

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

Appeal No. 195/2024

Hayat Khan

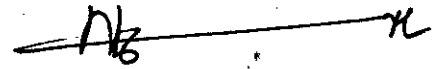
Versus

Govt of KP through Secretary Health & Others

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Dated: 02-04-2024



Respondent No: 04

Brig (R) Dr. Muhammad Abrar Khan
Through



Barrister Ibrahim Khan Afridi
Advocate, High Court

63-04-24

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

Appeal No. 195/2024

Hayat Khan

Versus

Govt of KP through Secretary Health & Others

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12080

Dated 03-04-2024

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.

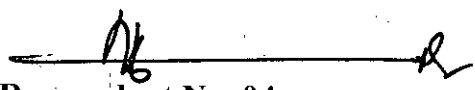
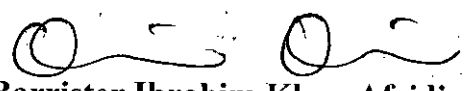
D. Grounds "D" to "G" are not related to the answering Respondent, therefore, needs no comments.

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
Brij (R) Dr. Mohammad Abrar Khan
Through

Barrister Ibrahim Khan Afridi
Advocate, High Court

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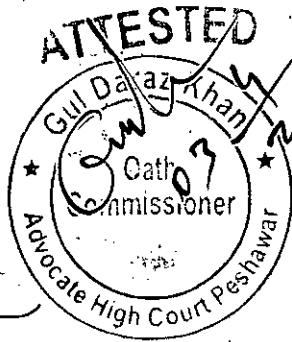
Govt of KP through Secretary Health & Others

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.

Identified by:


Counsel




DEPONENT

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

MR. HAYAT KHAN S/O TAZA KHAN, BEHISHTI (HRID: 7-0272)

1. Appointment: Mr. Hayat Khan S/o Taza Khan, Eehishti (HRID: 7-0272) vide Office Order No. 13146-49/LRH dated Peshawar 05.08.1993.
Address: Village & P.O. Maryam Zai Mohallah Cha-Ghar, Teh. & Distt. Peshawar
Appointed on Sons Quota
2. Arrival Report: Office Order No. 13428-30/LRH dated 10.08.1993
3. Earned Leaves 20 days for Marriage: Letter No. 18107/LRH Datd 12.10.1996
4. Explanation: Letter No. 12474-75/LRH dated 23.07.1997 of being disappeared from duty by Dr. Muhammad Hussain of MSC.
5. Earned Leaves 30 days: Officer Order No. 554-531/LRH dated 09.09.1998
6. Explanation: Letter No. 2771-73/LRH dated 25.08.1998 being absent.
7. Warning: Letter No. 3527-30/LRH dated 10.03.1998
8. Complaint: DMS Zone-III letter No. 73 dated 05.04.2007 Diary No. 3798
9. Relieved to DGHS: letter No. 1313-21 dated 14.04.2016 & DGHS Letter No. 2936-43/Personnel dated 25.04.2016
10. Complaint to DGHS vide Letter No. 1307/HD/LRH dated 09.05.2016
11. Complaint to DGHS vide Letter No. 1315/HD/LRH dated 11.05.2016
12. Complaint to DGHS vide Letter No. 1667/HD/LRH dated 21.05.2016
13. Explanation by DGHS vide Letter No. 3959-61/Personnel/WO/272 dated 23.05.2016
14. Earned leaves 10 days vide letter No. 34191-95/LRH/E-IV) dated 29.11.2017
15. Stoppage of Salary being relived: Vide office order No. 1628-35/HF+D/LRH dayed 21.12.2017
16. Release of salary Vide Office Order No. 4405-20/HD/LRH dated 13.02.2018
17. Relieving order Cancellation of DGHS vide letter No. 686-709/Personnel dated 05.01.2018
18. Explanation vide letter No. 1382/AHD/PA/LRH dated 12.04.2018 regarding illegal gathering.
19. Salary Release Vide Letter No. 1655/AHD/PA/LRh dayed 09.05.2018
20. Earned leaves 03 days: Office Order No.927-29/LMC-HR/LRH dated 14.01.2021
21. Warning: Letter No. 4781-99/HR-IV dated 02.03.2021
22. Earned leaves 04 days: Office Order No.11432-34/LMC-HR/LRH dated 10.05.2021
23. Earned leaves 07 days: Office Order No.15937-39/LMC-HR/LRH dated 29.06.2021
24. Absent report/Warning & Deduction of salary:Office order no.17157-60/HR-IV dated 12.07.2021
25. Earned leaves 16 days: Office Order No.34092-94/LMC-HR/LRH dated 22.11.2021
26. Absent reportDeduction of salary: Office order no.2900-02/HR-IV dated 04.02.2022
27. Compliant by Ashafq Ahmad Ward Clerk: dated 21.02.2022
28. Explanation vide Letter No. 7400/HR-IV/LRH dated 21.03.2022
29. Warning vide letter No. 8320-21/HR-IV/LRH dated 07.04.2022
30. Warning vide letter No. 19937-38/HR-IV/LRH dated 15.08.2022
31. Earned leaves 01 days: Office Order No.29360-62/LMC-HR/LRH dated 25.10.2022
32. Relieved from LRH vide office order No. 7016-23/HR-V/LRH dated 07.03.2023
33. Relieving orders: Letter No. 685/HD/LRH-MT. dated 07.03.2023

*Attested
[Signature]*



OFFICE OF THE HOSPITAL DIRECTOR

LADY READING HOSPITAL MEDICAL TEACHING INSTITUTION, PESHAWAR

0092-91-9211402

0092-91-9211401

www.lrh.edu.pk

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No. 147 /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. 195/2024 titled as "Hayat Khan 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.

Al
Brig (R) Dr. Muhammad Abrar Khan
HOSPITAL DIRECTOR
Lady Reading Hospital – MTI,
Peshawar.
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