


FORM OF ORDER SHEET

Court of _____

Appeal No. 420/2024

S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20/03/2024	<p>The appeal of Dr. Arshad Karim presented today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on <u>10/5/2024</u> Parcha Peshi is given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

Service Appeal 420 /2024

In matter of:

Dr. Arshad Karim

VERSUS

GOVT OF KPK.& ETC

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Dated: 19th March 2024

Through


Appellant

JAVED IQBAL GULBELA
Advocate Supreme Court of
Pakistan.

Off Add: 1-B Al-Nimrah Centre, Govt College Chowk Peshawar

①

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Service Appeal No. 420 /2024

In the matter of;

Dr. Arshad Karim Senior Registrar (Paediatrics,BS-18), Saidu Group of Teaching Hospital/Saidu Medical College, Swat.

.....*Appellant*

VERSUS

1. **Secretary Health**, Government of Khyber Pakhtunkhwa, Peshawar.
2. **Dr. Sajjad Hussain** Senior Registrar (Neonatology-18), Saidu Group of Teaching Hospital/Saidu Medical College, Swat.

.....*Respondents*

Service appeal under section - 4 of the Khyber Pakhtunkhwa services tribunal act - 1974, against The Impugned Notification No: SOH-1/HD/1-45/2023/SMC/Swat, Dated 16/11/2023 Of The Office Of Secretary Health Khyber Pakhtunkhwa, Whereby at serial No.9 Dr. Sajjad Hussain has been illegally and unlawfully promoted to the post of Assistant Professor (paediatrics BPS 18) from the post of Senior Registrar (Neonatology BPS-18) instead of Appellant Dr. Arshad Karim (Senior Registrar Paeds BS-18), where against the departmental appeal of the appellant was left undecided inspite of lapse statutory period.

Respectfully Sheweth,

The Appellant most humbly submits the facts of the instant appeal as;

1. That Appellant is a naturally born bonafide citizen of Islamic Republic of Pakistan and hails from a respectable family.
2. That That the appellant has been appointed upon the recommendation of Public Service Commission to the post of Senior Registrar Paediatrics (BS-18), vide Notification No. SOH-1/HD/1-909/2022 dated.25-05-2022.(Copy of the Appointment Notification No. SOH-1/HD/1-909/2022 dated.25-05-2022 is annexed as "A")

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3. That before opening the main crux of the instant departmental appeal, it is important to note here, that Dr.Sajjad Hussain Khan S/o Iqbal Hussain R/o District Swat had been appointed as Senior Registrar (Neonatology) (BS-18) vide Notification No. SOH-1/1-809/2017 dated.19-01-2018. **(Copy of the appointment of Dr Sajjad Hussain Notification No. SOH-1/1-809/2017 dated.19-01-2018 is annexed as "B")**

4. That now coming to the main epitome of the instant service appeal, that the Provincial Selection Board meeting was held on 07-09-2023, which was followed by the impugned Notification No. SOH-1/HD/1-45/2023/SMC/Swat, Dated 16/11/2023 of the Office of Secretary Health Khyber Pakhtunkhwa, whereby at serial No.9 Dr. Sajjad Hussain has been illegally and unlawfully promoted to the post of Assistant Professor (paediatrics) (BPS-18) from the post of Senior Registrar (Neonatology) (BPS-18), instead of Appellant Dr. Arshad Karim (Senior Registrar Paeds) (BS-18). **(Copy of Impugned Promotion Notification No. SOH-1/HD/1-45/2023/SMC/Swat, Dated 16/11/2023 is annexed as "C")**

5. That the appellant is entitled for promotion from the post of Senior Registrar (Paeds) to the post of Assistant Professor (Paeds), therefore the impugned Notification to the extent of serial no.9 liable to be cancelled and by doing so the appellant be promoted to the subject post. Therefore the appellant filed a Departmental Appeal before the competent authority, which was left undecided inspite of statutory period**(Copy of Departmental Appeal 14-12-2023 is annexed as annexure "D")**

6. That feeling aggrieved, the Appellant for approaches this Hon' Tribunal for setting aside the Impugned Notification No: SOH-1/HD/1-45/2023/SMC/Swat, Dated 16/11/2023 of the Office of Secretary Health Khyber Pakhtunkhwa", as may graciously be declared as illegal, unwarranted and void and be struck down/cancelled to the extent of serial No.9, and by doing so the appellant may kindly be promoted to the post of Assistant Professor (Pediatics) (BPS-18) being entitled, with all back benefits, upon the following ground, *inter-alia*;

GROUND:

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- A. That the post at serial No.9 is for the promotion to the post of Assistant Professor (Paediatrics) (BPS-18) from the post of Senior Registrar (Paediatrics) (BS-18). The appellant being Senior Registrar (Paediatrics) (BS-18) is not only qualified for promotion but is also entitled for the promotion to the subject post. Hence the promotion on the subject post of Dr. Sajjad Hussain is not sustainable in the eye of law and liable to be cancelled.
- B. That Dr. Sajjad Hussain has been Senior Registrar (Neonatology) (BS-18), whereas the subject post is for Assistant Professor (Paediatrics) (BS-18), therefore, is not entitled for promotion to the subject post, rather is entitled to the post of Assistant Professor (Neonatology), hence the impugned Notification to the extent of serial No. 9 is against the law and liable to be cancelled and by doing so the appellant be promoted to the subject post
- C. That it is a cherished principle of law that whether a law requires a thing to be done in a manner, the same is to be done in that vary manner and not otherwise.
- D. That the promotion of Dr. Sajjad Hussain to the position of Assistant Professor (pediatrics BPS-18) from the post of Senior Registrar (Neonatology BPS-18) was carried unlawfully and unfairly and has been elevated on the basis of favoritism and nepotism.
- E. That the impugned Notification is illegal, unlawful, void-ab-initio and against the Law, Rules and Regulations of the subject matter, therefore liable to be struck down to the extent of the promotion Dr. Sajjad Hussain as he has been illegally promoted to the subject post instead of the appellant.
- F. That discrimination in any form ^{is} highly abominable and bete noire and always checked by the superior court in a derisorous manner, the reason behind checking it down and chucking it away is to remove any sense of discrimination and to ensure equality and equal treatment.
- G. That from every angle of law the appellant has a right to promotion to the subject post
- H. Any other ground not raised here, may kindly be allowed to be raised at the time of arguments.

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It is therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned Notification No. SOH-1/HD/1-45/2023/SMC/Swat, dated 16-11-2023 of the office of Secretary Health Khyber Pakhtunkhwa, Peshawar may graciously be declared as illegal, unwarranted and void and be struck down/cancelled to the extent of serial No. 9, and by doing so the Respondents may kindly be directed to promote the appellant to the post of Assistant Professor (Pediatrics) (BPS-18) being entitled, with all back benefits.


Any other relief not specifically asked for, may very graciously be extended in the favor of the Appellant, in the circumstances of the case.

Dated: 19th March 2024

APPELLANT

Through

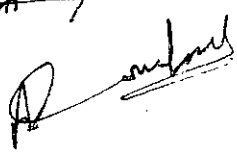

Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan.


Saghir Iqbal Gulbela
Advocate, High Court
Peshawar.


Muhammad Arif Mohmand


Junaid Swati

&


ALAMZEB KHAN
Advocates, Peshawar.

CERTIFICATE:

No such Service Appeal has earlier been moved by me prior to this one, for the same Appellant upon the same subject matter & the case in hand pertains to the Hon'ble Divisional Bench (DB) of the Tribunal.


ADVOCATE

5

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

Service Appeal _____ /2024

Dr. Arshad Karim

VERSUS

GOVT OF KPK & ETC

AFFIDAVIT

I, **Dr. Arshad Karim Senior Registrar (Paediatrics,BS-18), Saidu Group of Teaching Hospital/Saidu Medical College, Swat**, do hereby solemnly affirm & declare on oath that all contents of the instant service appeal are true & correct to the best of my knowledge and belief, and nothing has been kept concealed from this Hon'ble Tribunal.

Deponent

Identified by:

**Mr. Javed Iqbal Gulbela
Advocate Supreme Court,
Pakistan**

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**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

Service Appeal _____ /2024

Dr. Arshad Karim

VERSUS

GOVT OF KPK & ETC

ADDRESSES OF PARTIES

MEMO OF APPELLANT.

*Dr. Arshad Karim Senior Registrar (Paediatrics,BS-18), Saidu Group of
Teaching Hospital/Saidu Medical College, Swat.*

MEMO OF RESPONDENTS:

- 1. Secretary Health, Government of Khyber Pakhtunkhwa, Peshawar.*
- 2. Dr. Sajjad Hussain Senior Registrar (Neonatology-18), Saidu Group of
Teaching Hospital/Saidu Medical College, Swat.*

Dated: 19th March 2024

Appellant

Through

JAVED IQBAL GULBEELA
Advocate Supreme Court of
Pakistan



(7)

Am-A

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar, the 25th May, 2022

NOTIFICATION

SOH-I/HD/1-909/2022: Consequent upon the recommendations of the Khyber Pakhtunkhwa Public Service Commission recommendations vide No. PSC/SR-V/025196 dated 18.04.2022, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa), is pleased to appoint Mr. Arshad Karim S/O Haji Fazal-e-Akbar, R/O Qorn Rabia Khel Afzalkhel Post Office Samanu Zora Milla Jarib Kaly Tehsil Asmail Zal District Orakzai against the post of Senior Registrar Paeds (BS-18) in Saidu Group of Teaching Hospital /Saidu Medical College Swat with immediate effect, on terms and conditions mentioned below:-

TERMS AND CONDITIONS:-

- i. The terms and conditions of his service will be governed under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made there-under.
- ii. His service will be considered regular and will be entitled to General Provident Fund in such a manner and on such rate as may be prescribed by the Govt. of Khyber Pakhtunkhwa from time to time
- iii. His Services will be liable for termination on one month's notice from either side. In case of the resignation without notice, two month's salary/allowances shall be refunded to Government.
- iv. The appointee should accept this offer within thirty (30) days of the issue of this Notification. In case, he fails to join the post after one month of issue of this Notification, his appointment will expire automatically and no subsequent appeal, whereas shall be entertained.
- v. He will be on probation for a period of one year, extendable for another year in terms of Rule-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- vi. He will be governed under such rules and regulations as may be issued from time to time by the Government.
- vii. His services can be terminated at any time in case his performance is found unsatisfactory during probation period. In case of misconduct, he will be proceeded against the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.
- viii. Arrival report should be submitted by the concerned doctor to this department.
- ix. No TA/DA will be allowed to the appointee for joining the duty.
- x. He is also required to register on HRMIS of Health Department with the Deputy Director HR o/o the Director General Health Services Peshawar.
- xi. If he accepts the post on the above terms & conditions, he should submit arrival report in Health Department within thirty (30) days of the issuance of this Notification.

Secretary Health
Govt. of Khyber Pakhtunkhwa

Endst: of Even No. & date

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. The Principal/Chief Executive Saidu Group of Teaching Hospitals/Saidu Medical College, Swat.
4. The Medical Superintendent Saidu Medical College, Swat/Hangu.
5. Director Recruitment, Khyber Pakhtunkhwa Public Service Commission, Peshawar w/r to his letter quoted above
6. District Accounts Officer, Swat/Hangu.
7. PS to Secretary Health Govt. of Khyber Pakhtunkhwa.
8. PS to Special Secretary Health Govt. of Khyber Pakhtunkhwa, Peshawar.
9. Doctors concerned.
10. Personal files of the doctor concerned.
11. Master file.

(BREKHNA HABIB)
SECTION OFFICER (ESTAB:-I)

25/5/22
JAVED ILYAS
SECRETARY
(MCCY/5371)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

8

Am B
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Dated Pesh: the 19th JAN: 2018

NOTIFICATION

No. SOH-1/1-809/2017 On the recommendations of Khyber Pakhtunkhwa Public Service Commission, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to appoint Dr. Sajjad Hussain Khan S/O Iqbal Hussain of Distt: Swat (presently serving as District Specialist Paeds (BPS-18) at SGTH Swat) as Senior Registrar Neonatology (BS-18) for Saidu Medical College Swat on regular basis with immediate effect. He will be on probation for a period of one year.

2. Consequent upon the above, Dr. Sajjad Hussain Khan S/O Iqbal Hussain is hereby posted as Senior Registrar Neonatology (BS-18) at Saidu Medical College, Swat.
3. The terms and conditions of his service will be governed under Khyber Pakhtunkhwa Civil Servants Act 1973 and rules made there-under.
4. He is directed to assume charge within 30 days after the issuance of this notification failing which his appointment shall be treated as cancelled.

SECRETARY HEALTH

Encls/ No and date even

C.C

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. Chief Executive/Principal Saidu Group of Teaching Hospital, Swat.
3. Medical Supdt; Saidu Group of Teaching Hospitals Swat.
4. District Accounts Officer, Swat.
5. Director Information Khyber Pakhtunkhwa, Peshawar.
6. Computer Programmer Health Department.
7. Doctor concerned.
8. Personal file of the doctor concerned.

[Signature]
(Tasleem Khan)
Section Officer-I

[Signature]
Dr. Shah Hussain
SMO (Paeds Ward)
Saidu Group of Teaching Hospital Swat

JAVED IDEAL SY...
SUPPORTING CONTROL OFFICER
(ASST. SECRETARY)



GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT



Dated Peshawar the 16th November 2023

Ann-C

NOTIFICATION

SOH-1/HD/1-45/2023/SMC/Swat Consequent upon the recommendation of the Provincial Selection Board in its meeting held on 07.09.2023 and subsequent approval of the Competent Authority (Chief Minister, Khyber Pakhtunkhwa), the following doctors of Saidu Medical College Swat are hereby promoted as mentioned below against their names:-

SNo	Employee Name	Father Name	From	To
1	DR. ABDUL AHAD 1560292110259	AHMAD SHAH	ASSOCIATE PROFESSOR (BPS-19)	PROFESSOR OF MEDICINES (BPS-20)
2	DR. UMER ALEEM 4250189191597	BACHA ZARIN	ASSOCIATE PROFESSOR PHARMACOLOGY (BPS-19)	PROFESSOR PHARMACOLOGY (BPS-20)
3	DR. ANWAR ALI 1560204371505	BADSHAH ZADA	ASSISTANT PROFESSOR (BIOCHEMISTRY) (BPS-18)	ASSOCIATE PROFESSOR (BIOCHEMISTRY) (BPS-19)
4	DR. MUHAMMAD AYUB KHAN 1530209626969	UMER RAHMAN	ASSISTANT PROFESSOR MEDICINE (BPS-18)	ASSOCIATE PROFESSOR (MEDICINE) (BPS-19)
5	DR. MUHAMMAD ZUBAIR 1730175968917	MUHAMMAD UMER KHAN	ASSISTANT PROFESSOR (PATHOLOGY) (BPS-18)	ASSOCIATE PROFESSOR PATHOLOGY (BPS-19)
6	DR. FARHADIA SADAF 1730111937596	ABDUL RAQEEB	ASSISTANT PROFESSOR (GYNAE) (BPS-18)	ASSOCIATE PROFESSOR (GYNECOLOGIST/OBSTET RICS) (BPS-19)
7	DR. FAZAL HANAN 1560204077919	MOMIN KHAN	ASSISTANT PROFESSOR (PATHOLOGY) (BPS-18)	ASSOCIATE PROFESSOR PATHOLOGY (BPS-19)
8	DR. ZIA ULLAH 6110166708643	HAYAT UL HAQ	SENIOR REGISTRAR (BPS-18)	ASSISTANT PROFESSOR MEDICINE (BPS-18)
9	DR. SAJJAD HUSSAIN 1560203566297	IQBAL HUSSAIN	SENIOR REGISTRAR (BPS-18)	Assistant Professor (paediatrics) (BPS-18)

- In terms of section 6(2) of Khyber Pakhtunkhwa, Civil Servant Act, 1973 read with rule 15(1) of Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989, he shall be on probation for a period of one year.
- Posting/transfer Notification of newly promoted doctor will be issued separately.

SECRETARY HEALTH
KHYBER PAKHTUNKHWA

Endst: of even No & date:

Copy of the above is forwarded to the:-

- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Section Officer (PSB) Establishment Department w/r to his letter No.SO(PSB)/Establishment Department/1-8/2022/P-846 dated 01.11.2023.
- The Principal, Saidu Medical College, Swat.
- District Accounts Officer, Swat.
- Deputy Director IT Health Department.
- PS to the Secretary Health Khyber Pakhtunkhwa.
- Doctor concerned.
- Personal file to the doctor concerned.

SECTION OFFICER (E.I.)

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H E A L T H K P

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SAIDU MEDICAL COLLEGE
SAIDU SHARIF SWAT.

Phone office : 0946-9240134

Fax No. 0946-9240135

Email: info@smcswat.edu.pk

No. 758 80 /SMC/PF

Dated 22 / 02 / 2024

Ann-C/E

OFFICE ORDER

On the recommendation of Chairman Re-designation committee in its meeting held on 17-07-2023, the following Officers fulfill the requirements of next higher scale in Clinical Sciences Departments in Saidu Group of Teaching Hospital, Saidu Sharif Swat, in the light of service rules of Government of Khyber Pakhtunkhwa Health Department, are hereby re-designated as Associate Professor, Assistant Professor & Senior Registrar (own pay and scale) in Basic/Clinical Sciences Departments in Saidu Medical College/Saidu Group of Teaching Hospital, Saidu Sharif Swat, specially noted against each their names with immediate effect:-

S.No	Name officer	Present posting	Proposed posting	Remarks
1-	PAEDS SURGERY DEPTT: Dr. Fazli Rashid	Qualified MO SGTH Swat	Sen: Registrar Paeds Surgery	Own pay & Scale
2-	RADIOLOGY DEPTT: Dr. Aanab Hayat MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Radiology	Own pay & Scale
3-	PATHOLOGY DEPTT: Dr. Sania Bibi MBBS, M.Phil	Demonstrator or Pathology Deptt: SMC	Assistant Prof: ——— Histopathology	Own pay & Scale
4-	MEDICINE DEPTT: Dr. Sabir Rehman MBBS, FCPS	Senior Reg: Medicine SGTH Swat.	Assistant Prof: Medicine	Own pay & Scale
5-	Dr. Muhammad Shafiq MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Medicine	Own pay & Scale
6-	Dr. Rashid Ali Khan MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Medicine	Own pay & Scale
7-	Dr. Naseer Ahmad MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Medicine	Own pay & Scale
8-	Dr. Salman Habib MBBS, FCPS	Qualified MO SGTH Swat	Senior Reg: Medicine	Own pay and Scale
	PAKISTAN STUDIES Azamat Ali Khan M.Sc Pak Studies	Lecturer & HOD Pak: St: BS- 18	Assistant Prof: Pak Studies OPS	Own pay and Scale
10-	SURGERY DEPTT: Dr. Fazli Amin MBBS, FCPS	Chief MO B-20 SGTH Swat	Assistant Professor Surgery	Own pay and Scale
11-	CARDIOLOGY DEPTT: Dr. Khurshid Ali MBBS, FCPS	Qualified Deptt: SGTH Swat.	Senior Registrar Cardiology OPS C/Page-02	Own pay and Scale

12-	Dr. Ikramullah MD, FCPS	Qualified MO SGTH Swat	Page-02 Senior Registrar Paeds Cardiology	Own pay and Scale
13-	Dr. Aurangzeb MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Cardiology	Own pay and Scale
14-	PHYSIOLOGY DEPTT: Dr. Asma Aziz MBBS, M.Phil	Assistant Professor Physiology SMC, Swat	Associate Professor Physiology	Own pay and Scale
15	PAEDS DEPTT: Dr. Arshad Karim MBBS, FCPS	S.R Paeds SGTH Swat	Assistant Professor Paeds	Own pay and Scale
16-	Dr. Rafiqullah Khan MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Paeds	Own pay & Scale
17-	Dr. Ravi Kumar MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Paeds	Own pay & Scale
18	ORTHOPAEDIC DEPTT: Dr. Bahadar Ari Khan MBBS, FCPS	Assistant Professor Orthopaedic	Associate Professor Orthopaedic	Own pay & Scale
19	Dr. Imran Khan MBBS, FCPS	Qualified Medical Officer STH	Senior Registrar Orthopaedic	Own pay & Scale
20	Dr. Owais Khan MBBS, FCPS	Qualified Medical Officer STH	Senior Registrar Orthopaedic	Own pay & Scale
21-	GASTROENTROLO GY DEPARTMENT Dr. Zubia MBBS, FCPS	Qualified MO SGTH Swat	Senior Registrar Gastroenterology	Own pay & Scale
22-	REHABILITATION MEDICINE DEPT: Dr. Nisar u Din MBBS FCPS	Assistant Professor Re- habilitation	Associate Professor Re-habilitation	Own pay & Scale
23-	DERMATOLOGY DEPTT: Dr. Saima Rahman MBBS, FCPS	Assistant Professor Dermatology	Associate Professor Dermatology	Own pay & Scale

N.B They will perform their original duties in addition to new responsibilities

PROF. DR. ISRAR UL HAQ
CHIEF EXECUTIVE & PRINCIPAL
SAIDU TEACHING HOSPITAL/
SAIDU MEDICAL COLLEGE, SWAT

C.C
1-Chairman Re Designation Committee SMC, Swat.

2-Medical Superintendent Saidu Group of Teaching Hospital Saidu Swat.

CHIEF EXECUTIVE & PRINCIPAL
SAIDU TEACHING HOSPITAL/
SAIDU MEDICAL COLLEGE, SWAT

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Annexure - D

S.O. Admn CHS KPK
Diary No. 1729
Date 19-12-2023

To,

The Worthy,
Chief Minister Khyber Pakhtunkhwa.

Subject: Departmental Appeal against The Impugned Notification No: SOH-1/HD/1-15/2023/SMC/Swat, Dated 16/11/2023 Of The Office Of Secretary Health Khyber Pakhtunkhwa. Whereby at serial No.9 Dr. Sajjad Hussain has been illegally and unlawfully promoted to the post of Assistant Professor (paediatrics) (BPS-18) from the post of Senior Registrar (Neonatology) (BPS-18) instead of Appellant Dr. Arshad Karim (Senior Registrar Paeds) (BS-18).

Respected Sir!

With utmost obeisance & respect, the undersigned very humbly submits the instant departmental appeal against the subject impugned notification, to the following effect:

1. That the appellant has been appointed upon the recommendation of Public Service Commission to the post of Senior Registrar Paediatrics (BS-18), vide Notification No. SOH-1/HD/1-909/2022 dated.25-05-2022.(Copy of Notification is annexed as "A")
2. That before opening the main crux of the instant departmental appeal, it is important to note here, that Dr.Sajjad Hussain Khan S/o Iqbal Hussain R/o District Swat had been appointed as Senior Registrar (Neonatology) (BS-18) vide Notification No. SOH-1/1-809/2017 dated.19-01-2018. (Copy of the Notification No. SOH-1/1-809/2017 dated.19-01-2018 is annexed as "B")

JAVED HUSSAIN
S. O. Admn CHS KPK
(ASST. SECRETARY)

3. That now coming to the main epitome of the instant departmental appeal, that the Provincial Selection Board meeting was held on 07-08-2023, which was followed by the impugned Notification No. SOH-1/HD/1-45/2023/SMC/Swat, Dated 16/11/2023 of the Office of Secretary Health Khyber Pakhtunkhwa, whereby at serial No.9 Dr. Sajjad Hussain has been illegally and unlawfully promoted to the post of Assistant Professor (paediatrics) (BPS-18) from the post of Senior Registrar (Neonatology) (BPS-18), instead of Appellant Dr. Arshad Karim (Senior Registrar Paeds) (BS-18). (Copy of Impugned Notification is annexed as "C")

4. That the post at serial No.9 is for the promotion to the post of Assistant Professor (Paediatrics) (BPS-18) from the post of Senior Registrar (Paediatrics) (BS-18). The appellant being Senior Registrar (Paediatrics) (BS-18) is not only qualified for promotion but is also entitled for the promotion to the subject post. Hence the promotion on the subject post of Dr. Sajjad Hussain is not sustainable in the eye of law and liable to be cancelled.

5. That Dr. Sajjad Hussain has been Senior Registrar (Neonatology) (BS-18), whereas the subject post is for Assistant Professor (Paediatrics) (BS-18), therefore, is not entitled for promotion to the subject post, rather is entitled to the post of Assistant Professor (Neonatology), hence the impugned Notification to the extent of serial No. 9 is against the law and liable to be cancelled.

6. That the impugned Notification is illegal, unlawful and

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to be struck down to the extent of the promotion Dr. Sajjad Hussain as he has been illegally promoted to the subject post instead of the appellant.

7. That the appellant is entitled for promotion from the post of Senior Registrar (Paeds) to the post of Assistant Professor (Paeds), therefore the impugned Notification to the extent of serial no.9 liable to be cancelled and by doing so the appellant be promoted to the subject post.

8. That from every angle of law the appellant has a right to promotion to the subject post.

It is, therefore most humbly prayed that on acceptance of the instant departmental appeal, "The Impugned Notification No: SOH-1/HD/1-45/2023/SMC/Swat, Dated 16/11/2023 of the Office of Secretary Health Khyber Pakhtunkhwa", may graciously be cancelled to the extent of serial No.9, and by doing so the appellant may kindly be promoted to the post of Assistant Professor (Paediatrics) (BPS-18) with all back benefits.

Dated: 22/11/2023

SECRETARY
HEALTH
KHYBER PAKHTUNKHWA

Appellant
Dr. Arshad Karim
Senior Registrar
(Paediatrics)(BS-18)

وکالت نامہ

KP Service Tribunal, Peshawar عدالت

Govt. of KP, etc. نام Dr. Aashad Karim.

Service Appeal. دعویٰ منجانب Appellant

تاریخ 19th March 2024.

باعتبار حریز آنکے مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

بمقام ایسٹ اور کیلے جاویدا اقبال گل بیلہ ایڈووکیٹ سپریم کورٹ آف پاکستان

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کوڈ یا بزرگیہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر دالت کروں گا، اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل پر داختم صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخ ڈگری یا کطرفہ درخواست حکم انتہائی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند ہے۔

مورخہ 19th March 2024 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted by:

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