

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

*misc Appli no. 350/2024*

**Service Appeal No. 557/2022**

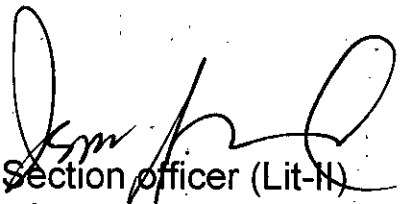
Government of Khyber Pakhtunkhwa Health Department and others .....(Petitioners)

Versus

Dr. Umar Islam .....(Respondent)

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Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

*MISC. Application No. 350/2024*  
**SERVICE APPEAL NO. 557/2022**

1. The Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat Khyber Road, Peshawar.
2. The Secretary Establishment Khyber Pakhtunkhwa, Khyber Road, Peshawar.
3. The Secretary to Govt of Khyber Pakhtunkhwa Health Department
4. Director General Health Services Khyber Pakhtunkhwa
5. The Section Officer, Provincial Selection Board, Establishment Department, Khyber Pakhtunkhwa, Secretariat, Peshawar .....

**Petitioners**

**Khyber Pakhtunkhwa  
Service Tribunal**

**Versus**

Diary No. 12647

Dated 09-05-2024

Dr. Umar Islam .....

**Respondent**

**PETITION ON BEHALF OF THE PETITIONERS/RESPONDENTS IN THE MAIN APPEAL FOR SETTING ASIDE THE ORDER DATED 04/05/2023 OF THE HONORABLE TRIBUNAL WHEREBY THE RIGHT OF SUBMISSION OF THE COMMENTS OF THE PETITIONER /RESPONDENTS WERE STRUCK OFF VIDE ORDER DATED 04-05-2023.**

Respectfully Sheweth,

1. That the above titled Service Appeal is pending before the honorable Tribunal which is fixed for 23-04-2024.
2. That on the date fixed i.e. 04/05/2023 due to non-payment of the cost as well as non-submission of reply, the right of the petitioners/respondents stand struck off. **(Copy of the Order Sheet dated 04/05/2023 is Annex-A)**
3. That the absence of the petitioners/ respondents was not intentional/will full but the focal person was in Camp court Swat in case title Pir Qajir gul Versus Govt. Service Appeal No.99/2019, while the section officer was engaged in other court and when came to court he came to know that the case placed ex-parte as well as struck off the right of defense.
4. That there is no Ex-Parte judgment but the proceedings are still in process and the valuable rights of the public at large are involved. While the absence of the representative was not willful but due to the reasons mentioned in para-3 above.
5. That in case if the petitioners/ respondents have not been allowed to defend/submit Para-wise comments, the petitioners/respondents alongwith other senior employees will suffer irreparable loss as the appellant was at lower position in the seniority list from the employees who were promoted on 22/01/2021, furthermore an un-ending litigation will be started between the employees who

were senior from the appellant and department, which will also effect/cause an irreparable loss to the public exchequer.

6. That it is a well settle principle of law that cases are to be decided on merits, rather than technicalities.

It is therefore humbly preyed that the order dated 04-05-2023 may kindly be set aside in the interest of justice and petitioners/respondents may kindly be provided an opportunity of submission of comments / defense in the interest of justice.

  
(Mahmood Aslam)

Secretary to Govt. Of Khyber Pakhtunkhwa  
Health Department  
(Petitioner No. 01 & 03)



(Dr. Shoukat Ali)  
Director General Health Services  
Khyber Pakhtunkhwa  
(Petitioner No. 04)

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

**SERVICE APPEAL NO. 557/2022**

1. The Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat Khyber Road, Peshawar.
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**Versus**

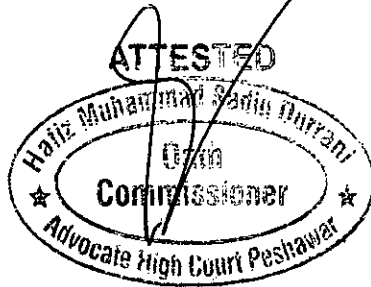
Dr. Umar Islam ..... **Respondent**

**PETITION ON BEHALF OF THE PETITIONERS/RESPONDENTS IN THE MAIN APPEAL FOR SETTING ASIDE THE ORDER DATED 04/05/2023 OF THE HONORABLE TRIBUNAL WHEREBY THE RIGHT OF SUBMISSION OF COMMENTS OF THE PETITIONERS/RESPONDENTS WERE STRUCK OFF VIDE ORDER DATED 04-05-2023.**

**AFFIDAVIT**

I **Dr. Shoukat Ali**, Director General Health Services Khyber Pakhtunkhwa do hereby state on oath that contents of the above petition is correct to the best of my knowledge/belief and nothing has been concealed intentionally from this Honorable Tribunal.

23 APR 2024



Deponent

Director General Health Services  
Khyber Pakhtunkhwa

①

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S. Appeal No. 557 P/2022



Dr Umar Islam S/O Muhammad Ali  
House 35, Street 5, Phase III, Hayatabad  
Ex Principal Medical Officer Category "C" Hospital Wari, Dir Upper

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa,  
Through Chief Secretary, Civil Secretariat, Khyber Road, Peshawar
2. The Secretary Establishment KP, Secretariat, Khyber Road, Peshawar
3. The Secretary Health KP, Secretariat, Khyber Road, Peshawar
4. The Director General Health Service Khyber Pakhtunkhwa, Secretariat,  
Khyber Road, Peshawar
5. The Section Officer, Provincial Selection Board,  
Establishment Department KP, Secretariat, Khyber Road, Peshawar

RESPONDENTS

APPEAL UNDER SECTION 04 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974, AGAINST THE ORDER/ NOTIFICATION OF RESPONDENT NO. 3, DATED JANUARY 24, 2022 WHEREBY THE APPELLANT WAS NOT PROMOTED TO THE POST OF THE CHIEF MEDICAL OFFICER {BPS 20} BY THE RESPONDENTS IN VIOLATION OF THE LAWS.

PRAYER IN APPEAL:


On acceptance of this appeal, the Hon' ble Tribunal may very graciously be pleased to direct Respondents for proforma promotion of the Appellant in BPS 20 {as Chief Medical Officer BPS 20} w.e.f. from the date of promotion of juniors in the seniority list with all financial and other back benefits

**ATTESTED**  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

04.05.2023

Learned counsel for the appellant present. Mr. Asad Ali Khan,  
Assistant Advocate General for the respondents present.

Neither reply/comments on behalf of respondents submitted nor  
costs of Rs. 2000/- was deposited on their behalf. Therefore, their  
right for submission of reply/comments ~~stands struck off~~.  
Adjourned. To come up for arguments on 13.07.2023 before D.B.  
P.P given to the parties.


  
(Muhammad Akbar Khan)  
Member (E)

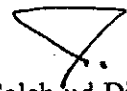
\*Kamranullah\*

13.07.2023

Junior of learned counsel for the appellant present. Mr. Asif  
Masood Ali Shah, Deputy District Attorney for the respondents  
present.

Junior of learned counsel for the appellant requested for  
adjournment on the ground that learned counsel for the appellant is  
out of station today. Adjourned. To come up for arguments on  
20.11.2023 before the D.B. Parcha Peshi given to the parties.

  
(Rashida Bano)  
Member (J)

  
(Salah-ud-Din)  
Member (J)

\*Naeem Amin\*



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

**AUTHORITY LETTER**

Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.

(MAHMOOD ASLAM)

Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department  
Secretary to Govt. of  
Khyber Pakhtunkhwa  
Health Department

*copy.*  
*Attested to be True*

*3/05/2024*  
Deputy Secretary Health  
Govt. of Khyber Pakhtunkhwa