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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR


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Rozina Rahim vs Govt of KP

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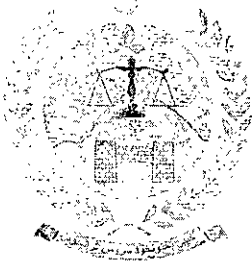
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- 798. Noor Elahi s/o Muhammad Shafi transport deptt
- 799. Zar Ali s/o: Abdul Samad Khan PHE deptt
- 800. Irfan Ullah s/o: Akhtar Shah Law deptt
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- 813. Ashiq Hussain s/o: Abdullah Jan E & Ad deptt
- 814. Muhammad Asad Sohail s/o: M. Aslam Labour deptt
- 815. Farhan Baber s/o: Rizwan ullah IPC deptt

Sect- (Attorney General's Department)
 Establishment Department



①

**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

No. 1001 /ST Dated 30/4 /2024

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Health Officer,
Peshawar.

Subject

JUDGMENT IN SERVICE APPEAL NO. 1071/2023 TITLED ROZINA RAHIM - VERSUS- THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY HEALTH, HEALTH DEPARTMENT CIVIL SECRETARIAT PESHAWAR AND OTHERS

Dear Sir,

I am directed to forward herewith a certified copy of order dated. 05.03.2024, passed by this Tribunal in the above mentioned service appeal for compliance.

Encl. As above.

(AAMIR FAROOQ KHATTAK)
ASSISTANT REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

②

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1071/2023

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mst Rozina Rahim W/O Ihsanuddin, JCT / FMT, Basic Health Unit, Adezai.
R/o Gulbahar No.1, Peshawar City.....(*Appellant*)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health, Health Department, Civil Secretariat, Peshawar.
2. Director General Health Services, Khyber Road, Peshawar.
3. District Health Officer, Peshawar.....(*Respondents*)

Mr. Bilal Ahmad Kakaizai,
Advocate

... For appellant

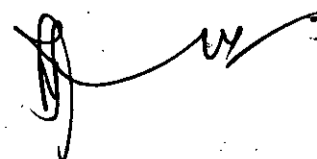
Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

Date of Institution..... 10.05.2023
Date of Hearing..... 05.03.2024
Date of Decision..... 05.03.2024

JUDGEMENT

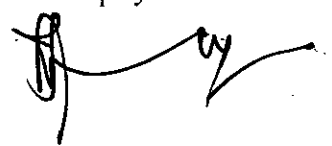
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 13.01.2023, whereby the competent authority has treated the absence period in respect of appellant w.e.f 01.10.2010 till 27.01.2022 as leave without pay and against the appellate order dated 21.02.2023, which is otherwise an inconclusive order. It has been prayed that on acceptance of the appeal, the appellant be paid her monetary back benefits and service benefits of the intervening period mentioned above, alongwith pay since reinstatement order, alongwith any other remedy which the Tribunal deemed appropriate.



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Peshawar

(3)

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was performing duties as Junior Clinical Technician/FMT. During the course of employment she was made a rolling stone between different Departments and was verbally instructed to report in other office but the department did not give any order in respect of place of posting of the appellant and at last she, in February 2013, was verbally asked by the Department that her services had been dispensed with, however no written order was given to her. Appellant filed service appeal No. 1005/2013 before the Tribunal, which was disposed of on 18.02.2016 with the direction to the Appellate Authority to decide the fate of the departmental appeal within a period of one month after receipt of copy of that Order. The department failed to act according to the directions of the Tribunal contained in the order dated 18.02.2016, hence the appellant filed an Execution Petition. On 28.08.2017, a representative of the department present before the Bench stated at the bar that the departmental appeal of the petitioner was decided and regretted on 16.08.2017. Appellant once again filed Service Appeal No.1096/2017, which was decided in her favour on 16.10.2019 and impugned order of removal dated 16.08.2017/09.05.2017 was set aside and she was reinstated into service with the direction to conduct de-novo proceedings within a period of 90 days from the date of receipt of that judgment. Thereafter, within 90 days, the department failed to conduct any proceedings against the appellant, hence she automatically became eligible for reinstatement as well as payment of back benefits. On 27.01.2022, she was ordered to be reinstated into service, with immediate effect. Vide an order dated 13.01.2023, the intervening period i.e. w.e.f. 01.10.2010 till 27.01.2022 was treated as leave without pay. That act of



the department was not only against the order of the Service Tribunal, but the same was also an illegal and unlawful order. Departmental Appeal was filed by the appellant on 09.02.2023. The reply to the departmental appeal was given to the appellant vide order dated 21.02.2023; hence the instant service appeal.

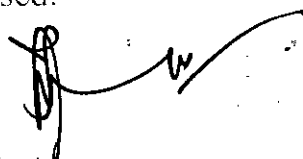
3. Respondents were put on notice who submitted their joint parawise comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that treating the intervening period w.e.f 01.10.2020 till 27.01.2022 as leave without pay was illegal, unlawful, void, ineffective and against the principles of natural justice. He argued that despite joining and performing the duties, appellant had not been paid her legitimate salaries even from the date of reinstatement i.e 27.01.2022. He further argued that the appellant did not willfully absented herself from duty, rather she was forced to sit at home by the illegal and unlawful action of the department, hence stoppage of her benefits and salaries etc. as well as treating her intervening period as absence was not warranted under the law. He further argued that the appellant was retained on the payroll of the department, even during the period of absence as she was promoted as well by the department during the alleged absence period. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was not performing her duties and was habitually absent. Due to her prolonged absence from duty

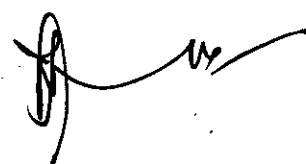


she was relieved by the Medical Superintendent of Sufwat Ghayoor Children Hospital Peshawar vide order dated 23.09.2010, which was sufficient to prove her performance. He further argued that after providing opportunity of personal hearing, the departmental appeal of the appellant was regretted by respondent No. 2 and disciplinary proceedings were ordered against her vide order dated 09.05.2017. The appellant, in order to justify her prolonged^{ed} willful absence, produced a medical certificate and on verification, it was found bogus by the MS DIIQ Hospital, D.I.Khan vide letter dated 23.02.2017. Departmental proceedings under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 were initiated against her and after observing all the codal formalities, she was removed from service by respondent No. 3 vide order dated 16.08.2017. He further argued that after receiving the judgment of the Tribunal, the appellant was reinstated into service by the respondents vide order dated 27.01.2022 for the purpose of denovo inquiry. After conducting a denovo inquiry and providing opportunity of personal hearing and defense, the allegations stood proved but another chance was given to her and she was reinstated into service vide order dated 19.01.2023, however, the period w.c.f. 01.10.2010 till reinstatement was treated as leave without pay because of her conduct for which she was removed from service. He further argued that it was a settled principle that pay was permissible to only those who performed duties i.e no work no pay, as laid down by the august Supreme Court of Pakistan in 2003-SCMR-228. He requested that the appeal might be dismissed.



6. The appellant, while serving as Junior Clinical Technician in the respondent department, was removed from service in 2013. She approached this Tribunal and vide its judgment dated 18.02.2016, respondent department was directed to decide her departmental appeal. When no action was taken on it, an execution petition was filed by the appellant and during its hearing the departmental representative informed that her appeal was rejected by the competent authority. Another service appeal was filed as a result of which vide judgment dated 16.10.2019, directions were issued to the respondents to conduct denovo inquiry within a period of 90 days of the receipt of the judgment. After that, appellant was reinstated into service on 27.01.2022. Vide another order dated 13.01.2023, the period between 01.10.2010 to 27.01.2022 was treated as leave without pay. Through this service appeal, the appellant has prayed for payment of all the monetary and service benefits for the period from 01.10.2010 to 27.01.2022, alongwith her pay since her reinstatement into service.


7. From the arguments and record presented before us, it is clear that the appellant, vide judgment of this Tribunal dated 16.10.2019, was reinstated into service with the direction to the respondents to conduct denovo inquiry in the mode and manner as prescribed under Government Servants (Efficiency & Discipline) Rules 2011, within a period of 90 days from the receipt of copy of the judgment. Issue of back benefits was subject to the outcome of denovo inquiry. For conducting a denovo inquiry, under the rules, a charge sheet and statement of allegations had to be served upon the appellant. In this case, neither any such record had been annexed by the respondents in their reply,



nor produced before us during hearing. An inquiry report dated 11.9.2020 has been produced by both the appellant and the respondents, which they claim is the denovo inquiry conducted in the light of judgment of this Tribunal. Perusal of that inquiry report shows that no charge sheet and statement of allegations had been served upon the appellant. It further shows that no opportunity of defence was provided to her. It has been noted that the respondent department did not act in accordance with the directions of this Tribunal. Even if we keep those directions aside, the respondent department miserably failed to conduct the denovo inquiry as per rules. They failed to fulfill the requirements of a fair trial, despite the fact that a chance was given to them in the form of conducting a denovo inquiry.

8. In view of the above, the impugned order is set aside and the appellant is allowed the salary and service benefits as prayed for. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 05th day of March. 2024.*


(FARISHA PAUL)
Member (E)

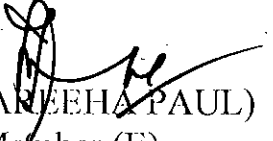

(RASHIDA BANO)
Member(J)

SA 1071/2023

05th Mar. 2024 01. Mr. Bilal Ahmad Kakaizai, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 06 pages, the impugned order is set aside and the appellant is allowed the salary and service benefits as prayed for. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 05th day of March, 2024.*


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member(J)

Fazal Subhan PS


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12/11/2024

15.09.2023

1. Learned counsel for the appellant present. Mr. Asad Ali Khan learned Assistant Advocate General alongwith Laeeq Ahmad, Assistant for respondents present.

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2. Written reply on behalf of respondents submitted which is placed on filed. A copy of the same is handed over to learned counsel for the appellant. To come up for arguments on 05.01.2024 before D.B. P.P given to parties.


(Rashida Bano)
Member (J)

KaleemUllah

05.01.2024

01. Counsel for the appellant present. Mr. Asif Masood Ali Shah, alongwith Mastan Ali Shah, Litigation Assistant for the respondents present.

02. During the course of arguments, it was noted that some documents necessary for just disposal of the appeal, are not available on the file. Representative of the respondents is directed to produce absence notice through daily newspaper, charge sheet, statement of allegations, show cause notice, enquiry report, documents showing grant of opportunity of personal hearing to the appellant and other allied documents, before the date fixed. To come up for arguments on 05.03.2024 before the D.B. Parcha Peshi given to the parties.

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Peshawar**


(FAREEHA PAUL)
Member(E)


(RASHIDA BANO)
Member (J)

19.06.2023

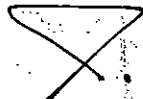
Learned counsel for the appellant present.

Preliminary arguments heard.

Points raised need consideration, hence the appeal in hand is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security fee within 10 days. Respondents be summoned through TCS, the expenses of which shall be deposited by the appellant within three days. To come up for submission of written reply/comments on 25.07.2023 before the S.B. Parcha Peshi given to learned counsel for the appellant.

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Naeem Amin


(Salah-Ud-Din)
Member (J)


25.07.2023

Clerk of learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Mastan Ali Shah, Senior Clerk for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Granted. To come up for reply/comments on 15.09.2023 before S.B. P.P given to the parties.

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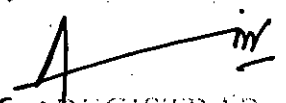
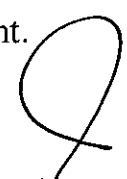
Kamranullah


(Muhammad Akbar Khan)
Member (F)

FORM OF ORDER SHEET

Court of _____

Appeal No. 1071 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/05/2023	<p>The appeal of Mst. Rozina Rahim presented today by Mr. Bilal Ahmad Kakaizai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>23-05-2023</u></p> <p>By the order of Chairman</p> <p> For REGISTRAR</p> <p>23rd May, 2023</p> <p>Counsel for appellant present and seeks adjournment in order to prepare the brief. Adjourned. To come up for preliminary hearing on 19.06.2023 before S.B. P.P given to the appellant.</p> <p> (Kalim Arshad Khan) Chairman</p>

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Mutazem Shah

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Case Title: Rozena Rahim ^{CHECK LIST} v/s Govt. of KPK etc

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	/	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	/	
3	Whether appeal is within time?	/	
4	Whether the enactment under which the appeal is filed mentioned?	/	
5	Whether the enactment under which the appeal is filed is correct?	/	
6	Whether affidavit is appended?	/	
7	Whether affidavit is duly attested by competent Oath Commissioner?	/	
8	Whether appeal/annexures are properly paged?	/	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	/	
10	Whether annexures are legible?	/	
11	Whether annexures are attested?	/	
12	Whether copies of annexures are readable/clear?	/	
13	Whether copy of appeal is delivered to AG/DAG?	/	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	/	
15	Whether numbers of referred cases given are correct?	/	
16	Whether appeal contains cutting/overwriting?	/	
17	Whether list of books has been provided at the end of the appeal?	/	
18	Whether case relate to this court?	/	
19	Whether requisite number of spare copies attached?	/	
20	Whether complete spare copy is filed in separate file cover?	/	
21	Whether addresses of parties given are complete?	/	
22	Whether index filed?	/	
23	Whether index is correct?	/	
24	Whether Security and Process Fee deposited? On	/	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		/
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		/

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Bilal A. KakaiZai

Signature:

Bilal A. KakaiZai

Dated:

10.5.2023



BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No: 1071 / 2023

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ROZEENA RAHIM vs Government of Khyber Pakhtunkhwa etc

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Appellant *Rozeena*

Through:

Bilal Ahmad Kakaizai
BILAL AHMAD KAKAIZAI

Advocate, Supreme Court of Pakistan.
213, Sunehri Masjid Road, Peshawar
Cantt. 0300-9020098.

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No: 1071 / 2023

Khyber Pakhtunkhwa
Service Tribunal

Case No. 5258

Dated 10/05/2023

ROZINA RAHIM,
W/o Ihsanuddin,
JCT / FMT, Basic Health Unit, Adezai.
R/o Gulbahar No. 1, Peshawar City.

..... APPELLANT

Versus

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Secretary Health,
Health Department, Civil Secretariat, Peshawar.
2. DIRECTOR GENERAL HEALTH SERVICES,
Khyber Road, Peshawar.
3. DISTRICT HEALTH OFFICER, ✓
Peshawar.

..... RESPONDENTS

Filed to-day

Register: APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST: -

1. IMPUGNED ORDER NO. 1916-21 / DHO DATED
13.01.2023, WHEREBY THE COMPETENT AUTHORITY HAS
ILLEGALLY, UNLAWFULLY AND AGAINST THE ORDER OF
HONORABLE SERVICE TRIBUNAL, PESHAWAR TREATED
THE ABSENCE PERIOD IN RESPECT OF APPELLANT W.E.F

01.10.2010 TILL 27.01.2022 (THE DATE OF ISSUANCE OF REINSTATEMENT ORDER) AS LEAVE WITHOUT PAY.

2. IMPUGNED APPELLATE ORDER NO. 4715/DHO (PESHAWAR) DATED 21.02.2023, WHICH IS OTHERWISE AN INCONCLUSIVE ORDER.

Prayer: On acceptance of this Appeal, the Appellant, be paid her Monetary Back Benefits and Service Benefits of the Intervening period mentioned above, along with pay since Reinstatement Order, with such other relief as may be deemed fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1. That, Appellant, was performing duties as Junior Clinical Technician / FMT. During the Course of employment she was made a rolling stone between different Departments and was verbally instructed / directed to Report in other office but the Department did not give any order in respect of place of posting of the Appellant and at last she, in February 2013, was verbally asked by the Department / Hospital that "your services have been dispensed with" however no written order was given to her.
2. That, the Appellant filed Service Appeal No. 1005 / 2013 before Honourable Tribunal, which was disposed of on 18.02.2016 with the direction to the Department / Appellate Authority to decide the fate of the Departmental Appeal within a period of one month after receipt of Order, copy of Order / Judgment dated 18.02.2016 is attached as Annexure A.

3. That, the Department failed to act according to the directions contained in the Order / Judgment of Honorable Service Tribunal, Peshawar dated 18.02.2016, hence the Appellant was constrained to file Execution Proceedings before Honourable Tribunal.
4. That, on 28.08.2017, one Representative of the Department, namely Syed Mastan Ali Shah, stated at the bar before Honourable Tribunal that the Departmental Appeal of the Appellant has been regretted on 16.08.2017. In pursuance of statement at the bar, the Honorable Tribunal directed Syed Mastan Ali Shah to hand over the copy of the said order dated 16.08.2017 (Removal from Service Order) to the Counsel for the Appellant, copies of Execution Proceedings and Removal Order dated 16.08.2017 are attached as Annexure B.
5. That, Appellant once again filed Service Appeal No. 1096 / 2017, which was decided in favour of the Appellant on 16.10.2019 in which Impugned Order of Removal dated 16.08.2017 / 09.05.2017 was set aside and Appellant was ordered to be reinstated in service with the direction to conduct de-novo proceedings against her under KPK E & D rules, 2011 within a period of 90 days from the date of receipt of Judgment, copy of the Order / Judgment dated 16.10.2019 is attached as Annexure C.
6. That, thereafter within 90 days from the date of receipt of Judgment dated 16.10.2019, the Department failed to conduct any proceedings against the Appellant hence she automatically became eligible for reinstatement as well as payment of back benefits.
7. That, on 27.01.2022, the Appellant was ordered to be reinstated in the service, with immediate effect, copy of the Reinstatement Order dated 27.01.2022 is attached as Annexure D.
8. That, vide Impugned Order dated 13.01.2023, the intervening period i.e. w.e.f 01.10.2010 till 27.01.2022 was treated as

leave without pay, which act of the Department was not only against the order of the Service Tribunal, Peshawar but the same was also an illegal and unlawful order, copy of the Impugned Order dated 13.01.2023 is attached as Annexure E.

9. That, against the Impugned Order dated 13.01.2023, Departmental Appeal / Representation was filed by the Appellant on 09.02.2023, copy of the Departmental Appeal / Representation dated 09.02.2023 is attached as Annexure F.
10. That, although the reply to the Departmental Appeal was given to the Appellant vide order 21.02.2023, which was considered as Appellate Order by the Appellant in consequence whereof the Appellant approached this Honorable Tribunal on 09.03.2023 however, the Registrar of the Tribunal vide Office Note No. 919/ST dated 13.03.2023 returned the Appeal while considering the Appellate Order as improper and Appeal of the Appellant as pre-mature in pursuance of Judgment of Supreme Court of Pakistan reported as 2005 SCMR-890, copy of the Registrar's Note dated 13.03.2023 is attached as Annexure G.
11. That, the Appellant submitted his reply / report on the same page, which was issued by the Registrar of this Tribunal, however the Honorable Chairman sustained the objection of the Registrar and Appeal was returned being pre-mature.
12. That, as per the observation of Registrar, reply of the Counsel and remarks of the Honorable Chairman, the titled Appeal has become mature after elapse of 90 days mandatory period, on 10.05.2023, hence this appeal on the following amongst other grounds:

GROUNDS:

- A. That, treating the intervening period w.e.f 01.10.2010 till 27.01.2022 as leave without pay is illegal, unlawful, void and ineffective.

- B. That, same is against the principles of Natural Justice, also.
- C. That, till date, despite joining and performing the duties, the Appellant has not yet been paid his legitimate salaries even from the date of reinstatement i.e. 27.01.2022.
- D. That, Appellant was vigorously fighting for his legal rights, right from the beginning, when she was verbally / orally terminated from the Government Service.
- E. That, since the Appellant did not willfully absent from duty rather she was forced to sit at home by the illegal and unlawful acts of the Department, hence stoppage of her benefits and salaries etc as well as treating her intervening period as absence is not warranted under the law.
- F. That, Appellant has not been treated in accordance with law and provisions of the Constitution of Islamic Republic of Pakistan, 1973.
- G. That, even after reinstatement of the Appellant, she has not been given her due pay scale as other similarly placed employees are being paid in higher pay scales.
- H. That, during the tenure of alleged absence of the Appellant, other employees of the same cadre have been allotted the benefit of upgradation and now other similarly placed employees are being paid in higher pay scale.
- I. That, the Appellant was retained on the payroll of the Department, even during the period of absence as she was promoted as well by the Department during the alleged absence period, copies of the Promotion Orders are attached as Annexure H.
- J. That, the Appellant has been victimized due to no fault on her part.

- K. That, all the proceedings initiated against the Appellant were malafide and malicious and purportedly were initiated in order to inflict maximum financial loss to the Appellant.

It is, therefore, requested that Appeal be accepted as prayed for.

Appellant

Through:


BILAL AHMAD KAKAIZAI

Advocate, Supreme Court of Pakistan.
213, Sunehri Masjid Road, Peshawar
Cantt. 0300-9020098.

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

Service Appeal No: _____ / 2023

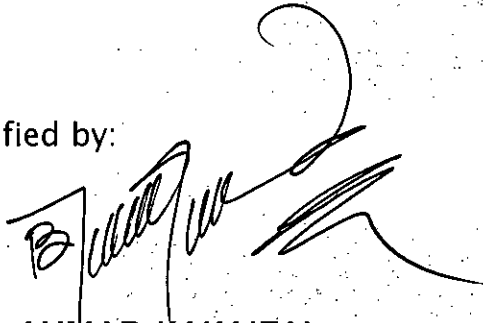
ROZEENA RAHIM Vs Government of Khyber Pakhtunkhwa etc

AFFIDAVIT

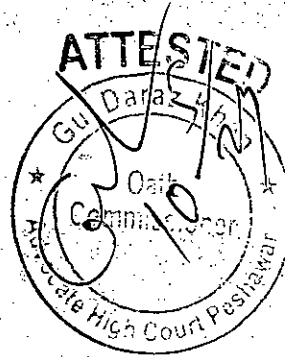
I, ROZINA RAHIM, W/o Ihsanuddin, JCT / FMT, Government ID Children Hospital, Peshawar. R/o Gulbahar No. 1, Asad Anwar Colony, Peshawar City, Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.


Deponent

Identified by:



BILAL AHMAD KAKAIZAI
Advocate, Supreme Court of Pakistan.



BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No: _____ / 2023

ROZEENA RAHIM vs Government of Khyber Pakhtunkhwa etc

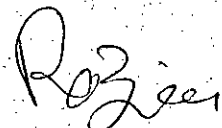
ADDRESSES OF PARTIES.

APPELLANT:

**ROZINA RAHIM, W/o Ihsanuddin, JCT / FMT, Basic Health Unit,
Adezai. R/o Gulbahar No. 1, Peshawar City.**

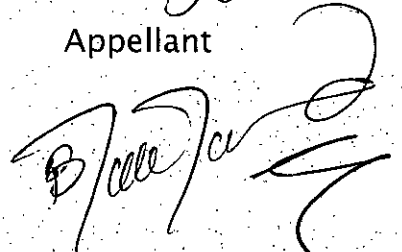
RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, Through Secretary Health,
Health Department, Civil Secretariat, Peshawar.
2. Director General Health Services, Khyber Road, Peshawar.
3. District Health Officer, Peshawar.



Appellant

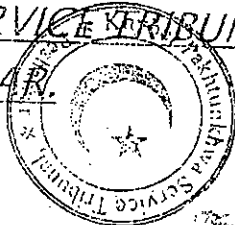
Through:



BILAL AHMAD KAKAIZAI

Advocate, Supreme Court of Pakistan.
213, Sunehri Masjid Road, Peshawar
Cantt. 0300-9020098.

BEFORE NWFP SERVICE TRIBUNAL,
PESHAWAR.



Service Appeal No: 1005/2013

24/6/13
24/6/13

ROZIÑA RAHEEM,

W/o Ihsanuddin,

Ex. JCT, Government ID Children Hospital, Peshawar

R/o Gulbahar No. 1, Peshawar City.

Appellant

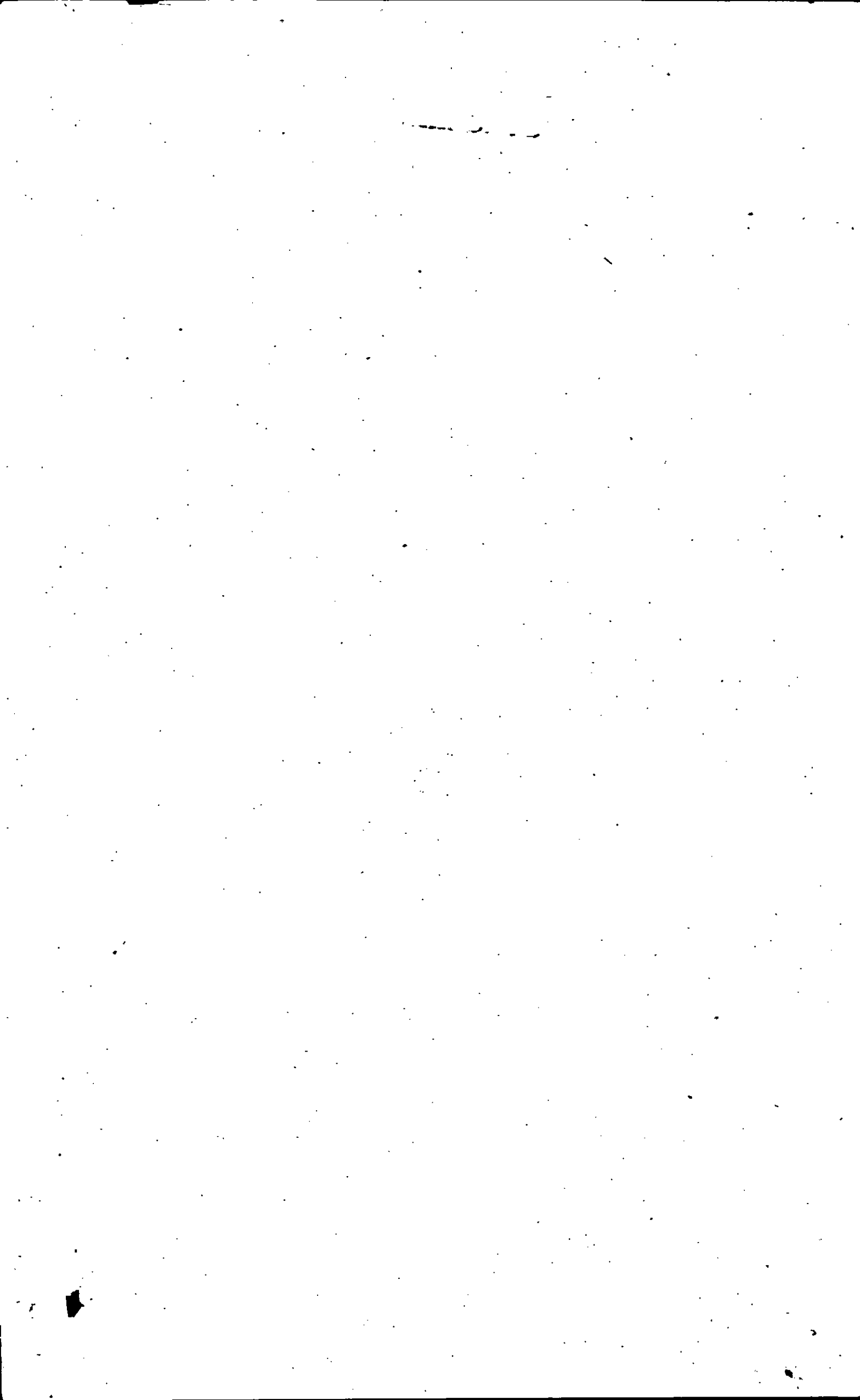
Versus

1. GOVERNMENT OF KPK,
Through Secretary Health,
Civil Secretariat, KPK, Peshawar.
2. DIRECTOR GENERAL HEALTH SERVICES,
KPK, Peshawar.
3. MEDICAL SUPERINTENDENT,
Government ID, Children Hospital, Peshawar.
4. EXECUTIVE DISTRICT OFFICER,
Health, District Peshawar

Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 FOR RESTORATION / REINSTATEMENT IN SERVICE AS JCT IN RESPONDENT NO. 3 HOSPITAL FOR WHICH DEPARTMENTAL APPEAL / REPRESENTATION DATED 22.02.2013 SENT VIDE RECEIPT NO. 515 & 517 DATED 26.02.2013 HAS NOT BEEN RESPONDED DESPITE THE LAPSE OF MANDATORY 90 DAYS PERIOD.

★
ATTESTED








Prayer: That on acceptance of this Service Appeal, Appellant be allowed to perform her duty in Respondent No. 3 Hospital as JCT and the Verbal Termination Order be declared nullity in the eyes of law, with full back benefits and wages, with such other relief as may be deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

- 1) That, Appellant, during the course of employment, applied for 60 days leave which was granted to her, copy of the Application for leave & Order dated 31.03.2010 is attached as *Annexure A & B*.
- 2) That, during leave period, Appellant's health condition deteriorated due to pregnancy; therefore, she applied for extension of leave which was duly communicated to the Competent Authority, copies of the Medical Certificates are attached as *Annexure C*.
- 3) That, after recovery from worst health conditions, Appellant reported her arrival in Respondent No. 3 Hospital where she came to know about the Relieving Order issued by Respondent No. 3 wherein the Respondent No. 3 placed her services at the disposal of Respondent No. 4 vide Order dated 23.09.2010, copy of the same is attached as *Annexure D*. It is important to mention here that the Respondent No. 3 Hospital did not take her Arrival Report and same was returned back to the Appellant, copy of the same is attached as *Annexure E*.
- 4) That, since the date of Arrival i.e. 15.06.2011, Appellant has been made a rolling stone between the Respondent No. 3 and Respondent No. 4 Department and both the Departments verbally instructed / directed the Appellant to Report in other Department but none of them gave any order in respect of place of posting of the Appellant.
- 5) That, at last in February 2013, Appellant was verbally asked by

ATTESTED



Estimate. 4)

ATTESTED

which she submitted proper Departmental Appeal before Respondent No. 2 & 3, copies of the Departmental Appeals are attached as *Annexure F* and Courier Receipts are attached as *Annexure G/1 & G/2*.

- 6) That, the Respondents failed to decide the fate of the Departmental Appeal of the Appellant within requisite period hence this Service Appeal on the following amongst other grounds:-

GROUNDS:

- A. That, the Impugned Verbal Termination Order is illegal, unlawful, void and ineffective.
- B. That, same is against the principals of natural justice, also.
- C. That, Respondents were bound to issue an adverse order, in writing, under intimation to the Appellant but they failed to issue the same.
- D. That, as per law, the Competent Authority cannot relieve / transfer any Civil Servant from one station to another without any intimation to the Civil Servant and that too during leave because during leave period, in case of leave with pay, the pay of the Civil Servant is paid / released from the budget of the station wherefrom she obtained leave.
- E. That, neither any explanation has been called from the Appellant nor any Charge Sheet or Statement of Allegations was ever served upon the Appellant.
- F. That, as per dictums laid down by the Superior Courts, it was mandatory on the Respondents to have conducted the Regular Enquiry in the instant case because where major punishment is imposed on the Civil Servant, an enquiry to that effect in respect of genuineness of the charges is mandatory.

A
ATTESTED

(31) (8) (11)

- G. That, before imposing any adverse order, the Respondents were bound to issue letter of Explanation or as per law publish a notice in at least two leading newspapers.
- H. That, all the proceedings initiated against the Appellant were melafide and malicious and purportedly were initiated in order to displace the Appellant from her post and appoint any other blue eyed.
- I. That, the punishment as imposed is too harsh.
- J. That, no one should be condemned unheard.

It is, therefore, requested that subject Appeal be accepted as prayed for.

Rozina
Appellant

Through:

[Signature]

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Appeal 14-03-2016
 Number of Words 1600
 Copying Fee 10
 Urgent 2
 Total 12
 Name of Copy Rozina
 Date of Completion 14-03-2016

[Signature]
ATTESTED

18.02.2016

Counsel for the appellant, M/S Muhammad Arshad Gul, Senior Clerk and Dilawar Taj, Assistant Litigation Officer along with

Ziaullah, GP for respondents present.

2. While working as Junior Clinical Technician in Government ID Children Hospital, Peshawar, the following letter dated 23.9.2010 was sent by MS of the said hospital to the Executive District Officer (Health), District Peshawar on 23.9.2010.

"OFFICE OF THE MEDICAL SUPERINTENDENT
GOVT ID CHILDREN HOSPITAL, PESHAWAR

NO _____/PF Dated 23/9/2010

To,

The Executive District Officer
Health District Peshawar.

Subject: RELIVING OF MRS. ROZINA RAHIM FMT.

Respected Sir,

Please refer to this office letter No. 1482/PF dated 2/09/2010 wherein she was advice to join her duty specifies period, but she failed to join her duty till now.

It is further added that she is on leave w.e.f 06/04/2010 for two months and resume duty on 07/06/2010 but she not resumed her duty due to which the hospital work is suffer badly. She may please be transferred on from this hospital.

Therefore, her service is placed at your disposal because her services are no more required in this hospital.

SD/--
Medical Superintendent
Govt.ID.Children Hospital
Peshawar.

NO. 1777-78/PF

Copy to the:-

1. Mrs. Rozina Rahim D/O Mr. Rahim Bakash R/O Mohallah Gariban Duban City.
 2. Account Section of this hospital.
- For information and further necessary action.

ATTESTED

~~(Sd/-)~~ ~~(Sd/-)~~ (13)

3. It was submitted by learned counsel for the appellant that there after the appellant has been made a rolling stone. She was neither posted in the Hospital nor in the office of Executive District Officer and consequently the appellant is badly suffering, who is also not paid her salary. It was further submitted that her representation (in urdu language) dated 22.2.2013 was also not responded and, hence, the instant service appeal before the Service Tribunal.

4. Learned Government Pleader agitated that since no final order has been passed in the case therefore, the appeal is not competent.

5. Arguments heard and record perused.

6. From the record, It transpired that though no adverse order exist, but it was agitated by the learned counsel for the appellant at the bar that appellant has been verbally terminated from service and as her departmental appeal has not yet been decided, therefore, this case is remitted to respondent-department with the directions to decide the same within a period of one month after the receipt of this order. The appeal is disposed of accordingly. Parties are left to bear their own cost. File be consigned to the record room.

Sd/- Member Sd/- Member

Certified to be true copy
EX. NO. 1000/R
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation: 14-03-2016
Number of Pages: 800

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ATTESTED

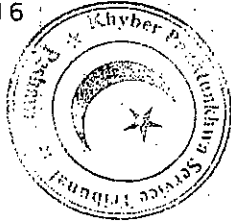
(14) (38) (B) (4) 70

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 124/2016

Service Appeal No: 1005 /2013
Date of Decision: 18.02.2016

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 680
Dated 1-8-2016



ROZINA RAHEEM,
W/o Ihsanuddin,
JCT, Government ID Children Hospital, Peshawar
R/o Gulbahar No. 1, Peshawar City.

..... Applicant / Appellant

Versus

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Secretary Health,
Civil Secretariat, KPK, Peshawar.
2. DIRECTOR GENERAL HEALTH SERVICES,
Khyber Pakhtunkhwa, Peshawar.
3. MEDICAL SUPERINTENDENT,
Government ID, Children Hospital, Peshawar.
4. EXECUTIVE DISTRICT OFFICER,
Health, District Peshawar

..... Respondents

APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 18.02.2016
AND INITIATION OF CONTEMPT OF COURT PROCEEDINGS AGAINST
RESPONDENTS.

Respectfully Sheweth,

ATTESTED
[Signature]

[Signature]
ATTESTED

(05) (26) (2)

(15)

1. That, Applicant / Appellant filed the titled Service Appeal in this Honorable Tribunal, which was decided on 18.02.2016, copies of the Order dated 18.02.2016 along with Postal Receipts are attached as Annexure A.
2. That, the Respondents / Government has not filed Appeal before the Honourable Appellate Forum i.e. Supreme Court of Pakistan.
3. That, the Respondents were time and again requested to implement the above said Judgment in its letter & spirit but they were reluctant.
4. That, justice delayed is Justice denied.

In view of the above, it is requested that Respondents be directed to implement the judgment as per observations and directions given in the same without any further delay with such other relief as may deem fit in the circumstances of the case may also be granted.

Rozee
Applicant / Appellant

Through:

Bilal Ahmad Kakaizai
BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

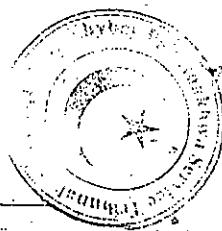
Certified to be true copy
Kh. *[Signature]*
Tribunal,
Peshawar

Date of presentation of documents 21-9-17
 Number of Warrants 800
 Copying Fee 6-
 Urgent -
 Total 6-
 Name of Clerk [Signature]
 Date of Copying 26-9-17

A
ATTESTED

FORM OF ORDER SHEET

(Handwritten marks)
15



Execution Petition No. 124/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01.08.2016	<p>The Execution Petition of Mr. Rozina Rehman subn day by Mr. Bilal Ahmad Khakaizai Advocate may be entered in the Register and put up to the Learned Member for proper order plea</p> <p style="text-align: right;"><i>(Signature)</i> REGISTRAR</p> <p>This Execution Petition be put up before S. Bar <u>4-8-16</u></p> <p style="text-align: right;"><i>(Signature)</i> MEMBER</p>
2	04.08.2016	<p>None present for petitioner. Addl. AG for respondents present. Notices be issued to the parties for <u>30-9-16</u></p> <p style="text-align: right;"><i>(Signature)</i> Member</p>
	30.09.2016	<p>Counsel for the petitioner, Mr. Azmat for respondent No. 3 alongwith Mr. Usman Ghani, Sr. GP for respondents present. Implementation report not submitted. Requested for adjournment. Request accepted. To come up for implementation report on 16.12.2016 before S.B.</p> <p style="text-align: right;"><i>(Signature)</i> (MUHAMMAD AAMIR NAZIR) (MEMBER)</p>

Noted 30/9
(Signature)
31/9

ATTESTED
(Signature)

(Signature)
ATTESTED

[Handwritten signature]

17

16.12.2016

Counsel for the petitioner and Dr. Zakir Arshad
Litigation Officer for the respondents present. Requested
for adjournment. Last opportunity granted. To come up for
implementation report on 24.2.2017 before S.B.

[Handwritten signature]
Chairman

24.02.2017

Mst. Rozina Raheem through learned counsel present. Mr. Yar
Gul, Senior Clerk and Dr. Zakir Arshed, Medical Officer alongwith Mr.
Muhammad Adeel Butt, Additional AG for respondent present. They
requested for last opportunity to submit the order on departmental appeal.
Learned counsel for petitioner stated that one month period was stipulated
for order on departmental appeal. That one month period has passed one
year ago, but no order has been passed and that respondents are bound to
pass order in compliance of court directions. On this issue the parties are
directed to argue the execution petition in length and submit
implementation report on 28.04.2017 before S.B.

[Handwritten signature]
(ASHFAQUE TAJ)
MEMBER

28.04.2017

Clerk to counsel for the petitioner and Dr. Arshad Rashid,
Medical Officer alongwith Addl. AG for the respondents present.
Clerk to counsel for the petitioner requested for adjournment.
Request accepted. To come up for implementation report on
30.06.2017 before S.B.

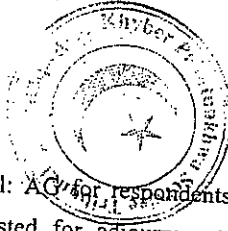
[Handwritten signature]
(Ahmad Hassan)
Member

ATTESTED
[Handwritten signature]
EXAMINER
Khyber Pakhtunkhwa

[Handwritten signature]
ATTESTED

(Handwritten scribble)

18



30.06.2017

Counsel for the Petitioner and Addl: AG for respondents present. Counsel for the Petitioner requested for adjournment. Adjourned. To come up for further proceedings on 28.08.2017 before S.B.

(Signature)
(Ahmad Hassan)
Member

28.08.2017

Counsel for the petitioner present. Syed Mastan Ali Shah, Junior Clerk alongwith Mr. Muhammad Adool Butt, Additional AG for the respondents also present. Learned counsel for the petitioner stated at the bar that the service appeal of the petitioner was remanded by the Service Tribunal to the departmental authority for decision but the same has not been decided so far. Representative of the department namely Syed Mastan Ali Shah, Junior Clerk stated at the bar that the departmental appeal of the appellant has been decided on 16.08.2017. He is directed to hand over copy of the same to the learned counsel for the petitioner. Accordingly the representative of the respondent-department handed over the copy of the same to learned counsel for the petitioner.

Keeping in view the aforesaid situation the instant execution petition is disposed of accordingly. File be consigned to the record room.

ANNOUNCED
28.08.2017

(Signature)
(Muhammad Amin Khan Kundi)
Member

Date of Presentation of Application 21-9-17
Number of Witnesses 1200
Copying Fee 8-
Urgent 8-
Total 8-
Name of Clerk [Signature]

Certified true copy
(Signature)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(Signature)
ATTESTED



**OFFICE OF THE DISTRICT HEALTH OFFICER,
PESHAWAR.**

Phone No. 091 9225387
Fax No. 091 9225388

~~10~~
~~19~~

OFFICE ORDER.

You Mrs. Rozina Raheem W/O Ihsan Uddin, Jr: PHC Technician, BPS12 attached to Sifwat Ghayur Memorial Hospital Peshawar has remained absent from duty willfully w.c.f. 07/6/2010. You were called to explain your position vide letter No.1482/DHO dated 02/9/2010. You produced medical certificates which was found bogus vide Medical Superintendent, DHQ Hospital, D.I Khan Office letter No. 1719/MS dated 23/2/2017. You were also appeared before the Director General Health Services, Khyber Pakhtunkhwa, Peshawar for personal hearing in light of departmental inquiry under the directions of Services Tribunal KPK, where you failed to prove the charges leveled against you. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar regretted your appeal and recommended disciplinary proceedings against you, vide letter No.6722-24/AE-VI dated 09/5/2017.

This office finally issued a show cause notice on your home address vide letter No.7414-19/DHO dated 30/5/2017 with the direction to show cause the reason of your willful absentee within 15 days, otherwise disciplinary action will be taken against you, but you failed to do so, and continuously absent yourself from duty till date.

According to E&D Rules 2011 Section No.9 a notice was published in the leading newspapers, upon which you didn't response so far, so the competent authority is pleased to impose upon you the major penalty in light of E & D Rules 2011, Section 4 (b) (iii) i.e. REMOVAL FROM SERVICE with immediate effect.

Sd/xxxxx
District Health Officer,
Peshawar.

No. 11981-87 /DHO/P.F. Dated Peshawar the 16-8 /2017

Copy forwarded to the:-

1. Accountant Genera, Khyber Pakhtunkhwa Peshawar.
 2. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
 3. Honorable Court of Services Tribunal Peshawar.
 4. Medical Superintendent, Sifwat Ghayur Shaheed Memorial Hospital Peshawar.
 5. Litigation Officer, DHO Office Peshawar.
 6. Account Section of this office.
 7. Mrs. Rozina Raheem W/O Ihsan-ud-Din Gulbahar No.1 Asad Anwar Colony, Street#A-9 House# 49 Peshawar City.(To be sent on registered Dak).
- For information and necessary action.*

District Health Officer,
Peshawar.
12/8/17

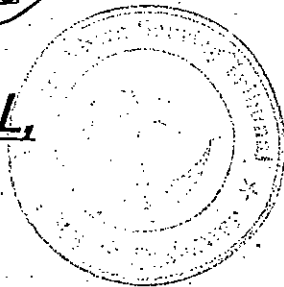
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BEFORE NWFP SERVICE TRIBUNAL,
PESHAWAR.



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11021

Dated 26-9-2017

Service Appeal No: 1096 / 2017

ROZINA RAHEEM,
W/o Ihsanuddin,
Ex. JCT, Government ID Children Hospital, Peshawar
R/o Gulbahar No. 1, Peshawar City.

Appellant

Versus

- ✓ 1. GOVERNMENT OF KPK,
Through Secretary Health,
Civil Secretariat, KPK, Peshawar.
- ✓ 2. DIRECTOR GENERAL HEALTH SERVICES,
KPK, Peshawar.
- ✓ 3. MEDICAL SUPERINTENDENT,
Government ID, Children Hospital, Peshawar.
- ✓ 4. EXECUTIVE DISTRICT OFFICER,
Health, District Peshawar

Respondents

Filed to-day
Registrar
26/9/17

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST APPELLATE ORDER NO. 6722-24/AE-VI DATED 09.05.2017 (MENTIONED IN ORER DATED 16.08.2017), WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED, COMMUNICATED / HANDED-OVER TO THE APPELLANT'S COUNSEL DURING EXECUTION PROCEEDINGS VIDE OFFICE ORDER DATED 11981-87/DHO/P.F DATED 16.08.2017.

Re-submitted to-day
Registrar
4/10/17

ATTESTED

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

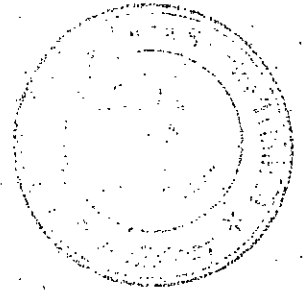


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 1096/2017

Date of institution ... 26.09.2017

Date of judgment ... 16.10.2019



Rozina Raheem,
W/o Ihsanuddin,
Ex. JCT, Government ID Children Hospital, Peshawar.
R/o Gulbahar No. 1, Peshawar City.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent, Government ID, Children Hospital, Peshawar.
4. Executive District Officer, Health, District Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST APPELLATE ORDER NO. 6722-24/AE-VI DATED 09.05.2017 (MENTIONED IN ORDER DATED 16.08.2017), WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED, COMMUNICATED/HANDED-OVER TO THE APPELLANT COUNSEL DURING EXECUTION PROCEEDINGS VIDE OFFICE ORDER 11981-87/DHO/P.F DATED 16.08.2017.

Mr. Bilal Ahmad Kakaizai, Advocate
Mr. Ziaullah, Deputy District Attorney

.. For appellant.
.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. AHMAD HASSAN

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

ACCEPTED

MEMBER (JUDICIAL)
Khyber Pakhtunkhwa Service Tribunal
Peshawar

ATTESTED

*M. Amin
16.10.2019*

(20)

2. Brief facts of the case as per present service appeal are that the appellant was serving in Health Department as Junior Clinical Technician. She applied for 60 days leave which was granted to her vide order dated 31.03.2010. The appellant applied for extension of leave which was duly communicated to the competent authority. That after recovery from the illness, the appellant reported for her arrival where she came to know about the reliving order issued by respondent No. 3 wherein the respondent No. 3 placed her services at the disposal of respondent No. 4 vide order dated 23.09.2010. That the respondent-department did not take her arrival report and the same was returned back to the appellant. That since the date of arrival i.e 15.06.2011 the appellant made a rolling stone between the respondent No. 3 and respondent No. 4. That at least ^{in the} February 2013 the appellant was informed that her services have been dispensed with however, no such order was given to her against which she submitted departmental appeal but the same was not responded followed by service appeal which was disposed off on 18.02.2016 with the direction to the respondent-department to decide the departmental appeal of the appellant within one month after receipt of copy of order. That the department failed to dispose of the departmental appeal therefore, the appellant filed the Execution Petition for implementation of the order of Service Tribunal. That vide order sheet dated 28.08.2017, the representative of the department furnished the order dated 16.08.2017 whereby the departmental appeal was rejected. That on receipt of the same on the same day i.e 28.08.2017, the appellant filed present service appeal on 26.09.2017.

*M. Anwar
16.10.2019*

3. Respondents were summoned who contested the appeal by filing written reply/comments.

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 Service Tribunal,
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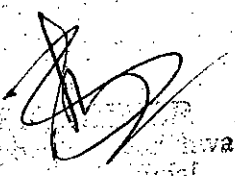
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(23)

4. Learned counsel for the appellant contended that the appellant was ill and she was granted 60 days leave. It was further contended that the appellant applied for extension of leave which was duly communicated to the competent authority. It was further contended that after recovery from illness, the appellant reported her arrival but she came to know about her reliving order was issued by respondent No. 3 wherein respondent No. 3 placed her services at the disposal of respondent No. 4. It was further contended that the appellant was made rolling stone and though the respondent No. 3 directed the appellant to report to respondent No. 4 but none of them giving any order in respect of place of posting of the appellant. It was further contended that the appellant was verbally asked in February 2013 that her services have been dispensed with however, no such order was given to her. It was further contended that the appellant filed departmental appeal against the verbal order but the same was not responded therefore, the appellant filed Service Appeal No. 1005/2013 before this Tribunal which was disposed off on 18.02.2016 with the direction to departmental/appellate authority to decide the departmental appeal of the appellant within a period of one month. It was further contended that despite the direction of the Service Tribunal, the departmental authority has not decided the departmental appeal within time therefore, the appellant filed Execution Petition for implementation of the same and ultimately during implementation petition/execution petition, the representative of the department furnished the order dated 16.08.2017 whereby the departmental appeal of the appellant was regretted hence, the present service appeal. It was further contended that neither any charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor any show-cause notice regarding her absence was issued to the appellant nor any absence notice was issued to the appellant at

6/12/2019
16.10.2019

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her home address nor any absence notice was advertised in the two newspapers as required under rule-9 of Government Servants (Efficiency & Discipline) Rules, 2011 therefore, the impugned order verbally passed by the competent authority as well as the order of departmental authority dated 16.08.2017 are illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving as Junior Clinical Technician in Health Department. It was further contended that the appellant remained absent from duty for a long period without permission of the lawful authority. It was further contended that after fulfilling all the codal formalities, the appellant was rightly removed from service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Health Department as Junior Clinical Technician. She was granted leave for a period of 60 days due to her illness she applied for extension of leave but the same was not extended. After recovery of illness when she reported for her arrival she was not allowed rather in the February 2013, the appellant was allegedly verbally asked by the respondent that her services have been dispensed with. The record further reveals that the appellant filed departmental appeal but the same was not decided therefore, she filed service appeal before this Tribunal which was partially accepted and the departmental authority was directed to decide the departmental appeal of appellant within one month. The record further reveals that the departmental appeal of the appellant was also regretted vide order dated 16.08.2017 hence, the present service appeal. The record further reveals that neither any charge sheet, statement of allegation was framed or served upon the appellant nor any proper inquiry was conducted nor any show-cause notice was

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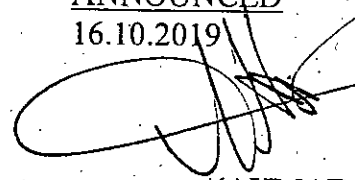
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issued to the appellant. The record further reveals that neither any absence notice was issued to the appellant at her home address nor any show-cause notice was advertised in two newspapers as required under rule-9 of Government Servants (Efficiency & Discipline) Rules, 2011 therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry in the mode and manner prescribed under Government Servants (Efficiency & Discipline) Rules, 2011 within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.10.2019




(AHMAD HASSAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

certified to be true copy
Registrar



18-10-19

2400

26-00

26-00

11-11-19

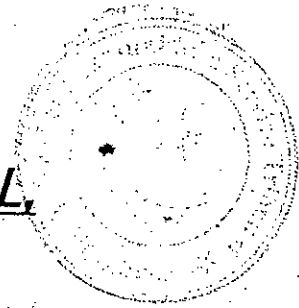
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BEFORE NWFP SERVICE TRIBUNAL,
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11021

Dated 26-9-2017

Service Appeal No: 1096 / 2017

ROZINA RAHEEM,
W/o Ihsanuddin,
Ex. JCT, Government ID Children Hospital, Peshawar
R/o Gulbahar No. 1, Peshawar City.

..... Appellant

Versus

- ✓ 1. GOVERNMENT OF KPK,
Through Secretary Health,
Civil Secretariat, KPK, Peshawar.
- ✓ 2. DIRECTOR GENERAL HEALTH SERVICES,
KPK, Peshawar.
- ✓ 3. MEDICAL SUPERINTENDENT,
Government ID, Children Hospital, Peshawar.
- ✓ 4. EXECUTIVE DISTRICT OFFICER,
Health, District Peshawar

..... Respondents

Filed to-day

Registrar

26/9/17

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST APPELLATE ORDER NO. 6722-24/AE-VI DATED 09.05.2017 (MENTIONED IN ORER DATED 16.08.2017), WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED, COMMUNICATED / HANDED-OVER TO THE APPELLANT'S COUNSEL DURING EXECUTION PROCEEDINGS VIDE OFFICE ORDER DATED 11981-87/DHO/P.F DATED 16.08.2017.

Re-submitted to -day

Registrar

4/10/17

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(27) (2)

Prayer: That on acceptance of this Service Appeal, Impugned Appellate Order dated 09.05.2017 be declared nullity in the eyes of law in consequence whereof the Appellant be reinstated / allowed to perform her duty as JCT, with full back benefits and wages, with such other relief as may be deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

- 1) That, Appellant, during the course of employment, applied for 60 days leave which was granted to her, copy of the Application for leave & Order dated 31.03.2010 is attached as Annexure A & B.
- 2) That, during leave period, Appellant's health condition deteriorated due to pregnancy; therefore, she applied for extension of leave which was duly communicated to the Competent Authority, copies of the Medical Certificates are attached as Annexure C.
- 3) That, after recovery from worst health conditions, Appellant reported her arrival in Respondent No. 3 Hospital where she came to know about the Relieving Order issued by Respondent No. 3 wherein the Respondent No. 3 placed her services at the disposal of Respondent No. 4 vide Order dated 23.09.2010, copy of the same is attached as Annexure D. It is important to mention here that the Respondents Hospital did not take her Arrival Report and same was returned back to the Appellant, copy of the same is attached as Annexure E.
- 4) That, since the date of Arrival i.e. 15.06.2011, Appellant was made a rolling stone between the Respondent No. 3 and Respondent No. 4 Department and both the Departments verbally instructed / directed the Appellant to Report in other Department but none of them gave any order in respect of place of posting of the Appellant.

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- 5) That, at last in February 2013, Appellant was verbally asked by the Respondent No. 3 Hospital that "your services have been

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dispensed with" however no such order was given to her against which she submitted proper Departmental Appeal before Respondent No. 2 & 3, copies of the Departmental Appeals are attached as Annexure F and Courier Receipts are attached as Annexure G.

- 6) That, initially Respondents failed to decide the fate of the Departmental Appeal of the Appellant within requisite period hence Service Appeal No. 1005 / 2013 was filed before this Honourable Tribunal, which was disposed of on 18.02.2016 with the direction to the Department / Appellate Authority to decide the fate of the Departmental Appeal within a period of one month after receipt of Order, copies of the Service Appeal and Judgment dated 18.02.2016 are attached as Annexure H.
- 7) That, the Department failed to act on the direction of the Service Tribunal hence the Appellant was constrained to file Execution Proceedings before this Honourable Tribunal, copy of the Execution Application is attached as Annexure I.
- 8) That, on 28.08.2017, one Representative of the Respondents Establishment, namely Syed Mastan Ali Shah, stated at the bar before this Honourable Tribunal that the Departmental Appeal of the Appellant has been regretted on 16.08.2017.
- 9) That, the Honourable Tribunal, in pursuance of the statement at the bar, directed Syed Mastan Ali Shah to hand over the copy of the same to the Counsel for the Appellant.
- 10) That, on receipt of the copy of the Order dated 16.08.2017, it was disclosed to the Appellant that Departmental Appeal of the Appellant was regretted vide Order dated 09.05.2017 instead of 16.08.2017 however no copy of the Impugned Order dated 09.05.2017 was with him, copy of the Order dated 16.08.2017 is attached as Annexure K.
- 11) That, the Appellant tried his level best to procure the copy of the Impugned Order dated 09.05.2017 but he could not manage the same hence this Appeal on the following amongst other grounds:

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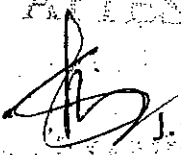
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GROUND:

- A. That, the Impugned Order dated 09.05.2017 is illegal, unlawful, void and ineffective.
- B. That, same is against the principals of natural justice, also.
- C. That, Respondents were bound to issue adverse order, in writing, under intimation to the Appellant but they failed to issue the same.
- D. That, as per law, the Competent Authority cannot relieve / transfer any Civil Servant from one station to another without any intimation to the Civil Servant and that too during leave because during leave period, in case of leave with pay, the pay of the Civil Servant is paid / released from the budget of the station wherefrom she obtained leave.
- E. That, neither any explanation has been called from the Appellant nor any Charge Sheet or Statement of Allegations was ever served upon the Appellant.
- F. That, the Appellate Authority was bound to communicate the fate of the Departmental Appeal to the Appellant directly moreover it was also incumbent and mandatory upon the Appellant to have provided the chance of personal hearing to the Appellant.
- G. That, no such exercise has been done which can mandate the Impugned Appellate Order to be just and legal.
- H. That, Appellant was never allowed to join any duty nor she was issued any posting order after the Order dated 18.02.2016 of this Honourable Tribunal.
- I. That, all the proceedings initiated against the Appellant were mala fide and malicious and purportedly were initiated in order to displace the Appellant from her post and appoint any other blue eyed.

ATTESTED



Regional Officer
Services Division,
Peshawar

That, the actions of the Respondents and Impugned Appellate Order is against section 24-A of the General Clauses Act. Apart from the


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General Clauses Act, the Constitution of Islamic Republic of Pakistan, 1973 also guarantees the right to be dealt in accordance with law reasonable orders of the executive.

- K. That, as per law and Judgments, the Department was bound to decide the fate of the Departmental Appeal of the Appellant within a period of 30 days and any action beyond the period of 30 days is not warranted by law.
- L. That, no one should be condemned unheard.

It is, therefore, requested that subject Appeal be accepted as prayed for.

Roza Nou

Appellant

Through:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

Certified true copy
[Signature]
[Stamp]
Peshawar

Date of Payment: 18-10-79

Number of: 2000

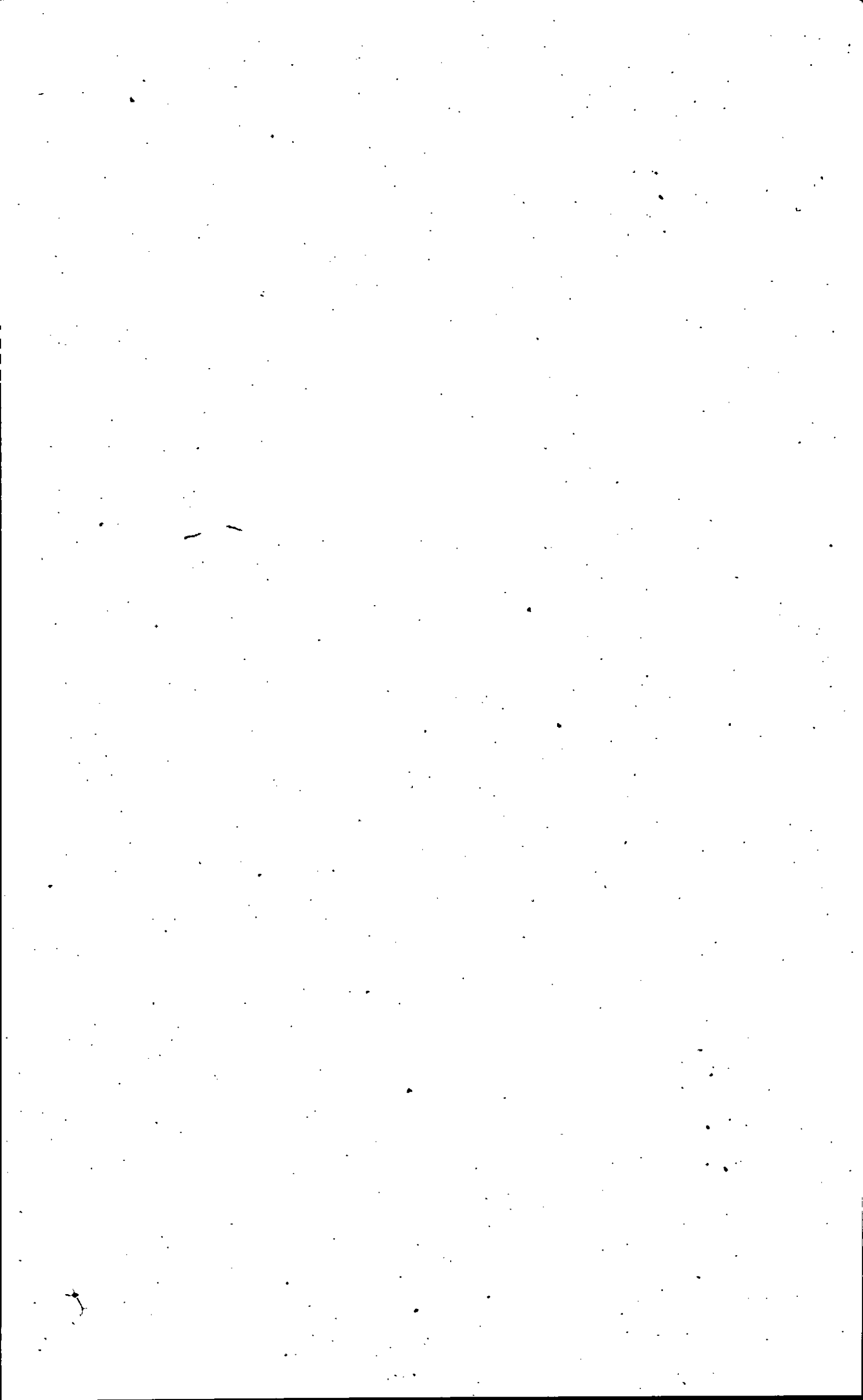
Charges: 22-00

Amount: 22-00

Date of: 11-11-68

Date of: 11-11-68

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OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR

Phone No. 091-9225387

OFFICE ORDER

In the light of judgement of Honorable Service Tribunal Service appeal bearing No. 1096/2017 dated: 16.10.2019 and as per recommendations of inquiry committee Mst. Rozina Rahim Female Medical Technician is hereby re-instated into service with immediate effect in the best interest of public.

Sd/xxxxxxx
District Health Officer
Peshawar


No. 1727-33 /DHO

dated Pesh: 27/01/2022

Copy is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Secretary Health Government of Khyber Pakhtunkhwa.
3. Director General Health Services Khyber Pakhtunkhwa.
4. Registrar Service Tribunal Peshawar.
5. Medical Superintendent Sifwat Ghayur Shaheed Memorial Hospital Peshawar.
6. Accounts Section DHO Office Peshawar.
7. Official Concerned.

For information and necessary action.


District Health Officer
Peshawar


ATTESTED



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(32) E



**OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR**

Phone No. 091-9225387

OFFICE ORDER

As approved by the competent authority the absence period in respect of Mst. Rozina Rahim FMT BPS-12 w.e.f 1.10.2010 till re-instatement is hereby treated as leave without pay. Furthermore, she is hereby warned that no excuse will be accepted in case if repeating such kind of act.

Sd/xxxxxxx
District Health Officer
Peshawar.

dated Pesh: 13/01/2023

No. 1916-21 DHO
Copy is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Health Services Khyber Pakhtunkhwa
3. Registrar Service Tribunal, Peshawar.
4. Medical Officer-in-Charge BHU Adezai Peshawar.
5. Accounts Section DHO Office Peshawar.
6. Official Concerned.

For information and necessary action.

~~Distric Health Officer
Peshawar~~

ATTESTED

D. No = 935

935

To,

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1. DIRECTOR GENERAL HEALTH SERVICES,
Khyber Road, Peshawar.
2. DISTRICT HEALTH OFFICER,
Peshawar.

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST ORDER NO. 1916-21 / DHO DATED 13.01.2023, WHEREBY THE COMPETENT AUTHORITY HAS ---

ILLEGALLY, UNLAWFULLY AND AGAINST THE ORDER OF HONORABLE SERVICE TRIBUNAL, PESHAWAR.

--- TREATED THE ABSENCE PERIOD IN RESPECT OF APPELLANT W.E.F. 01.10.2010 TILL 27.01.2022 (THE DATE OF ISSUANCE OF REINSTATEMENT ORDER) AS LEAVE WITHOUT PAY.

Prayer: On acceptance of this Appeal, the Appellant, be paid her Monetary Back Benefits and Service Benefits of the Intervening period mentioned above, with such other relief as may be deemed fit in the circumstances of the case may also be granted.

Respected Sir,

Reference subject mentioned Order, I, Rozina Rahim JCT / FMT, submit instant Appeal for your honor's sympathetic & benevolent considerations as under: -

- 1) That, Appellant, was performing duties as Junior Clinical Technician / MT. During the Course of employment she was made a rolling stone between different Departments and was verbally instructed / directed to Report in other office but the Department did not give any order in respect of place of posting of the Appellant and at last she, in February 2013, was verbally asked by the Department / Hospital that "your services have been dispensed with" however no written order was given to her.
- 2) That, the Appellant filed Service Appeal No. 1005 / 2013 before Honourable Tribunal, which was disposed of on 18.02.2016 with the direction to the Department / Appellate Authority to decide the fate of

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the Departmental Appeal within a period of one month after receipt of Order.

- 3) That, the Department failed to act on the direction of the Service Tribunal hence the Appellant was constrained to file Execution Proceedings before Honourable Tribunal.
- 4) That, on 28.08.2017, one Representative of the Department, namely Syed Mastan Ali Shah, stated at the bar before Honourable Tribunal that the Departmental Appeal of the Appellant has been regretted on 16.08.2017.
- 5) That, the Honourable Tribunal, in pursuance of the statement at the bar, directed Syed Mastan Ali Shah to hand over the copy of the said order dated 16.08.2017 (Removal from Service Order) to the Counsel for the Appellant.
- 6) That, Appellant once again filed Service Appeal No. 1096 / 2017, which was decided in favour of the Appellant on 16.10.2019 in which Impugned Order of Removal dated 16.08.2017 / 09.05.2017 was set aside and she was ordered to be reinstated in service with the direction to conduct de-novo proceedings against her under KPK E & D rules, 2011 within a period of 90 days from the date of receipt of Judgment.
- 7) That, in 90 days from the date of receipt of Judgment dated 16.10.2019, the Department failed to conduct any proceedings hence Appellant has automatically become eligible for reinstatement as well as payment of back benefits.
- 8) That, on 27.01.2022, the Appellant was ordered to be reinstated in the service, with immediate effect.
- 9) That, vide Order dated 13.01.2023, the intervening period i.e. w.e.f 01.10.2010 till 27.01.2022 has been treated as leave without pay which act of the Department is not only against the order of the Service Tribunal, Peshawar but the same is also an illegal and unlawful order.
- 10) That, till date, despite joining and performing the duties, the Appellant has not yet been paid his legitimate salaries even from the date of reinstatement i.e. 27.01.2022.
- 11) That, treating the intervening period w.e.f 01.10.2010 till 27.01.2022 as leave without pay is illegal, unlawful, void and ineffective.
- 12) That, same is against the principles of Natural Justice, also.


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- 13) That, Appellant was vigorously fighting for his legal rights, right from the beginning, when she was verbally / orally terminated from the Government Service.
- 14) That, since the Appellant was not willfully absent from duty rather she was forced to sit at home hence stoppage of her benefits and salaries etc as well as treating his intervening period as absence is not warranted under the law.
- 15) That, Appellant has not been treated in accordance with law and provisions of the Constitution of Islamic Republic of Pakistan, 1973.
- 16) That, even after reinstatement of the Appellant, she has not been given her due pay scale as other similarly placed employees are being paid in higher pay scales.

It is, therefore, requested that Appeal be accepted as prayed for.

Thanking you,

Yours faithfully,

Date: ____02.2023

(ROZINA RAHIM),
W/o Ihsanuddin,
JCT / FMT,



Government ID-Children
Hospital, Peshawar.

B.H.U - Ady3ai

R/o Gulbahar No. 1, Peshawar City.


ATTESTED



**OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR**

Phone No. 091-9225387

No. 4715 /DHO (Peshawar)

dated: 21/02/2023

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To,

The Rozina Rahim W/O Ihsan ud din
JCT/FMT
Basic Health Unit Adezai Peshawar.
R/O Gulbahar No. 01, Peshawar City.
(0333-1456094/0313-9594909).

**Subject: - REPLY TO DEPARTMENTAL APPEAL SUBMITTED BY THE
MST. ROZEENA RAHIM DATED. 09-02-2023.**

Memo,

1. Incorrect and the all the facts have been explained to the Honourble Service Tribunal Peshawar .
2. Pertaining to record.
3. Incorrect.
4. Pertaining to record.
5. Pertaining to record.
6. Pertaining to record.
7. Pertaining to record.
8. Pertaining to record.
9. The Department issue letter No.1916-21/DHO dated.13-01-2023 to the appellat in the light of enquiry ordered by Honourble Service Tribunal Peshawar vide letter No.14533/DHO dated.11-09-2020(Annexure-A).
10. Incorrect , already the appellat received her salaries (Annexure-B).
11. Already facts have been explained in the inquiry report submitted to Honourble Service Tribunal Peshawar.
12. Incorrect .
13. Incorrect, the appellat has never ever done her duties from day first.
14. Incorrect .
15. Incorrect.
16. Incorrect.

District Health Officer
Peshawar.

Copy for information:-

1. Section Officer (Lit-II), Health Secretariat Peshawar.
2. Assistant Director (Litigation Cell) Directorate General Health Services. Khyber Pakhtunkhwa, Peshawar.
3. Incharge Basic Health Unit Adezai Peshawar

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[Signature]

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**OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR**

Phone No. 091-9225387

No. 14833/DHO dated Pesh: 11/10/2020

Enquiry.

Mst. Rozeena Raheem Vs Govt of Khyber Pakhtunkhwa

INTRODUCTION: Vide order no 14323-26, dated: 16-12-2019. Of DHO, Peshawar, whereby Enquiry be conducted to probe into absentee report /Case Matter of Mst. Rozeena Raheem EX-JST IDH Peshawar.

DESCRIPTION: Mst. Rozeena Raheem was serving in Health Department as junior technician in Children Hospital Peshawar. She applied for sixty days leave which was granted to her vide order Dated 31-03-2010, then she applied for extension of leave which was duly communicated to the competent authority. After recovery from the illness she reported for her arrival where she came to know about the relieving order issued by Medical Superintendent IDH, Peshawar and placed her services at the disposal of Executive District Health Officer Peshawar vide order NO—dated .23-09-2010, that MS Office did not take her arrival report and the same was returned back to her. That since the date of arrival 15-06-2011, she become rolling stone between the Medical Superintendent IDH and District Health Office and at last in February 2013 when she was informed that her service had been dismissed, however no such order was given to her against which she submitted a departmental appeal but the same was not responded, followed by Service Appeal which was disposed off on 18-02-2016 with the direction to the respondent department to decide the departmental appeal of the appellant within one month after receipt of copy of order. The department failed to dispose of the departmental appeal therefore; the appellant filed the execution petition for implementation of the order of service tribunal, Vide order sheet dated 28-07-2017 the representative of the department furnished the order dated. 16-08-2017 where by the departmental appeal was rejected. Then on receipt of the same on the same day i.e. 28-07-2017 the appellant filed an appeal on 26-09-2017 in Service Tribunal. The appeal was reconsidered and through departmental appeal within one month. The service of the appellant was reinstated the department was directed to conduct de- novo the enquiry in mode and manner presided under government rule 2011 within ninety days.

FINDING AND RECOMMENDATION: On perusal of the record the department has taken several steps regarding the absentees of Mst. Rozeena Raheem several explanations were called upon her but no satisfactory reply was submitted by her. She was finally informed through reading newspaper that you are no more interested in your services and ex-parte action will be taken against you and major penalty will be imposed upon you. And there after she was removed from services vide letter no 11981-87/DHO, dated 16-08-2017. An enquiry was conducted against her vide order no 2298-302/DHO/C-10, dated 30-03-2016 wherein she was proved guilty and recommended three options to be imposed upon her.

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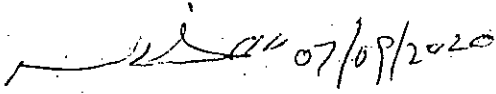
The medical certificate produced by her were fake and committee suggested that (1). disciplinary action to be initiated against her.

(2). she has serviced health Department regularly since April 1995 till 30-09-2010, keeping in view her previous length of services she may be retired compulsory from the service.


(3). Her willful absence period may be considered as leave without pay or may be reinstated /adjusted against vacant post as she will not be eligible for any benefits to absence period.

The Department should have to give her a chance for reinstatement and to kept her under strict observation and if she repeated the same story and was not loyal to her duty then a major penalty like dismissal /removal may be imposed upon her .That is why she proceed for appeal to the Honourble Court and the court reinstated her and ordered for de- nove inquiry .As the court reinstated her therefore it s recommended that her service be regularized from the date of appointment for the pension purposes and her absent period may be consider one by forth (1/4) of full pay.

Submitted please.

 07/08/2020

1. **Muhammad Nasir**
Co-ordinator (DHIS)
District Health Office. Peshawar.
Peshawar.


2. **Dr. Mubarak Zeb**
Litigation Officer
District Health Office.


ATTESTED

This is an appeal filed by Rozeena Rahim today on 09/03/2023 against the order dated 13-01-2023 against which she made/preferred departmental appeal/representation on 9.02.2023 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 919/ST.

DI. 13/3/2023.

[Signature]
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Bilal Ahmad Kakaizai Adv.
High Court Peshawar

At page 36, Reply to Departmental Appeal is attached.
Please put before Court.

[Signature]

Subj. objection of the office and reply of counsel for the appellant is sub-itted for order.
Please.

Humble chairman
13/3/2023

926
13/3/2023

objection returned by the appellant & if desired resubmit after maturity of 13/3/23

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

④

Service Appeal No. _____ / 2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4197

Dated 01/3/2023

ROZINA RAHIM,
W/o Ihsanuddin,
JCT / FMT, Basic Health Unit, Adezai.
R/o Gulbahar No. 1, Peshawar City.

..... APPELLANT

Versus

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Secretary Health,
Health Department, Civil Secretariat, Peshawar.
2. DIRECTOR GENERAL HEALTH SERVICES,
Khyber Road, Peshawar.
3. DISTRICT HEALTH OFFICER,
Peshawar.

..... RESPONDENTS

Filed to day

Registrar

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST: -

1. IMPUGNED ORDER NO. 1916-21 / DHO DATED
13.01.2023, WHEREBY THE COMPETENT AUTHORITY HAS
ILLEGALLY, UNLAWFULLY AND AGAINST THE ORDER OF
HONORABLE SERVICE TRIBUNAL, PESHAWAR TREATED
THE ABSENCE PERIOD IN RESPECT OF APPELLANT W.E.F
01.10.2010 TILL 27.01.2022 (THE DATE OF ISSUANCE
OF REINSTATEMENT ORDER) AS LEAVE WITHOUT PAY.

2. IMPUGNED APPELLATE ORDER NO. 4715/DHO (PESHAWAR) DATED 21.02.2023, WHICH IS OTHERWISE AN INCONCLUSIVE ORDER.

Prayer: On acceptance of this Appeal, the Appellant, be paid her Monetary Back Benefits and Service Benefits of the Intervening period mentioned above, along with pay since Reinstatement Order, with such other relief as may be deemed fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1. That, Appellant, was performing duties as Junior Clinical Technician / FMT. During the Course of employment she was made a rolling stone between different Departments and was verbally instructed / directed to Report in other office but the Department did not give any order in respect of place of posting of the Appellant and at last she, in February 2013, was verbally asked by the Department / Hospital that "your services have been dispensed with" however no written order was given to her.
2. That, the Appellant filed Service Appeal No. 1005 / 2013 before Honourable Tribunal, which was disposed of on 18.02.2016 with the direction to the Department / Appellate Authority to decide the fate of the Departmental Appeal within a period of one month after receipt of Order, copy of Order / Judgment dated 18.02.2016 is attached as Annexure A.
3. That, the Department failed to act according to the directions contained in the Order / Judgment of Honorable Service Tribunal, Peshawar dated 18.02.2016, hence the Appellant was constrained to file Execution Proceedings before Honourable Tribunal.
4. That, on 28.08.2017, one Representative of the Department, namely Syed Mastan Ali Shah, stated at the bar before

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Honourable Tribunal that the Departmental Appeal of the Appellant has been regretted on 16.08.2017. In pursuance of statement at the bar, the Honorable Tribunal directed Syed Mastan Ali Shah to hand over the copy of the said order dated 16.08.2017 (Removal from Service Order) to the Counsel for the Appellant, copies of Execution Proceedings and Removal Order dated 16.08.2017 are attached as Annexure B.

5. That, Appellant once again filed Service Appeal No. 1096 / 2017, which was decided in favour of the Appellant on 16.10.2019 in which Impugned Order of Removal dated 16.08.2017 / 09.05.2017 was set aside and Appellant was ordered to be reinstated in service with the direction to conduct de-novo proceedings against her under KPK E & D rules, 2011 within a period of 90 days from the date of receipt of Judgment, copy of the Order / Judgment dated 16.10.2019 is attached as Annexure C.
6. That, thereafter within 90 days from the date of receipt of Judgment dated 16.10.2019, the Department failed to conduct any proceedings against the Appellant hence she automatically became eligible for reinstatement as well as payment of back benefits.
7. That, on 27.01.2022, the Appellant was ordered to be reinstated in the service, with immediate effect, copy of the Reinstatement Order dated 27.01.2022 is attached as Annexure D.
8. That, vide Impugned Order dated 13.01.2023, the intervening period i.e. w.e.f 01.10.2010 till 27.01.2022 was treated as leave without pay, which act of the Department was not only against the order of the Service Tribunal, Peshawar but the same was also an illegal and unlawful order, copy of the Impugned Order dated 13.01.2023 is attached as Annexure E.
9. That, against the Impugned Order dated 13.01.2023, Departmental Appeal / Representation was filed by the


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Appellant on 09.02.2023, copy of the Departmental Appeal / Representation dated 09.02.2023 is attached as Annexure F.

10. That, vide Impugned Appellate Reply communicated to the Appellant on 21.02.2023, the Respondent's Department decided the fate of the Departmental Appeal / Representation, hence this Service Appeal on the following amongst other grounds: -

GROUND:

- A. That, treating the intervening period w.e.f 01.10.2010 till 27.01.2022 as leave without pay is illegal, unlawful, void and ineffective.
- B. That, same is against the principles of Natural Justice, also.
- C. That, till date, despite joining and performing the duties, the Appellant has not yet been paid his legitimate salaries even from the date of reinstatement i.e. 27.01.2022.
- D. That, Appellant was vigorously fighting for his legal rights, right from the beginning, when she was verbally / orally terminated from the Government Service.
- E. That, since the Appellant did not willfully absent from duty rather she was forced to sit at home by the illegal and unlawful acts of the Department, hence stoppage of her benefits and salaries etc as well as treating her intervening period as absence is not warranted under the law.
- F. That, Appellant has not been treated in accordance with law and provisions of the Constitution of Islamic Republic of Pakistan, 1973.
- G. That, even after reinstatement of the Appellant, she has not been given her due pay scale as other similarly placed employees are being paid in higher pay scales.

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- H. That, during the tenure of alleged absence of the Appellant, other employees of the same cadre have been allotted the benefit of upgradation and now other similarly placed employees are being paid in higher pay scale.
- I. That, the Appellant was retained on the payroll of the Department, even during the period of absence as she was promoted as well by the Department during the alleged absence period, copies of the Promotion Orders are attached as Annexure G.
- J. That, the Appellant has been victimized due to no fault on her part.
- K. That, all the proceedings initiated against the Appellant were malafide and malicious and purportedly were initiated in order to inflict maximum financial loss to the Appellant.

It is, therefore, requested that Appeal be accepted as prayed for.


Appellant

Through:



BILAL AHMAD KAKAIZAI

Advocate, Supreme Court of Pakistan.
213, Sunehri Masjid Road, Peshawar
Cantt. 0300-9020098.


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

Service Appeal No: _____ / 2023

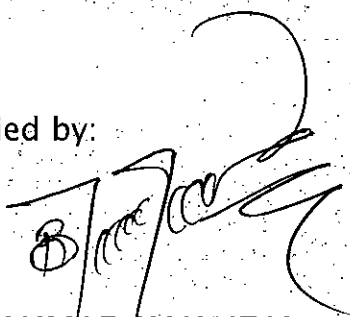
ROZEENA RAHIM vs Government of Khyber Pakhtunkhwa etc

AFFIDAVIT

I, **ROZINA RAHIM**, W/o Ihsanuddin, JCT / FMT, Government ID Children Hospital, Peshawar. R/o Gulbahar No. 1, Asad Anwar Colony, Peshawar City, Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

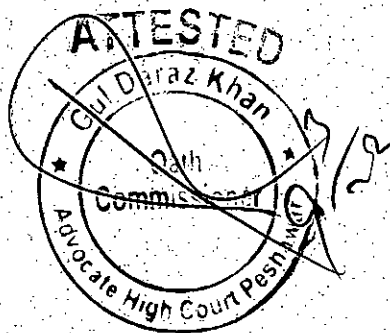
Rozina
Deponent

Identified by:



BILAL AHMAD KAKAIZAI

Advocate, Supreme Court of Pakistan.



ATTESTED

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**DIRECTORATE GENERAL
HEALTH SERVICES, KHYBER
PAKHTUNKHWA, PESHWAR**

OFFICE ORDER:-

Consequent upon approval accorded by the Departmental Promotion Committee, the following PHC Technicians (MP) (BS-12) are hereby promoted to the post of Senior PHC Technicians (MP) (BS-14) with immediate effect:-

S.No	Name	Place of Posting
1.	Zohra Begum D/O Fazal ullah	DHO Charsadda
2.	Zahida Khatoon D/O Azizur Rehman	DHO Manshra
3.	Muhammad Hanif Jan S/O Muhammad Sharif	DHO Charsadda
4.	Suleman Shah S/O Faqir Shah	DHO Charsadda
5.	Abdullah Jan S/O Rab Nawaz	DHO Charsadda
6.	Naghmata Shabwani D/O Abdul Ghafar	DHO Lakki Marwat
7.	Anjad Habib S/O Habibullah Khan	DHO Nowshera
8.	Huma Ruz D/O Gul Raziq	DHO Malakand
9.	Gul Nasreen D/O Saeedullah Khan	DHO Lakki Marwat
10.	Muhammad Anjad S/O Muhammad Akbar	DHO Manshra
11.	Kousar Parveen D/O Muzaffar Shah	DHO Manshra
12.	Nargis Begum D/O Roghan Gul	DHO Charsadda
13.	Shah Pasnad S/O Hatha Khan	DHO Tank
14.	Nafeesa Bibi D/O Gul Rehman	DHO Peshawar
15.	Abdul Basit S/O Abdul Humeed	DHO Manshra
16.	Sameena bibi D/O Sarwar Khan	DHO Abbotabad
17.	Muhammad Ilyas S/O Akabar Ali	DHO Abbotabad
18.	Khurshid Anwar S/O Wazir Jang	DHO Kohat
19.	Fazal Rahim S/O Muhammad Zamin	DHO Shangla
20.	Shah Malook S/O Sanobar Khan	DHO SW
21.	Shakila D/O Atta-ur Rahman	DHO Malakand
22.	Mukhtar Zaman S/O Badruzaman	DHO Charsadda
23.	Sonaj Parkash S/O Kharshan Lal	DHO Shangla
24.	Lingga Ali S/O Khalil ur Rahman	DHO Manshra
25.	Shagufta D/O Sher Afzal	DHO Nowshera
26.	Shanum Kousar D/O Nisan Muhammad	DHO Manshra
27.	Fahim Jan S/O Fateh Muhammad	DHO Lakki Marwat
28.	Azra Jabeen D/O Muhammad Ayub	DHQ Hosp: Haripur
29.	Dilshad Bibi D/O Fida Muhammad	DHO Manshra

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30.	Khalida Sardar D/O Kala Khan	DHO Abbotabad
31.	Shahida Khatoon D/O Saif Akbar	DHO Abbotabad

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MAISMA BIBI D/O Fida Muhammad DHO Manshra

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30.	Khalida Sardar D/O Kala Khan	DHO Abbottabad
31.	Shahida Khatun D/O Said Alam	DHO Abbottabad
32.	Neelam Rana D/O Muhammad Ishaq	DHO Manshra
33.	Fazli Raziq S/O Munawar Khan	DHO Dir Upper
34.	Muhammad Humayoon S/O Muhammad Aslam	DHO SW
35.	Rashida Bibi D/O Gulab Shah	DHO Manshra
36.	Nuzha Sherin S/O Muhammad Yousaf	DHO Lakki Marwat
37.	Sirajul Haq S/O Gul Zaman	DHO Manshra
38.	Haleema Bibi D/O Muhammad Yousaf	DHO Manshra
39.	Saeeda Bano D/O Kala Khan	DHO Manshra
40.	Qudsia Noreen D/O Asghar Nawaz	DHO Manshra
41.	Bibi Zainab D/O Ghulam Gillani	DHO Manshra
42.	Ayesha Bibi D/O Ali Khan	DHO Manshra
43.	Saeeda Bibi D/O Kaleemullah	DHO Shangla
44.	Raham Taj Bibi D/O Minhajuddin	DHO Hosp: Shangla
45.	Shaukat Ali S/O Shamsul Haq	DHO Buner
46.	Saeed-ur Rehman S/O Muhammad Tayyab	DHO Abbottabad
47.	Muhammad Yousaf S/O Subhani Gul	DHO Dir Lower
48.	Shahi Room S/O Shah Zada	DHO Buner
49.	Imran Khan S/O Sher Bahadar	DHO Buner
50.	Raheela Naz D/O Abdul Malik	DHO Charsadda
51.	Aziz Ahmad S/O Muhammad Ayub Khan	DHO Shangla
52.	Muhammad Javid S/O Muhammad Farooq	DHO Shangla
53.	Penzi Nawaz D/O Haq Nawaz	DHO Haripur
54.	Rukhsana Jabeen D/O Ali Asghar	DHO Manshra
55.	Raheela D/O Muhammad Nawaz	DHO Peshawar
56.	Nelofar D/O Nafiullah	DHO Tank
57.	Mussarat Nazir D/O Muhammad Jehangir	DHO D.I Khan
58.	Saeeda Akhtar D/O Wali Muhammad	DHO Abbottabad
59.	Muhammad Khalid Jan S/O Sherin Jan	PAF Swat
60.	Nusrat Jehan Ara D/O Khair Muhammad	DHO Peshawar
61.	Musarat Bibi D/O Sadiq Hussain Shah	DHO D.I Khan
62.	Roqia Bibi D/O Khuda Baskish	DHO D.I Khan
63.	Aurangzeb S/O Dawar Khan	DHO Manshra
64.	Zamarud Taj Begum D/O Gul Dad	DHO Karak
65.	Shaheen Akhtar D/O Raees Khan	DHO Bannu
66.	Shamim Akhtar D/O Ghulam Muhammad	DHO Swat
67.	Nayar Jahan D/O Abdul Ghaffar	DHOSWA

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68.	Khaista Rehman S/O Abdul Wakeel	DHO Charsadda
69.	Muhammad Sher Bahadar S/O Muhammad Sher Dil	DHO Dir Lower
70.	Shahana Roshni D/O Ishaq Ahmad	DHO Nowshera
71.	Amir Shah S/O Khalid Shah	DHO Khyber

ATTESTED

68.	Khaista Rehman S/O Abdul Wakeel	DHO Charsadda
69.	Mohammad Sher Bahadar S/O Muhammad Sher Dil	DHO Dir Lower
70.	Shabana Rooli D/O Ishfaq Ahmad	DHO Nowshera
71.	Amir Shah S/O Khalid Shah	DHO Khyber
72.	Rukhsana Khun D/O Awal Khan	DHO Manselra
73.	Atique Rehman S/O Zahir Ali Shah	DHO Nowshera
74.	Farzana D/O Khuda Yar	DHO Lakki Marwat
75.	Zubaida Bibi D/O Muhammad Zafran	DHO Manselra
76.	Shabeen Bibi D/O Noor Habi	DHO Abbottabad
77.	Khushtuda Begum D/O Muhammad Zamin	DHO Manselra
78.	Baqees Bibi D/O Khani Zamin	DHO Manselra
79.	Anwar Iqbal S/O Mukhtiar Ahmad	DHO Swat
80.	Nuzhat Begum D/O Saeedul Arifin	DHO Nowshera
81.	Muhammad Zubair S/O Abdul Ahad	DHO Dir Upper
82.	Mumtaz Khan S/O Darviza	DHO Dir Upper
83.	Shah Syed Mian S/O S. Aif Hussain	DHO Kohat
84.	Sabir Khan S/O Khawaza Din	DHO Wana
85.	Muhammad Haroon S/O Noor Gul Shah	DHO Dir Upper
86.	Tohira Farid D/O Ghulam Farid	DHO Peshawar
87.	Eid Mer Khan S/O Ejaz Badshah	DHO Kohat
88.	Kalsoom Bano D/O Sardar Muhammad	DHO Malakand
89.	Ashfaq S/O Raj Gul	DHO Kohat
90.	Parveen D/O Niamatullah	DHO Nowshera
91.	Saeed Shah S/O Akram Sher	DHO Kohat
92.	Shabeen Begum D/O Muhammad Amir	DHO Charsadda
93.	Ghulam Farooq S/O Ghulam Sadiq	DHO Khyber
94.	Muhammad Iqbal S/O Ghulam Jan Afridi	DHO Khyber
95.	Shakirullah S/O Abdul Wahid	DHO Khyber
96.	Nasreen Akhtar D/O Nasrullah Khan	DHO Tank
97.	Shagufta Habib D/O Kamal Habib	DHO Bannu
98.	Sulma Bibi D/O Muhammad Aziz	DHO SW
99.	Yasmin D/O Muhammad Ramzan	DHO D.I Khan
100.	Gul Nar Begum D/O Haji Akram	DHO SW
101.	Rozina Rahim D/O Rahim Bakhsh	DHO D.I Khan
102.	Sajida AbbDHO D/O Ghulam Abbas	DHO SW
103.	Saeed Alam S/O Zahirullah	DHO Charsadda
104.	Saeedul Azhar D/O Syed-ul-Ibrar	DHO Charsadda
105.	Husain Hano D/O Karim Bakhsh	DHO Lakki Marwat
106.	Mushtaq Rehman D/O Amin Rehman	DHO Malakand

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107.	Miraj Akhtar D/O Amanullah	DHO D.I Khan
108.	Shakila Anjum D/O Ghulam Shabir	DHO Lakki Marwat
109.	Jameela Khatoon D/O Muhammad Bashir	DHO Manselra
110.	Zahida Parveen D/O Muhammad Farooq	DHO Manselra
111.	Sandia Noreen D/O Muhammad Aslam	DHO Manselra
112.	Nusrat Jabeen D/O Safdar Ali	DHO Manselra

[Signature]
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MISSING ACB MP BPS 14
 176 Khatun...
 177 Masum Nawaz...
 178 Shahman Amir...
 179 Shajiqul Kabir...
 180 Rafiqul Jabbar...
 181 Rafiqul Sultan...
 182 Sajid Begum...
 183 Kausar Parveen...
 184 Jamila Begum...
 185 Farzana...
 186 Amira Bt...
 187 Shamim Akhter...
 188 Tahira Yasmin...
 189 Rakshanda...
 190 Anida...
 2021

- MISSING ACB MP BPS 14
- 1) SN 176 Khatun... 2020-2021 with Fresh NOE
 - 2) SN 177 Masum Nawaz... 2020-2021 with Fresh NOE
 - 3) SN 178 Shahman Amir... 2020-2021 with Fresh NOE
 - 4) SN 179 Shajiqul Kabir... 2020-2021 with Fresh NOE
 - 5) SN 180 Rafiqul Jabbar... 2020-2021 with Fresh NOE
 - 6) SN 181 Rafiqul Sultan... 2020-2021 with Fresh NOE
 - 7) SN 182 Sajid Begum... 2020-2021 with Fresh NOE
 - 8) SN 183 Kausar Parveen... 2020-2021 with Fresh NOE
 - 9) SN 184 Jamila Begum... 2020-2021 with Fresh NOE
 - 10) SN 185 Farzana... 2020-2021 with Fresh NOE
 - 11) SN 186 Amira Bt... 2020-2021 with Fresh NOE
 - 12) SN 187 Shamim Akhter... 2020-2021 with Fresh NOE
 - 13) SN 188 Tahira Yasmin... 2020-2021 with Fresh NOE
 - 14) SN 189 Rakshanda... 2020-2021 with Fresh NOE
 - 15) SN 190 Anida... 2020-2021 with Fresh NOE


 ATTESTED

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NO	NAME	RELIGION	DATE OF BIRTH	EDUCATION	PROFESSION	RESIDENCE	STATUS
256	Kumar, Suresh	DHO	05.09.1972	High School	Suburban	Married	Arrested
255	Nelof, D	DHO	02.01.1968	N/A	Company	N/A	Arrested
254	Kaneta, P D	DHO	16.09.1967	N/A	Pushwar	N/A	Arrested
236	Kumar, Anand	DHO	24.08.1970	N/A	Haripur	Haripur	Arrested
231	Kumar, Anand	DHO	01.01.1970	N/A	Pushwar	Pushwar	Arrested
228	Kumar, Anand	DHO	30.01.1973	N/A	Swat	Swat	Arrested
221	Kumar, Anand	DHO	11.02.1953	N/A	Muzaffar	Muzaffar	Arrested
216	Kumar, Anand	DHO	11.12.1971	N/A	Pushwar	Pushwar	Arrested
212	Kumar, Anand	DHO	27.02.1973	N/A	Pushwar	Pushwar	Arrested
211	Kumar, Anand	DHO	12.12.1972	N/A	Chitral	Chitral	Arrested
210	Kumar, Anand	DHO	12.02.1973	N/A	Pushwar	Pushwar	Arrested
209	Kumar, Anand	DHO	02.02.1969	N/A	Swat	Swat	Arrested
208	Kumar, Anand	DHO	05.07.1973	N/A	Swat	Swat	Arrested
207	Kumar, Anand	DHO	11.11.1973	N/A	Swat	Swat	Arrested
206	Kumar, Anand	DHO	11.07.1973	N/A	Swat	Swat	Arrested
205	Kumar, Anand	DHO	01.05.1973	N/A	Swat	Swat	Arrested

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NO.	Subject to provision of PERA along with fresh NOC	08.08.1967	Dikhan	Dikhan	Muhammad S.O. Muhammad
151	Subject to provision of PERA along with fresh NOC	08.08.1967	Dikhan	Dikhan	Muhammad S.O. Muhammad
152	Subject to provision of PERA along with fresh NOC	01.01.1973	Dikhan	Dikhan	Muhammad S.O. Muhammad
153	Subject to provision of PERA along with fresh NOC	05.03.1975	Dikhan	Dikhan	Muhammad S.O. Muhammad
154	Subject to provision of PERA along with fresh NOC	14.01.1968	Dikhan	Dikhan	Muhammad S.O. Muhammad
155	Subject to provision of PERA along with fresh NOC				
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169	Subject to provision of PERA along with fresh NOC				
170	Subject to provision of PERA along with fresh NOC				

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DATE	DESCRIPTION	AMOUNT	INITIALS	REMARKS
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10/03/70
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258	Missal Nazir D O Khan	DHO DIKhan		20.12.1965 DIKhan	OK NA ✓	complete ✓
267	Muhammad Ali D O Khan	DHO Fakhrabad		25.01.1971	PERs along with fresh NOC	Subject to provision of 2020-21 PERs along with fresh NOC
273	Musarat Bibi D O Khan	DHO DIKhan		05.07.1969 DIKhan	NA	complete
274	Farida Bibi D O Khan	DHO DIKhan		03.01.1974 DIKhan	NA OK ✓	Promoted ✓
275	Rehan Nisa D O Khan	DHO Tank		15.07.1974	NA	Subject to provision of 2020-21 PERs along with fresh NOC
277	Rashida Anjum D O Khan	DHO DIKhan		23.07.1972 DIKhan	NA	Subject to provision of 2020-21 PERs along with fresh NOC
279	Zamirad Taj Begum D O	DHO Karak		09.03.1975 Karak	OK	Promoted
284	Nasreen Nawaz D O Khan	DHO DIKhan		18.10.1972 DIKhan	NA	complete
286	Shabnum Awan D O Khan	DHO DIKhan		01.04.1973 DIKhan	NA OK ✓	complete ✓
287	Shireen Iqbal D O Khan	DHO DIKhan		01.08.1967 DIKhan	NA	Subject to provision of 2020-21 PERs along with fresh NOC. RTD
288	Shaheen Akhtar D O Khan	DHO Bannu		01.05.1970 DIKhan	NA	Subject to provision of 2020-21 PERs along with fresh NOC
289	Shaheen Akhtar D O Khan	DHO Bannu		01.05.1972 Bannu	NA inad's app ✓	Completed
293	Nasir Jehan D O Khan	NA in Bannu DHO Bannu		01.01.1971 DIKhan	NA	Subject to provision of 2020-21 PERs along with fresh NOC

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186	✓	Muhammad Iqbal S O Aziz ur Rahnain	DHO Buner	01.02.1969	Buner	190 roll ok	Subject to provision of 2020-21	with fresh NOC
175		Ayesha Bibi D-O Ali Khan	DHO Mansehra	06.07.1971	Mansehra	N/A	Completed	
167		Haq Gul D O Moeen Ali	DHO Hangu	25.02.1972	Hangu	N/A	Subject to provision of 2020-21	with fresh NOC
166		Noor Rehman S O Moeen Ali	DHO Hangu	06.04.1970	Hangu	N/A	Subject to provision of 2020-21	with fresh NOC
160		Rozina Nazreen D O Dilveer Khan	DHO Mansehra	28.04.1971	Mansehra	190 roll ok	Subject to provision of 2020-21	with fresh NOC
156		Ash-Bibi D O Abdul Haq	DHO Mansehra	03.01.1970	Mansehra	N/A	Completed	
151		Singul Haq S O Gul Zaman	DHO Mansehra	15.05.1967	Mansehra	N/A	Completed	
148		Muhammad Hamza S O Khan	DHO Hangu	01.02.1968 SVA		N/A	Subject to provision of 2020-21	with fresh NOC
137		Wahid Muhammad DHO Mansehra	DHO Mansehra	21.03.1970	Mansehra	N/A	Completed	
127		Farhan Haq DHO Mansehra	DHO Mansehra	09.03.1965	Mansehra	190 roll ok	Subject to provision of 2020-21	with fresh NOC
126		Farhan Haq DHO Mansehra	DHO Mansehra	13.12.1972	Mansehra	N/A	Completed	
116		Farhan Haq DHO Mansehra	DHO Mansehra	01.09.1967	Mansehra	N/A	Completed	
115		Farhan Haq DHO Mansehra	DHO Mansehra	01.12.1967	Mansehra	N/A	Completed	
114		Farhan Haq DHO Mansehra	DHO Mansehra	02.02.1973	Mansehra	N/A	Completed	

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ATTESTED

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DATE	DESCRIPTION	AMOUNT	INITIALS	REMARKS
09-02-2000				
09-03-2000				
09-12-2000				
09-01-2000				

DATE	DESCRIPTION	AMOUNT	INITIALS	REMARKS

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249	Razia Begum D/O Taj Malik	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020 REQUIRED
250	Muhammad Hassan S/O Misra Gul	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2020 and NEW REQUIRED
251	Ghazal Khan S/O Abdul Khar	SR PHC Tech (MP) BS-14	DHO Kohistan	PER 2020 REQUIRED
252	Noor Nawaz Khan S/O Mu Salim	SR PHC Tech (MP) BS-14	DHO Tank	PER 2020 REQUIRED
253	Muhammad Tausif S/O Muhammad Razaan	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020 NA
254	Shabeen Begum D/O Muhammad Amir	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020/21 along with fresh SR Required
255	Muhammad Iqbal S/O Ghulam Aman Midi	SR PHC Tech (MP) BS-14	DHO Seddwar	PER 2020 REQUIRED
256	Nayim Nadeem D/O Maha Nwan	SR PHC Tech (MP) BS-14	DHO Mardan	PER 2020 REQUIRED
257	Nadia Andaleeb D/O Ishaqullah	SR PHC Tech (MP) BS-14	DHO Charwadda	Period of PER 2020 not yet assigned
258	Tabreera Mahmood D/O Abdul Mateed	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020 REQUIRED
259	Hajira Noor D/O Ishaqullah	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020 REQUIRED
260	Shagufa Khalid D/O Khalidullah	SR PHC Tech (MP) BS-14	DHO Mardan	PER 2020 REQUIRED
261	Muhammad Saad S/O Muhammad Wali	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020 REQUIRED
262	Abbas Ali Shah S/O Mubarak Shah	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020 NA
263	Amir Abdullah S/O Muhammad Jehangir	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020 NA
264	Noorul Hakeem S/O M. Sher Nawaz	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2020 NA
265	Nasreen Akhtar D/O Nasrullah Khan	SR PHC Tech (MP) BS-14	DHO Tank	PER 2020 assigned
266	Sabz Ali Khan S/O Adam Khan	SR PHC Tech (MP) BS-14	DHO Lala Mardan	PER 2020 NA
267	Muhammad Mushtaq S/O Muhammad Marzooq	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020/21 along with fresh SR Required
268	Abdur Rahim S/O Himmat Ali	SR PHC Tech (MP) BS-14	DHO Mardan	PER 2020 NA
269	Shagufa Habib D/O Kamal Habib	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2020 NA
270	Qisraa Begum D/O M. Yousaf	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2020 NA
271	Saeeda Tabra D/O Muhammad Sharif	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020/21 along with fresh SR Required
272	Sadia Begum D/O Raza Gul Khan	SR PHC Tech (MP) BS-14	DHO Hanna	Period of PER 2020 not yet assigned
273	Mumtaz Gul S/O Zar Gul	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2020 NA
274	Shamim Akhtar D/O Qamar Din	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020 NA
275	Najma Sreen D/O Muhammad Sharif	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020 NA
276	Yasmin D/O Muhammad Razaan	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020/21 along with fresh SR Required
277	Faheen Akhtar D/O Lazal Kareem	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020/21 along with fresh SR Required
278	Gul Zarin S/O Pamela Muhammad	SR PHC Tech (MP) BS-14	DHO Charwadda	PER 2020 NA
279	Nusrat Jehan D/O Ghulam Rabbani	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020/21 along with fresh SR Required
280	Rozina Rahim D/O Rahim Rabbani	SR PHC Tech (MP) BS-14	DHO DI Khan	PER 2020/21 along with fresh SR Required
281	Sajida Abbas D/O Ghulam Abbas	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2021 and NEW NA
282	Peveen Hani D/O Inayat Masih	SR PHC Tech (MP) BS-14	DHO Hanna	PER 2021 NA

ATTESTED

ATTESTED

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ROZINA RAHIM
WCT.

Yours faithfully

Thanking you

It is, therefore, requested that I may please be reinstated in right of judgment dated 16.10.2019.

herewith for ready reference. Judgment dated 16.10.2019 is attached now been accepted, copy of the Order/ Appeal No. 1096/2017. The said Appeal has challenged before Service Tribunal in departmental Appeal was rejected, was Order dated 09.05.2017, whereby my with respect, it is stated that

Respected Sir,

Compliance of Judgment of Hon'ble dated 16.10.2019 of Service Tribunal, Peshawar

Sir-

The Director General Health Services, Govt. of KPK, Peshawar

39975/211
copy 1/2

No

Handwritten marks and stamps

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ATTESTED

[Signature]

16/6/22
Miss Regina Robinson
16/6/22

Adegan
P.M.T. B.H.U.



Thanking you for your participation

Date 16-6-2022 10 AM at Adegan B.H.U.
Order F.D.O Health Behaviour
Dated 06-6-22 according to OHS
Office No, Letter 9697-53/DHO
Submit my arrival Report to OHS
I have the honour to

OFFICER OF
DHO
Diary No. 3734
Date 22/06/22
R. Date

Subject
R/A

Arrival Report

D.H.O Behaviour

the medical
supervisor



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(59)

OFFICE OF THE DISTRICT HEALTH OFFICER DISTRICT PESHAWAR

(56)

OFFICER ORDER:

Sanction is hereby accorded to the Preparation of Duplicate Service Book in respect of Mst. Rozina Rahim PHC tech MP BPS-12 attached to BHU Adizai Peshawar under the control of the undersigned.

Sd/-----
DISTRICT HEALTH OFFICER
PESHAWAR

No. 1555-58 /DHO Peshawar

Dated Peshawar the, 06/01/2023

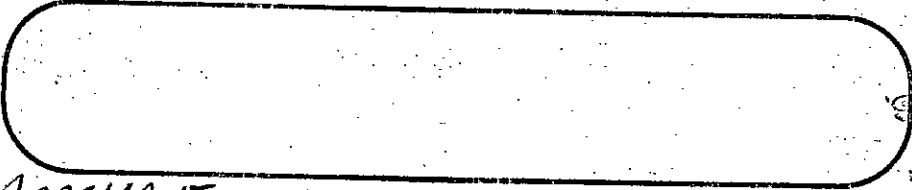
Copy forwarded for information to the:-

1. Accountant General Office Khyber Pakhtunkhwa Peshawar.
2. Account Section with the direction to prepare duplicate service book of the above mentioned official.
3. Official Concerned.
4. Office Record.

DISTRICT HEALTH OFFICER
PESHAWAR

A
ATTESTED

بعد ازاں جناب خیبر پختونخواہ سروس ٹریبیونل، پشاور



APPELLANT منجانب

مورخہ

Govt. of KPK etc. نام ROZINA RAHIM

مقدمہ

دعویٰ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیرونی وجوہ وہی وکل کاروائی متعلقہ آن مقام پشاور کے لئے
بیلال احمد گلے زئی ایڈووکیٹ سپریم کورٹ آف پاکستان مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل
 موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحالیف
 دینے، جواب وہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک، دروپہ اور عرضی دعویٰ اور
 درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم بیرونی یا ڈگری یکطرفہ یا اپیل کی
 برآمدگی اور منسوخی نیز راز کر کے اپیل نگرانی و نظر ثانی و بیرونی کرنے کا اختیار ہوگا۔ از ضرورت مقدمہ مذکور کے کل یا
 جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو
 بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے۔ اور اس کا ساختہ پرواختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو
 خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا یا کوئی تاریخ پیشی مقام دورہ پر ہوا یا حد سے باہر ہو تو وکیل صاحب پابند
 ہوں گے کہ بیرونی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم

بمقام

کے لیے منظور ہوا۔

Attested & Accepted

bilalahmad78@gmail.com

Bar Council No. bc-11-1062

Mobile No: 0300-9020098

CNIC: 17301-1353033-7

Rozina
 Attested & Accepted
 Umair Waheed Advocate
 Umair

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service appeal No. 1071/2023

SCANNED
KPST
Peshawar

Mst Rozina Rahim

-----Petitioner

Versus

Govt of Khyber Pakhtunkhwa & Others

-----Respondents

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01	Affidavit		01
02	Parawise Comments		02-04
03	Copy of Reliving of order dated.23-9-2010	A	05
04	Copy of appellat order dated.09-05-2017 & 23-2-2017	B1-B2	06-07
05	Copy of removal order 16-08-2017	C	08
06	Copy of judgment dated.16-08-2017	D	09-13
07	Copy of the de novo inquiry and order dated.19-1-2023	E&F	14-16
08	Copy of salary slip	G	17
09	Authority letter		18

Deponent

Next date hearing
15/9/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1071/2023.

Mst Rozina Rahim Vs Govt: of KP (Health) -----Petitioner

AFFIDAVIT

I Dr, Saad Subhan S/O Mr, Fazal E Subhan Medical Officer (BPS-17), Office of DHO Peshawar, do hereby solemnly affirm and declare on oath that content of the instant replay are true and correct to the best of my knowledge & belief and nothing has been concealed from this honorable Court.

It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off. *cost*

DEPONENT

[Signature]
 Dr, Saad Subhan
 Medical Officer
 Office of DHO Peshawar
 NIC No: 17103-5374103-9

13 SEP 2023



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1071/2023.

Diary No. 7528

Mst Rozina Raheem

-----Appellant Dated 14/09/23

Versus

- 1: Secretary Health, Govt of Khyber Pakhtunkhwa Peshawar.
- 2: Director General Health Services Peshawar near District courts Peshawar
- 3: District Health Officer .Peshawar.

-----Respondents

PARAWISE Comments ON BEHALF OF RESPONDENTS

Respectfully Sheweth . That the respondents submit as under:-

Preliminary Objections.

- i. That the appellant has got no cause of action or locus standi to file the instant appeal.
- ii. That the appellant has been estopped by her own conduct to file the instant appeal.
- iii. That the appellant has filed the instant appeal just to pressurize the respondents.
- iv. That the instant appeal is against the prevailing Law and Rules.
- v. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
- vi. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
- vii. That the appellant has not come to this honorable Tribunal with clean hands.
- viii. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- ix. That the instant appeal is barred by law and limitation.

Facts:-

- 1. Incorrect. The appellant was not performing her duties and was a habitually absentee. Due to her prolong absence from her duty she was relieved by the Medical Superintendent of Sufwat Ghayoor Children Hospital Peshawar vide order dated 23.09.2010 which is sufficient to prove her performance. It is worth to mention that due to her willful absence respondent No. 03 called explanation from the appellant vide letter dated 02.09.2010 (Copy of the relieving order dated 23.09.2010 is Annexure-A)
- 2. Correct to the extent of Service Appeal No. 1005/2013 which was disposed of vide judgment dated 18.02.2016 with the direction to the department for deciding departmental appeal of the appellant.

3. Correct to the extent of filing Execution Petition however, after getting the judgment of the honorable Tribunal, the replying respondents after providing opportunity of personal hearing the departmental appeal of the appellant was regretted by the respondent No. 02 and ordered disciplinary proceeding against the appellant vide order dated 09.05.2017. It is worth to mention that the appellant in order to justify her prolong willful absence produced a medical certificate however; on verification the same has been declared bogus by the MS DHQ Hospital DI Khan vide letter dated 23.02.2017 which shows the conduct of the appellant. (Copy of the Appellate order dated 09.05.2017 is Annexure-B).
4. Pertains to record. However after proceeding departmentally in accordance with the provision of Khyber Pakhtunkhwa (E&D) Rules 2011 the appellant was removed from service by the respondent No. 03 vide order dated 16.08.2017. (Copy of the removal order dated 16.08.2017 is Annexure-C).
5. Correct to the extent that the Service Appeal No.1096/2017 was filed by the appellant which was decided by the Honorable Service Tribunal vide judgment dated 16.10.2019 whereby though the appellant was directed to be re-instated however, the department was directed to conduct a de-novo inquiry however the back benefits was subjected to the outcome of the de-novo inquiry. **(Copy of the judgment dated 16.10.2019 is Annexure-D).**
6. Incorrect. After receiving the judgment of this honorable Tribunal the replying Respondents re-instated the appellant vide order dated 27.01.2022 for the purpose of de-novo inquiry. After conducting a de-novo inquiry as per judgment of the Honorable Service Tribunal and provision of opportunity of personal hearing and defense the allegations stand proved therefore on the recommendation of the inquiry committee another chance was given to the appellant and she was re-instated into service vide order dated 19.01.2023 however, the period w.e.f 01.10.2010 till re-instatement has been treated as leave without pay for the reason that due to her conduct she was removed from her services. (Copy of the de-novo inquiry and order dated 19.01.2023 are Annexure-E & F).
7. Already replied in para 06 above.
8. Correct to the extent that after conducting a de-novo inquiry the impugned order dated 13.01.2023 was issued on the recommendations of the inquiry committee. The removal of the appellant was due to her own conduct for remaining absent for a long period without any prior permission or leave from the competent authority which is established during the de-nova inquiry. It is a settled principle that pay is permissible to only those who performed duties i.e no work no pay as laid down by the Apex Court in 2003 SCMR 228.

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9. Pertains to record.

10. Pertains to record.

11. Pertains to record.

12. Needs no reply.

Grounds:-

A. Incorrect. As the allegations against the appellant was proved in the de-novo inquiry however, due to her long service last chance was given to her and was re-instated however, she is not entitle for any benefit of the intervening period therefore, in order to regularize the intervening period it was treated as leave without pay hence the respondents have treated the appellant in accordance with law and rules.

B. As per para A above.

C. Incorrect, the salaries have been already received by the appellant. (Annexure-G).

D. Incorrect. Already replied in para 08 of the facts.

E. Incorrect. Already replied in para 08 of the facts.

F. Incorrect. Already replied in para 08 of the facts.

G. Incorrect. Already replied in para 08 of the facts.

H. Already replied in para A above.

I. Incorrect. Already replied in para 08 of the facts.

J. Already replied in para A above.

Prayer

It is therefore, humbly prayed that the instant appeal being devoid of merit may graciously be dismissed with cost.



Respondent No.1
Secretary Health
Khyber Pakhtunkhwa Peshawar



Respondent.No.2
Director General Health Services
Khyber Pakhtunkhwa Peshawar

Respondent No.3
District Health Officer.

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~~Annexure~~ A

OFFICE OF THE MEDICAL SUPERINTENDENT
GOVT:ID.CHILDREN HOSPITAL, PESHAWAR

NO 1776 /PF Dated 23 / 9 / 2010

Annexure

The Executive District Officer
Health District Peshawar

Subject:
Respected Sir,

RELIVING OF MRS.ROZINA RAHIM FMT.

Please refer to this office letter No.1482/PF dated 2/09/2010, wherein she was advised to join her duty specifies period, but she failed to join her duty till now.

It is further added that she is on leave w.e.f.06/04/2010 for two months and resume duty on 07/06/2010 but she not resumed her duty due to which the hospital work is suffer badly. She may please be transferred on from this hospital.

Therefore her service is placed at your disposal because her services are no more required in this hospital.

Medical Superintendent
Govt: ID.Children Hospital
Peshawar

NO 1777-78 /PF

01/09/10

Copy to the :-

1. Mrs. Rozina Rahim D/O Mr. Rahim Bakash R/O Mohallah Gariban Duban City
2. Account Section of this hospital

For information and further necessary action .

District Health
Officer Peshawar

Medical Superintendent
Govt: ID.Children Hospital
Peshawar.

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**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR.**

Office Ph# 091 - 9210269 Exchange# 091 - 9210187, 091 - 9210196,
All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

Fax #091 - 9210230

No. 6722-21 / AE-VI,

Dated 9/15/2017

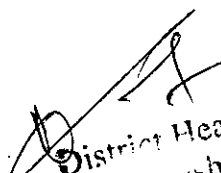
Immediate
Out today.
Court Matter.


The District Health Officer,
Peshawar.

Subject: - AN EXECUTIVE PETITION NO.124/2016 IN SERVICE APPEAL NO.1005/2003 ROZINA RAHIM VERSUS GOVT. OF KHYBER PAKHTUNKHWA, HEALTH DEPARTMENT AND OTHERS

I am directed to refer to your letter No.5368/DHO, dated 17/4/2017, on the subject noted above and to inform that Mst. Rozina Rahim, PHC Technician (MP) has attended office of the DGHS KPK for personal hearing on 4.5.2016 and her appeal has been regretted by the competent authority viz DGHS KPK as arguments and evidence were unconvincing.

The competent authority further directed that you may decide /proceed further the case as per rules as per your office order No.3282-87/DHO dated 24/02/2017 under intimation to this Directorate.


**District Health
Officer Peshawar**


**Director (H.R.M.)
Directorate General Health Services,
Khyber Pakhtunkhwa, Peshawar.**

C.C.

1. Assistant Director (Lit) DGHS KPK w/r to his Endst: No.2414/AD (Lit) dated 28/3/2017.
2. Mst. Rozina Rahim PHC Technician (MP) C/O DHO, Peshawar.

Attention: Dr. Muhammad Asif

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DHO Peshawar.

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Ph# 0966-9280201 / Fax # 0966-9280446 / DIK

Office of the Hospital Director

MTI DHQ Teaching Hospital DIKhan

No. 1719 / M-13

Dated 23 / 2 / 2017

To

The Dr. Muhammad Irshad,
(Enquiry Officer)
PMO, (BPS-19)
DHO, Office Peshawar.


Subject: VERIFICATION OF MEDICAL LEAVE CERTIFICATE

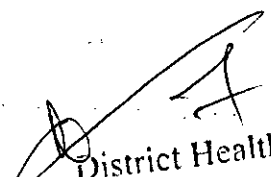
Memo:

It is with reference to your office letter No-2298-2302/DHO/C-10 dated 30.03.2016 regarding subject cited above and to return the photocopies of medical leave certificates in respect of Mst. Rozina Raheem Female Medical Technician (FMT).

All photocopies of OPD chits are hereby returned with the remarks that the all OPD chits except emergency No-43721 dated 07/07/2010 has bogus number and not on the record of this hospital and signature of doctor are not clear and visible.

Kindly send original OPD Chits to this hospital for further proceeding in the matter.


Hospital Director
MTI, DHQ Teaching Hospital
DIKhan


District Health
Officer Peshawar



88
Annexure-88
**OFFICE OF THE DISTRICT HEALTH OFFICER,
PESHAWAR.**

Phone No.091 9225387
Fax No. 091 9225388

OFFICE ORDER.

You Mrs. Rozina Raheem W/O Ihsan Uddin, Jr: PHC Technician, BPS12 attached to Sifwat Ghayur Memorial Hospital Peshawar has remained absent from duty willfully w.e.f. 07/6/2010. You were called to explain your position vide letter No.1482/DHO dated 02/9/2010. You produced medical certificates which was found bogus vide Medical Superintendent, DHQ Hospital, D.I Khan Office letter No. 1719/MS dated 23/2/2017. You were also appeared before the Director General Health Services, Khyber Pakhtunkhwa, Peshawar for personal hearing in light of departmental inquiry under the directions of Services Tribunal KPK, where you failed to prove the charges leveled against you. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar regretted your appeal and recommended disciplinary proceedings against you, vide letter No.6722-24/AE-VI dated 09/5/2017.

This office finally issued a show cause notice on your home address vide letter No.7414-19/DHO dated 30/5/2017 with the direction to show cause the reason of your willful absentee within 15 days, otherwise disciplinary action will be taken against you, but you failed to do so, and continuously absent yourself from duty till date.

According to E&D Rules 2011 Section No.9 a notice was published in the leading newspapers, upon which you didn't response so far, so the competent authority is pleased to impose upon you the major penalty in light of E & D Rules 2011, Section 4 (b) (iii) i.e. **REMOVAL FROM SERVICE** with immediate effect.

Sd/xxxxx
District Health Officer,
Peshawar.

No. 11981-87 /DHO/P.F

Dated Peshawar the 16-8 /2017

Copy forwarded to the: -

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
3. Honorable Court of Services Tribunal Peshawar.
4. Medical Superintendent, Sifwat Ghayur Shaheed Memorial Hospital Peshawar.
5. Litigation Officer, DHO Office Peshawar.
6. Account Section of this office.
7. Mrs. Rozina Raheem W/O Ihsan-ud-Din Gulbahar No.1 Asad Anwar Colony, Street#A-9, House# 49 Peshawar City. (To be sent on registered Dak).

For information and necessary action.

District Health Officer,
Peshawar.

District Health
Officer Peshawar

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Annexure

9



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 1096/2017

Date of institution ... 26.09.2017
Date of judgment ... 16.10.2019

Rozina Raheem,
W/o Ihsanuddin,
Ex. JCT, Government ID Children Hospital, Peshawar.
R/o Gulbahar No. 1, Peshawar City.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent, Government ID, Children Hospital, Peshawar.
4. Executive District Officer, Health, District Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST APPELLATE ORDER NO. 6722-24/AE-VI DATED 09.05.2017 (MENTIONED IN ORDER DATED 16.08.2017), WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTED, COMMUNICATED/HANDED-OVER TO THE APPELLANT COUNSEL DURING EXECUTION PROCEEDINGS VIDE OFFICE ORDER 11981-87/DHO/P.F DATED 16.08.2017.

Mr. Bilal Ahmad Kakaizai, Advocate
Mr. Ziaullah, Deputy District Attorney

.. For appellant.
.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. AHMAD HASSAN


.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI MEMBER: - Counsel for the


appellant and Mr. Ziaullah, Deputy District Attorney for the respondents

present. Arguments heard and record perused



District Health
Officer Peshawar

2. Brief facts of the case as per present service appeal are that the appellant was serving in Health Department as Junior Clinical Technician. She applied for 60 days leave which was granted to her vide order dated 31.03.2010. The appellant applied for extension of leave which was duly communicated to the competent authority. That after recovery from the illness, the appellant reported for her arrival where she came to know about the reliving order issued by respondent No. 3 wherein the respondent No. 3 placed her services at the disposal of respondent No. 4 vide order dated 23.09.2010. That the respondent-department did not take her arrival report and the same was returned back to the appellant. That since the date of arrival i.e 15.06.2011 the appellant made a rolling stone between the respondent No. 3 and respondent No. 4. That at least February 2013 the appellant was informed that her services have been dispensed with however, no such order was given to her against which she submitted departmental appeal but the same was not responded followed by service appeal which was disposed off on 18.02.2016 with the direction to the respondent-department to decide the departmental appeal of the appellant within one month after receipt of copy of order. That the department failed to dispose of the departmental appeal therefore, the appellant filed the Execution Petition for implementation of the order of Service Tribunal. That vide order sheet dated 28.08.2017, the representative of the department furnished the order dated 16.08.2017 whereby the departmental appeal was rejected. That on receipt of the same on the same day i.e 28.08.2017, the appellant filed present service appeal on 26.09.2017.

3. Respondents were summoned who contested the appeal by filing written reply/comments.


District Health
Officer Peshawar

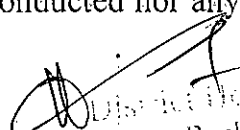
4. Learned counsel for the appellant contended that the appellant was ill and she was granted 60 days leave. It was further contended that the appellant applied for extension of leave which was duly communicated to the competent authority. It was further contended that after recovery from illness, the appellant reported her arrival but she came to know about her relieving order was issued by respondent No. 3 wherein respondent No. 3 placed her services at the disposal of respondent No. 4. It was further contended that the appellant was made rolling stone and though the respondent No. 3 directed the appellant to report to respondent No. 4 but none of them giving any order in respect of place of posting of the appellant. It was further contended that the appellant was verbally asked in February 2013 that her services have been dispensed with however, no such order was given to her. It was further contended that the appellant filed departmental appeal against the verbal order but the same was not responded therefore, the appellant filed Service Appeal No. 1005/2013 before this Tribunal which was disposed off on 18.02.2016 with the direction to departmental/appellate authority to decide the departmental appeal of the appellant within a period of one month. It was further contended that despite the direction of the Service Tribunal, the departmental authority has not decided the departmental appeal within time therefore, the appellant filed Execution Petition for implementation of the same and ultimately during implementation petition/execution petition, the representative of the department furnished the order dated 16.08.2017 whereby the departmental appeal of the appellant was regretted hence, the present service appeal. It was further contended that neither any charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor any show-cause notice regarding her absence was issued to the appellant nor any absence notice was issued to the appellant at


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her home address nor any absence notice was advertised in the two newspapers as required under rule-9 of Government Servants (Efficiency & Discipline) Rules, 2011 therefore, the impugned order verbally passed by the competent authority as well as the order of departmental authority dated 16.08.2017 are illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving as Junior Clinical Technician in Health Department. It was further contended that the appellant remained absent from duty for a long period without permission of the lawful authority. It was further contended that after fulfilling all the codal formalities, the appellant was rightly removed from service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Health Department as Junior Clinical Technician. She was granted leave for a period of 60 days due to her illness she applied for extension of leave but the same was not extended. After recovery of illness when she reported for her arrival she was not allowed rather in the February 2013, the appellant was allegedly verbally asked by the respondent that her services have been dispensed with. The record further reveals that the appellant filed departmental appeal but the same was not decided therefore, she filed service appeal before this Tribunal which was partially accepted and the departmental authority was directed to decide the departmental appeal of appellant within one month. The record further reveals that the departmental appeal of the appellant was also regretted vide order dated 16.08.2017 hence, the present service appeal. The record further reveals that neither any charge sheet, statement of allegation was framed or served upon the appellant nor any proper inquiry was conducted nor any show-cause notice was


Officer Peshawar

issued to the appellant. The record further reveals that neither any absence notice was issued to the appellant at her home address nor any show-cause notice was advertised in two newspapers as required under rule-9 of Government Servants (Efficiency & Discipline) Rules, 2011 therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry in the mode and manner prescribed under Government Servants (Efficiency & Discipline) Rules, 2011 within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.10.2019

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Ahmad Hassan
(AHMAD HASSAN)
MEMBER

to be true copy
District Health Officer Peshawar
District Health Officer Peshawar

[Signature]
District Health
Officer Peshawar



94 (14) Annexure - E
**OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR**

Phone No. 091-9225387

No. 14533/DHO dated Pesh: 11/10/2020

Enquiry.

Mst. Rozeena Raheem Vs Govt of Khyber Pakhtunkhwa

INTRODUCTION: Vide order no. 14323-26, dated: 16-12-2019. Of DHO. Peshawar, whereby Enquiry be conducted to probe into absentee report /Case Matter of Mst. Rozeena Raheem EX-JST IDH Peshawar.

DESCRIPTION: Mst. Rozeena Raheem was serving in Health Department as junior technician in Children Hospital Peshawar. She applied for sixty days leave which was granted to her vide order Dated 31-03-2010, then she applied for extension of leave which was duly communicated to the competent authority. After recovery from the illness she reported for her arrival where she came to know about the relieving order issued by Medical Superintendent IDH, Peshawar and placed her services at the disposal of Executive District Health Officer Peshawar vide order NO—dated .23-09-2010, that MS Office did not take her arrival report and the same was returned back to her. That since the date of arrival 15-06-2011, she become rolling stone between the Medical Superintendent IDH and District Health Office and at last in February 2013 when she was informed that her service had been dismissed, however no such order was given to her against which she submitted a departmental appeal but the same was not responded, followed by Service Appeal which was disposed off on 18-02-2016 with the direction to the respondent department to decide the departmental appeal of the appellant within one month after receipt of copy of order. The department failed to dispose of the departmental appeal therefore; the appellant filed the execution petition for implementation of the order of service tribunal, Vide order sheet dated 28-07-2017 the representative of the department furnished the order dated. 16-08-2017 where by the departmental appeal was rejected. Then on receipt of the same on the same day i.e. 28-07-2017 the appellant filed an appeal on 26-09-2017 in Service Tribunal. The appeal was reconsidered and through departmental appeal within one month. The service of the appellant was reinstated the department was directed to conduct de- novo the enquiry in mode and manner presided under government rule 2011 within ninety days.

FINDING AND RECOMMENDATION: On perusal of the record the department has taken several steps regarding the absentees of Mst. Rozeena Raheem several explanations were called upon her but no satisfactory reply was submitted by her. She was finally informed through reading newspaper that you are no more interested in your services and ex-parte action will be taken against you and major penalty will be imposed upon you. And there after she was removed from services vide letter no 11981-87/DHO, dated 16-08-2017. An enquiry was conducted against her vide order no 2298-302/DHO/C-10, dated 30-03-2016 wherein she was proved guilty and recommended three

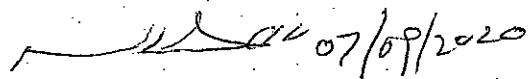
The medical certificate produced by her were fake and committee suggested that (1). disciplinary action to be initiated against her.

(2). she has serviced health Department regularly since April 1995 till 30-09-2010, keeping in view her previous length of services she may be retired compulsory from the service.

(3). Her willful absence period may be considered as leave without pay or may be reinstated /adjusted against vacant post as she will not be eligible for any benefits to absence period.

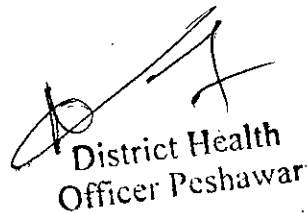
The Department should have to give her a chance for reinstatement and to kept her under strict observation and if she repeated the same story and was not loyal to her duty then a major penalty like dismissal /removal may be imposed upon her .That is why she proceed for appeal to the Honourble Court and the court reinstated her and ordered for de- nove inquiry .As the court reinstated her therefore it s recommended that her service be regularized from the date of appointment for the pension purposes and her absent period may be consider one by forth (1/4) of full pay.

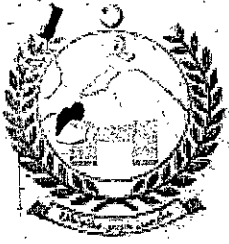
Submitted please.

 07/09/2020

1. **Muhammad Nasir**
Co-ordinator (DHIS).
District Health Office. Peshawar.
Peshawar.

2. **Dr. Mubarak Zeb**
Litigation Officer
District Health Office.


District Health
Officer Peshawar



98 16
Annexure

**OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR**

Phone No. 091-9225387

OFFICE ORDER

In partial modification vide this office order bearing endorsement No. 1916-21/DHO, dated 13.01.2023, as recommended by the inquiry committee the absence period in respect of Mst. Rozina Rahim FMT BPS-12 w.e.f 1.10.2010 till re-instatement is hereby treated as leave without pay.

Furthermore, she is hereby warned that no excuse will be accepted in case if repeating such kind of act.

Sd/xxxxxxx
District Health Officer
Peshawar.

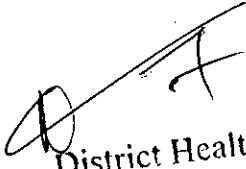
No. 2465-70 /DHO
Copy is forwarded to the:

dated Pesh: 19/01/2023

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Health Services Khyber Pakhtunkhwa
3. Registrar Service Tribunal, Peshawar.
4. Medical Officer/In-Charge BHU Adezai Peshawar.
5. Accounts Section DHO Office Peshawar.
6. Official Concerned.

For information and necessary action.

District Health Officer
Peshawar.


District Health
Officer Peshawar

Annexure - 9 (19)

00367291 ROZINA RAHIM		CNIC: 1410110394224	Desig: SENIOR PHC TECHNICIAN (20278911)	Grade: 12 HTN:	Buckle No.:	Gazetted/Non-Gazetted: N		
PAYMENTS		AMOUNT	DEDUCTIONS	AMOUNT	LOAN/FUND	PRINCIPAL	REPAID	BALANCE
6061 Basic Pay	35,500.00	5012 GPF Subscription	3,300.00-					46,520.00
1094 House Rent Allow 45%	6,990.00	3501 Benevolent Fund	1,200.00-					3,193.50
1210 Convey Allowance 20	2,856.00	4004 R. Benefits & Death	600.00-					
1300 Medical Allowance	1,500.00	3609 Income Tax	811.00-					
1935 Health Professional	15,000.00							
2148 15% Adhoc Relief All	595.00							
2199 Adhoc Relief Allow 8	386.00							
2341 Dispr. Red All 15% 2	3,582.00							
2347 Adhoc Rel Al 15% 22	3,582.00							
2378 Adhoc Relief All 202	12,425.00							
PAYMENTS	82,416.00	DEDUCTIONS	5,911.00-	NET PAY	76,505.00	01.08.2023	31.08.2023	
Branch Code:080016	KHYBER BAZAR BR. PESHAWAR	KHYBER BANK LIMITED	KHYBER BAZAR BR. PESHAWAR	Peshawar		Accnt.No: 2008999538		

Gazetted: N
NCE

00 8.103.50

[Signature]
District Health Officer
Peshawar

08-2023
99538

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**OFFICE OF THE DISTRICT HEALTH OFFICER
PESHAWAR**

Phone No. 091-9225387

AUTHORITY LETTER

Dr, Mubarak Zeb khan S/O Mr, Alam Zeb Khan DDHO Litigation (BPS-19) ,Office of DHO Peshawar, NIC No: 17101-6493994-5 is authorized to submit parawise comments reply in the case Service Appeal NO.1071/2023 titled Mst Rozina Rahim Vs Govt of KP in Service Appeal Khyber Pakhtunkhwa Peshawar .

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**District Health Officer,
Peshawar**
District Health
Officer Peshawar