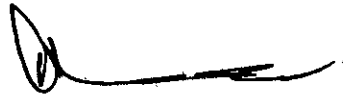


ORDER

24.05.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our detailed judgment of today separately placed on file, we remit the instant appeal back to the respondents to verify the documents and decide the matter accordingly. Costs shall follow the event. Consign.
3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 24<sup>th</sup> day of May, 2024.*



(KALIM ARSHAD KHAN)  
CHAIRMAN



(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

documents and decide the matter accordingly. Costs shall follow the event.  
Consign.

06. *Pronounced in open court at Peshawar and given under our  
hands and seal of the Tribunal on this 24<sup>th</sup> day of May, 2024.*



(KALIM ARSHAD KHAN)  
CHAIRMAN



(MUHAMMAD AKBAR KHAN)  
MEMBER (E)

PMDC certificates were verified and the same were found fake/bogus; that respondents have not violated the Article 4 & 25 of the Constitution of Islamic Republic of Pakistan.

05. Perusal of record reveals that the appellants were appointed against the post of Medical Officer vide Notification dated 18.07.2016 & 12.01.2017 respectively. Later on their services were regularized in view of the promulgation of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2017. The main issue in the instant appeal is with regard to the genuineness or otherwise of the PM&DC registration due to which their salaries have been withheld/stopped by the respondents w.e.f. 01.03.2018 till date. After their initial appointment as Medical Officer (BPS-17) on adhoc basis, respondent No. 5 i.e District Health Officer, Malakand through letter dated 05.09.2016 addressed to the Chairman Pakistan Medical & Dental Council Islamabad sent the documents regarding the medical registration for verification. In response to the said letter the Chairman Pakistan Medical & Dental Council Islamabad vide letter dated 23.09.2016 informed that the PM&DC registration of the appellant was valid/genuine, however, the stance taken by the respondents in their arguments is that PM&DC certificate of the appellant was found fake/bogus. There are three (03) verification reports about the PM&DC registration on the file, two submitted by the appellant and one submitted by the respondents, therefore, without further touching the merit of the case, we remit the instant appeal as well as connected service appeal back to the respondents to verify the

Pakhtunkhwa, Peshawar to decide the departmental appeal of the appellant within one month positively but the same was not decided, hence preferred the instant service appeal on 22.09.2020.

02. Notices were issued to the respondents to submit reply/comments but they failed to submit reply/comments, therefore, their right for submission of reply/comments was struck off. We have heard arguments of learned counsel for the appellant, learned District Attorney for the respondents and have gone through the record with their valuable assistance.

03. Learned counsel for the appellant contended that by not releasing the salary of the appellant w.e.f. 01.03.2018 till date by the respondents is against the law, facts, norms of natural justice hence not tenable in the eye of law; that the appellant has not been treated by the respondents in accordance with law/rules and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973; that act of the respondent by stopping the salary of the appellant falls within the ambit of force labor, which is against Article-11 of the Constitution of Islamic Republic of Pakistan; that act of the respondents by stopping the salary of the appellant is against the dictum of the apex Supreme Court of Pakistan which enshrines that "Work done must paid"; that in light of Section-17 of the Civil Servant Act, 1973 the appellant is fully entitled for his salaries w.e.f 01.03.2018 till date.

04. On the other hand, learned District Attorney contended that the appellant alongwith others were appointed on Adhoc basis but when their

-----  
 NOOR MUHAMMAD KHATTAK,  
 Advocate


--- For appellant.

MUHAMMAD JAN,  
 District Attorney

--- For respondents

-----  
**APPEAL UNDER SECTION 4 OF THE KHYBER  
 PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
 RELEASING THE MONTHLY SALARIES OF THE  
 APPELLANT WITH EFFECT FROM 1<sup>ST</sup> MARCH, 2018 TILL  
 DATE AND AGAINST NO ACTION TAKEN ON THE  
 DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN  
 THE STATUTORY PERIOD OF 90(NINETY) DAYS.**

**CONSOLIDATED JUDGMENT**

 **MUHAMMAD AKBAR KHAN, MEMBER (E):-**. Brief facts of the case are that the appellant was initially appointed as Medical Officer (BPS-17) on adhoc basis after recommendation of Departmental Selection Committee vide Notification dated 18.07.2016; that on submitting of his arrival report, the appellant joined his duties; that later on he was posted at Category-D Hospital Agra, District Malakand vide order dated 04.08.2016; that after promulgation of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2017 the services of the appellant alongwith other colleagues were regularized vide Notification dated 09.05.2017; that respondents stopped the monthly salaries of the appellant with effect from 01.03.2018 without any reasons. Feeling aggrieved, the appellant filed departmental appeal on 07.05.2018 followed by Writ Petition No. 4478-P/2018 before the Hon'ble Peshawar High Court, Peshawar; that vide judgment dated 09.06.2020 the Hon'ble Peshawar High Court, Peshawar disposed of the Writ Petition with the direction to the worthy Secretary Health Department

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**  
**MUHAMMAD AKBAR KHAN** ... **MEMBER (E)**

*Service Appeal No. 11548/2020*

Date of presentation of Appeal.....22.09.2020  
Date of Hearing.....24.05.2024  
Date of Decision.....24.05.2024

Dr. Tariq Khan, Medical Officer (BPS-17), Category-D Hospital Agra,  
District Malakand.....**(Appellant)**

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Service, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Fort Road, Khyber Pakhtunkhwa, Peshawar.
4. The District Account Officer, District Malakand.
5. The District Health Officer, District Malakand.....**(Respondents)**

-----  
NOOR MUHAMMAD KHATTAK,  
Advocate

--- For appellant.

MUHAMMAD JAN,  
District Attorney

--- For respondents

-----  
*Service Appeal No. 11952/2020*

Date of presentation of Appeal.....24.09.2020  
Date of Hearing.....24.05.2024  
Date of Decision.....24.05.2024

Dr. Waseem Ullah Jan, Medical Officer (BPS-17), Civil Hospital Shakar  
Dara, District Kohat.....**(Appellant)**

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Service, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Fort Road, Khyber Pakhtunkhwa, Peshawar.
4. The District Account Officer, District Malakand.
5. The District Health Officer, District Malakand.....**(Respondents)**