

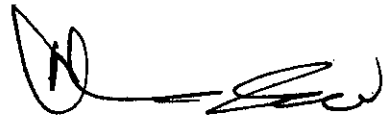
ORDER

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, the instant service appeal is dismissed. 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 24th day of May, 2024.*



(KALIM ARSHAD KHAN)
CHAIRMAN



(MUHAMMAD AKBAR KHAN)
MEMBER (E)

06. Through these appeal the appellants have prayed that the impugned order dated 06.03.2020 might be declared null and void, without lawful, authority, illegal and ineffective, upon the rights of the appellant. Secondly on acceptance of instant appeal respondents might be directed to restore appellant to his previous positions with all back benefits. The impugned order dated 06.03.2020 is a letter addressed to the Director General Health Services Khyber Pakhtunkhwa, the District Health Officer, Malakand, Shangla, Dir Lower, Hangu, Kohat, Mardan & Swabi, the Medical Superintendent, Sifwat Ghayur Memorial I/D Children Hospital, Peshawar and the Medical Superintendents DHQ Hospital Charsadda & Mardan which is reproduced as under;

“I am directed to refer to the subject noted above and to state that as the documents of qualification of the following doctors have become questionable, therefore, in the interest of public in general and patients in particular, these doctors will not perform duties until the decision of the competent authority”

07. The above order is not an original or appellate order as nothing has been found in it to infringe any of the terms and conditions of the service of the appellants, therefore, these appeal have no merits and are dismissed. Costs shall follow the event. Consign.

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



(KALIM ARSHAD KHAN)
CHAIRMAN



(MUHAMMAD AKBAR KHAN)
MEMBER (E)

subject to the condition that they will refund their salaries if their PMDC registration were found fake/false. Thereafter the appellants received the impugned letter dated 06.03.2020 whereby disciplinary proceedings were initiated against them on account of false PMDC registration, therefore, they were restrained from performing their duties. Feeling aggrieved the appellant filed departmental appeal which was not decided, hence preferred the instant service appeal on 07.08.2020.

02. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record with their valuable assistance.

03. Learned counsel for the appellant contended that the appellants alongwith his other colleagues were appointed on adhoc basis after fulfilling all the codal formalities/verification/verification but the respondents department without conducting of inquiry, the impugned order had been issued; that no show cause notice was issued to the appellant and chance of personal hearing and opportunity of defense was given to the appellant; 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 the impugned action/order are without lawful authority, illegal, void abinito and violation of Rule-21(2) read with Schedule-V of Khyber Pakhtunkhwa, Rules of Business 1974.

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

PMDC certificates were verified the same were found bogus, hence an illegal act cannot create a single right, therefore, the Department issued the impugned letter dated 06.03.2020 under the prevailing law and rules as the respondents have not violated the Article 4 & 25 of the Constitution of Islamic Republic of Pakistan as the appellant was called for personal hearing by the DHO Swabi vide letter dated 22.11.2017 but he failed to attend the office and absented himself from government duty.

05. Perusal of record reveals that the appellants were appointed against the post of Medical Officer and later on their services were regularized in view of the promulgation of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2017. The appellants were stopped from performing their duty vide letter dated 06.03.2020 due to their fake/fictitious PMDC certificate. After their initial appointment as Medical Officer (BPS-17) on adhoc basis, their documents were sent to the Chairman Pakistan Medical & Dental Council Islamabad regarding the medical registration for verification. In response to that the Chairman Pakistan Medical & Dental Council Islamabad vide letter dated 17.09.2018 informed that the PM&DC certificates of the appellants were found fake/bogus. Moreover, the PMDC certificates of the appellants with registration No. 12195-N, 12432-N & 12468-N were checked online but they were found not registered and their names do not exist in its data base and even they were not issued the registration certificates meaning thereby that they submitted fake/bogus certificates at the time of their appointment. Furthermore, they also filed Writ Petition No. 2628-P of 2018 before the Hon'ble Peshawar High Court, Peshawar which was also dismissed vide judgment dated 22.11.2018.

Service Appeal No. 11406/2020

Date of presentation of Appeal.....24.08.2020
 Date of Hearing.....24.05.2024
 Date of Decision.....24.05.2024

Dr. Subhan Ullah S/o Ameer Sher R/o Mursil Banda, Kalabat, P.O Kalabata,
 Tehsil Topi, District Swabi.....(**Appellant**)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat, Peshawar.
2. Director General Health Services, Judicial Complex Peshawar.
3. DHO Swabi.....(**Respondents**)

NOOR MUHAMMAD KHATTAK,
 Advocate

--- For appellant.

MUHAMMAD JAN,
 District Attorney

--- For respondents

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 12.01.2017. Later on their services were regularized in view of the promulgation of the Khyber Pakhtunkhwa Employees Health Department (Regularization of Services) Act, 2017 vide Notification dated 04.06.2017; that the salaries of the appellants have been stopped due to non-verification of their documents from PM&DC. Respondent No. 1 i.e. Secretary Health issued letter dated 26.03.2018 in pursuance of court order in Writ Petition No. 686/M/2017 whereby all the District Health Officers and Medical Officers of the province were directed to release the salaries of the appellants alongwith their colleagues



BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

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

Service Appeal No. 11124/2020

Date of presentation of Appeal.....07.08.2020

Date of Hearing.....24.05.2024

Date of Decision.....24.05.2024

Dr. Ijaz Ahmad S/o Shams Khan R/o Sulai Topi, District Swabi,
.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat, Peshawar.
2. Director General Health Services, Judicial Complex Peshawar.
3. DHO Swabi.....(Respondents)

NOOR MUHAMMAD KHATTAK,
Advocate

--- For appellant.

MUHAMMAD JAN,
District Attorney

--- For respondents

Service Appeal No. 11123/2020

Date of presentation of Appeal.....07.08.2020

Date of Hearing.....24.05.2024

Date of Decision.....24.05.2024

Dr. Ashfaq Ahmad S/o Shams Khan R/o Mohallah Sulai Topi, District Swabi.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Civil Secretariat, Peshawar.
2. Director General Health Services, Judicial Complex Peshawar.
3. DHO Swabi.....(Respondents)

NOOR MUHAMMAD KHATTAK,
Advocate

--- For appellant.

MUHAMMAD JAN,
District Attorney

--- For respondents