

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

Appeal No. 192/2024

Fazal Moula

Versus

Govt of KP through Secretary Health & Others

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Dated: 02 - 04 - 2024

~~No~~
Respondent No. 04
Brig (R) Dr. Muhammad Abrar Khan
Through


Barrister Ibrahim Khan Afridi
Advocate, High Court

03-04-24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 192/2024

Fazal Moula

Versus

Govt of KP through Secretary Health & Others

Khyber Pakhtunkhwa Service Tribunal

Diary No. 12082

Dated 23-04-2024

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 04

Respectfully Sheweth:

The respondents submit the following factual & legal reply which are as under: -

Preliminary Objections:

- a. That the Appellant is a civil servant and has been repatriated to his parent department i-e Respondent No. 2 & 3 and has got no cause of action against the answering respondent at this stage.
- b. That the present Appeal is not maintainable as the Appellant has got no locus standi against the answering Respondent. This also bar the jurisdiction of this Honorable Tribunal to entertain the present petition at this stage as per law.
- c. That the instant Appeal is not maintainable as the Appellant has come to this Hon'able Court with sullied hand by concealing the material facts from this honorable Tribunal.
- d. That the Appellant is not an aggrieved person and has filed the present Appeal with malafide intention, false, misleading statements in order to move this Honorable Tribunal against the administrative powers and authority of answering respondent which has been provided and protected by law.

ON FACTS:

1. That Para No.01 is subject to proof and pertains to record.
2. That Para No. 02 is subject to proof and not relevant to the answering Respondent.
It must be clarified that under the Regulations and policies of the Lady Reading Hospital MTI Peshawar, the formation of unions/associations is highly discouraged to ensure efficiency and timely treatment to patients.
3. That Para No. 03 is correct to extent of issuance of relieving orders of the Appellant, who was engaged in chanting slogans, bad names for administration, whistling via loud speaker, stopped working which caused hurdles in the treatment of admitted patients and seriously affected the Emergency and ICU services. The rest of the Para is denied being not relevant.
4. That Para No. 04 is not related to the answering Respondent, hence no reply.
5. That Para No. 05 is not related to the answering Respondent, hence no reply.
6. That Para No. 06 is denied, being incorrect. The answering Respondent has issued relieving Order as per law since the Appellant is a Civil servant being an employee of Respondent No. 02 and 03.
7. That Para No. 07 is denied, being incorrect. The document referred by the Appellant is issued by the Respondent No. 02 and not related to the answering Respondent.
8. That Para No. 08 is denied. The Appellant was involved in illegal protest, hindering the treatment of patients and creating serious blockage in managing the Emergency and ICU services. Moreover, the Appellant along with other class 4

employees (civil servants) have stopped working their responsibilities and were engaged in chanting slogans, bad names for administration, whistling via loud speaker etc. which badly affected the patient care.

(Brief of Disciplinary Infractions is Annexure-A)

9. That Para No. 09 is not relevant to the Answering respondent hence needs no comments.

ON GROUNDS:

A. Ground "A" is incorrect, hence denied. The answering Respondent has acted as per law. Detailed reply is already given in the Para 03 & 08 above.

B. Ground "B" is incorrect, hence denied. The answering Respondent has never violated any fundamental right of the Appellant and has acted to ensure medical care facilities to the general public which is also the fundamental right of every citizen as per the Article of 09 of the constitution of Pakistan.

C. Ground "C" is not related to the answering Respondent, hence needs no comments.

D. Grounds "D" to "G" are not related to the answering Respondent, therefore, needs no comments.

E. Ground "H" is denied in its entirety being incorrect as against the answering Respondent. The Appellant was time and again served with explanations for his unsatisfactory services and warnings as well as provoking other employees for illegal protests. The employment history of the appellant is annexed in the Para No. 08 above.

- F. Ground "I" is denied in its entirety being incorrect. Detailed reply is provided in above Paras.

- G. Ground "J" pertains to record to the extent of attendance and is subject to proof, the remaining is vehemently denied.

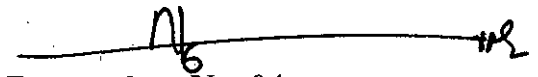
- H. Ground "K" is denied in its entirety. Detailed reply is provided in above Paras.

- I. Ground "L" is denied. Detailed reply is provided in above Paras.

- J. Ground "M" is denied in its entirety. The answering Respondent has exercised powers within its jurisdiction. The answering respondent is a prestigious Health institution providing best and efficient health services throughout the Province of Khyber Pakhtunkhwa.

It is, therefore, most humbly prayed that in the light of the Para-wise reply/Comments, the appeal being devoid of merits may kindly be dismissed with cost.

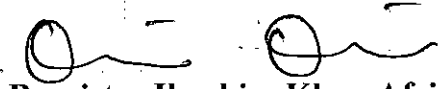
Dated: 02 - 04 - 2024



Respondent No. 04

Brig (R) Dr. Muhammad Abrar Khan

Through



Barrister Ibrahim Khan Afridi
Advocate, High Court

05

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AFFIDAVIT

I, Brig (R) Dr. Muhammad Abrar Khan, Hospital Director LRH-MTI Peshawar, do hereby solemnly affirm and declare, that the contents of the Para-wise Comments/Reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court. Moreover, it is also declared on Oath that the instant Appeal is not exparte against the answering Respondent or fine imposed upon the answering Respondent.



AB

rk

DEPONENT

Brig (R) Dr. Muhammad Abrar Khan
CNIC: 37405-6033179-5

Identified by:

[Signature]
Counsel



OFFICE OF THE HOSPITAL DIRECTOR

LADY READING HOSPITAL MEDICAL TEACHING INSTITUTION, PESHAWAR



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0092-91-9211401



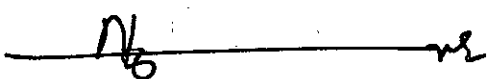
www.lrh.edu.pk

No. 146 /HD/LRH-MTI

Date: 26 /03/2024

AUTHORITY LETTER

Mr. Majid Masoom Khattak, AD Legal LRH-MTI, is hereby authorized to attend/defend the Appeal No. 192/2024 titled as "Fazal Moula versus Govt of KP through Secretary Health & Others" and to file comments/reply to the above referred Appeal and other Applications on behalf of the undersigned before the KP Services Tribunal.


HOSPITAL DIRECTOR
Lady Reading Hospital – MTI,
Peshawar.


Brig (R) Dr. Muhammad Abrar Khan