, Peshawar.
11. The Director Social Security, NWFP, Peshawar.

Sher Mohammad Marwat
9/12/91
(SHER MOHAMMAD MARWAT)
SECTION OFFICER-IV HEALTH

S.A/
1291

Attested
True Copy

Amc- (B) 19

GOVERNMENT OF KHYBER PAKHTUNKHA
HEALTH DEPARTMENT

NO. 001/11/11/2009
Dated: 11/11/2009

The Director General,
Health Services, K.P.K.,
Peshawar.

SUBJECT: REQUEST FOR ONE YEAR EXTENSION IN DEPUTATION.

Dear Sir

I am directed to refer to the subject noted above and to state that
Dr. Muhammad Ayub, Ex-MO BHU Pano Dohri, Mansel, has submitted an
application requesting for further one year extension in his deputation to Saudi
Arabia w.e.f. 1.1.2009, which was processed and regretted.

He may be informed accordingly.

(Signature)
Muhammad Jamil
Section Officer-II

Head Building, Health Department, Govt. Khyber Pakhtunkhwa, Khyber
Road Pesh. Phone # 092-9210419, Fax # 092-9210419

Arrested
True Copy

17785

dated 20-10-2009

The Secretary Health
Government of N.W.F.P

Subject Extension of Deputation

Sir

It is requested to you that I am
working in Saudi Arabian on
deputation with your reference letter
SO(E)H-11/2-13/2005

As my service abroad has been
extended for further one year

Therefore kindly extend my deputation
for further one year from
1-11-2009 upto 1-11-2010

Yours obediently

M Ayub

DR mohammad Ayub
S/o mohammad yousaf
Ex-Medical officer
BHU Pano Dhari
District Mansehra

dated 20-10-2009

Attested
True Copy

12/11/12
Sgt

I would like to thank you for
medical officer

Thanks

perform my duty -

and post me so that I can
please oblige my request

my position

I submitted my arrival report
but still I am waiting for
after completion of deputation

goes to 2005

I went abroad on deputation from

It is requested to you that

Sir,

Subject

The Secretary Health
Govt. Hyber Pakhtoon Khawza

To

6022
11/2/12

Better Copy

Anze-B-(19)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No.SO (E) H-11/ 2/13/2005
Dated Peshawar _____

To

The Director Council
Health Services, K.P.K
Peshawar

Subject: **REQUEST FOR ONE YEAR EXTENSION IN DEPUTATION**

Dear sir,

I am directed to refer to the subject noted above and to state that Dr. Muhammad Ayub, Ex.MO BHU Pano Dehri, Mansehra has submitted an application requesting for further one year extension in his deputation to Saudi Arabia w.e.f. 01.01.2009. which was processed and regretted.

He may be informed accordingly

Sd/-
Muhammad Jmail
Section Officer-II

Better Copy

To

The Secretary Health
Govt. of Khyber Pakhtunkhwa

Subject:

Sir,

It is requested to you that I want spread on deputation from

2002 to 2009

After completion of deputation I submitted my final report

but still I am waiting for my posting.

Please, oblige my request and post me so that I am

perform my duty

Thanks

Sd/-

D. Mohd. Ayub S/o. Mohd. Yousaf

Medical Officer

The Secretary Health
Government of N.W.F.P

Subject: EXTENSION OF DEPUTATION

Sir,

It is requested to you that I am working in Saudi Arabian on deputation with your reference letter No. SO (E) H-11/ 2/13/2005.

As my service s abroad has been extended for further one year.

Therefore kindly extend my deputation for further one year for 01.11.2009 upto 01.11.2010.

Yours obediently

Sd/-

DR. MUHAMMAD AYUB
S/o Muhammad Yousaf
Ex-Medical Officer
BHU Pano Dheri
District Mansehra

Dated 20.10.2009

DICIPLINARY ACTION

I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Dr. Mohammad Ayub, Ex-Medical Officer (BS-17), BHU, Pano Dehri Mansehra has rendered himself liable to be proceeded against as he committed the following acts within the meaning of E&D Rules.

STATEMENT OF ALLEGATIONS

- i. 4th year extension in deputation to Saudi Arabia granted to him by Govt: was expired on 31.10.2009.
- ii. His request for further extension in deputation was not honored by the Govt:
- iii. He reported arrival on 12.07.2010 after an overstay w.e.f. 01.11.2009 to 11.07.2010.
- iv. On arrival he was given temporary posting to DHQ Hospital Abbottbad vide DGHS office letter No. 20143/E-I dated 05.08.2010 but he did not obey the orders.
- v. Willful absence/misconduct.

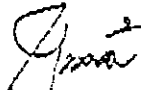
2. For the purpose of enquiry against the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under section 10 (1) (a) of the E&D Rules.

Mr. Mohammad Arif, DO F&P Hazipur

3. The enquiry committee shall, in accordance with the provisions of the Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well versed representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.

Attested
True Copy

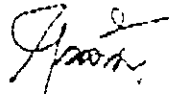

(Ghulam Dastgir Akhtar)
Chief Secretary,
Khyber Pakhtunkhwa
Competent Authority

CHARGE SHEET

I, Ghulam Dastgir Akhtar, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, do hereby charge you, Dr. Mohammad Ayub, Ex-Medical Officer (BS-17), BHU Pano Dehri Mansehra as follows:-

- i. 4th year extension in deputation to Saudi Arabia granted to you by Govt: was expired on 31.10.2009.
 - ii. Your request for further extension in deputation was not honored by the Govt:
 - iii. You reported arrival on 12.07.2010 after an oversay w.e.f. 01.11.2009 to 11.07.2010.
 - iv. On arrival he was given temporary posting to DHQ Hospital Abbottbad vide DGHS office letter No. 20143/E-I dated 05.08.2010 but he did not obey the orders.
 - v. Willful absence/misconduct.
2. By reasons of the above, you appear to be guilty of habitual absenting himself from duty without prior approval of leave; Rules 3, (b)&(d) of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules 2011 and have rendered yourself liable to one or more of the penalties specified in Rule 4 of the Rules Ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Committee.
4. Your written defence, if any, should reach the Enquiry Committee within the specified period, failing which, it shall be presumed that you have nothing to offer in your defence and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person
6. A statement of allegations is enclosed.

Authenticated
True Copy


(Ghulam Dastgir Akhtar)
Chief Secretary,
Khyber Pakhtunkhwa
Competent Authority

To,

Anx: D

(Anx: 9/10-1)

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17

Mr. Mohammad Asif (FCS, SG)
 District Officer (F & P) Haripur
 Chairman Inquiry Committee.

Sub:- REPLY OF CHARGE SHEET

R/Sir,

With reference to your letter No. 5114-15/E.I dated 27/2/2013, it is submitted that:-

1. I was allowed deputation to Saudia Arabia for 04 years ending on 31/10/2009. Before expiry of my agreement with the Saudi Government my services period was further extended for one year.
2. One receipt of extension letter from Saudi Govt. I applied my parent department for extension in deputation on 20/10/2009 near 10 days prior to expiry of my 04 years deputation period. After applying for extension in deputation I had been waiting the reply of the Health Department but no response was received, so considering that my extension in deputation will be granted as previously, so I signed agreement with the Saudi Govt. for further 01 year.
3. I received the regretted letter on 08/07/2010 about nine months later when extended agreement with Saudi Govt. was going to expire. Just on receipt of regretted letter form Health Department, I came back from Saudi Arabia and reported arrival in my parent department on 12/07/2010 after 04 days of receipt of letter.
4. Since my arrival I have not received any posting order under reference and remained waiting for the same.
5. All this was not happened deliberately, out due to lack of communication would I had been receipt the regretted letter from my parent department i.e on 08/07/2010 and I would have been reported arrival well in time.

As I am employee of Health Department since 11/12/1991 and under the circumstances explain above it is requested that my case may be considered favorably.

Thanks

Yours Truly,

Attested

True Copy

Subject: INQUIRY ABOUT DR. MOHAMMAD AYUB, EX-MO (BS-17) BHU DEHRI MANSEHRA.

BACKGROUND

The undersigned was appointed as enquiry officer by the Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 vide Govt. Order No. 1048/Pakhtunkhwa, Health Department Peshawar letter # SO(E)/H-II/4-1/2012 dated: 11.02.2013 to probe the findings as per charge sheet given below:-

CHARGE SHEET

1. Competent Authority, do hereby charge you, Dr. Mohammad Ayub Ex-Medical Officer (BS-17), BHU Pano Dhəri, Mansehra as follows:-

- i. You were deputed to KSA by the Health Department Peshawar on 08-09-2005 to 31-10-2009.
- ii. Your request for further extension in deputation was not honored by the Govt.
- iii. You reported arrival on 12-07-2010 after an overstay w.e.f 01.11.2009 to 11.07.2010.
- iv. On arrival he was given temporary posting to DHQ Hospital Abbottabad vide DGHS Office letter No. 20143/E-1 dated: 05.08.2010 but he did not obey the orders.
- v. Willful absence / misconduct.

2. By reasons of the above, you appear to be guilty of habitual absenting himself from duty without prior approval of Leave Rules 3 (b) & (d) of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules 2011 and have rendered yourself liable to one or more of the penalties specified in Rule 4 of the Rules ibid.

PROCEEDINGS:

In order to probe the above charge sheet, the undersigned (the enquiry officer) issued notice through Director General Health Services, Khyber Pakhtunkhwa Peshawar office to the accused to appear before the enquiry committee on 15.03.2012 at 11:00 am in his office at Haripur for personnel hearing. The representative of office of Director General Health Services, Peshawar was also requested to attend the proceedings. The written reply of the accused doctor had already been received on 10-03-2013 (Annexure-I). The personnel hearing was carried out on the said date which was attended by Dr. Abdur Rehman, Assistant Director (P-I) from the DG(Health) office. Brief provided by the DG office is Annexure-II.

Findings:

- I. Dr. Mohammad Ayub was allowed for deputation to KSA by the Health department from 08-09-2005 to 31-10-2009 (4 years) extending the deputation on yearly basis (Annexure-iii).
- II. On expiry of 4th year deputation, Dr. Ayub applied for extension of another one year deputation on 20-10-2009. But department failed to respond to his request by 01-07-2010 (9 months time) when his request was regretted. By that time the doctor, considering that case would be decided in his favour, had already entered into contract with Saudi Government for another one

Attested

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year. However on receipt of Health Department letter of regret, he submitted his arrival report on 12-07-2010.

- III. The Directorate General Health Services Peshawar issued his posting on temporary basis in DHQ Hospital, Abbottabad on 05.08.2010. The Doctor stated that he didn't receive any such order and remained waiting for the posting.
- IV. Till March 2012 i.e 18 months neither Doctor approached the Health Department to enquire about his posting nor the MS DHQ, Abbottabad reported his absence.
- V. The MS DHQ Hospital, Abbottabad reported to DG Health about the absence of the Doctor on 27.03.2012.
- VI. In response to his temporary posting order on 05.08.2010, Secretary Health office asked the DG office to take disciplinary action against the Doctor for his willful absence w.o.f 01.11.2009 to 12.07.2010 which was accordingly conveyed to Doctor by DG office letter dated: 20.09.2010.
- VII. Doctor gave his reply dated: 27.09.2010 explaining the reason for delay which was accordingly conveyed to Secretary Health office by DG Health office letter dated: 10.11.2010.
- VIII. In response to DG Health office, Secretary Health office responded that the Doctor may be directed to appear before the Secretary Health for personnel hearing along with documents letter dated: 10.11.2010.
- IX. No response from the Doctor is forthcoming, however, he again gave an application to the Secretary Health office for his posting on 11.07.2012.
- X. In response to this application, Secretary Health office directed the DG Health office to initiate disciplinary proceedings against the Doctor vide letter dated: 07.03.2012.

After going through whole episode of correspondence, it appears that Doctor didn't get his temporary posting order and continued his deputation with Saudi Government with the intention that as and when he will be posted he will join the duty as his subsequent application dated: 11.07.2012 reflects that he is still interested in performing his duties with the Government. The delay in reporting and lack of any action in time by the Department enabled the Doctor to continue his deputation.

Recommendations

The Doctor availed of the opportunity created by the official correspondence of the Department and kept his deputation continued which was mainly created by the non / miss-communication of posting orders. It is therefore, recommended that:

- 1. The Health Department should abruptly act on such incidents to avoid creation of any miss opportunity for the employees.
- 2. Doctor is found to be guilty of miss-conduct, however, keeping in view his experience in profession and shortage of Doctors in public sector, it is recommended that:

- i. Period after 31.10.2009 should be converted into Extra Ordinary Leave (Ex Pakistan Leave)
- ii. and minor penalty at 4 (a) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 should be imposed.

2/2

Shaukat Inquiring

Attested True Copy

Appointment 11-12-1991

Dr. M. Ayub ^{Ex} MO - Dani Manselwa

vs

- 1) Chief Secretary.
- 2) Secretary health.

①

E

AC-20/11
Date 22-10-2014

Anx: F

27

SHOW CAUSE NOTICE

I, Muhammad Shehzad Arbab, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Dr. Muhammad Ayub, MO (BS-17), Health Department, as follows:

- i. that you were granted 4th year extension in deputation to Saudi Arabia by Government which expired on 31.10.2009; and
- ii. your request for further extension in deputation was not honored; and
- iii. you reported arrival on 12.07.2010 after an overstay w.e.f. 01.11.2009 to 11.07.2010; and
- iv. that on arrival you were temporarily posted to DHQ Hospital Abbottabad vide DGHS office letter No. 20143/E.I, dated 05.08.2010 but you did not obey the orders; and

I am satisfied that you have committed the act of willful absence / misconduct as specified in Rule-3 of the said rules.


2. In terms of of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, I, as Competent Authority, dispense with the inquiry and serve you with a show cause notice under Rule-7 of the ibid Rules.


3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty/ penalties under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:

- a. Stoppage of three increments.
- b. _____

4. You are, therefore, required to show cause as to why the aforesaid penalty/penalties should not be imposed upon you and also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven (07) days or not more than fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in, and in that case an ex-parte action shall be taken against you.


(Muhammad Shehzad Arbab)
Chief Secretary,
Khyber Pakhtunkhwa
Competent Authority

Attested

True Copy

To

The Inspector General
Health Services Khyber Pakhtunkhwa
Peshawar

Sub: **DISCIPLINARY PROCEEDINGS AGAINST DR. MUHAMMAD AYUB EX-MO
(BS-17) BHU PANO DHERI MANSEHRA**

With reference to the Show Cause Notice served upon me vide your No.3597G-77 dated 26.12.2013 it is requested that division decided to be taken against ___ may kindly be reconsidered keeping in view Para no. ___ & concluding Par of the finding of Enquiry committee which are reproduced below.

FINDING

PARA-II on expiry of 4th year deputation. Dir. Ayub applied for extension of another one year deputation on 20.10.2009. but department failed to respond to this request by 01.07.2010 (9 months time) when his request was regretted. By the time the doctor, considering that case would be decided in his favour had already entered into contact with Saudi Government for another one year. However on receipt of Health department letter of regret, he submitted his arrival report on 12.07.2010.

CONCLUDING PARA. After going through whole episode of correspondence it appears that Doctor didn't get his temporary posting order and continued his deputation with Saud Government with the intention that as and when he will be posted he will join the duty as his subsequent application dated 11.07.2012 reflects that he is still interested in performing his duties with the Government. The delay in reporting and lack of any action in time by the Department enabled the Doctor to continue his deputation.

A Copy of show case notice duly signed by undersigned is also enclosed as resaved please

Thanks.

Sd/-
Dr. Muhammad Ayub
S/o Muhammad Yousaf (Late)

Dated 26.12.2013

Anx: G (28)

To
The Director General
Health Services Khyber Pakhunkhwa
Peshawar.

SUB. DISCIPLINARY PROCEEDINGS AGAINST DR. MUHAMMAD AYUB
EX-MO(BS-17) BHU PANO DHERI MANSEHRA

With reference to the Show Cause Notice served upon me vide your No. 3874-27
Date: 22/12/2013 it is requested that the decision decided to be taken against me may kindly
be reconsidered keeping in view Para no. 1 & concluding Para of the finding of Enquiry
Committee which are reproduced below:-

FINDING

PARA II: On expiry of 4th year deputation, Dr Ayub applied for extension of another
one year deputation on 20-10-2009. But department failed to respond to his request by 01-07-
2010 (9 months time) when his request was regretted. By that time the doctor, considering that
case would be decided in his favour had already entered into contract with Saudi Government for
another one year. However on receipt of Health department letter of regret, he submitted his
arrival report on 12-07-2010.

CONCLUDING PARA: After going through whole episode of correspondence it appears
that Doctor didn't get his temporary posting order and continued his deputation with Saudi
government with the intention that as and when he will be posted he will join the duty as his
subsequent application dated: 11-07-2012 reflects that he is still interested in performing his
duties with the Government. The delay in reporting and lack of any action in time by the
Department enabled the Doctor to continue his deputation.

A copy of Show Cause Notice duly signed
by undersigned is also enclosed as desired
please

Thanks

Dr. Muhammad Ayub
S/O Muhammad Yousaf (Late)

Date: 26/12/2013

Attested
True Copy

Anx: H

(29)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 13th May, 2014.

Notification.

No. SOE(H-III/4-1/2012: WHEREAS, Dr. Muhammad Ayub S/O Muhammad Yousaf, MO (BS-17), BHU Pano Dheri, Mansehra, was proceeded against under the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules, 2011 for the charge of absence from duty w.e.f. 01.11.2009 as mentioned in the charge sheet/ statement of allegation.

AND WHEREAS, Mr. Muhammad Asif (PCS, SG BS-18), District Officer (F & P) Haripur, was appointed as Inquiry Officer as provided under the aforementioned rules.

AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the above mentioned accused doctor, submitted his report and recommendation.

AND WHEREAS, Show Cause notice was served upon Dr. Muhammad Ayub, Medical Officer (BS-17), BHU Pano Dheri, Mansehra to which he replied.

AND WHEREAS, Dr. Muhammad Ayub was granted the opportunity of personal hearing.

NOW THEREFORE, in exercise of powers conferred under the aforementioned rules, the Competent Authority, after having examined the charge, findings / recommendations of the Inquiry Officer, is pleased to impose the major penalty of "Removal from Service" upon Dr. Muhammad Ayub, MO (BS-17), BHU Pano Dheri, Mansehra, with immediate effect. The period from the date of his absence i.e. 01.11.2009 till imposition of the penalty is hereby treated as absence without leave.

**SECRETARY HEALTH
KHYBER PAKHTUNKHWA**

Endst. No. & date even.

Copy to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Health Services, Peshawar.
3. District Health Officer Haripur.
4. District Accounts Officer Haripur.
5. Deputy Director (IT), Computer Cell, Health Department.
6. PS to Secretary Health.
7. PA to Special Secretary Health.
8. Officer concerned.


(Misbah Riaz)
Section Officer-II

Attested
True Copy

Anx: I

30



**CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA
PESHAWAR**

4133
11-6-14

Noted Peshawar the 03rd June, 2014

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department,
Peshawar.

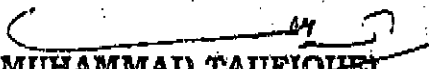
Subject:- APPEAL AGAINST NOTIFICATION NO. SOE(H-II/4/1/2012)
DATED 13-05-2014 ISSUED BY GOVT. OF KHYBER
PAKHTUNKHWA HEALTH DEPARTMENT.

Dear Sir,

I directed to refer to the subject noted above and to forward herewith an application of Dr. Muhammad Ayub s/o Muhammad Yousaf, Ex-MO BHU Pano Dheri, Mansehra, for necessary action a per rules/policy as desired by the Competent Authority.

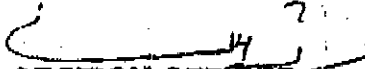
Encl: As above.

Yours Faithfully,

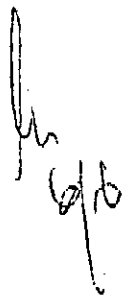

(MUHAMMAD TAUFIQUE)
SECTION OFFICER-II

Copy to the:-

1. Dr. Muhammad Ayub s/o Muhammad Yousaf, Ex-MO BHU Pano Dheri.
2. PS. to Principal Secretary to Chief Minister Khyber Pakhtunkhwa.


SECTION OFFICER

SSH
SO(S)



Attested
True Copy

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967
20/5/14

To:

The Honorable Chief Minister
Khyber Pakhtunkhawa
Peshawar.

Subject: APPEAL AGAINST NOTIFICATION NO.SOE(H-II/4/1/2012) DATED 13.05.2014 ISSUED BY GOVT. OF KPK HEALTH DEPARTMENT.

Respected Sir,

With due regards it is humbly submitted that I was appointed as Medical officer in Health Department KPK on regular basis on 11.12.1991. I was allowed deputation for Saudia Arabia for four years which was expired on 31.10.2009. Due to extension in my agreement with Saudia Government I applied Health Department KPK to extend my deputation period for further one year on 20.10.2009 (Prior to expiry of my deputation period).

The matter remained under process with the Department for a long time which resulted my overstay. Due to which disciplinary proceedings were initiated against me and an enquiry committee was constituted. I was served with the show cause notice which was replied accordingly and lastly I have received subjected notification wherewith I have been removed from service.

In the notification it is clearly mentioned that action against me has been taken on the recommendations of the Inquiry Officer Mr. Mohammad Asif District officer (F &P) Haripur.

For your kind perusal the recommendations of the inquiry officer are reproduced as under:

"The doctor availed of the opportunity created by the official correspondence of the department and kept his deputation continued which was mainly created by the non/mis-communication of posting order. It is therefore recommended that:

1. The Health Department should abruptly act on such incidents to avoid creation of any miss opportunity for the employees.
2. Doctor is found to be guilty of miss-conduct however keeping in view his experience in profession and shortage of doctors in public sector, it is recommended that:
 - i. Period after 31.10.2009 should be converted into extra ordinary leave (Ex-Pakistan Leave)

Attested
True Copy

SS em 20/5



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- ii. And minor penalty at 4 (a) (ii) of Khyber Pakhtunkhwa Government servants (efficiency and discipline) Rules 2011 should be imposed."

Sir,

From the above mentioned facts it is very much clear that the competent authority while making the decision has totally ignored the recommendations of the inquiry Officer and issued the notification at his own will.

It is, therefore, requested that my appeal may kindly be considered sympathetically keeping in view my 23 years service by exonerating me from the charges leveled against me and I may be very kindly be reinstated.

Thanks


Dr. Muhammad Ayub

Dated: 30/3/2014

Affected
True Copy