

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN... MEMBER (E)

Service Appeal No. 1369/2023

Date of presentation of Appeal.....16.06.2023

Date of Hearing.....16.04.2024

Date of Decision.....16.04.2024

**Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhallah
 Usman Khail, District Charsadda. Senior Drug Inspector BPS-18**
(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa, through Principal Secretary, CM Secretariat, Peshawar.
3. Secretary Health Services, Government of Khyber Pakhtunkhwa, Peshawar.
4. Director General, Durg Control & Pharmacy Services, Khyber Pakhtunkhwa Peshawar.
5. Director General Health Services, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Naveed Akhtar,
 Advocate

... For appellant

Mr. Umair Azam,
 Additional Advocate General

... For respondents

JUDGMENT

MUHAMMAD AKBAR KHAN MEMBER (E): The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act, 1974 with the payer copied as under;

*"That on acceptance of this service appeal the impugned
 order dated 02.02.2023 of the respondent No. 2 may*

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kindly be set aside and the appellant may kindly be reinstated into service with all back benefits. Any other remedy this august Tribunal deems fit may kindly be awarded in favour of the appellant as well."

02. Brief facts of the case are that the appellant while serving as Senior Drug Inspector (BS-18) in the respondent department was suspended for initiation of disciplinary action on the basis of audit report by a committee constituted by respondent No. 3; that on receipt of suspension order the appellant approached respondent No. 5 to inquire about further proceedings in the case and through an application dated 24.05.2021 requested respondent No. 1 not to include Pharmacist in the Inquiry Committee as he was in litigation with the Pharmacist cadre but instead of that the prejudice prevailed and a pharmacist was ultimately included in the inquiry against the appellant; that the appellant was directed by Mr. Asghar Khan, Additional Secretary Relief Rehabilitation and Settlement Department who was Chairman of Inquiry Committee to appear on 26.07.2021 before the Inquiry Committee; that on the said date the appellant was delivered a copy of statement of allegations which was replied by the appellant on 03.08.2021 but astonishingly on the same date another letter dated 02.02.2021 addressed to the Director General Drug Control and Pharmacy Services by Mr. Abdur Rauf (BPS-17) Provincial Drug Inspector District Mardan was handed over to the appellant which was duly replied by the appellant on 11.08.2021; that since 11.08.2021 the appellant was never called for any proceedings or

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personal hearing by the inquiry committee and was issued a Show Cause Notice which was received to the appellant on 20.04.2022 which was also replied by the appellant; that vide letter dated 03.08.2022 received to the appellant on 10.08.2022, the appellant was provided a copy of an undated inquiry report and a further reply was submitted; that the appellant was called for personal hearing on 25.11.2022 before the Secretary LG, E&RD Department but the appellant was removed from service vide impugned notification dated 02.02.2023. Feeling aggrieved from the impugned notification dated 02.02.2023 the appellant filed departmental appeal on 21.02.2023 which was not responded within the statutory period of 90 days, hence preferred the instant service appeal on 16.06.2023.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned notification dated 02.02.2023 and the inaction of the respondents by not deciding the departmental appeal are against the law; that the inquiry has been conducted in violation of the law and rules; that the inquiry proceedings were conducted in a very illegal manner wherein the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer namely Abdur Rauf who was appointed

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as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble Peshawar High Court, Peshawar in a case where the petitioner was one of the petitioner and Mr. Abdur Rauf was a respondent. Mr. Abdur Rauf was never called for cross examination by the appellant and the whole proceedings are vitiated and marred by prejudice against the appellant; that the appellant raised objection to the inclusion of Mr. Zahid Khan in the Inquiry Committee for the reasons that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on the issue of change of cadre but no heed was paid to the appellant; that the audit report on which the inquiry committee had relied cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the public exchequer; that the so called audit report was compiled on 15.07.2020, when the appellant had spent 08 months as an incumbent and all the files collected were not pertaining to the period of his incumbency and ironically the audit report does not mention the date on which this report was compiled which is makes it serious suspicious; that the appellant has been treated in utter derogation of law. He has been put under suspension beyond the statutory period and his salaries were stopped for more than two years since December 2020 and has been consistently condemned unheard which is against the norms of law and principle of natural justice. He further argued that the charge sheet and statement of allegations were issued by the Chief Secretary who was not competent to issue the same; that neither chance of personal hearing nor

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opportunity of cross examination has been provided to the appellant prior to the issuance of impugned notification, therefore, the respondents violated Article 10-A of the constitution of Islamic Republic of Pakistan 1973. That the appellant has rendered more than 13 years meritorious service to the entire satisfaction of department and the allegations leveled against him are only the outcome of malafidies for agitating his lawful rights.

05. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that inquiry committee conducted the inquiry in accordance with law, rules and principles of natural justice; that the appellant has admitted the opportunity of personal hearing and service of charge sheet alongwith statement of allegations and Show Cause Notice; that the letter dated 02.02.2021 was issued in compliance of the direction of the audit committee and the finding of the inquiry committee were based on the facts that came out to the surface after conducting of regular inquiry in accordance with the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011; that all the allegations leveled against the appellant have been proved during the inquiry proceedings beyond any shadow of doubt, therefore, after fulfilling of all the codal formalities removal notification dated 02.02.2023 was issued by the competent authority.

06. Scrutiny of record available on the case file and arguments advanced by the learned counsel for the appellant and learned AAG


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reveal that on basis of inquiry conducted by the Provincial Inspection Team (PIT) relating to allegations of corruption and issuance of fake drug license respondent No. 3 (Secretary Health) constituted a four member committee to conduct audit of four districts including district Mardan where the appellant posted as Drug Inspector (BS-17). The committee pointed out irregularities and recommended disciplinary actions against Mr. Muhammad Shoaib Khan, Drug Inspector (BS-17) and the appellant Dr. Amin Ul Haq, Senior Drug Inspector (BS-18). As per charge sheet/statement of allegations 15 numbers of charges/allegations were leveled against the appellant under the categories of inefficiency, misconduct and corruption. As per order of inquiry a two member inquiry committee was constituted to scrutinize the conduct of the appellant vis-à-vis the charges/allegations. The appellant submitted detail charge-wise reply to the inquiry committee. However, the inquiry committee did not scrutinize/examine the conduct of the appellant vis-à-vis the charges. Legal scrutiny of record also reveal that order of inquiry alongwith charge sheet/statement of allegations was issued by the Chief Secretary (Competent Authority) but the Show Cause Notice against the appellant and subsequent major penalty of removal from service has been imposed by the Chief Minister (Appellate Authority). Nothing is available on record to substantiate it to be joint inquiry proceedings. We also find that in the charge sheet 15 numbers of allegations have been categorized as inefficiency, misconduct and corruption but in the Show Cause Notice the third category of "corruption" has been replaced with the "misuse of authority" which is altogether different category of

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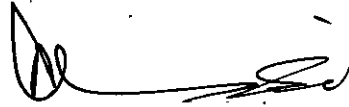
offence. This create doubts of biases against the appellant as the inquiry report did not contain any findings regarding corruption. Perusal of contents of inquiry report reveals that conduct of the appellant vis-à-vis the charges and allegations have not been scrutinized/analyzed with an independent mind by the inquiry committee. The appellant submitted detailed charge wise reply against the long list of allegations. The inquiry committee as per procedure provided under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was required to scrutinize conduct of the appellant against each charge in order to prove the same on the basis of documentary proofs or evidence gathered through statements of witnesses, providing ample chance of cross-examination of the witnesses to the accused. We hold that the appellant has been condemned unheard by imposing major penalty of removal from service against him who is senior civil servant with 14 years service to his credit on the basis of cursory inquiry which tentamounts to manifest injustice. The aforementioned findings lead us to the conclusion that the proceedings against the appellant are manifestly biased, against the settled norms of justice and the legal procedure expressly provided under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

07. In view of the above we are constrained to set aside the impugned Notification dated 02.02.2023 imposing major penalty of removal from service upon the appellant. The appellant is reinstated into service and the case is remitted to the respondent department to conduct

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proper inquiry in accordance with the law and rules affording proper opportunity of defense to the accused/appellant. Costs shall follow the event.

08. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 16th day of April, 2024.*



KALIM ARSHAD KHAN
Chairman.



MUHAMMAD AKBAR KHAN
Member (Executive)

Naeem Amin

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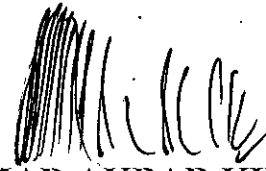
16.04.2024

01. Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General alongwith Mr. Safiullah, Focal Person for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, we are constrained to set aside the impugned Notification dated 02.02.2023 imposing major penalty of removal from service upon the appellant. The appellant is reinstated into service and the case is remitted to the respondent department to conduct proper inquiry in accordance with the law and rules affording proper opportunity of defense to the accused/appellant. Costs shall follow the event. Consign.

03. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 16th day of April, 2024.*

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MUHAMMAD AKBAR KHAN
Member (Executive)



KALIM ARSHAD KHAN
Chairman

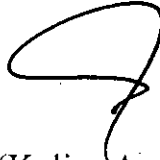
12th Dec. 2023

1. Junior to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Reply alongwith cost of Rs.5000/- has been submitted through office. Copy of reply was given to the junior to counsel for the appellant. To come up for arguments on 16.04.2024 before D.B. P.P given to the parties.

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Muzam Shah


(Kalim Arshad Khan)
Chairman

31st Oct. 2023

1. Junior to counsel for the appellant and Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Safiullah, Focal Person for the respondents present.

2. Despite last chance, reply on behalf of respondents was not submitted. Representative of the respondents requested for time to submit reply/comments. Granted but on payment of cost of Rs.5000/- to be paid on behalf of respondents. To come up for reply/comments on 07.12.2023 before S.B. P.P given to the parties.

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*Mutazem Shah *

(Kalim Arshad Khan)
Chairman

07th Dec. 2023

01. Counsel for the appellant present. Mr. Asif Masood Ali Shah, DDA alongwith Asif Khan, Senior Clerk for the for the respondents present.

02. Reply/comments on behalf of the respondents not submitted. Representative of the respondents requested for some time to submit reply. Another opportunity is granted. To come up for written reply/comments and cost of Rs. 5000/- on 12.12.2023 before the S.B. Parcha Peshi given to the parties.

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Fazle Subhan, P.S

(FAREEHA PAUL)
Member(E)

SA 1369/2023

25th Sept. 2023

01. Counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. AG for the respondents present.

02. Reply/comments on behalf of the respondents not submitted. Learned AAG requested for further time. Granted. To come up for reply/comments on 20.10.2023 before the SB. Parcha Peshi given to the parties.

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(FAREEHA PAUL)
Member (E)

20th Oct. 2023

1. ~~Fazle Subhan P.S.~~ ^{*Fazle Subhan P.S.*} counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Safiullah, Focal Person and Mr. Laccq Ahmed, Computer Operator for the respondents present.

2. Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 31.10.2023 before S.B. P.P given to the parties.


(Muhammad Akbar Khan)
Member (I)

15.08.2023

Learned counsel for the appellant present and argued that appellant was removed from service vide impugned order dated 13.02.2023 appellant was dismissed from service illegally without providing opportunity of self defence by the respondent. Appellant filed departmental appeal on 21.02.2023 challenging the validity of impugned order which was not responded within statutory period, therefore, instant service appeal filed on 16.06.2023 under Section 4 of Khyber Pakhtunkhwa Service Act 1974. Points raised need consideration, hence instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security fee within 10 days. Thereafter, notices be issued to respondents for submission of written reply/comments. Respondents be summoned through TCS the expenses of which be deposited by the appellant within 3 days. Adjourned. To come up for written reply/comments on 20.09.2023 before S.B. P.P given to learned counsel for the appellant.

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KaleemUllah


(Rashida Bano)
Member (J)

20th Sept. 2023

01. Appellant present in person. Mr. Muhammad Jan, District Attorney for the respondents present.

02. Written reply has not been submitted. Learned District Attorney sought adjournment in order to contact the respondents. Granted. Appellant stated that Service Appeal No. 1411/2023 titled "Muhammad Shoaib Khan Vs. Secretary Health Department and others" of similar nature was fixed for submission of written reply/comments on 25.09.2023 for reply/comments and requested that instant appeal might be clubbed with the same. To come up for reply/comments on 25.09.2023 alongwith service appeal No. 1411/2023 before the S.B. Parcha Peshi given to the parties.

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(FAREEHA PAUL)
Member (E)

Fazle Subhan, P.S

FORM OF ORDER SHEET

Court of: _____

Appeal No. 1369/2023

S.No:	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/06/2023	<p>The appeal of Dr. Amin-ul-Haq resubmitted today by Mr. Naveed Akhtar Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p style="text-align: right;">By the order of Chairman:</p> <p style="text-align: center;"> REGISTRAR</p> <p>Nemo for the appellant. Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for preliminary hearing on 15.08.2023 before the S.B.</p> <p style="text-align: right;"> (Salah Ud-Din) Member (J)</p>

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22.06.2023

On 12/07/23, counsel was informed telephonically for the date fixed (15/08/23)

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Naeem Amin

Sp. M. Hossain

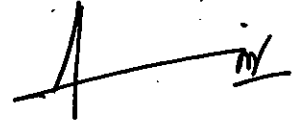
Stamp: Peshawar District Court, 15/08/2023

The appeal of Dr. Amin ul Haq son of Abdul Haq s/o Tariq Nazirul Drug Inspector Charsadda received today i.e on 16.06.2023 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

- 1- Copy of seniority list dated 25.8.2022 is not attached with the appeal.
- 2- Copy of departmental appeal /review petition against the impugned order dated 02.02.2023 is not attached with the appeal.
- 3- Annexure-G & I of the appeal are illegible.

No. 1805 /S.T.

Dt. 19/6 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Naveed Akhtar Adv.
High Court Peshawar.

1. seniority list not issued by department.
2. objection is removed.
3. objection is removed.

amir ul Haq

19/06/23

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title:

Dr. Amin Ul Haq vs Govt

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Dr. Amin Ul Haq</u>		
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:

Munir Ul Din Choksi AHC

Signature:



Dated:

16/6/2023

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1369 /2023

Dr. Amin Ul Haq

VERSUS

Government of Khyber Pakhtunkhwa and others

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4.	Copy of the Promotion Notification dated 30.10.2019	B	0-12
5.	Copy of the Notification dated 08.09.2017, judgment dated 11.03.2020 alongwith writ petition No. 4378-P/2017	C - D	13-18
6.	Copy of the Notification dated 06.10.2022	E	19-20
7.	Copy of the Appeal and Judgment	F	21-33
8.	Copy of the order dated 06.05.2021	G	0-34
9.	Copy Application dated 24.05.2021 duly registered	H	0-35
10.	Copy of the letter dated 14.07.2021	I	0-36
11.	Copy of the Statement of Allegations and Reply	J	37-39
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13.	Copy of the Show Cause Notice dated 20.04.2022 and reply	L	46-50
14.	Copy of the Inquiry Report and further reply	M	51-59
15.	Copy of the letter dated 02.02.2023	N	0-60
16.	Wakalat Nama + <i>departmental appeal</i>		61-67

Appellant

Through

Naveed Akhtar
Naveed Akhtar

Advocate Supreme Court

Mob No. 0300-9596181

Dated: / /2023

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 1309 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6077
16-06-23

Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman
Khail, District Charsadda. Senior Drug Inspector BPS-18.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa through Principal Secretary, CM Secretariat, Peshawar.
3. Secretary Health Services, Government of Khyber Pakhtunkhwa Peshawar.
4. Director General, Drug Control and Pharmacy Services, Khyber Pakhtunkhwa.
5. Director General Health Services, Government of Khyber Pakhtunkhwa Peshawar.

.....Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO. SOH-III/7-262/2023 (AMIN) DATED 02.02.2023, WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT WAS IMPOSED AND THE REVIEW PETITION OF THE APPELLANT DATED 21.02.2023 FILED AGAINST THE IMPUGNED ORDER, TOO WAS LET UN-ANSWERED.

PRAYER:

THAT ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED OFFICE ORDER DATED 02.02.2023 OF THE RESPONDENT NO. 2 MAY KINDLY BE SET-

Filed to day

16/6/23
Registrar

Not submitted to-day
and filed.

REGISTRAR

19/6/23

ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.

ANY OTHER REMEDY THIS AUGUST TRIBUNAL DEEMS FIT MAY KINDLY BE AWARDED IN FAVOR OF THE APPELLANT AS WELL.

Respectfully Sheweth:

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

1. That the appellant is a respectable citizen and a highly qualified pharmacist.
2. That after qualifying open competition the appellant was appointed as Drug Inspector on the recommendation of Public Service Commission. (Copy of the Appointment Letter dated 27.05.2009 attached as annexure "A").
3. That the appellant was subsequently promoted to BPS-18 vide notification dated 30.10.2019. (Copy of the Notification dated 30.10.2019 is attached as annexure "B")
4. That the appellant performed his duties to the best of his abilities and never gave any chance of complaint to his high ups.
5. That on 10.04.2017 certain changes were brought in the relevant rules whereby three cadres of Drug Inspectors, Pharmacists and Chemists were merged which was challenged in WP No. 4378-P/2017 and the Hon'ble Peshawar High Court was pleased to allow the said writ petition vide judgment dated 11.03.2020. (Copy of the Notification dated 08.09.2017, judgment dated 11.03.2020 alongwith writ petition No. 4378-P/2017 are attached as annexure "C" and "D" respectively).
6. That instead of compliance with the judgment of the Hon'ble Peshawar High Court the respondent No. 3 issued a notification of posting/transfers of the officers in the department on 06.10.2020 whereby many pharmacists were posted against the posts of Drug Inspector and the Drug Inspectors were adjusted in the position of pharmacists in blatant violation of the law and favoritism to the blue eyed and only to quote the case of appellant, the appellant was transferred from his position of Senior Drug Inspector BPS-18 Mardan as a Senior Pharmacist KDA Hospital Kohat while a BPS-17

pharmacist namely Abdur Rauf was posted as Drug Inspector Mardan. (Copy of the Notification dated 06.10.2020 is attached as annexure "E").

7. That aggrieved from the said Notification the appellant and his eight other colleagues approached this Hon'ble Tribunal and vide consolidated judgment dated 06.12.2021 this Hon'ble Tribunal was pleased to allow all the appeals. (Copy of the Appeal and Judgment is attached as annexure "F").
8. That the respondents leashed out a policy of harassment and victimization against the appellant and on 06.05.2021 the services of the appellant were suspended for initiation of disciplinary action on the basis of a so-called audit report by a committee constituted by respondent No. 3/department to which the appellant was never associated. (Copy of the order dated 06.05.2021 is attached as annexure "G").
9. That on receipt of the suspension order the appellant approached the respondent No. 5 to inquire about further proceedings in the case but was instead subjected to man handling and was threatened, that he shall be inquired into by a pharmacist to teach a lesson against which the appellant filed an application to respondent No. 1 in anticipation requesting him not to appoint any pharmacist as an inquiry officer as the appellant was in litigation with the pharmacist cadre but instead the prejudice prevailed and a pharmacist was ultimately included in the inquiry against the appellant. (Copy of Application dated 24.05.2021 duly registered is attached as annexure "H")
10. That no statement of allegation, charge sheet or any letter of explanation was issued to the appellant and on 14.07.2021 the appellant was directed by Mr. Asghar Khan Additional Secretary Relief Rehabilitation and Settlement Department who was Chairman of Inquiry Committee to appear on 26.07.2021 before the inquiry committee. (Copy of the letter dated 14.07.2021 is attached an annexure "I")
11. That on the said date the appellant was delivered a copy of the statement of allegations which was duly replied on 03.08.2021 and submitted. (Copy of the Statement of Allegations is attached as annexure "J")
12. That astonishingly on 03.08.2021 when the appellant submitted his reply another letter dated 02.02.2021 addressed to the Director General Drug Control and Pharmacy Services by Mr. Abdur Rauf (BPS-17) Provincial Drug Inspector District Mardan was handed over for reply which too was duly

replied on 11.08.2021. He was the same officer who was given charge in Mardan as Drug Inspector. (Copy of the letter dated 02.02.2021 and reply is attached as annexure "K")

13. That it is worth mentioning that since 11.08.2021 the appellant was never called for any proceedings or personal hearing by the inquiry committee and was issued a Show Cause Notice received on 20.04.2022 which too was duly replied. (Copy of the Show Cause Notice dated 20.04.2022 and reply is attached as annexure "L").
14. That since the earlier Show Cause Notice was not accompanied by any inquiry report and the same had been pointed out in the reply, therefore, vide letter dated 03.08.2022 received on 10.08.2022 the appellant was provided a copy of an undated inquiry report and a further reply was submitted to earlier show cause notice dated 16.08.2022. (Copy of the Inquiry Report and further reply is attached as annexure "M").
15. That the appellant was called for personal hearing on 25.11.2022 before the Secretary LG, E&RD Department which the appellant complied with and was waiting for exoneration but to the utter dismay received the above mentioned letter of removal from service. (Copy of the letter dated 02.02.2023 is attached as annexure "N").
16. That feeling aggrieved and left with no other remedy appellant approaches this honorable tribunal inter- alia on the following grounds.

GROUND: -

- A. That the inquiry has been conducted in violation of the law and the rules. The undated inquiry report on the face of it is not maintainable rather is result of sham proceedings wherein the inquiry committee except for a reply to the statement of allegations has never called the appellant either for personal hearing or for cross examination of any witness.
- B. That the inquiry proceedings were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer namely Abdur Rauf, who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where the appellant was one of the appellant and Mr. Abdur Rauf was a respondent. Ironically the said Abdur

Rauf was never called for cross examination by the appellant and thus the whole proceedings are vitiated and marred by prejudice against the appellant.

- C. That the inquiry committee has made no efforts to find the truth and instead has based its findings on a letter by a prejudiced officer of BPS-17 who was posted Ex-cadre against the law.
- D. That the appellant raised objection to the inclusion of a pharmacist in the Inquiry Committee for the reason that Pharmacists were posted as Drug Inspectors against whom litigation was going on, on the issue of change of cadre and instead a pharmacist namely Zahid Khan was appointed as one of the Inquiry Officer, but no heed was paid to the same.
- E. That bare perusal of the documents manifestly speak of malafide against the appellant as a Drug Inspector for the reason that the department has initiated a process for change of cadre of the Drug Inspector and Pharmacist.
- F. That the audit report on which the inquiry committee has relied cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the public exchequer rather the same is aimed at changing the cadre of the answering officer.
- G. It is, further submitted that no audit para was ever framed or sent to the appellant for reply nor the same has ever been taken to the Public Accounts Committee.
- H. That the appellant as an incumbent Senior Drug Inspector was never associated while conducting and preparing the so-called audit report nor was taken on board ever for furnishing any relevant record and the whole proceedings have been completed in the offices of the Director General and Pharmacy Services.
- I. That the so-called audit report was compiled on 15.07.2020, when the appellant had barely spent 08 months as an incumbent and all the files collected were not pertaining to the period of his incumbency and ironically the audit report does not mention the date on which this report was compiled, which is arising serious suspicions.
- J. That the so-called inquiry report and its findings are an afterthought of the earlier reply to the show cause notice, because the inquiry report forwarded to the appellant too does not bear any date of its completion and submission.

- K. That no allegation of any illegal act, misappropriation or delinquency etc, worth the name has been proven against appellant.
- L. That the appellant beg to bring into the notice of this Hon'ble Tribunal that litigation was going on between the Drug Inspectors and the government on the issue of change of cadre and in this back drop the malice of the Pharmacists Cadre Officers and of the official high ups cannot be ignored.
- M. That the appellant remained under suspension from 06.05.2021 till 02.02.2023 which is unprecedented and remained without salaries since December 2020 against the law and the only reason was that the appellant pursued lawful remedy before the competent Court of law, which ultimately allowed his appeal.
- N. That it is worth mentioning that time and again the appellant visited the offices of high-ups to release the salaries and withdraw the suspension order beyond the lawful period, but of no avail. Even the suspension order was never extended which speaks of the high handedness against the appellant.
- O. That throughout the appellant has been treated in utter derogation of law. The appellant has been put under suspension beyond the statutory period. His salaries were stopped for more than two years since December 2020 and has been consistently condemned unheard against the norms of law and principles of justice.
- P. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations alongwith the time period provided for conclusion of inquiry have been blatantly violated and therefore, the harsh penalty is not sustainable under the law.
- Q. That the whole proceedings have been based on baseless allegations with malafide intentions of one of the members of Inquiry Committee namely, Zahid Ali Khan in connivance with the high ups of the department.
- R. That the letter dated 02.02.2021, which was never part of allegations was written by an officer BPS-17 Pharmacists, who had made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in Court cases against the Drug Inspectors, therefore, his malafide cannot be ignored, and the same letter was considered as a gospel truth in an illegal manner.
- S. That the statement of allegations was issued to the appellant by the Chief Secretary who was not competent to issue the same.

1. That the appellant has rendered more than 13 years meritorious services to the entire satisfaction of department and the allegations leveled against him are only the outcome of malafidies for agitating his lawful rights.

It is therefore, requested that in view of the above respectful submissions, the order dated 02.02.2023 for removal from service may kindly be withdrawn and the appellant may kindly be re-instated into service with all back benefits.

Any other remedy this august tribunal deems fit may kindly be awarded in favor of the appellant as well.


Appellant

Through


Naveed Akhtar

Advocate Supreme Court

Mob No. 0300-9596181


Munir Ud Din Ghori

Advocate High Court

Dated: / /2023

**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No. _____/2023

Dr. Amin Ul Haq

VERSUS

Government of Khyber Pakhtunkhwa and others

AFFIDAVIT

I, Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman Khail, District Charsadda. Senior Drug Inspector BPS-18, do hereby solemnly affirm and declare on oath that the contents of accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

min ul haq

DEPONENT

CNIC: 17102-2846087





7

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

10

Dated the Peshawar. 27th May 2009.

NOTIFICATION.

No. SOH-III/2-58/2007(DI). The Competent Authority on the recommendation of NWFP Public Service Commission has been pleased to appoint the following candidates as Drug Inspectors (BPS-17) on regular basis with immediate effect:-

S.No.	Name with Father's Name	Address.
1.	Mr. Abdul Hafeez s/o Waliullah.	Drug Center Bus Stop, Lakki Marwat.
2.	Mr. Aminul Haq s/o Abdul Haq	Mohallah Usman-e- Khel, Tehsil Tangi Nusratzai District Charsadda, NWFP.
3.	Mr. Nazir Ahmad s/o Fazal Ghani.	Village and P.O.Box Bandai, Tehsil and District Swat NWFP.
4.	Mr. Zakir Shah s/o Haji Hussain Muhammad	Mohallah Parachgan, Bannu Chowk, Thall District Hangu.
5.	Mr. Toseef Muhammad s/o Pir Muhammad.	Village and P.O.Box Bahali Via Qalandarabad Tehsil and District Mansehra.
6.	Mr. Shamsur Rehman s/o Muhammad Miskeen.	Village Bajna Bala P.O.Shergarh Tehsil Oghi District Mansehra.

2. Their services will be governed under the NWFP Civil Servants Act 1973 as amended vide Civil Servants (Amendment) Act, 2005 and rules made there under and other relevant laws and rules.

3. Consequent upon their appointment as Drug Inspectors (BPS-17), they are hereby posted in the districts as noted against their names:-

S.No	Name	Present Status	Place of Posting	Remarks
1.	Mr. Abdul Hafeez	1 st Appointment	Drug Inspector District Swabi.	Against the vacant post.
2	Mr. Aminul Haq	1 st Appointment	Drug Inspector District Malakand	-do-
3	Mr. Nazir Ahmad	1 st Appointment	Drug Inspector District Upper Dir	-do-
4	Mr. Zakir Shah	1 st Appointment	Drug Inspector District Hangu	-do-
5	Mr. Toseef Muhammad	1 st Appointment	Drug Inspector District Abbottabad	-do-
6	Mr. Shamsur Rehman	1 st Appointment	Drug Inspector District Battagram.	-do-

4. They are directed to assume charge within 30 days in their respective place of posting after the issuance of this notification, failing which, their appointment shall be treated as cancelled.

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SECRETARY HEALTH

Continued-----

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Peshawar High Court

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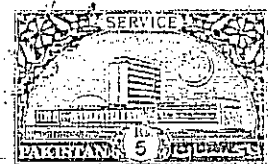
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Copy forwarded to:

1. Accountant General NWFP.
2. Director General Health Services NWFP, Peshawar, for information.
3. The Chairman Drug Court NWFP, Peshawar.
4. The Incharge, Government Drug Testing Laboratory, NWFP, Peshawar.
5. EDO (Health) Swabi, Malakand, Upper Dir, Hangu, Abbottabad and Battagram.
6. Director Recruitment, NWFP, Public Service Commission Peshawar w/r to his letter No. NWFP/PSC/SR-IV/08250 dated 10.02.2009 for information.
7. The Deputy Secretary (Drug), Health Department, NWFP.
8. The District Account Officers, Swabi, Malakand, Upper Dir, Hangu, Abbottabad and Battagram.
9. P.S. to Secretary Health, NWFP.
10. The Manager Printing Press NWFP, Peshawar with the request to publish the notification in official gazette.
11. Programmer Health Department NWFP.
12. The Officers concerned.

DEPARTMENT OF HEALTH
 GOVERNMENT OF NWFP
 Health Department
 Civil Use Only
 PESHAWAR

Section Officer-(H-IH)



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GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 30th October, 2019

12

AMINUL HAQ

NOTIFICATION

No. SOH-III/10-4/2019 (Nazir Ahmad etc). Upon appointment from BS-17 to BS-18 on Acting Charge Basis vide Health Department Notification of even number, dated 08-10-2019, the Competent Authority is pleased to order posting/transfer of the following Senior Drug Inspectors (BS-18) with immediate effect in the public interest.

S. NO.	Name of Officer with Designation	From	To
1.	Mr. Nazir Ahmad, Senior Drug Inspector, BS-18 (a.c.b)	District Swat	Against the vacant post of Senior Drug Inspector, BS-18 at District Swat.
2.	Toseef Muhammad, Senior Drug Inspector, BS-18 (a.c.b)	District Mansehra	Against the vacant post of Senior Drug Inspector, BS-18 at District Kohat.
3.	Aminul Haq, Senior Drug Inspector, BS-18 (a.c.b)	District Battagram	Against the vacant post of Senior Drug Inspector, BS-18 at District Mardan.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst. even No and Date.

Copy is forwarded to:-

1. The Director General, Health Services, Khyber Pakhtunkhwa.
2. The District Health Officer, Swat, Mansehra, Battagram & Kohat.
3. The District Accounts Officer, Swat, Mansehra, Battagram & Kohat.
4. PS Secretary Health, Khyber Pakhtunkhwa.
5. PA to Deputy Secretary-II, Health Department.
6. PA to Deputy Secretary (Drugs) Health, Khyber Pakhtunkhwa.
7. Deputy Director (I.T) Health, Khyber Pakhtunkhwa.
8. Officers concerned.

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20/10/2019
SECTION OFFICER-III

Annexure (C) 13



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

24/9/2017

Dated Peshawar the 8th September, 2017

NOTIFICATION:

No: SOH (III)/HD/10-4/2017/DCPS: Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

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- 1) These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.
- 2) For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore all the three cadres are hereby merged into a single cadre for which rules shall be framed as per procedures.
- 3) All the three cadres are hereby declared as pool posts for posing/transfer only

Dispatcher
Khyber Pakhtunkhwa
Health Department

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst. of even number & date:

Copy forwarded for information to:



1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. Secretary Public Service Commission, Khyber Pakhtunkhwa.
4. Manager Govt. Printing Press, Khyber Pakhtunkhwa with the request to publish in the official Gazette.
5. Director General Health Services, Khyber Pakhtunkhwa.
6. All DHOs in Khyber Pakhtunkhwa.
7. Incharge MMC, DGHS, Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Establishment, Khyber Pakhtunkhwa.
9. PS to Secretary Law, Khyber Pakhtunkhwa.
10. PS to Secretary Health, Khyber Pakhtunkhwa.
11. PA to Deputy Secretary (Drugs), Health Department

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SECTION OFFICER (E-III)

14

Annular D

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 4378-P/2017

S.M. Assad Halimi and others

Vs

Chief Secretary to Govt. of KP and others

JUDGMENT.

Date of hearing: 11.03.2020

Petitioner (s): Gy. m/s R. Abdul Latif Afridi - Advocate & Counsel
Wahab Khan

Respondent (s): Gy. No. F. High Dist. Wahab Khan

WAQAR AHMAD SETH, CJ:- Petitioners,

through the instant Writ Petition, seeks issuance of an appropriate writ with the following prayer:-

"In view of the aforesaid submissions, it is humbly prayed that an appropriate writ may kindly be issued in favour of the petitioners in the following terms:-

- i. Declare that the impugned notification No. SOH(III)/HD/10-4/2017/DCPS is void ab initio, therefore the respondents may kindly be directed to withdraw the impugned notification as well as the posting/transfers orders made in pursuant to the impugned notification may kindly be withdrawn.
- ii. To reconsider the matter in light of the logic, rationale and requirements of the rules/relevant law in the matter.
- iii. The proportionate ratio of higher posts of B-18, B-19 and B-20 in the Drug Inspector cadre may be

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equated to that of Drug Analysts and Pharmacists cadres as indicated in para-5 (table-2) above of the petitioner.

- iv. Direction be issued to respondents that in case the merger is required to be carried out, it be done in a rationale manner as per the prevailing procedure and renamed the so merged cadre with a new name and joint seniority of the employees of the so merged cadres be caused with reference to their respective dates of appointment or promotion to a particular post/grade. No cadre so merged should be dying cadre as this method is not applicable in the instant case.*
- v. Grant any other relief which is deemed appropriate by this Hon'ble Court in the circumstances of the case".*

2. Brief facts of the case are that the petitioners have been inducted in service of the Health Department through Khyber Pakhtunkhwa Public Service Commission as Drug Inspectors (BPS-17). According to the petitioners, Drug Inspectors, Pharmacists and Chemists and Drug Analysts are working in the Health Department Government of Khyber Pakhtunkhwa in separate cadres having same basic qualifications but with different job descriptions. The Provincial Government under the Agenda to improve the human resources management and to

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minimizing the transfer and posting problems face by the Health Department in other sub-cadres having minimum choice, proposed the merging of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts and for this purpose, a meeting of "Standing Service Rules Committee" was held on 26.12.2016 wherein it was proposed to combine the three cadres into one as per structure given in para-ii of the minutes of the meeting and as such, the respondents have issued the impugned Notification No. SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, which reads as under:-

"Consequent to the recommendations of the SSRC and to improve the human resource management, the Chief Minister Khyber Pakhtunkhwa is pleased to approve the following arrangements for Pharmacists, Drug Inspectors, Chemists & Drug Analysts cadres of Health Department Khyber Pakhtunkhwa.

- 1) *These cadres are declared dying cadres with the existing incumbents to continue under the existing service rules, seniority and promotion prospects which shall stand protected for each cadre within their own lines of hierarchy till last incumbent is in service.*
- 2) *For the new recruitment at the initial stage, since basic qualifications of the above mentioned cadres are the same, therefore, all the three cadres are*

*Attested
on 10/10/17*

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C.T.C*



hereby merged into a single cadre for which rules shall be framed as per procedures.

3) All the three cadres are hereby declared as pool posts for posting/transfer only".

3. Aggrieved from the aforesaid Notification, the petitioners have filed the instant Writ Petition.

4. Respondents have furnished their comments and opposed the writ of petitioners.

5. Arguments heard and record perused.

6. Admittedly, the impugned notification of merger of three cadres of Drug Inspectors, Pharmacists and Chemists and Drug Analysts have been issued on

the recommendation of Standing Service Rules Committee ("SSRC") but while perusing minutes of the

Committee, so constituted, the persons, who had attended the meeting, are not in accordance with the

Notification No. SOR.VI(E&AD)2-69/2003 dated 29th January, 2005 produced by the learned counsel for the

petitioners during the course of hearing, placed on file, vide which, the Committee would comprising of

Administrative Secretary concerned (Chairman),

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Additional Secretary (Regulation) E&A Department,
 Additional Secretary (Regulation) Finance Department,
 Additional Secretary Law Department, Head of the
 attached Department concerned and Deputy Secretary
 (Admn) of the Department concerned (Members); so,
 keeping in view the above fact, the impugned
 notification issued by the respondents is illegal, void ab-
 initio and the same, is, thus, liable to be set aside.

7. In view of the above, the Writ Petition is
 allowed and the impugned Notification No.
 SOH(III)/HD/10-4/2017/DCPS dated 08.09.2017, is set
 aside.

ANNOUNCED.
 Dated: 11.03.2020

Chief Justice

Judge

=====

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*Attested
on 11/03/2020*

Newad Shah SCS (DB) Justice Waqar Ahmed Seth CJ & Justice Jaz Anwar J

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GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 06th October, 2020

NOTIFICATION

No. SOH-III/10-1/2020. The Competent Authority is pleased to order following postings/transfers of the Officers with immediate effect in the public interest.

S.No.	Name & Designation	From	To
1	Mr. Inam Ul Haq, Senior Pharmacist (BS-18)	Services Hospital Peshawar	Deputy Director/Senior Pharmacist (BS-18) DG DG & PS against the vacant post
2	Mr. Arif Hussain, Analyst (BS-18)	Drugs Testing Laboratory, Peshawar	Sr. Pharmacist (BS-18) Services Hospital Peshawar vice Sr. No. 1
3	Miss. Naila Basher, Senior Pharmacist (BS-18)	Govt. MCC, DG, DG & PS.	Analyst Drug Testing Laboratory Peshawar vice Sr. No. 2
4	Mr. Fazole Haq, Pharmacist (BS-17)	Drugs Testing Laboratory, Peshawar	DG, DC & PS against the vacant post of Pharmacist/DI/Chemist (BS-17)
5	Mr. Fawad Alam, Pharmacist (BS-17)	Moulvi Ameer Shah Memorial Hospital Peshawar	DG, DC & PS against the vacant post of Pharmacist/DI/Chemist (BS-17)
6	Mr. Mishbah Ullah Jan Pharmacist (BS-17)	Bacha Khan Medical Complex, Swabi	Drug Inspector (BS-17) Mardan vice Sr. No. 17
7	Mr. Amin Ul Haq, Sr. Drug Inspector (BS-18)	District Mardan	Senior Pharmacist (BS-18) KDA Hospital Kohat against the vacant post.
8	Mr. Abdur Rauf, Pharmacist (BS-17)	DHQ Hospital Mardan	Drug Inspector (BS-17) DHQ Hospital Mardan vice Sr. No. 8
9	Mr. Shehzada Mustafa Durg Inspector (BS-17)	District Mardan	Pharmacist (BS-17) DHQ Hospital Mardan vice Sr. No. 8
10	Mr. Niamatullah, Pharmacist (BS-17)	DHQ Hospital Dir Lower.	Drug Inspector (BS-17) Swat against vacant post.
11	Mr. Zia Ullah, Drug Inspector (BS-17)	Dir Lower.	Pharmacist (BS-17) DHQ Hospital Dir Lower vice Sr. No. 10
12	Mr. Rohullah, Drug Inspector (BS-17)	District Charsadda	Assistant Director (BS-17) DG, DC & PS against the vacant post.
13	Mr. Imran Burki, Drug Inspector (BS-17)	District D.I. Khan	Drug Inspector (BS-17) Lakki Marwat Vice Sr. 14

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14	Mr. Ibrar Khan Drug Inspector (BS-17)	District Lakki Marwat	Drug Inspector (BS-17) Karak vice Sr. No. 15.
15	Mr. Muhammad Saleem Drug Inspector (BS-17)	District Karak	Drug Inspector (BS-17) D.I.Khan vice Sr. No. 13.
16	Mr. Manzoor Khattak, Drug Inspector (BS-17)	District Peshawar ✓	Pharmacists (BS-17) KDA Kohat against the vacant post. ✓
17	Mr. Shoab Drug Inspector (BS-17)	District Mardan	Pharmacists (BS-17) BKMC, Swabi against the vacant post.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst of even No. and Date

Copy forwarded to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar
4. In charge, Drug Testing Laboratory, Hayatabad, Peshawar,
5. Medical Superintendent Services Hospital, Peshawar,
6. Medical Superintendent Moulvi Ameer Shah Meyorial Hospital, Peshawar.
7. Medical Superintendent, DHQ Hospital, concerned.
8. Hospital Director, BIMC Swabi.
9. District Health Officer concerned,
10. District Accounts Officer concerned
11. The Deputy Director
12. PS to Minister of Health
13. PS to Secretary Health
14. PA to

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Annex (F) (21)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

APPEAL NO. 16578 / 2021

Diary No. 657

Dated 11/1/2021

Mr. Manzoor Ahmad, Drug Inspector (BPS-17),
District Peshawar, under transfer to the post of Pharmacist (BS-17),
DHQ Hospital KDA, Kohat **APPELLANT**

VERSUS

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 06.10.2020 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF DRUG INSPECTOR (BPS-18), DISTRICT PESHAWAR TO THE POST OF PHARMACIST (BS-17), DHQ HOSPITAL KDA, KOHAT IN UTTER VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

Filed to-day

Registrar

PRAYER:

That on acceptance of this appeal the impugned Notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not transfer the appellant from the post of Drug Inspector (BS-17), District Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

ATTESTED

R/SHEWETH:

ON FACTS:

EXAMINER
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the employee of respondent Department and is appointed as Drug Inspector (BPS-17) through proper

22



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 16578/2020

Date of Institution ... 11.01.2021

Date of Decision 06.12.2021



Mr. Manzoor Ahmad, Drug Inspector (BPS-17) District Peshawar, under Transfer to the post of Pharmacist (BPS-17) DHQ Hospital KDA Kohat. ... (Appellant)

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa Peshawar and two other. ... (Respondents)

Present.

Mr. Noor Muhammad, Advocate. ... For appellant.

Mr. Muhammad Adeel Butt, Addl. Advocate General. ... For respondents.

MR. AHMAD SULTAN TAREEN ... CHAIRMAN
MR. SALAH-UD-DIN, ... MEMBER(J)

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JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-By the appeal described above in the heading and eight other appeals bearing No. 10301/2020, 10535/2020, 16579/2020, 16580/2020, 923/2021, 1559/2021, 4821/2021, 5187/2021, the appellants have invoked the jurisdiction of this

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ATTESTED

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Tribunal to challenge their transfers from the post of Drug Inspectors/Drug Analyst to the post of Pharmacists with the prayer copied herein below:-

"On acceptance of this appeal the impugned Notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Inspector (BPS-17), District Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant."

2. This single judgment shall stand to dispose of all the 09 appeals in one place as in all of them common questions of facts and law are involved.

3. The factual account as given by the appellant in Memo. of Appeal has been edited for the purpose of this judgment. The appellants in Appeals No. 16578/2020, 10301/2020, 10535/2020 16579/2020, 16580/2020 923/2021, 1559/2021, 4821/2021, 5187/2021, are holders of the post of Drug Inspector in pursuance to their appointment made on the said post in due process. Appellant in Appeal No. 16580/2020 is holder of the post of Drug Analyst. The respondent department transferred them from their respective posts held by them in the relevant cadre to the post of Pharmacist. They through their respective departmental appeals have challenged their transfer orders before the departmental appellate authority but they received no response of their departmental appeals. Consequently, they have preferred their service appeals respectively, as

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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enumerated herein above, for judicial review of the impugned transfer orders. The copies of the appointment orders of appellants, last transfer order within cadre and of impugned order followed by the copies of departmental appeals are available on record as annexed with their respective Memorandum of Appeals. The appellants have disputed the transfer as made vide impugned order on the ground that in terms of service rules for them, their appointment, promotion and transfer is governed by notification dated 09.04.2006 of the Government of Khyber Pakhtunkhwa Health Department quite differently from the Pharmacists. The copy of the said notification as annexed with the appeal is also available on file. The appellants amongst other grounds have urged that the impugned notification of their transfer is against law, facts, norms of natural justice and material on record and being not tenable is liable to be set aside to the extent of appellants and private respondents; and that the appellants were not treated by the respondents in accordance with law/rules on the subject in utter violation of Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

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4. On notice of appeal, the respondents turned up, joined the proceedings and contested the appeal by filing written replies stating therein that the appellants have got no cause of action or locus standi; that the appeals are against the prevailing law and rules and are not maintainable in present form. They with several factual and legal

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ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar



objections submitted that the appeals having been filed with malafide intentions are liable to be dismissed as the impugned transfer notification has been issued in accordance with Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973.

5. We have heard the arguments and perused the record.

6. The arguments of the parties revolve around their submission in writing made in Memorandum of appeal and written reply respectively and discussed herein above.

7. Learned counsel for the appellant has argued that the impugned notification dated 06/10/2020 is against the law, facts, norms of natural justice and materials on the record; that the appellant has not been treated by the respondents in accordance with law and rules on the subject and as such the respondents has violated Articles-4 and 25 of the Constitution of Pakistan; that the impugned notification dated 06/10/2020 has been issued by the respondent No. 2 in arbitrary and malafide manner; hence, not tenable and liable to be set aside; that the impugned notification dated 06/10/2020 is based on discrimination, favoritism and nepotism and is not tenable in the eyes of law; that the impugned notification dated 06/10/2020 has neither been in the best interest of the public service nor in exigencies of service; that through impugned notification, the appellants has been transferred against the wrong cadre/post; that

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Peshawar



through impugned notification is violation of clause-I and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa.

8. Learned AAG on behalf of respondents rebutted the arguments advanced by learned counsel for the appellants and has argued that the appellants are employees of Health Departments selected through Public Service Commissions of Khyber Pakhtunkhwa but their performance is questionable on the basis of their monthly progress reports compiled on the basis of set indicators besides their facing inquiries; that the appellants have already completed their normal tenure of two years and it is the discretion of the competent authority to transfer a civil servant at anytime even outside of the province; that no terms and conditions of their service have been violated; that the impugned notification is based on law, Rules and principles of natural justice; that there is no malafide on the part of respondents towards the appellants; that the application are transferred in accordance with law in the public interest; that it is the fitness of things to post a right person at a right place to achieve good governance and to enhance public service delivery; that the appellants have been transferred within their cadre within the same directorate even if they have been transferred in ex-cadre, the same is also covered under the second proviso of Act; that the notification issued after observance of all relevant rules/policy.

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Service Tribunal
Peshawar



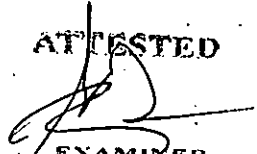
9. For any reason but as matter of fact, the posts held by the appellants as Drug Inspector or Drug Analyst, as the case may be, were got vacated by transfer of the appellants and filled by posting of the individuals from the cadre of pharmacists. The appellants inconsequence of their transfer have been posted against non-cadre posts. The main defense of the respondents lies in their reply to para-4 of the memorandum of appeal. It has been stated vide para-4 of appeal that by the service rules dated 09/04/2006, the cadre of the appellants is completely different from that of service rule assigned for pharmacists. The reply of the respondents to said para is copied below:

"The Service Rules does not carry any kind of assignment to a cadre but it specifies the method of recruitment and promotion prospects which is otherwise protected after the merging of cadre. Although transfer is not a punishment but to make such like people punctual, subservient to the public and to overcome the deficiency of efficient of hardworking officer to post right person on right place, the three cadres i.e. hospital pharmacist, drug inspector and analyst having same basic qualification as required for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so any drug inspector or an analyst at DTL (who are the cadre of the 04 to 05 persons) can be transferred making them liable to work in hospital under the close

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supervision of hospital administration and vice versa. Those who are transferred from hospital to work in the field as drug inspector are tremendously working, removing the bottlenecks and highlighting a lot of malpractices previously done by their predecessor who have been sacked from field duty. In other similar cases, the drug inspectors who are sacked are under probe at Provincial Inspection Team and other fora".

10. From the divergent pleadings of parties particularly discussed herein before, the main question wanting determination is, whether vice versa transfer of the holders of the post of Drug Inspector/Analyst and of Pharmacist is reasonably doable?

11. For answer to the formulated questions, prior determination of the legal status of the appellants and the respondents is necessary, as far as their functional duties are concerned. It is pertinent to observe that the Government of Khyber Pakhtunkhwa made the Khyber Pakhtunkhwa Drug Rules, 1982 in exercise of powers conferred by Section 44 of Drug Act, 1976. Rule-2 of ibid rules provides definitions of different words and phrases. The expression "Act" in the said rules means the Drug Act, 1976. Analyst means an Analyst appointed by the Government under the Act. Inspector means an Inspector appointed by the Government under the Act. Board means the Quality Control Board for the Khyber Pakhtunkhwa Province set up under Section 11 (of the Act). Pharmacy

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means a shop, store or place where drugs are compounded or prepared on prescription. Part-II of ibid rules relates to appointment and functions of enforcement staff. Sub Rule-(1) of Rule-3 in Part-II of the said Rules provides that an Inspector and Analyst shall submit monthly returns in Form-1 & Form-2 respectively, to the Board and a Summary on the overall situation of quality control in the area under their respective jurisdiction and the board shall maintain such information in a manner as to monitor the quality of all the drugs sold and to keep watch on the performance of all manufacturers. Rule-4 provides qualifications etc of Inspector and Analyst. Accordingly, no person shall be appointed as Inspector unless he possess the degree in Pharmacy from University or other institutions recognized for this purpose by the Pharmacy Council of Pakistan and has at least one year experience in the manufacture, sell, testing or analysis of drugs or in Drug Control Administration or in hospital or pharmacy. Sub Rule-(2) of Rule-4 provides the qualification for appointment as Analyst which is similar to that of the Inspector except experience which in case of Analyst is 05 years. The same rules i.e. of 1982 provide for duties of Inspectors and Analysts. From the given statutory expositions relating to the position of Drug Inspector and Drug Analyst, we have no hesitation to hold that the posts of Drug Inspector/Drug Analyst are statutory positions with authority of appointment vested in the Provincial Government. The Government of

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Khyber Pakhtunkhwa vide notification dated 09/04/2006 bearing No. SOH-III/10-04/05 issued in pursuance to the provisions contained in sub rule-(2) of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, laid down the method of recruitment, qualification and other conditions of service applicable to the posts specified in column-2 of the appendix. The qualification of Inspector in the appendix is similar to that of qualification provided under Sub-Rule-(1) of Rule-4 of Khyber Pakhtunkhwa Drug Rule, 1982. According to method of recruitment prescribed in column-5 of the appendix, the appointment to the post of Drug Inspector is to be made by initial recruitment while to the post of Chief Drug Inspector and Divisional Drug Inspector by promotion. The respondents in their reply vide para-4 as reproduced herein above have asserted with vehemence that there cadres i.e. Hospital Pharmacist, Drug Inspector and Drug Analyst having same qualification for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so Drug Inspector of Analyst at DTL (who are the cadre of 04 to 5 persons) be transferred making them liable to work in hospital under the close supervision of hospital administration. Those who are transferred from hospital to work in the field as Drug Inspector are tremendously working, removing the bottlenecks and

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highlighting a lot of discrepancies done by their predecessors who have been sacked from field duty.

12. The reply of the respondents as discussed above revolves around the expediency of filling the Drug Regulatory posts by *inter se* transfer of the holders of the post of Drug Inspector/Drug Analyst and of Pharmacists by merger of their cadre to ensure the discipline and quality of performance purportedly for the public good. We are not supposed to doubt the intentions of the respondents for such expediency but at the same time, we have to see that such an expediency is in conformity to the law and rules on the subject. Article 240 of Constitution of Pakistan enshrines that subject to the Constitution, the appointments and conditions of service in the Service of Pakistan shall be determined by or under the Act of Parliament in case of the services of Federation and by or under the Act of Provincial Assembly in case of services of Province and posts in connection with affairs of the Province. In pursuance of this command of Constitution, the Provincial Service Laws i.e. the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rules made there-under are in place in general besides other Special Service laws for particular posts and services in connection with affairs of the Province. As already discussed above, the notification dated 09/04/2006 issued in pursuance to Sub Rule-(2) of Rule-3 of (APT) Rules, 1989 is there which laid down the method of recruitment, qualification and other conditions of service

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EXAMINER
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Service Tribunal
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applicable to the posts of Drug Inspectors of different ranks. Thus, in presence of a legal instrument like notification dated 09/04/2006 having statutory backing, transfer of a Drug Inspector to an ex-cadre post to fill the resultant vacancy by transfer of a non-cadre officer is seemingly not credible. By the impugned order dated 06/10/2020, appellants holding the posts of Drug Inspector and one among them holding the post of Drug Analyst were transferred from their respective posts held by them in relevant cadre and posted as Pharmacist in a wrong cadre. The notification dated 06/04/2006 as far as column-5 of its appendix is concerned expressly provides for appointment of Drug Inspector through initial recruitment. With this position as to method of appointment of Drug Inspector, the post held by him cannot be filled by transfer or promotion from any other cadre albeit the person in the alien cadre may possess the qualification similar to the qualification of Drug Inspector. In holding so, we derive guidance from the law laid down by august Supreme Court of Pakistan in the case of Muhammad Sharif Tareen...vs... Government of Balochistan (2018 SCMR 54). In the ibid case, it was held by the Hon'ble Supreme Court that a post which is required by the rules to be filled by Initial recruitment cannot be filled by promotion, transfer, absorption, or by any other method which is not provided by the relevant law and rules. Furthermore, after making reference to the law laid down in the case of Ali Azhar Khan

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Baloch...vs...Province of Sindh (205 SCMR 456), it was held as follows:

"8. The quintessence of the paragraphs reproduced above is that the appointments made on deputation, by absorption or by transfer under the garb of exigencies of service in an outrageous disregard of merit impaired efficiency and paralyzed the good governance and that perpetuation of this phenomenon, even for a day more would further deteriorate the state of efficiency and good governance."

13. For what has gone above, all the appeals with their respective prayers are accepted as prayed for. Consequently, the impugned order is set aside and respondents are directed not to transfer the appellants from the post of Drug Inspector or Drug Analyst as the case may be. Parties are left to bear their own costs. File be consigned to record room after completion.

(SALAH-UD-DIN)
Member(J)

(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
06.12.2021

Certified to be true copy

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 02/02/2022
 Number of Words 5200
 Copying Fee 54/-
 Urgent 54/-
 Total 58/-
 Name of Copyist -
 Date of Completion of Copy 02/02/2022
 Date of Delivery of Copy 02/02/2022



Annul Rec G. 34

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 06th May, 2021

NOTIFICATION.

SO(H-III)7-262/2021. WHEREAS Health Department constituted the Committee vide Notification of even number, dated 24th June, 2020 to conduct the comprehensive audit of various districts including District Mardan for the purpose to evaluate the performance of Drug Inspectors and to unearth the reported discrepancies/mal practices/complaints that were poured in indicating lack of Drug Sale Licensing's data, NDCs issued to other districts, data of seized stock, pending cases for submission in the Provincial Quality Control Board and the Drug Court and data of FIRs in their respective Districts,

AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Amin ul Haq the Drug Inspector District Mardan,

AND WHEREAS the Provincial Inspection Team, Khyber Pakhtunkhwa has also conducted an inquiry where besides other corrupt practices, the chance of bribe has been proved

AND WHEREAS there is likelihood of distorting the record under Inquiry that may affect the inquiry proceedings.

AND WHEREAS the Competent Authority has ordered for conduction of Formal Inquiry under Efficiency & Disciplinary (E&D) Rules, 2011.

NOW THEREFORE the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to suspend the services of Mr. Amin Ul Haq under Rule-6 of Khyber Pakhtunkhwa Efficiency & Disciplinary (E&D) Rules, 2011 and is directed to report to Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst even No & date.

A copy is forwarded to:-

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Minister for Health, Khyber Pakhtunkhwa.
3. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Mardan.
6. District Account Officer, Kohat.
7. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar.
9. Deputy Director (I.T), Health Department.
10. Officer concerned

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(Naseer Ahmad)
SECTION OFFICER-III

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Peshawar, the 06th May, 2021

NOTIFICATION:

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AND WHEREAS the Audit Report surfaced corrupt practices committed during the tenure of Mr. Aman ul Haq the Drug Inspector District Mardan.

AND WHEREAS the Provincial Inspection Team, Khyber Pakhtunkhwa has also conducted an inquiry where besides other corrupt practices, the chance of bribe has been proved.

AND WHEREAS there is likelihood of distorting the record under Inquiry that may affect the inquiry proceedings.

AND WHEREAS the Competent Authority has ordered for conduction of Formal Inquiry under Efficiency & Disciplinary (E&D) Rules, 2011.

NOW THEREFORE the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to suspend the services of Mr. Aman Ul Haq under Rule-6 of Khyber Pakhtunkhwa Efficiency & Disciplinary (E&D) Rules, 2011 and is directed to report to Directorate General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa with immediate effect.

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

Endst even No. & date.

A copy is forwarded to:-

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Minister for Health, Khyber Pakhtunkhwa.
3. The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Mardan.
6. District Account Officer, Kohat.
7. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Health (E&A), Khyber Pakhtunkhwa, Peshawar.
9. Deputy Director (I.T), Health Department.
10. Officer concerned.

*Attested
on 06/05/21*

Sd/-
(Naseer Ahmed)
Section Officer-III

D-NO 2650

CS OFFICER

24/5/21

35

Annular: (MS)

The Chief Secretary
Khyber Pakhtun Khwa Peshawar

To: Subject: - ENQUIRY AGAINST MR. AMIN UL HAO SENIOR DRUG INSPECTOR BS-18

Respected Sir,

With great respect, I have the honor to state that an enquiry against me has under progress in Health Department, for which I have some observation on the enquiry officers,

1. That a departmental case is under process in court against me and the enquiry officers due to change of Post cadre (Drug Inspector) which is illegal. Moreover the enquiry officer is a pharmacist before he change his post cadre.
2. That one enquiry officer is below the rank of BS-18 and I am serving in BS-18. and it is illegal and against the Government rules that a BS-17 Officer has inquired a BS-18 Officer.

Keeping to the above observation I have requesting in your honor to kindly nominate a BS-19 enquiry officers, to enquire the matter/case to proceed further in the case for justified decision.

Thanks

Dated: 24-05-2021

Yours Sincerely,

Amin Ul Haq

Senior Drug Inspector BS-18

Mardan

PS/C.S Khyber Pakhtunkhwa

Diary No. 2650

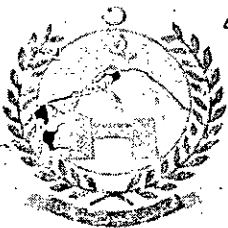
Date: 24-05-2021

Sery: Health

Subj: Inquiry against Mr.
Amin-ul-Haq Senior Drug
Inspector, BS-18.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
RELIEF REHABILITATION & SETTLEMENT
DEPARTMENT

36

No. SO (Admn.) RR&SD/2-14/2019/812
Dated the Peshawar 14th July 2021

To:

1. Mr. Amin ul Haq
Senior Drug Inspector (BS-18),
Mohallah Usman Khel, Village & Post Office Tangi Nasrat Zai,
Tehsil Tangi, District Charsadda.
2. Mr. Shoaib Khan
Drug Inspector (BS-17)
Mohallah Hafizan, Mohib Road, Par Hoti, Mardan.

Subject:


DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOUR DRUG INSPECTOR (BS-18) AND MR. SHOAB KHAN, DRUG INSPECTOR (BS-17) DIRECTOR GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR.

Referring to the Health Department Khyber Pakhtunkhwa letter No. SOri-III/7-262/2021 (Amin ul Haq SDI & Shoaib Khan DI) dated 08th July 2021.

2. The Competent Authority has nominated the undersigned along with Mr. Zahid Khan, Chief Drug Inspector (BS-19), District Peshawar as inquiry officer to conduct formal inquiry against both of you.

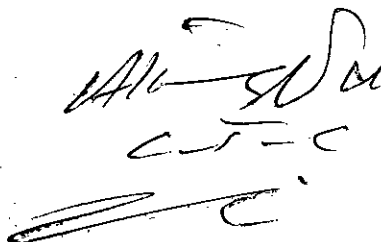
3. Under Rule 5(b) of Government Servants (Efficiency & Discipline) Rules 2011, you are required to appear before the inquiry committee along with written statement.

4. In this regard, you are directed to appear before the inquiry committee along with written statement on 26th July, 2021 at 1100 AM in the Relief, Rehabilitation and Settlement Department Khyber Pakhtunkhwa.


Arghar Khan
Additional Secretary,
Relief, Rehabilitation & Settlement Department, 19/7/21

Copy forwarded for information to the:

1. Secretary Health Department Khyber Pakhtunkhwa.
2. Naseer Ahmed Section Officer-III Health Department Khyber Pakhtunkhwa.
3. Master File, 2019.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
RELIEF REHABILITATION & SETTLEMENT
DEPARTMENT**

No. SO(Admn.) RR&SD/2-14/2019/812
Dated the Peshawar 14th July 2021

To

1. Mr. Amin ul Haq
Senior Drug Inspector (BPS-18)
Mohallah Usman Khel, Village & Post Office Tangi Nasrat Zai,
Tehsil Tangi, District Charsadda.
2. Mr. Shoaib Khan
Drug Inspector (BPS-17)
Mohallah Hafizan, Mohib Road, Par Hoti, Mardan.

Subject: **DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOR DRUG INSPECTOR (BPS-18) AND MR. SHOAB KHAN, DRUG INSPECTOR (BPS-17) DIRECTOR GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR**

Referring to the Health Department Khyber Pakhtunkhwa letter No.SOH-III/7-262/2021 (Amin ul Haq SDI & Shoaib Khan DI) dated 08th July 2021.

2 The Competent Authority has nominated the undersigned alongwith Mr. Zahid Khan Chief Drug Inspector (BPS-19), District Peshawar as inquiry officer to conduct formal inquiry against both of you.

3. Under Rule 5(b) of Government Servants (Efficiency & Discipline) Rules 2011, you are required to appear before the inquiry committee along with written statement.

4. In this regard, you are directed to appear before the inquiry committee along with written statement on 26th July, 2021 at 1100 AM in the Relief, Rehabilitation and Settlement Department, Khyber Pakhtunkhwa.

Sd/-
Asghar Khan
Additional Secretary,
Relief, Rehabilitation &
Settlement Department

Copy forwarded for information to the:

1. Secretary Health Department Khyber Pakhtunkhwa.
2. Naseer Ahmed Section Officer-III, Health Department, Khyber Pakhtunkhwa.
3. Master File, 2019.

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DISCIPLINARY ACTION

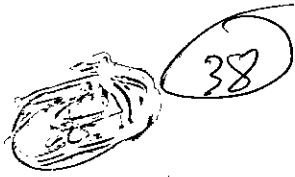
I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as the Competent Authority, am of the opinion that Mr. Amin Ul Haq, Senior Drug Inspector BS-18, currently posted as Senior Pharmacist KDA Hospital District Kohat, has rendered himself liable to be proceeded against, as he committed the following Acts/ Omissions within the meaning of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure showing least or no interest in searching market / area of jurisdiction .
- D. No attendance record was found available.
- E. No record of NOCs issued to applicants of Distt. Mardan who applied for getting Drug Licenses in other districts/provinces.
- F. Licensing record was lying in dilapidated condition with no tracking system without fulfilling legal formalities.
- G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses to ascertain authenticity of qualified persons resulted in spreading of fake licenses in the district.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured by you at the time of issuing DSL whereby in certain cases, picked randomly, the QP was unaware of his license at district Mardan.
- I. Seized medicines/court property and its record was in bad condition, not identifiable without any record maintained.
- J. The stock of medicines, seized during your inspection for its exhibition before Drug Court/PQCB was dumped haphazardly without any record to indicate from which facility it was drawn and with how much quantity.
- K. No record of taking over/handing over of charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
- M. His performance in the implementation of the Drug laws/rules, was poor.
- N. Statement of Dr. Noor Islam is on record that he took one Lac twenty thousand rupees (Rs. 120,000) through his private tout namely, Mr. Rashid (a chemist operating shop at tehsil Takht bhai) for granting Drug Sale license.
- O. A subsequent report highlighting issuance of illegal/fake drug sale licenses by him besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug law & Rules.
- P. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements/under taking.

AT 200
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Received 26/07/21



**WRITTEN STATEMENT OF AMIN UL HAQ, SENIOR DRUG
INSPECTOR (BPS-18), CURRENTLY IN DIRECTORATE GENERAL,
DRUG CONTROL AND PHARMACY SERVICES, KHYBER
PAKHTUNKHWA, PESHAWAR.**

1- The undersigned recruited/appointed as Drug Inspector in BPS-17 through KPPSC and post in various Districts of Khyber Pakhtunkhwa. In 2019 through PSB promoted in BPS-18 and posted as Senior Drug Inspector (BPS-18), Mardan. Para wise reply of the copy of charge sheet provided by the inquiry committee dated 26th July, 2021 are as under please:-

A. The undersigned after carrying over inspection regularly forwarded Daily Activity Reports of Drug control along with pictorial evidence with DGI DC&PS in their official whatsApp group created for the said purpose.

B. The Sealing Memo sheet used during sealing of premises under - Section 18 (h), which is a part of case file and counter file is regularly being delivered to sealing premises in charge on spot. **A copy of Sealing Memo is attached (Annex-I)** for information, please.

C. The undersigned is responsible for to take and send for test or analysis if necessary, samples of any drug which he has reason to suspect is being manufactured, sold, stocked or exhibited for sale in contravention of any of the provisions of the Drug Act. Declaring failed or passed is the duty of govt Analyst.

D. The undersigned regularly attended the office but neither previously nor presently there was any practice of maintenance of register for attendance of officers was available. Once the undersigned after posting inquired about the register for which I have been told that according to Secretariat Manual of Instructions for attendance, BPS-17 and above are exempted.

E. Proper record has been maintained for NOCs issued during my tenure (**Photo copies attached as Annex-II**).

F. No proper racks were available in the office for storage of record. The undersigned after posting prepared proper racks for record keeping which can be verified. However, the undersigned may not be held responsible for the dilapidated condition of old record as it was not properly maintained by the then officers / officials. Moreover, due to shortage of space the record was previously dumped in a room of EPI which was even not allotted to the office. Resultantly, the old record is in dilapidated condition.

G. No legal provisions to obtain NOC from KP Pharmacy Council is available therefore, the charge regarding obtaining NOC is denied and the undersigned may not be held responsible for this.

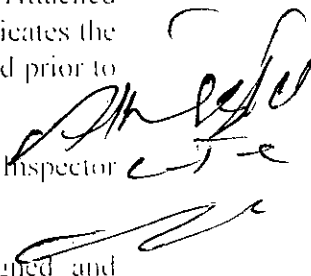
H. Totally denied this charge, as initial step of License is Form-8 which is basically an application which is filled by the Qualified Person. Issuing of Drug Sale License is subject to field inspections carried out by the drug Inspector to inspect / verify the information provided in form-8 by the Qualified Persons and is subject to proper approval. Therefore, it is a vague expression without any solid footings.

I. Totally denied, the under signed not received a single complaint from Drug Court or PQCB that the case property is missing or not presented in a proceedings or in a trial. Moreover, all the record of seized medicine of my tenure is available and is in identifiable condition. Copy of the PQCB Register of Issues attached **As Annex-III** for ready reference.

J. Denied. All the record of medicine seized in my tenure is available on form-6 (Attached as **Annex-IV**) and it clearly shows the facility from which it was drawn and clearly indicates the quantity seized. However, as early mentioned due to non availability of space, the record prior to the tenure of the undersigned has not been properly maintained.

K. Nothing was handed over to me due to the fact that the Post of Senior Drug Inspector (BS-18) was lying vacant at the time of arrival of the undersigned.

L. Charge denied. Regular inspections have been carried out by the undersigned and suspected drugs has been entered on form-5 and forwarded for checking its quality and the quantity of samples as required by the Drug Testing Laboratory are sent for testing. However as



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earlier mentioned, declaring failed or passed is the duty of govt. Analyst. Copies of Form-5 (attached as Annex-V) for ready reference, please.

M. Charge denied. I during my entire tenure, being the law enforcing agent worked with honesty and with punctuality. It is a proof of my statement that not even a single explanation has been called by any authority during my tenure.

N. Charge denied. It is totally a baseless charge neither I received any money and nor I have any tout. During my entire career I have worked with my entire devotion, punctuality and honesty towards fulfilling my assigned duties. Written statement of Mr. Rasheed is also attached as Annex-VI which proves that the allegation is baseless.

O. It is denied, no such case has been found during my entire tenure. Infact Hospital Pharmacist Community is against the drug Inspectors. We the drug inspectors have challenged the amalgamation of three cadres i.e. pharmacist, government analyst and Drug Inspector in which the Peshawar High Court set aside the amalgamation notification and resultantly the other two cadres became against the drug inspector cadre and trying to embarrassed them in eyes of Provincial Govt, through different techniques. As conflict of interest of three cadres involved. the said allegation may be set aside as it has no concrete weight and baseless. Moreover, no such reports have been provided to the undersigned to enable to clarify my position.

P. My cadre was changed from Drug Inspector to Hospital Pharmacist due to which I lodged a complaint in the KP Service Tribunal in which the Service tribunal granted stay. Due to the said stay, employees of the other two cadres started to work against the undersigned. As earlier stated I have worked with honesty in my entire service and totally deny the charge of issuing fake licenses. Even though it has been mentioned in the allegation that proprietors had paid huge amount but no proof of such corruption was provided. Therefore, the allegation is baseless. In fact such tactics have been adopted to defame the undersigned and nothing else. Written statement of Mr. Rasheed proves the allegation wrong. Hence the undersigned is being charged with unseen crime and decision on hear say, which based on presumption and assumption. Therefore, I being innocent totally deny the charge. Moreover, the undersigned pay due attention towards issuing licenses during my entire tenure and proper record was maintained. I visited the Drug Control Secretariat office Mardan regarding the verification of record of the list of 29 fake licenses provided by the inquiry committee. Even though no co-operation was extended to the undersigned during my visit but fortunately one proprietor of M/S United Medicos was present at that time that have provided me a copy of his license bearing No. 571/RS dated Nil (Copy attached as Annex-VII). The said license was issued by the undersigned and the holder of the license was a qualified person and can be verified. It is also an evident that all these licenses are not fake. Even then if the committee requires verification of licenses, then it is requested that the copies of under question licenses may be provided to the undersigned for verification. In addition, it has been mentioned on the page provided that the said 29 licenses have been issued by three drug inspectors i.e. Amin ul Haq, Tayyab and Shoaib as explained by Mr. Abdur Rauf Drug Inspector. This person is basically Hospital Pharmacist but his cadre was changed as drug inspector. As earlier requested weightage may not be given to his statement due to the fact that there is conflict of interest involved as explained in the reply to allegation at Para-O. It is also explained that the undersigned was kept unaware about the in process of inspection carried out by the Provincial Inspector Team and no one has bothered to call/ interview me therefore the report is totally one sided. It is also added that No signed /legal charge sheet has been provided so far which proves that the overall process was completed one sided.

2- It is, therefore, requested to consider the above facts and proof provided by the undersigned and humbly requested to exonerate me from the baseless allegations leveled against me.

Handwritten signature and initials, possibly 'Amin ul Haq'.

Handwritten signature of Amin ul Haq.
AMIN UL HAQ
SENIOR DRUGS INSPECTOR

Annulment

40

OFFICE OF THE CHIEF DRUG INSPECTOR
ROOM NO.13, 14 DISTRICT SECRETARIAT MARDAN

NO. 628 /PDLAR/MRD

Dated Mardan, the 02/02 /2021

From:

The Provincial Drug Inspector
District Secretariat Mardan.

To

The Director General Drug Control &
Pharmacy Services Khyber Pakhtunkhwa
Peshawar.

Subject: MISAPPROPRIATION IN ISSUANCE OF DRUG SALE LICENSES

Respected Sir,

I have the honor to submit that:

During course of inspections of medical stores in district Mardan by undersigned the following medical stores were checked with different time interval and days and found that licenses which were issued by predecessor inspectors of drugs were illegal/without fulfilling the legal requirements under the drugs laws and rules/fake, doubling and tripling of qualified person in same district which are as under;

S.NO	License No.	Type Form	Premises/ Medicose	Proprietor	Qualified	Issued by Predecessor SDI
01	617/RS	9,11	IHSAN	SAJJAD ALI	FAZLE KHALIQ	AMIN UL HAQ Same person has been issued three licenses at S.NO. 01, 07 & 03.
02	279/RS	9,11	SHER ALAM	SHER ALAM	SHAJAR KHAN	AMIN UL HAQ
03	703/RS	9,11	IKRAM	MUHAMMAD IKRAM	FAZLE KHALIQ	AMIN UL HAQ
04	581/RS	9,11	✓	ISHAQ MUHAMMAD	FAZLE RABI	AMIN UL HAQ
05	707/RS	9,11	SHAHID	SHAHID KHAN	QAJEERKHAN	AMIN UL HAQ
06	678/RS	9,11	COMMUNITY PHARMACY	MEHDI ALI	SAJJAD ALI KHAN	AMIN UL HAQ

AKS
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[Signature]

41



07	433/RS	9,11 to DISTRIBU TION	HOTI DISTRIBUTION		MUHAMMAD ASHRAF	AMIN UL HAQ
08	623/RS	9,11	MEDICINE POINT	IFTIKHAR ALI	MUHAMMAD ZAHID	AMIN UL HAQ
09	87/RS	9,11	AYAAN	MUHAMMA D TAYYEB	ALI GAUHAR	AMIN UL HAQ
10	614/RS	9,11	ABDUL QAYYUM	SYED UL IBRAR SHAH	SHAJAR KHAN	AMIN UL HAQ
11	677/RS	9,11	KHAN		NAIMAT ULLAH	AMIN UL HAQ
12	508/WS	10,11	KHALIL UR REHMAN		HUSSAIN SHAH	AMIN UL HAQ
13	571/RS	9,11	UNITED	AMIR KAMAL	FAQIR GUL	AMIN UL HAQ
14	704/RS	9,11	SUFYAN	YOUSAF SHAH	ALTAF HUSSAIN	AMIN UL HAQ
15	729/RS	9,11	GLOBAL	HAYAT KHAN	SAIF ULLAH	AMIN UL HAQ
16	202/RS	9,11	SHEHAB	UMAR KHITAB	UMAR KHITAB	AMIN UL HAQ
17	102/RS	9,11	TAKHAT BHAI VETERINARY	AMAL KHAN	KHAN AFSAR KHAN	AMIN UL HAQ
18	326/RS	9,11	ZAMAN	AHAD ZAMAN	JANAS KHAN	AMIN UL HAQ
19	492/RS	9,11	M-JEHANGIR	SHER ALAM KHAN	NIZAM UDDIN	AMIN UL HAQ

The undersigned issued show cause notices to the above medical store owners to explain their position regarding violating of the drug laws and rules framed there under. During investigation, some of the proprietor of the medical stores confessed that they don't even know the qualified persons rather these licenses are issued by the concern drug inspectors of district Mardan. It was also instructed to the proprietors /owners to appear the qualified person along with original documents, but they failed to do so.

Furthermore, for verification of record of these licenses from the clerk of the drug control office Mardan and he declared that no record of these medical store licenses are present in the office not in official register. After completing my investigation I had referred the cases to the chairman PQCB for taking legal action as per law.

Amir Ghani
Chief

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The complete detail of these fake illegal /without adopting the legal requirements to issuing licenses and without record in the office of Drug control Mardan is forwarding for information, perusal and further necessary action please.

Abdur Rauf
Provincial Inspector of Drugs
District Mardan.

Endst: No. & date even.

Copy to:

1. The Chairman Provincial Quality Control Board Khyber Pakhtunkhwa Peshawar.

Received from
 Mr. Y. Y. Comin Fee
 Date 03/08/21

AHSR
 CTR

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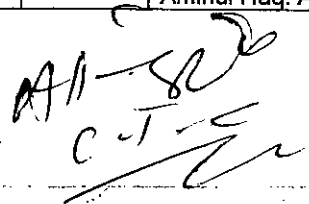
WRITTEN STATEMENT OF AMIN UL HAQ, SENIOR DRUG INSPECTOR (BPS-18), CURRENTLY IN DIRECTORATE GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KHYBER PAKHTUNKHWA, PESHAWAR.

1- The undersigned after submission of reply to charge sheet has been given a copy of letter of the office of the Chief Drug Inspector District Secretariat Mardan on 03-08-2021. The said letter was signed by Mr. Abdur Rauf Provincial Inspector of Drugs addressed to DG Drug Control & Pharmacy Services Khyber Pakhtunkhwa bearing No. 628/PDI-AR/MRD dated 02-02-2021 wherein it was stated that these licenses have been issued without fulfilling the legal requirements under the drugs laws and rules/ fake, doubling and tripling of qualified person in same district. Remarks of the undersigned /factual position of each license is given below:-

S#	License No	Type	Premises/ Medicos	Proprietor	Qualified	Issued by	Factual position
1	617/RS	9,11	Ihsan	Sajjad ali	Fazale Khaliq	Aminul Haq same person has been issued three licenses at S/No.01, 07 & 03.	Not agreed the qualified persons of all three licenses are not same as mentioned in the report that the qualified person of S/No.7 is different. As far as licenses mentioned at S/No.1 & 3 are concerned it is pertinent to mentioned herein that the proprietor committed while issuance of licenses that he will present its qualified person but he failed therefore, while inspection carried out by the undersigned the license bearing No. 617/RS was cancelled on 01-10-2020 accordingly by the undersigned. The doubling is regretted on the ground that the system of licenses are operated manually. However the license bearing No.703/RS was cancelled by the undersigned on 01-10-2020. Copies annexed as Annex-I
2	279/RS	9,11	Sher alam	Sher alam	Shajar khan	Aminul haq	The said license has not been issued by the undersigned. If someone who states that this license was issued by me then he should produce license with my original signature. Because if someone scanned my signature and issue a fake license I may not be held responsible for that.
3	703/RS	9,11	Ikram	Muhamma d Ikram	Fazal khaliq	Aminul haq	Not agreed the said license has already been cancelled by the undersigned on 01-10-2020.
4	681/RS	9,11	City	Ishaq Muhamma d	Fazlerabi	Aminul haq	The license is totally genuine as per rules. However, his qualified person as per his statement is abroad. Statement of the proprietor is Annexed as Annex-II.
5	707/RS	9,11	Shahid	Shahid khan	Qajeerkhan	Aminul haq	The license has been issued to the medicos in presence of qualified person. The owner stated that he can present his qualified person to everyone who thinks that the license is fake or illegal. Vide Annex-III
6	678/RS	9,11	Communi ty pharmacy	Mehdi ali	Sajjad ali khan	Aminul haq	Not agreed. Statement of proprietor and pectoral evidences are attached which clearly support the stance of the undersigned and shows that the allegations are not true and due to conflict of interest the complainant AbdurRauf has used it against me

Aminul Haq
S-1-T-C

							for defamation. Statement Annexed as Annex-IV
7	433/RS	9,11 to distribution	Hoti distribution		Muhammad ashraf	Aminul haq	It is mentioned in the objection that license No. 433/RS has been issued to Hoti distribution. This statement is incorrect RS license are issued to retailers whereas hoti distribution is a whole sale dealer and WS licenses are issued to wholesaler. Hence, the allegation is incorrect.
8	623/RS	9,11	Medicine point	Iftikhar ali	Muhammad zahid	Aminul haq	It is pertinent to mention herein that as per rule only one license can be issued on one name. Medicine point medical store is situated in main bazaar shergarhari chard road. All the information mentioned in the letter about the said medical store is incorrect. The license No. of the said medical store is 32/WS issued on 19-05-2017 and its proprietor is Hazrat Younas. No license at the above medical store has been issued by the undersigned. Statement of the proprietor is annexed as Annex-V
9	87/RS	9,11	Ayaan	Muhammad tayyeb	Ali gauhar	Aminul haq	Not issued by me. If someone scanned my signature and produced any fake photocopy then I shall not be held responsible for that.
10	614/RS	9,11	Abdul qayyum	Syed ulibrar shah	Shajar Khan	Aminul haq	The said license has already been cancelled by the undersigned on 01-10-2020 (Annex-VI)
11	677/RS	9,11	Khan		Niamat Ullah	Aminul haq	The information provided is incorrect. Statement of the proprietor is produced which indicate clear position and nothing illegal on part of the undersigned (Annex-VII).
12	508/RS	9,11	Khalil Ur Rehman		Hussain shah	Aminul haq	Not issued by me. If someone scanned my signature and produced any fake photocopy then I shall not be held responsible for that.
13	571/RS	9,11	United	Amir kamal	FaqirGul	Aminul haq	The license is totally genuine and run by a qualified person. We along with the qualified person twice visited the office when called and also presented ourselves to PQCB. We can visit again if required. Annex-VIII.
14	704/RS	9,11	Sufyan	Youaf shah	Altaff Hussain	Aminul haq	Statement of the proprietor is annexed which shows that the license is issued to me after observing all codal formalities. However, presently as per his statement his QP has went abroad. Moreover, the proprietor has lodged a complaint against AbdurRauf in court of law which clearly shows that the issue lies with complainant and not with undersigned (Annex-IX).
15	729/RS	9,11	Global	Hayat khan	SaifUllah	Aminul haq	The said license has already been cancelled by the undersigned on 01-10-2020 Annex-X
16	202/RS	9,11	Shahab	Umar khitab	Umar khitab	Aminul haq	The holder of the license is himself a qualified person. The license of the medical store was not issued by Mr. Aminul Haq. Annex-XI



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17	102/RS	9,11	Takhatbhai veterinary	Amal khan	Khan afsar khan	Aminul haq	The said license has been issued by the then Chief Drug Inspector on 14-07-2017 and was cancelled by the undersigned on 18-05-2020 due to non availability of the Qualified Person. Hence the allegation is incorrect (Annex-XII).
18	326/RS	9,11	Zaman	AhadZaman	Janas khan	Aminul haq	The license is totally genuine and run by a qualified person. We along with the qualified person can visit every office if required(Annex-XIII).
19	492/RS	9,11	M.Jehangir	Sheralamkhan	Nizamuddin	Aminul haq	The license is totally genuine and run by a qualified person. We along with the qualified person visited the office when called by the inspector. We can visit again if required. Annex-XIV.

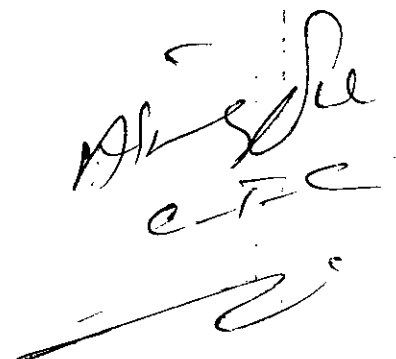
2. Apart from the above explanation the following are submitted for your kind perusal please:

- (a) My cadre was changed from Drug Inspector to Hospital Pharmacist due to which I lodged a complaint in the KP Service Tribunal in which the Service tribunal granted stay. Due to the said stay, employees of the other two cadres i.e. pharmacist and government analyst started to work against the undersigned.
- (b) As earlier stated I have worked with honesty in my entire service and totally deny the charge of issuing fake licenses. Therefore, the allegation is baseless. In fact such tactics have been adopted to defame the undersigned and nothing else.
- (c) The undersigned is being charged with unseen crime and decision on hear say, which based on presumption and assumption.
- (d) It is evident from the above statements and record produced by the undersigned that all these licenses are not fake. Even then if the committee requires i can present all the proprietors along with qualified persons.
- (e) Mr. AbdurRauf Drug Inspector is basically a Hospital Pharmacist but his cadre was changed as drug inspector. As earlier requested weightage may not be given to his statement due to the fact that there is conflict of interest involved as explained in the reply to allegation. It is also explained that the undersigned was kept unaware about the in process of inspection carried out by the Provincial Inspector Team and no one has bothered to call/ interview me therefore the report is totally one sided.

3- It is, therefore, requested to consider the above facts and proof provided by the undersigned and humbly requested to exonerate me from the baseless allegations leveled against me.


AMIN UL HAQ
SENIOR DRUGS INSPECTOR

11/08/2021



Amirul, dL

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SHOW CAUSE NOTICE

I, Mr. Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Amin ul Haq, Senior Drug Inspector (BPS-18), Directorate of Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, as follows:-

- i. Consequent upon completion of inquiry conducted against you by the Inquiry Committee for which you were given an opportunity of hearing vide communication No. SO(Admn.) RR& SD/2-14/2019, dated 14th July, 2021 wherein the charges of inefficiency, misconduct and misuse of authority stand proved, and
- ii. On going through the findings of the Inquiry Committee, material on record and other connected papers including your defense before the Inquiry Committee:-

2. I am satisfied that you have committed the acts/omissions of **inefficiency, misconduct and misuse of authority** specified in Rule-3 of the said rules:

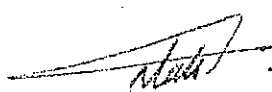
3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service,

under Rule-4 of the said rules.

4. You are, therefore, required to show cause as to why the aforesaid penalty/penalties should not be imposed upon you and also intimate whether you desire to be heard in person?

5. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

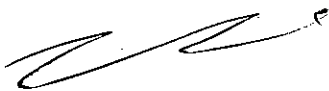
6. Copy of the findings of the Inquiry Committee is enclosed.



(Mahmood Khan)
Chief Minister, Khyber Pakhtunkhwa

Mr. Amin ul Haq,
Senior Drug Inspector,
Directorate General Drug Control & Pharmacy Services.

Amirul
C-T-C



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بانی حلقہ

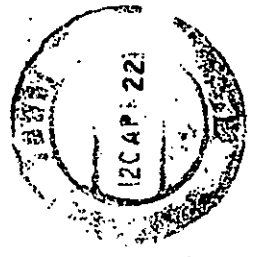
از حروف 20/04/2011 رقم 74487950 رقم قلمی

منہی منسب الحق نے آکر جو کہ ریسپرک بنی منہی منہی الحق
تو ہر صورت پر مشتمل تھا۔

حیدر منظور بطور منہی قرار کر دی تاکہ
بوقت ضرورت کام آسکے۔

۶ بجے ۱:۰۰ PM

20/4/2011



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RP-3

PARCEL LIST From

To

No. & Class of bags used		
C =	D =	B =

	Class	No.	Office of posting	Weight	Charges due		Class	No.	Office of posting	Weight	Charges due
1						11					
2						12					
3						13					
4						14					
5						15					
6						16					
7						17					
8						18					
9						19					
10						20					



D.O. Date-stamp (In words) R.O. Date-stamp

Ordinary Registered parcels
 V.P. Registered parcels
 Insured (including V.P.) parcels

Total

D.O. Signature R.O. Signature

Verified the entry relating to the insured articles above.
entries

Signature of the Postmaster
Head Sorter

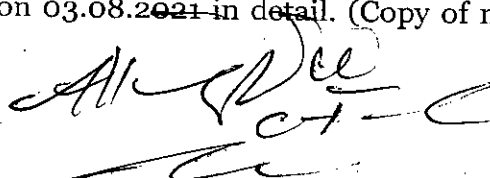
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**The Hon'ble Chief Minister
Khyber Pakhtunkhwa.**

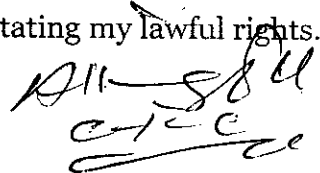
Subject: - **WRITTEN REPLY TO THE SHOW CAUSE NOTICE ISSUED VIDE LETTER DATED 15.04.2022 AND RECEIVED ON 20.04.2022 THROUGH REGISTERED POST**

Respected Submitted,

1. That I Amin Ul Haq Senior Drug Inspector (BPS-18) have received the above mentioned Show Cause Notice on 20.04.2022 issued vide letter dated 15.04.2022.
2. That the contents of the registered post did not have a copy of the inquiry report and in this regard the statement of the postman along with a copy of the envelop is attached for ready reference.
3. That since the inquiry report was neither enclosed nor a copy has ever been furnished to me, therefore, I shall be submitting my reply in light of the available record.
4. That I beg to bring in to the notice of your honor that litigation was going on between the Drug Inspectors and the government on the issue of change of cadre and in this back drop the malice of the Pharmacist cadre officers and of the official high ups cannot be ignored.
5. That vide notification dated 06.05.2021 my services were suspended for the purposes of inquiry. (Copy of the Notification dated 06.05.2021 is attached).
6. That the inquiry committee was constituted comprising of Mr. Asghar Khan, The Additional Secretary Relief, Rehabilitation and Settlement Department and Mr. Zahid Khan, Chief Drug Inspector, District Peshawar.
7. That I raised objection to the inclusion of Mr. Zahid Khan in the inquiry committee for the reason that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on on the issue of change of cadre. (Copy of the Objection dated 24.05.2021 is attached) but no heed was paid to the same.
8. That after more than two months without issuing any charge sheet, letter of explanation or statement of allegations I was issued letter dated 14.07.2021 by the inquiry committee to appear along with written statement on 26.07.2021. (Copy of the letter dated 14.07.2021 is attached)
9. That I appeared before the inquiry committee on 26.07.2021 and requested for copies of the explanation letter, statement of allegations and charge sheet to be able to furnish my written reply. I was handed over only a copy of the charge sheet received on the same date and was directed to appear before the inquiry committee on 03.08.2021. (Copy of the charge sheet is attached)
10. That I furnished my reply on 03.08.2021 in detail. (Copy of my written reply is attached)



11. That on the same date I was handed over a letter by the inquiry committee dated 02.02.2021 from Mr. Abdul Raof, Provincial Inspector of Drugs District Mardan and was instructed to furnish to the same as well. It is pertinent to mention that the contents of the said letter were neither part of the statement of allegations nor the subject of inquiry and were furnished by yet again an officer who basically was a Pharmacist and was a respondent in the litigation regarding change of cadre. Therefore, the malice cannot be ignored. (Copy of the letter dated 02.02.2021 is attached)
12. That I submitted a detailed reply to the letter dated 02.02.2021 as well. (Copy of the reply to the letter dated 02.02.2021 is attached).
13. That thereafter I was never called for any further proceedings nor was afforded a chance of personal hearing.
14. That till date I am under suspension and my salaries are stopped against the law for the last more than a year and the only reason was that I pursued my lawful remedy before the competent court of law which ultimately allowed my appeal.
15. That time and again I visited the offices of high ups to release my salaries and withdraw the suspension order beyond the lawful period, but of no avail.
16. That constrained of the illegal treatment I filed a contempt application before the Khyber Pakhtunkhwa Services Tribunal and when put on notice, I was issued the above subject show cause notice.
17. That through out I have been treated in utter derogation of law. I have been put under suspension beyond the statutory period. My salaries have been stopped for almost one and a half year since January 2021 and I have been consistently condemned unheard against all the norms of law and principles of justice.
18. That since no inquiry report has been furnished to me in spite of my request before and after receipt of the show cause notice, therefore, my replies to the statement of allegations and the letter dated 02.02.2021 may kindly be read as part and parcel of the instant reply.
19. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations along with the time period provided for conclusion of inquiry have been blatantly violated and therefore, the show cause notice is not sustainable under the law.
20. That the whole proceeding has been based on baseless allegations with malafide intentions of one of the members of inquiry committee namely Zahid Khan in connivance of the high ups of the department.
21. That the letter dated 02.02.2021 which was made as part of allegations was written by an officer BPS-17 Pharmacist who had made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in court cases against the Drug Inspectors, therefore, his malafide cannot be ignored.
22. That I have rendered more than 13 years meritorious services to the entire satisfaction of my departmental authorities and the allegations leveled against me are only the outcome of malafidies against me for agitating my lawful rights.

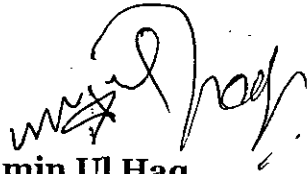


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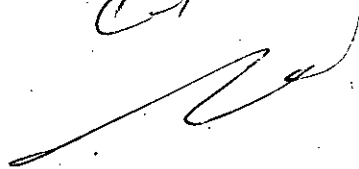
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23. That I request for provision of the inquiry report for a further detailed reply as well.
24. That I request for a chance of personal hearing as well.

In view of the above respectful submissions I request before your honor to withdraw the show cause notice dated 15.04.2022 and exonerate me from all the charges.



Amin Ul Haq
Senior Drug Inspector BPS-18

BAH-SDO
CTC


AMIN UL HAQ
Amin ul Haq
①

CONFIDENTIAL

INQUIRY REPORT

DISCIPLINARY ACTION AGAINST MR. AMIN UL HAQ, SENIOUR DRUG INSPECTOR (BS-18) DIRECTORATE GENERAL, DRUG CONTROL AND PHARMACY SERVICES, KYBER PAKHTUNKHWA.

INTRODUCTION:

The undersigned along with Mr. Zahid Khan, Chief Drug Inspector (BS-19) District Peshawar was entrusted with the task to initiate a formal inquiry against Mr. Amin-ul-Haq, Senior Drug Inspector (BS-18) vide letter No. SOH-III/7-262/2021 (Amin ul-Haq SDI & Shoaib Khan, DI) dated 8th July, 2021, (Annex-I).

In order to ascertain the factual position as per record available in the instant case, the accused officer was served upon with the "Charge Sheet" (Annex-II) having the following allegations:

- A. No register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in your tenure showing your least or no interest in searching market/ area of jurisdiction.
- D. No attendance record was found available.
- E. No record of NOCs issued to applicants of District Mardan who applied for getting Drug Licenses in other districts/provinces.
- F. Licensing record was lying in dilapidated condition with no tracking system without fulfilling legal formalities.
- G. No NOCs was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses to ascertain authenticity of qualified persons resulted in spreading of fake licenses in the district.
- H. Form-8 (application form) of your tenure was not properly filled. Presence of Qualified Person (QP) was not assured at the time of issuing DSL whereby in

Section Officer-III
Health Department
Khyber Pakhtunkhwa

AMIN UL HAQ
DI

certain cases, picked randomly, the QP was unaware of his license at district Mardan.

- I. Seized medicines/ court property and its record was in bad condition, not identifiable without any record maintained.
- J. The stock of medicines seized during your inspection for its exhibition before Drug Court/PQCB was dumped haphazardly without any record to indicate from which facility it was drawn and with how much quantity.
- K. No record of taking over/handing over of your charge including court cases or cases under investigation were found available.
- L. Market sampling of drugs for checking its quality was negligible.
- M. Your performance in the implementation of the Drug laws/rules was poor.
- N. Statement of Dr. Noor Islam is on record that you took one lac twenty thousand rupees (Rs. 120,000) through your private tout namely Mr. Rashid (a chemist operating shop at tehsil takth bhai) for granting Drug Sale license.
- O. Subsequently, the recently posted drug inspector has forwarded a report highlighting issuance of illegal/fake drug sale licenses by you besides licenses on multiple premises under the name of same qualified person in gross violation of the Drug Law & Rules.
- P. A number of cases reported wherein fake licenses have been surfaced whereby the proprietors had paid huge amount of corruption either directly to the drug inspector under inquiry or through agents as per their written statements.

BACKGROUND:

The competent authority constituted a four members committee under the chairmanship of Additional Secretary (B&D), Health Department for conducting a comprehensive audit of Drug Inspectors of Districts Mardan, Kohat, Dir Lower and Peshawar with regard to their activities in respect of Drug sale License's data, NOCs issued, case properties, pending cases and the status of FIRs etc. (Annex-III). The audit committee visited the Office of Drug Inspectors of District Mardan on 15th July 2020 and found the irregularities as mentioned from para-A to N above. Consequently, the committee has recommended to the

[Handwritten Signature]
 Section Officer
 Health Department
 Khyber Pakhtunkhwa

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 CTEC
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competent authority to initiate disciplinary action against Mr. Amin Ul Haq under E & D Rules 2011 (Annex-IV).

Similarly, Provincial Inspection Team (PIT) had conducted a fact-finding inquiry against Mr. Amin ul Haq which had proved, apart from other irregularities, taking bribes from the pharmacy shops of district Mardan (Inquiry Report of PIT is annexed as Annexure-V). Para O and P of the above charges were included in the charge sheet due to the PIT report.

Besides, Mr. Abdur Rauf successor of the accused officer had submitted a comprehensive report in the office of Director General Drug Control & Pharmacy Services Khyber Pakhtunkhwa Peshawar against the accused officer regarding misappropriation in issuance of drug sale licenses of District Mardan (Annex-VI).

In light of afore-mentioned charges, Competent Authority (Chief Secretary Khyber Pakhtunkhwa) suspended the services of Mr. Amin ul Haq under Rule-6 of Khyber Pakhtunkhwa Efficiency and Disciplinary (E&D) Rules 2011 to conduct a formal inquiry against the accused officer.

INQUIRY PROCEEDINGS:

The inquiry committee initiated its proceedings by intimating Mr. Amin ul Haq, via notice bearing No. SO (Admn.) RR&SD/2-14/2019 dated 14th July 2021, whereby he was directed to appear before the Inquiry Committee for personal hearing on 22-02-2021 at 1100hrs to clarify his position along with written statement (if any) on the statement of allegations. Accordingly, the accused complied with instructions and appeared before the Inquiry Officer as per schedule.

At the onset of Inquiry proceedings, cross-examination of the accused officer was carried out for the purpose of final findings. The accused officer has submitted his written reply against the charges levelled in the Charge Sheet which is unconvincing (Annex-VII). Furthermore, Mr. Abdur Rauf appeared before the inquiry committee and seconded his report regarding the illegal drug licenses.

FINDINGS:

After assessing of both verbal and written statements during the inquiry proceedings, the following findings have been ascertained:

Station Officer
Health Department
Khyber Pakhtunkhwa

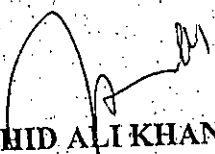
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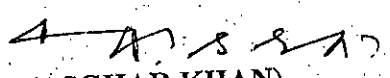
- I. The audit committee observation regarding issuing illegal licenses is a fact which is further supported by the report of Mr. Abdur Rauf, successor of the accused officer.
- II. The accused officer has unlawfully issued licenses to many pharmacy shops, while using name and registration of the same qualified person.
- III. In contravention with Rule-14 of the Drug Rules 1982 as amended in 2017, the accused Drug Inspector issued an illegal license to the pharmacy shop of late Dr. Noor Islam, having no official record.
- IV. The record-keeper clerk of Drug Control office Mardan substantiated the report of Mr. Abdur Rauf regarding non-existence of official record of the licenses issued by the accused officer.

CONCLUSION:

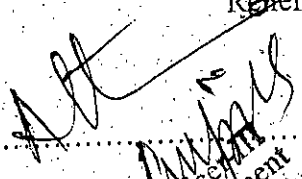
After evaluating the available record and oral statement of Mr. Amin ul Haq, the inquiry committee has reached upon the conclusion that the charges of inefficiency, misconduct and misuse of authority stand proved against Mr. Amin Ul Haq. Moreover, the charges of taking bribes/corruption from pharmacy shops need to be investigated by the Anti-corruption Establishment Khyber Pakhtunkhwa as recommended by the Provincial Inspection Team (PIT) Khyber Pakhtunkhwa.


(ZAHID ALI KHAN)

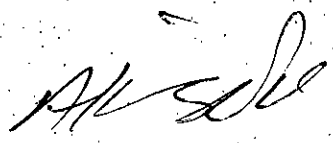
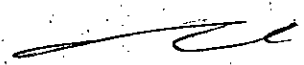
Member Inquiry Committee/
Chief Drug Inspector (BS-19)
District Peshawar.


(ASGHAR KHAN)

Chairman Inquiry Committee/
Additional Secretary,
Relief, Rehabilitation and Settlement
Department.


Section Officer
Health Department
Khyber Pakhtunkhwa

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etc


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THROUGH PROPER CHANNEL

To,

Hon'ble Chief Minister,
Govt. of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.

Subject:

FURTHER WRITTEN REPLY TO THE SHOW CAUSE
NOTICE ISSUED VIDE LETTER DATED 15.04.2022
AND RECEIVED ON 20.04.2022 THROUGH
REGISTERED POST.

Respectfully Submitted:

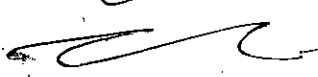
1. That I, Amin ul Haq Senior Drug Inspector (BPS-18) have received the above mentioned Show Cause Notice on 20.04.2022 issued vide letter dated 15.04.2022.
2. That the contents of the registered post didn't have a copy of the inquiry report and in this regard the statement of the postman alongwith a copy of the envelop is attached herewith for ready reference.
3. That since the inquiry report was neither enclosed nor a copy was ever furnished to me, therefore, I submitted my reply in light of the available record, however, on 10.08.2022 received the copies of the inquiry report and the audit report, hence my further reply in light of furnished documents is submitted, which is as under:
 - a. That by perusal of the documents manifestly speaks of malafide against me as a Drug Inspector for the reason that the department has initiated a process for change of cader of the Drug Inspector and Pharmacist.
 - b. That the audit report attached herewith cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the

Amin ul Haq
CDI
[Signature]

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public exchequer rather the same is aimed at changing the kader of the answering officer.

- c. It is, further submitted that no audit para was ever framed or it sent to me for reply nor the same has ever been taken to the Public Accounts Committee.
- d. That I as an incumbent Senior Drug Inspector was never associated while conducting and preparing the so-called audit report nor was taken on board ever for furnishing any relevant record and the whole proceedings has been completed in the offices of the Director General and Pharmacy Services.
- e. That the so-called audit report was compiled on 15.07.2020, when I had barely spent 08 months as an incumbent and all the files collected were not pertaining to the period of my incumbency and ironically the audit report does not mentioned the date on which this report was compiled, which is arising serious suspicions.
- f. That the inquiry proceedings too were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer, who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where I was one of the petitioner and Mr. Abdur Rauf was a respondent. Moreover, the audit committee neither find any fake license during office record checking nor reported fake licenses in their audit report. Astonishingly, Mr. Abdur Rauf letter to D.G, DC & P.S is consider as authentic documentary supporting evidence
- g. That the allegations regarding duplicity of licenses is not maintainable and the same was answered in detail in my reply to the statement of allegation, because I had already cancelled those licenses on 01.10.2020 after issuing proper

APR 2021
C-T-C


(57)

notice under the law. (Copies are attached for ready reference)

- h. That the so-called inquiry report and its findings are an afterthought of my earlier reply to the show cause notice, because the inquiry report forwarded to me too does not bear any date of its completion and submission.
 - i. That no allegation of any illegal act, misappropriation or delinquency etc, worth the name has been proved against me.
 - j. That no reason has been given as to how the license issued to the Drug Shop of Dr. Noor Islam was illegal rather I had brought the said shop under the law, which was being run without a proper license.
4. That I beg to bring into the notice of your honor that litigation was going on between the Drug Inspector and the government on the issue of change of cadre and in this back drop the malice of the Pharmacists Cadre Officers and of the official high ups cannot be ignored.
5. That vide notification dated 06.05.2021 my services were suspended for the purpose of inquiry. (Copy of Notification dated 06.05.2021 is attached)
6. That the Inquiry Committee was constituted comprising of Mr. Asghar Khan, the Additional Secretary Relief, Rehabilitation and Settlement Department and Mr. Zahid Khan, Chief Drug Inspector, District Peshawar.
7. That I raised objection to the inclusion of Mr. Zahid Khan in the Inquiry Committee for the reason that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on, on the issue of change of cadre. (Copy of the objection dated 24.05.2021 is attached), but no heed was paid to the same.
8. That after more than two months issuing any charge sheet, letter of explanation or statement of allegations, I was issued

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[Signature]

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letter dated 14.07.2021 by the Inquiry Committee to appear alongwith written statement on 26.07.2021. (Copy of the letter dated 14.07.2021 is attached)

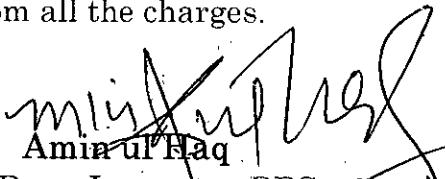
9. That I appeared before the Inquiry Committee on 26.07.2021 and requested for copies of the explanation letter, statement of allegations and charge sheet to be able to furnish my written reply. I was handed over only a copy of the charge sheet received on the same date and was directed to appear before the Inquiry Committee on 03.08.2021. (Copy of the charge sheet is attached)
10. That I furnished my reply on 03.08.2021 in detail. (copy of my written reply is attached)
11. That on the same date, I was handed over a letter by the Inquiry Committee dated 02.02.2021 from Mr. Abdul Raof, Provincial Inspector of Drugs District Mardan and was instructed to furnish to the same as well. It is, pertinent to mention that the contents of the said letter were neither part of the statement of allegations nor the subject of Inquiry were furnished by yet again an officer who basically was a Pharmacists and was a respondent in the litigation regarding change of cadre. Therefore, the malice cannot be ignored. (Copy of the letter dated 02.02.2021 is attached)
12. That I submitted a detailed reply to the letter dated 02.02.2021 as well. (Copy of the reply to the letter dated 02.02.2021 is attached)
13. That thereafter, I was never called for any further proceedings nor was afforded a chance of personal hearing.
14. That till date, I am under suspension and my salaries are stopped against the law for the last more than a year and the only reason was that I pursued my lawful remedy before the competent Court of law, which ultimately allowed my appeal.
15. That time and again I visited the offices of high-ups to release my salaries and withdraw the suspension order beyond the lawful period, but of no avail.

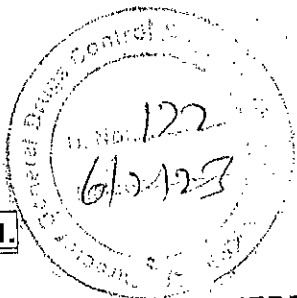
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16. That constrained of the illegal treatment I filed a contempt application before the Khyber Pakhtunkhwa Services tribunal and when put on notice, I was issued the above subject show cause notice.
17. That throughout I have been treated in utter derogation of law. I have been put under suspension beyond the statutory period. My salaries have been stopped for almost one and a half year since January 2021 and I have been consistently condemned unheard against the norms of law and principles of justice.
18. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations alongwith the time period provided for conclusion of inquiry have been blatantly violated and therefore, the show cause notice is not sustainable under the law.
19. That the whole proceeding has been based on baseless allegations with malafide intentions of one of the members of Inquiry Committee namely, Zahid Khan in connivance of the high ups of the department.
20. That the letter dated 02.02.2021, which was made as part of allegations was written by an officer BPS-17 Pharmacists, who had made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in Court cases against the Drug Inspectors, therefore, his malafide cannot be ignored.
21. That I have rendered more than 13 years meritorious services to the entire satisfaction of my departmental authorities and the allegations leveled against me are only the outcome of malafidies against me for agitating my lawful rights.
22. That I request for a chance of personal hearing as well.

In view of the above respectful submission, I request before your honor to withdraw the show cause notice dated 15.04.2022 and exonerated me from all the charges.


Amin ul Haq
Senior Drug Inspector BPS-18
16/08/2022



GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated, Peshawar, the 2nd February, 2023

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NOTIFICATION.

No. SOH-III/7-262/2023(Amin). WHEREAS, Mr. Amin ul Haq, Senior Drug Inspector (BPS-18) at Distt: Mardan was preceded against the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of committing the acts/omissions of inefficiency, misconduct and misuse of authority.

2. AND WHEREAS, an Inquiry committee was constituted to conduct a Formal Inquiry in terms of the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

3. AND WHEREAS, upon completion of Formal Inquiry, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) issued Show Cause Notice to the accused Senior Drug Inspector, Amin ul Haq, while imposed major penalty of "Removal from Service" tentatively and duly served vide letter No. SOH-III/7-262/2021(Amin ul Haq & Shoaib), dated 13th April, 2022.

4. AND WHEREAS, the opportunity of Personal Hearing was given to the above mentioned accused on 25-11-2022 and he was personally heard.

5. NOW THEREFORE, in exercise of the powers conferred on him under Rule-14 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011 and all such powers on that behalf, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to confirm and impose a major penalty of "Removal from Service" upon the accused Amin ul Haq, Senior Drug Inspector (BS-18) at District Mardan on account of commission/omission of inefficiency, misconduct and misuse of authority, with immediate effect.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

**OFFICE OF THE DIRECTORATE GENERAL DRUG CONTROL & PHARMACY
SERVICES KHYBER PAKHTUNKHWA PESHAWAR**



No. 164-67 /DGDCPS/2023


Dated: 13/02/2023

Copy forwarded to:

1. Amin Ul Haq, Ex-Senior Drug Inspector at District Mardan.
2. The District Health Officer Mardan.
3. The District Accounts Officer, Mardan.
4. PS to Secretary Health Khyber Pakhtunkhwa, Peshawar.

For Information and necessary action Please.

All
etc
etc


DIRECTOR GENERAL
Drug Control & Pharmacy Service
Khyber Pakhtunkhwa Peshawar.

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THROUGH PROPER CHANNEL

The Hon'ble Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

**REVIEW PETITION AGAINST THE ORDER OF MAJOR
PENALTY OF REMOVAL FROM SERVICE VIDE
NOTIFICATION NO. SOH-III/7-262/2023(Amin)
DATED 02.02.2023 RECEIVE ON 15/02/2023**

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Review Petition		1-6
2.	Copy of the Suspension order dated 06.05.2021	A	
3.	Copy of the letter dated 14.07.2021	B	
4.	Copy of the Statement of Allegations & Replay	C	
5.	Copy of the letter dated 02.02.2021 and reply	D	
6.	Copy of the letter, Show Cause Notice dated 15.04.2022 and reply	E	
7.	Copy of the letter dated 03-08-2022, Inquiry Report and further reply	F	
8.	Copy of the letter dated 02.02.2023	G	
9.	Copy of the objection dated 24.05.2021	H	

Dated: 21/02/2023

Senior Drug Inspector BPS-18

M. Amin ul Haq
M. Amin ul Haq

*Added
on 15/02/23*

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THROUGH PROPER CHANNEL

The Hon'ble Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Subject: **REVIEW PETITION AGAINST THE ORDER
OF MAJOR PENALTY OF REMOVAL FROM
SERVICE VIDE NOTIFICATION NO. SOH-
III/7-262/2023(Amin) DATED 02.02.2023
received on 15.02.2023.**

Respectfully Submitted:

1. That I, Amin ul Haq Senior Drug Inspector (BPS-18) have received the above mentioned order of removal from service and I submit the instant review petition.
2. That the brief background of the case is that my department changed the rules by making way for the pharmacists to be posted as Drug Inspectors which was challenged in the Hon'ble Peshawar High court and the amendments in the rules were set aside.
3. That this decision of the Hon'ble Peshawar High court was not implemented and instead again the department posted the Hospital Pharmacists as Drug Inspectors.
4. That due to the said prejudice departmental proceedings were initiated on 06.05.2021 by suspending the services of the petitioner. (Copy of the Suspension order dated 06.05.2021 is attached as annexure "A")
5. That no statement of allegation, charge sheet or any letter of explanation was issued to the petitioner and on 14.07.2021 the petitioner was directed by Mr. Asghar Khan Additional Secretary Relief Rehabilitation and Settlement Department who was Chairman of Inquiry Committee to appear on 26.07.2021 before the inquiry committee. (Copy of the letter dated 14.07.2021 is attached as annexure "B")
6. That on the said date the petitioner was delivered a copy of the statement of allegations which was duly replied on 03.08.2021 and

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mishra

submitted. (Copy of the Statement of Allegations is attached as annexure "C")

7. That astonishingly on 03.08.2021 when the petitioner submitted his reply another letter dated 02.02.2021 addressed to the Director General Drug Control and Pharmacy Services by Mr. Abdur Raof (BPS-17) Provincial Drugs Inspector District Mardan was handed over for reply which too was duly replied on 11.08.2021. (Copy of the letter dated 02.02.2021 and reply is attached as annexure "D")
8. That it is worth mentioning that since 11.08.2021 the petitioner was never called for any proceedings or personal hearing by the inquiry committee and was issued a Show Cause Notice received on 20.04.2022 which too was duly replied. (Copy of the Show Cause Notice dated 20.04.2022 and reply is attached as annexure "E").
9. That since the earlier Show Cause Notice was not accompanied by any inquiry report and the same had been pointed out in the reply, therefore, vide letter dated 03.08.2022 received on 10.08.2022 the petitioner was provided a copy of an undated inquiry report and a further reply was submitted to earlier show cause notice 16.08.2022. (Copy of the Inquiry Report and further reply is attached as annexure "F").
10. That the petitioner was called for personal hearing on 25.11.2022 before the Secretary LG, E&RD Department which the petitioner complied with and was waiting for exoneration but to the utter dismay received the above mentioned letter of removal from service. (Copy of the letter dated 02.02.2023 is attached as annexure "G").
11. That feeling aggrieved, the petitioner requests for review of the order of removal from service inter alia on the following grounds;

GROUND: -

- A. That the inquiry has been conducted in violation of the law and the rules. The undated inquiry report on the face of it is not maintainable rather is result of sham proceedings wherein the inquiry committee except for a reply to the statement of allegations has never called the

Attested
on 11/11/23

petitioner either for personal hearing or for cross examination of any witness.

- B. That the inquiry proceedings were conducted in a very illegal manner, where the findings were based on a letter dated 02.02.2021 by a BPS-17 Officer namely Abdur Rauf , who was appointed as Provincial Drug Inspector at Mardan against the law, because he was Pharmacist and against the judgment of the Hon'ble High Court in a case where the petitioner was one of the petitioner and Mr. Abdur Rauf was a respondent. Ironically the said Abdur Rauf was never called for cross examination by the petitioner and thus the whole proceedings are vitiated and marred by prejudice against the petitioner.
- C. That the inquiry committee has made no efforts to find the truth and instead has based its findings on a letter by a prejudiced officer of BPS-17 who was posted Ex-cadre against the law.
- D. That the petitioner raised objection to the inclusion of Mr. Zahid Khan in the Inquiry Committee for the reason that he was a Pharmacist and was posted as Drug Inspector against whom litigation was going on, on the issue of change of cadre, but no heed was paid to the same. (Copy of the objection dated 24.05.2021 is attached as annexure "H")
- E. That by perusal of the documents manifestly speaks of malafide against the petitioner as a Drug Inspector for the reason that the department has initiated a process for change of cadre of the Drug Inspector and Pharmacist.
- F. That the audit report on which the inquiry committee has relied cannot be called as such under the law, because the same does not disclose any misappropriation, embezzlement or any loss to the public exchequer rather the same is aimed at changing the cadre of the answering officer.
- G. It is, further submitted that no audit para was ever framed or sent to the petitioner for reply nor the same has ever been taken to the Public Accounts Committee.

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- H. That the petitioner as an incumbent Senior Drug Inspector was never associated while conducting and preparing the so-called audit report nor was taken on board ever for furnishing any relevant record and the whole proceedings have been completed in the offices of the Director General and Pharmacy Services.
- I. That the so-called audit report was compiled on 15.07.2020, when the petitioner had barely spent 08 months as an incumbent and all the files collected were not pertaining to the period of my incumbency and ironically the audit report does not mention the date on which this report was compiled, which is arising serious suspicions.
- J. That the so-called inquiry report and its findings are an afterthought of the earlier reply to the show cause notice, because the inquiry report forwarded to the petitioner too does not bear any date of its completion and submission.
- K. That no allegation of any illegal act, misappropriation or delinquency etc, worth the name has been proved against petitioner.
- L. That the petitioner beg to bring into the notice of your honor that litigation was going on between the Drug Inspector and the government on the issue of change of cadre and in this back drop the malice of the Pharmacists Cadre Officers and of the official high ups cannot be ignored.
- M. That the statement of allegations was issued to the petitioner by the Chief Secretary who was not competent to issue the same.
- N. That the law for conducting the inquiry in furnishing explanation letter and statement of allegations alongwith the time period provided for conclusion of inquiry have been blatantly violated and therefore, the harsh penalty is not sustainable under the law.
- O. That the whole proceedings have been based on baseless allegations with malafide intentions of one of the members of Inquiry Committee namely, Zahid Ali Khan in connivance with the high ups of the department.
- P. That the letter dated 02.02.2021, which was made as part of allegations was written by an officer BPS-17 Pharmacists, who had

*Accepted
M. J. Khan*

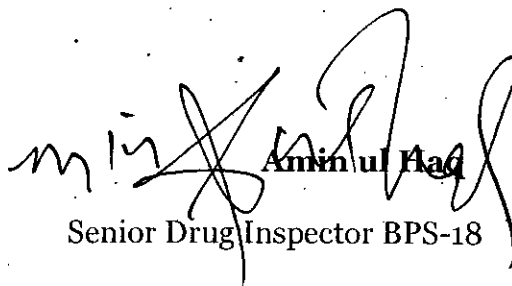
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made his way to post of Drug Inspector BPS-17 in an illegal manner and was respondent in Court cases against the Drug Inspectors, therefore, his malafide cannot be ignored.

- Q. That the petitioner remained under suspension from 06.05.2021 till 02.02.2023 which is unprecedented and remained without salaries since December 2020 against the law and the only reason was that the petitioner pursued lawful remedy before the competent Court of law, which ultimately allowed my appeal.
- R. that it is worth mentioning that time and again the petitioner visited the offices of high-ups to release the salaries and withdraw the suspension order beyond the lawful period, but of no avail. Even the suspension order was never extended which speaks of the high handedness against the petitioner.
- S. That throughout the petitioner has been treated in utter derogation of law. The petitioner has been put under suspension beyond the statutory period. His salaries were stopped for more than two years since December 2020 and has been consistently condemned unheard against the norms of law and principles of justice.
- T. That the petitioner has rendered more than 13 years meritorious services to the entire satisfaction of departmental authorities and the allegations leveled against are only the outcome of malafidies for agitating his lawful rights.

It is therefore, requested that in view of the above respectful submissions, the order dated 02.02.2023 for removal from service may kindly be withdrawn and the petitioner may kindly be re-instated into service with all back benefits.

The petitioner requests for a chance of personal hearing as well.


Amin ul Haq
Senior Drug Inspector BPS-18

Dated: 21.02.2023

Attested
on 21/02/23

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 1411 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6119

Mr. Muhammad Shoaib Khan, Ex-Drug Inspector (BPS-17),
Mohalla Hafizan, Mohib Road, Par Hoti, District Mardan.

Dated 20/6/2023

.....**APPELLANT**

VERSUS

- 1- The Chief Minister Khyber Pakhtunkhwa, through Principal Secretary, Peshawar.
- 2- The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3- The Secretary Health Department, Khyber Pakhtunkhwa Peshawar.
- 4- The Director General Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 02.02.2023 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL/REVIEW PETITION OF THE APPELLANT WITHIN THE STATUARY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this service appeal the impugned order dated 02.02.2023 may very kindly be set aside and the appellant may please be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit may also be granted in favor of the appellant.

R/SHEWETH:

ON FACTTS:

- 1- That the appellant while serving the respondent department as a Drug Inspector with devotion was suspended vide notification dated 06.05.2021. Copy of the notification dated 06.05.2021 is attached as annexure **A.**
- 2- That it is pertinent to mention here that since, the issuance of suspension order the salary of the appellant was illegally stopped. That the suspension order was extended beyond the statutory period however, the respondents constituted an inquiry committee vide order dated 08.07.2021. That the respondent issued charge sheet and

FORM OF ORDER SHEET

Court of: _____

Appeal No. 1411/2023

S.No. Date of order proceedings Order or other proceedings with signature of judge

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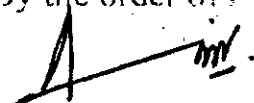
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23/06/2023

**SCANNED
KFST
Peshawar**

The appeal of Mr. Muhammad Sheef Khan resubmitted today by Mr. Noor Muhammad Ishaq Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 5.7.23

By the order of Chairman


REGISTRAR

5th July, 2023

1. Learned counsel for appellant present and heard.
2. Against the impugned order dated 02.02.2023, whereby, the appellant was removed from service. The appellant preferred departmental appeal on 22.02.2023 which was not responded within the statutory period of ninety days. Hence, this appeal on 20.06.2023 which is within time. Therefore, this appeal is admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security fees within 10 days. The respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days. To come up for reply/comments on 17.08.2023 before S.B. P.P given to the appellant.

(Kalim Arshad Khan)
Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1369/2023

Dr. Amin Ul Haq

SCANNED
KPST
Peshawar

Appellant


VERSUS

Government of Khyber Pakhtunkhwa
Health Department & Others

Respondents

INDEX

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(ISRAR AHMAD)

SECTION OFFICER (LIT-II)
GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT
CNIC # 17301-1378727-7

Tealoy
16-04-24

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1369/2023

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 9853

Dated 12-12-2023

Amin Ul Haq.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got no cause of action or locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in its present form.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has been estopped by his own conduct to file the instant appeal.
7. That the Appeal is badly time barred.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. No comments.
2. Pertains to record.

3. Correct to the extent of promotion of the appellant to Senior Drug Inspector (BPS-18) on acting charge basis vide Notification dated 30.10.2019 on the basis of seniority cum fitness.
4. Incorrect. The whole career of the appellant is full of complaints. On the basis of complaint on the allegations of corruption and issuance of fake Drug Sale License, the provincial Inspection Team conducted a detail inquiry against the appellant and recommended disciplinary action against the appellant along with referral of his case to the anti-corruption establishment Khyber Pakhtunkhwa for legal action. Furthermore, the respondent No. 03 (Secretary Health) constituted a committee for comprehensive audit of District Mardan, Kohat, Dir Lower and Peshawar regarding performance of Drug Inspectors posted as per their job and to find out discrepancies / malpractices wherein some illegalities/ irregularities were proved and the committee recommended the appellant for disciplinary proceedings under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules 2011. **(Copies of the PIT inquiry report, Notification dated 24.06.2020 and report of the committee are Annexures- A, B & C)**
5. Pertains to record. However, making rules or amending the same is the prerogative of the provincial government under Rules 3 (2) of the Khyber Pakhtunkhwa (APT) Rules 1989. However, the para has no relevancy with the instant matter.
6. Pertains to record. However, transfer/ posting of a civil servant is the prerogative of the competent authority under section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973. However, the para has no relevancy with the instant matter.
7. Pertains to record. However, the para has no relevancy with the instant matter.
8. Incorrect, misleading and based on a concocted statement. In fact after conducting audit the committee submitted its report wherein disciplinary proceedings were recommended against the appellant and one other therefore, on the approval of the competent authority (Chief Secretary Khyber Pakhtunkhwa) the appellant was suspended under Rule 6 of the Khyber Pakhtunkhwa (E&D) Rules, 2011 and disciplinary proceedings were initiated.

9. Incorrect, misleading and baseless allegations none of the respondent has any ill will, mala fide and personal grudges towards the appellant.
10. Incorrect. A proper charge sheet along with statement allegation was issued to the appellant according to rules and the appellant himself submitted a detail reply to the charge sheet however, the reply was not satisfactory.
11. Correct to the extent of submitting reply to the charge sheet. It is worth to mention that this para is contradictory to the preceding paras.
12. Pertains to record. However, as per recommendation of the audit committee the office of the Drug Control at Mardan may be directed to compile record of all type of Drug licenses along with streamlining the relevant record and NOC issued for other district and to submit the same within two weeks to the Director General Drug therefore, in compliance of the same a report was submitted vide letter dated 02.02.2021.
13. Incorrect. The appellant was provided all opportunities of defense/ personal hearing by the inquiry committee. On conclusion and submission of the inquiry report the competent authority (Chief Minister Khyber Pakhtunkhwa) issued a show cause notice which was duly replied by the appellant furthermore, it is evident from para 06 of the show cause notice that findings of the inquiry committee was also enclosed with the show cause notice.
14. Incorrect. Already replied in para 13 above.
15. Incorrect. Proper opportunity of personal hearing was provided to the appellant which was availed by the appellant hence denied. Thereafter, after providing opportunities of defense and fulfilling all the codal formalities as per law the appellant was awarded major penalty of removal from service vide Notification dated 02.02.2023 already annexed as annexure-N with the appeal.
16. Incorrect. No vested right of the appellant has been violated by the replying respondents however, reply on the grounds is as under:

Grounds:

- A. Incorrect. The inquiry committee conducted the inquiry in accordance with law, rules and principles of natural justice. The appellant has admitted the

opportunity of personal hearing and service of charge sheet along with statement of allegations and show cause notice in the preceding paras. It is worth mentioning that the appellant has not denied the allegations even in the instant appeal rather made baseless objections on the disciplinary proceedings by twisting the real facts with ulterior motives.

- B. Incorrect. The referred letter dated 02.02.2021 was issued in compliance of the direction of the audit committee as described in para 12 of the facts. It is worth to mention that the findings of the inquiry committee was based on the facts came out to the surface after conducting of regular inquiry in accordance with the Khyber Pakhtunkhwa (E&D) Rules, 2011.
- C. Incorrect. As per para B above.
- D. Incorrect. There is no pending litigation of the appellant against Zahid Khan who is a senior officer than the appellant whereas the inquiry was not conducted by Mr. Zahid Khan alone but was conducted by a committee headed by a most senior officer of the Secretariat hence, denied.
- E. Incorrect. There is no mala fide on the part of respondents towards the appellant. Detail reply has been given in the preceding paras.
- F. Incorrect. All the allegations mentioned in the charge sheet along with statement of allegations have been proved during the inquiry proceedings beyond any shadow of doubt therefore, after fulfilling of all the codal formalities removal Notification dated 02.02.2023 was issued by the competent authority.
- G. Incorrect. Already replied in para 04 of the facts.
- H. Incorrect. Already replied in the preceding paras.
- I. Incorrect. Already explained in preceding paras.
- J. Incorrect. Already explained in preceding paras.
- K. Incorrect. Already explained in preceding paras.
- L. Incorrect. There is no ill will of the department towards the appellant. It is worth to mention that beside the appellant some other Drug Inspectors also indulged the department into litigations however, the department did not take any disciplinary action against them in fact the appellant was proceeded by the department on the basis of some allegations which was proved during the course of inquiry.
- M. Incorrect. Already replied in the preceding paras.
- N. Incorrect. No documentary proof has been annexed by the appellant in support of his claim.
- O. Incorrect. Already replied in para A above.
- P. Incorrect. Already replied in para A above.

- Q. Incorrect. Already replied in para D above.
R. Incorrect. Already replied in para B above.
S. Incorrect. Already replied in para A above.
T. Incorrect. Already replied in para 04 of the facts.

PRAYER

It is therefore requested that the Appeal of the Appellant may very graciously be dismissed with cost.



**Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 05**

Dr. Shaukat Ali



**Director General Drug Control &
Pharmacy Services, Khyber
Pakhtunkhwa
Respondent No-04**

Abbas Khan



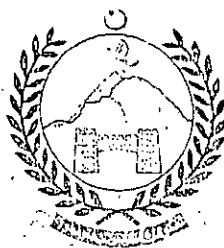
**Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Respondent No-01&03**

Mehmood Aslam

~~SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA~~

CONFIDENTIAL

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PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA

INQUIRY REPORT

Subject: INQUIRY INTO COMPLAINT AGAINST MR. AMIN-UL-HAQ SENIOR DRUG INSPECTOR, MARDAN.

1- Order of Inquiry

Orders of the Competent Authority to conduct an inquiry into the captioned case were communicated vide Chief Minister's compliant and Redressal Cell letter No. DS/C&RC)/CMS/KP/1-65/Vol-1/Noor Islam/app-3288/2449 dated 07.09.2020 (Annex: A).

2- Complaint

The complainant, Dr. Noor Islam in his complaint dated 25.7.2020(Annex: B) stated that he was a retired Chief Medical Officer from Health Department Government of Khyber Pakhtunkhwa and had a clean, dedicated and honest service history at his credit.

He further stated that he had a private clinic in Takht Bahi. Mr. Amin-ul-Haq Senior Drug Inspector Mardan visited pharmacy of his clinic along with Assistant Commissioner Takht Bahi for inspection on 17.03.2020.

Section Officer-III
Health Department
Khyber Pakhtunkhwa

Section Officer-III
Health Department
Khyber Pakhtunkhwa

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further alleged that the said store was also used for issuing illegal Drug Licences.

The complainant alleged that on the subsequent day i.e., 18.03.2020, Mr. Amin-ul-Haq sent him a Drug Licence prepared and signed by him for a period of two years. He added that he was insulted in front of his patients, AC and other staff just for the sake of illegal money. The complainant requested for an impartial probe into the matter to punish/transfer such a mentally unfit/drug addict from district Mardan and to replace him by an honest and dutiful drug inspector.

3- Inquiry Proceedings.

a. After receiving the case, the complainant, Dr. Noor Islam was requested to attend office of the PIT for hearing and recording statement vide letter dated 11.09.2020 (Annex: C). In response, he attended and recorded his statement on 16.09.2020 (Annex: D).

b. The PIT further requested the Assistant Commissioner, Takht Bhai, District Mardan to furnish comments in connection with allegations levelled in the instant complaint vide letter dated 25.09.2020 (Annex: E). The requisite comments were furnished by the concerned Assistant

Ali
Section Officer
Health Department
Khyber Pakhtunkhwa

Attest
Khan
Assistant Commissioner
District Mardan

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Commissioner vide letter dated 28.09.2020 (Annex: F).

c. The Secretary Health Department was requested to serve the Questionnaire of the PIT upon the accused Drug Inspector and direct him to attend office of the PIT for hearing and recording statement vide letter dated 09.10.2020(Annex: G). In response, brother of the accused Drug Inspector attended who requested that he(Mr.Amin ul Haq Sr. Drug Inspector) would attend the PIT on the next day (Annex: H). The accused himself attended along with reply to the questionnaire on 20.10.2020 (Annex: I). His statement was also recorded wherein he requested that he would submit the deficient/pointed out record within a week time (Annex: J).

d. The PIT further requested the Secretary Health department to direct the accused officer Mr. Amin ul Haq to provide the deficient record as per the commitment of the accused vide letter dated 28.10.2020 and reminders dated 10.11.2020 and 18.11.2020(Annex: K). However, the accused Drug Inspector failed to provide the requisite record. The incumbent Provincial Drug Inspector Mardan namely Abdul Rauf provided some of the record

[Handwritten signature]
Officer
Department
Munkhwa

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Officer (Lit-II)
Health Department

through Health Department vide letter dated 18.11.2020(Annex: L)

e. The Director General Drug Control, Khyber Pakhtunkhwa was requested to provide an attested/authentic copy of the Drug Control Act 1976 and bye Laws of the Drug control vide letter dated 11.11.2020 and reminder dated 18.11.2020(Annex: M). The requisite laws were provided vide letter dated 17.11.2020(Annex: N).

f. The PIT served a questionnaire containing two questions upon the then Assistant Commissioner Takht Bhai Mardan vide letter dated 25.11.2020(Annex: N-I). Reply of the officer was received vide letter dated 26.11.2020(Annex: N-II).

g. The PIT visited District Mardan and conducted an inspection of the clinic of, Dr. Noor Islam on 10.12.2020. The record of Fake Drug Licences was also collected from the incumbent Drug Inspector Mardan(Mr. Abdur Rauf) during the visit(Annex:

o). In light of the fake Drug Licences, statements of the following owners of concerned Drug shops/ pharmacies were also recorded;

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Section Officer-III
Health Department
Khyber Pakhtunkhwa

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Section Officer (M-III)
Health Department
Khyber Pakhtunkhwa

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S.No	Name	Pharmacy	Annexure
1	Joint statement of Muhammad Ikram S/O Shakar Khan and Muhammad Ibrar S/O Muhammad Ikram	Takht Bhai Veterinary	P
2	Yousaf Shah S/O Niqab Shah	Sufyan Medicine company Manga, Mardan	Q
3	Jamshed Khan S/O Sarfaraz Khan	Shahab/Khyber Medicose Takht Bhai	R
4	Rasheed Khan S/O Ghulam Sarwar	Rasheed Medicose Takht Bhai	S

h. Further PIT visited the medicine shop at Jhandi, Mardan reportedly own by the Rasheed Khan indicated as middleman of the accused Drug Inspector. However, his shop was found closed. A summon dated 10.12.2020 was handed over to the nearby neighbour of his shop to attend PIT on 11.12.2020 for hearing. In response he attended accordingly and recorded statement (Annex-S).

AKS
Section Officer
Health Department
Khyber Pakhtunkhwa

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Section Officer (Lit-ID)
Health Department
Khyber Pakhtunkhwa

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- i. The PIT further served a questionnaire upon the Ex-Drug Inspectors Mardan (Mr. Amin-ul-Haq, Tayyab and Muhammad Shoaib) to clarify the status of twenty-nine doubtful Drug Licences issued by them which have no official record vide the PIT letter dated 16.12.2020 (Annex-T). In response, only Mr. Shoaib submitted record unofficially (Annex-U).

4- Observations/Analysis.

After scrutiny of the available record/documents, detailed discussions, written statements and replies of the concerned, observations/findings of the PIT are as under:-

- a. The Complainant, Dr. Noor Islam stated in his written statement dated 16-09-2020 (Annex: D) that his complaint was based on facts and that he would be responsible if anything was found baseless. The PIT asked him whether he had Drug Licence on the day when his pharmacy was inspected by the Drug Inspector on 17.03.2020. He replied that at the time of inspection and sealing of his pharmacy he had no Drug License but the pharmacy was inside his clinic having only emergency items for his clinic's patients. The PIT further asked him to furnish proof regarding the payment of Rs.1,10,000/- as bribe to the concerned

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Section Officer (Lit-III)
Health Department
Khyber Pakhtunkhwa

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Section Officer (Lit-III)
Health Department
Khyber Pakhtunkhwa

During the inspection he requested the aforementioned Drug Inspector that the pharmacy was only for his clinic's patients and was totally under his supervision. The complainant further added that he informed the Drug Inspector that his clinic was already registered with Health Regulatory Authority.

The complainant contended that the medicine area was inside his clinic where he kept medicines for the consumption of his patients only and did not sell medicines to the general public. The complainant asserted that he requested the said Drug Inspector to intimate his objections (if any) in writing and that he (complainant) would also manage Drug Sale License if required under the law.

The complainant alleged that Mr. Amin-ul-Haq refused to entertain his request and sealed the pharmacy. He added that he sent his nephew named Mr. Mohammad Younas to the office of the above Drug Inspector where an amount of Rs. 1,40,000/- was demanded from him for de-sealing of the pharmacy. The complainant alleged that his nephew paid the Drug Inspector an amount of Rs. 1,10,000/- in Rasheed Medical Store situated in Jhanday Bazar Takht Bhai. The complainant further claimed that Mr. Rasheed, owner of the Rasheed Medical store was middleman of the aforementioned Drug Inspector for extorting illegal money from all Medical Stores situated in District Mardan. It was

Section Officer-III
Health Department
Khyber Pakhtunkhwa

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

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Drug Inspector. He replied that two of his relatives were his witnesses. The PIT asked him that whether he had applied for issuance of Drug license. He replied that he had not applied for any Drug license. He claimed that the accused officer Mr. Amin-ul-Haq issued him fake Drug License which had no official record. The complainant provided the said Drug Licence to the PIT having the following particulars with condition to keep it confidential during the inquiry proceedings(Annex: W);

DSL NO	Medical Store Name	Address	Qualifie d Name	From	To
171/Rs & (171/Rs- N)	Islam Medical Store	Mazdoor Abad Takht Bhai	Abdur Rehman S/O Abdul Jabbar	18-3-20 (18-3-20)	17-3-22 (17-3-20)

The complainant was further asked that why he paid an amount of Rupees 1,10,000/- as a bribe which was a crime under the law. He contended that it was the only way to expose corruption of the said Drug Inspector.

b. The Assistant Commissioner in her comments dated 28.09.2020 (Annex: F) stated that office of the Assistant Commissioner provides only administrative support to the other departments

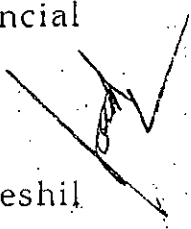
[Signature]
Section Officer-III
Health Department
Khyber Pakhtunkhwa

[Signature]
Section Officer (I-II-III)
Health Department
Khyber Pakhtunkhwa

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and fulfillment of legal formalities was the responsibility of the concerned departments. In the instant case office of the AC Takht Bhai provided administrative support to the concerned Drug Inspector who fulfilled the legal formalities. The PIT asked her as to why she failed to ensure a fair/lawful post sealing action as she accompanied Mr. Amin-ul-Haq Sr. Drug Inspector Mardan during sealing of the pharmacy of Dr.Noor-Islam on 17.03.2020 which was de-sealed on the basis of a fake Drug Licence on 18.03.2020(Annex: N-I). She reiterated that she only provided assistance to the Drug Inspector as provided under section 18(1)(d) of the Drug Act 1976. She added that neither she issued the sealing nor the de-sealing order. She further added that powers of sealing lies with the Drug Inspector and the powers of de-sealing rested with Drug Court or Provincial Quality control Board(Annex: N-II).



Mr. Shams-ul-Haq Pharmacy Technician of Teshil Hospital Tangi(brother of Amin-ul-Haq Sr. Drug Inspector) in his statement dated 19.10.2020(Annex: H) stated that he attended the PIT on behalf of his brother. He further stated that his brother had fallen from stairs and had got injuries on his hand due to which he was unable to attend the proceedings. He produced a medical certificate issued by a private orthopedic surgeon.

All copies
 Section Officer-III
 Health Department
 Khyber Pakhtunkhwa

affirmed
 Section Officer (N-I)
 Health Department
 Khyber Pakhtunkhwa

He requested that his brother would attend the PIT on next day.

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d. Mr. Amin-ul-Haq Senior Drug Inspector Mardan in his reply to the questionnaire of the PIT (Annex: I) stated that he was posted in District Mardan on 30.10.2019. He added that his routine inspections schedule was started from 9.00am to 5:00pm at random basis. He further added that on the day of sealing medical store of the Dr.Noor Islam, he inspected the following three other pharmacies along with Assistant Commissioner Takht Bhai.

- a. Shahab Medical Store
- b. Sehat medicos' main bazaar Takht Bhai district Mardan
- c. Khyber Medicos

According to his statement he inspected medical store of Dr.Noor Islam on 17.03.2020 along with AC Takht Bhai and then issued de-sealing order of the medical store after issuance of License for which all the requisite documents were furnished by drug control clerk. He further informed that the said Doctor ran his medical store without a license for years. When he sealed medical store then the aforementioned Doctor approached for getting license for which he provided all the relevant documents and details to Drug Control Clerk. He commented that he sealed medical store of the Dr.

Section Officer
Health Department
Khyber Pakhtunkhwa

Section Officer
Health Department
Khyber Pakhtunkhwa

Noor Islam under section 23 (I)(c),vii, vi & (i) of the Drug Act 1976. Unregistered Expired, Misbranded and Indian drugs were taken on form-6. He further informed that the said -seized drug Sample record was available along with attestation and biometric proofs with Mr. Imran Ullah store keeper of Dr. Noor Islam medical store. Regarding provision of detail of the Drug Licences issued by him (Sr. Drug Inspector Mardan), he informed that during the month of March, 2020, record of his office was mixed due to non availability of storage facility and would take time in its recovery. Which seems a lame excuse and leads to the impression that no record was available of the Drug Licence in question.

e. In statement dated 20.10.2020(Annex; J) the accused officer stated that he visited the clinic of complainant, Dr. Noor Islam for inspection along with Assistant Commissioner Takht Bhai, Mardan at around 9.00 am on 17.03.2020. He added that a pharmacy shop was there with clinic of the above doctor. During inspection, the said Doctor had no Drug Licence. In addition, unregistered and samples were also found in his pharmacy. Hence, his pharmacy was sealed. He added that the next day (18.03.2020), when the said Doctor produced the Drug Licence, de-sealing order was issued. The PIT asked him that as per his claim, if the said Doctor had been running the pharmacy without

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 Section Officer
 Health Department
 Khyber Pakhtunkhwa

Attested
 Section Officer
 Health Department
 Khyber Pakhtunkhwa

Licence for years then how many times he issued him show Cause Notices. He replied that he did not issue any show cause notice before the sealing and expressed ignorance if any other Drug Inspector had issued him any show cause notice before his posting. The PIT asked him to explain that whether issuance of show cause notice is required before sealing of any pharmacy. He replied that Dr. Noor Islam was issued a show cause notice on the same day i.e., on 17.03.2020. The PIT asked him to produce copy of application of the said Doctor for issuance of Licence. He replied that he had no copy of the said application at the time. However, he promised that he would provide the same within a week time. The PIT asked him to explain the procedure of issuance of Drug Licence. He replied that the same was mentioned in the Drug Act-1976, which he would provide after confirmation from the said Act. The PIT asked him to produce copy of the Drug Licence which he issued to the concerned Doctor on the basis of which he issued the order of de-sealing. He promised that he would provide the copy within a week time. The PIT asked him whether he got the seal/signatures of the concerned Doctor on the confiscated drugs. He replied that Form-6 was attested by the concerned pharmacy store keeper. The PIT asked him that

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 Senior Officer-III
 Health Department
 Khyber Pakhtunkhwa

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 Senior Officer-III
 Health Department
 Khyber Pakhtunkhwa

why he did not furnish detail of the Drug Licences issued by him during the month of march 2020. He promised that he would produce the said record within a weak time. However, he failed to produce record of the Drug Licence issued to Dr. Noor Islam despite repeated requests.

i. The Health Department vide its letter dated 18.11.2020(Annex: L) informed that Mr.Amin ul Haq Sr. Drug Inspector Mardan issued the following three Drug Licences during the month of March 2020;

DSL NO	Medical Store Name	Address	Qualified Name	From	To
29/Rs	Musa Khel Medical Store	Shamsi Road Mardan	Sahib ul Haq S/O M. Kamil	22-2-20 Issued on 16.3.20	21-3-22
117/Rs	Shameen Medicos	--do--	M. Nadeem S/O Hikmat Shah	09.3.20	08.3.22
633/Rs	Mirza Medicos	Saro Shah Takht Bhai	Mirza Khan S/O Ashraf Khan	26.3.20	25.3.22

Ahmad
Section Officer-III
Health Department
Khyber Pakhtunkhwa

Attest
Section Officer (H-II)
Khyber Pakhtunkhwa

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g. Mr. Abdur Rauf Drug Inspector Mardan in his statement dated 10.12.2020(Annex: O) stated that he was posted in District Mardan on 07.10.2020. The PIT asked him that whether he had conducted any inspection/scrutiny for verification of the Drug Licences issued in District Mardan. He replied that he had conducted a field inspection during which the following Drug Licences issued by the ex-Drug Inspectors (Mr. Amin ul Haq, Shoaib and Tayyab) were found fake, without official record, Bank challan, and qualified person and in contravention of the Drug Rules 2017. He added that he had also shared the said record with Health Department;

Detail of Drug Licences having no official record:

S.No	Name of Medicose	Drug license Number	Address
1.	Takht-Bhai veterinary	102/Rs Dated 20.05.2020	Malakand road takht Bhai
2.	Shaliab medicose	202/RS Dated 07.05.2020	Main bazar takht bhair, Mardan.
3.	Mohmand medical center	547/RS Dated 01.04.2020	Saleem staff-charsadda road mardan.
4.	Said medicose	766/NS Dated 30.12.2019	Opp Rhc manga charsadda road mardan.
5.	Health care pharmacy	135/Rs Dated 30.04.2019	Main bazaar lund khwar, takht bhai mardan.
6.	Sanan veterinary medicine store	352/Rs Dated 17.02.2020	Chel road main chowk lund khwar bazaar
7.	Rehman medical center	434/WS Dated 08.06.2020	Mc plaza shop 14, bank road mardan
8.	Afaq traders	378/WS Dated 13.12.2018	Mc plaza bank road mardan.
9.	City medicose	361/RS Dated 14.05.2019	Swabi road kas korona college morh Mardan
10.	Sulyan medicen company	704/RS Dated 06.08.2020	Charsadda road manga, District Mardan.
11.	Ayaan medical store	87/RS Dated 19.06.2020	Malakan road jalala takht bhai, Mardan
12.	United medicose	571/RS Dated	New plaza sher garh takht Bhai Mardan

Section Officer
Health Department
Mardan Pakhtunkhwa

Attested
Section Officer (D-III)
Health Department
Mardan Pakhtunkhwa

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13	Anas medical store	409/RS Dated 05.10.2020	Nawaz plaza shergarh mardan
14	Ibrahim medical company	697/RS Dated 24.07.2020	Abbas market manga mardan
15	Gul medical store	88/RS Dated 01.04.2019	Flatian road sher garh takht bhai Mardan
16	Mussa khel medicose	725/RS Dated 18.09.2018	Hari chand road sher garh takht bhai
17	Waris medical store	519/RS Dated 29.07.2019	Pir sado takht bhai
18	Kareem medical store	611/RS/N Dated 09.09.2020	Doran abad swabi road mardan
19	Saeed medical store	720/RS Dated 04.09.2020	Nawa kali rustam Mardan
20	Anwar medicose	479/RS Dated 05.10.2020	Opposite civil hospital rustan mardan.
21	Anjid medical store	518/RS Dated 25.02.2020.	Main bazaar shankar katlang road Mardan
22	Mardan surgical service	324/RS Dated 22.06.2020	Jamal plaza prc chowk police line road
23	Zaman medicose	326/RS Dated 16.10.2020	Katlang road shankar mardan.
24	M-jehangir pharmacy	498/RS Dated : Nil	Chato chowk shamsi road mardan
25	Ikram medicose	703/RS Dated 20.07.2020	Swabi road sohaib plaza, kes koroona
26	Saddam veterinary store	470 Dated 23.12.2019	Mian bazar gujarat mardan
27	Rehman medical store	822/RS Dated 26.02.2019.	Katlang road shankar
28	Talha medicose	272/WS Dated 14.05.2019	Opp; civil hospital rustam mardan.
29	Ihsan medical store	617/RS Dated 15.07.2020	Manga stop, waseem khan market shop no. 1, tehsil mardan distt mardan.

The PIT served a questionnaire upon the then Drug Inspectors Mardan (Mr. Amin-ul-Haq, Tayyab and Muhammad Shoaib) to clarify the position of the above Licences. However, Mr. Amin-ul-Haq and Tayyab did not submit any reply while Mr. Muhammad Shoaib unofficially submitted record of Drug Licences issued by him which is doubtful due to no official record in backup/support. (Annex-U).

A. J. Khan
Section Officer
Health Department
Khyber Pakhtunkhwa

A. J. Khan
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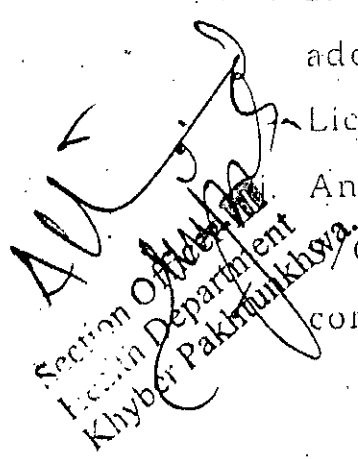
h. In another case of fake Drug Licence, Mr. Muhammad Ikram S/O Shakar Khan and Muhammad Ibrar S/O Muhammad Ikram owners of Takht Bhai Veterinary in their joint statement dated 10.12.2020 (Annex-P) stated that they paid about Rs.1,00,000/- to Mr. Amin Ul Haq Drug Inspector through Mr. Jamshed owner of Khyber Medical store and they were provided Licence No.102/Rs dated 20.05.2020. They added that before issuance of Licence, Mr. Amin Ul Haq and Mr. Rashid owner of Rashid Medicos had visited their store and issued the warning that he(the Drug Inspector) would seal their store. At the time of visit the said Drug Inspector received Rs.15,000/- from them and gave them two days time. They further informed that an amount of Rs.85,000/- was further paid to Mr. Amin ul Haq which was received by Mr. Rashid owner of Rahsid Medicos. Thus, a total of Rs. 1,00,000/- was paid to the aforementioned Drug Inspector and they were issued the above Drug Licence without any further information regarding its authenticity. They requested to return them the amount extorted by the above Drug Inspector.

In this connection, Mr. Jamshed Khan S/O Sarfaz Khan owner of Shahab/Khyber Medicos in his statement dated 11.12.2020 (Annex-R) stated that

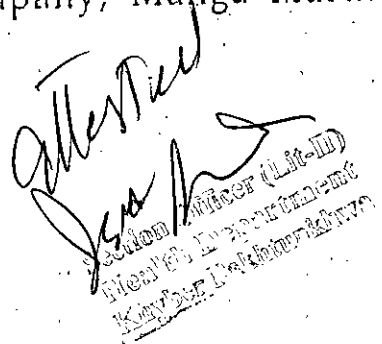
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Khyber Pakhtunkhwa

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[Signature]
Health Department
Khyber Pakhtunkhwa

Mr. Amin Ul Haq Drug Inspector had raided the Drug shop of Muhammad Ikram (Takht Bhai veterinary) during April/May 2020 and issued him a show-cause notice. He added that the son of Muhammad Ikram came to him and then they talked to Amin-ul-Haq Drug Inspector. The said inspector told them that he would arrange a qualified person for them and then he received about Rs. 80000/- to Rs 85000/-. He further stated that he was a guarantor in the said amount. Afterwards, the aforementioned Drug Inspector provided them a Drug Licence through Mr. Rasheed owner of Rashid Medicos Jhandi Bazar, Takht Bhai, Mardan. The PIT further asked him to explain that the Drug Licence No.202/Rs dated 07.05.2020 issued to his brother owner of Shahab Medico had no official record and was fake. He replied that he himself provided all the requisite documents along with Rs.10,000/- for issuance of Drug Licence to Amin ul Haq Drug Inspector during April 2020 who issued a Drug Licence within fifteen days. He added that his brother Mr. Shahab was himself a qualified person. He further added that he did not know whether his Drug Licence was legal or illegal.


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Another owner of medicine shop, Mr. Yousaf Shah O Niqab Shah owner of Sufyan Medicine company, Manga Mardan in his statement dated


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 Health Department
 Khyber Pakhtunkhwa

10.12.2020 (Annex-Q) stated that he had been running the said medicine shop since August 2020 and his qualification was F.A. He added that he deposited an amount of Rs.8,000/- in Bank for the Drug Licence and Rs.60,000/- was paid to Mr. Amin Ul Haq who provided the Drug Licence to his brother. The PIT asked him whether he knew his qualified person (Mr. Altaf Hussain S/O Abdul Ghafar). He replied that he had heard that the said person was resident of Takht Bhai and did not have any further information. The PIT asked him whether he knew that his Licence was fake. He replied that he did not know regarding the said fact.

k. The prime middleman of the accused Drug Inspector, Mr. Rasheed Khan S/O Ghulam Sarwar owner of Rasheed Medical Store jhandi Bazar Mardan in his statement dated 11.12.2020(Annex-S) stated that he had been running the said shop since 2002. He further stated that he neither received any amount from Dr. Noor Islam nor he provided Drug Licence to him. He added that he had met the aforementioned Doctor after three days of sealing of his medical store. He further added that a Jirga was held between Mr. Amin ul Haq and Dr. Noor Islam at his residence which was also attended by Dr. Ashfaq, Dr. Tahir and him. During the Jirga the Drug Inspector offered

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Section Officer
Department
Pakhtunkhwa

attested
Member (Lit-III)
Medical Department
Khyber Pakhtunkhwa

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his apology to Dr. Noor Islam who accepted the apology saying that he was a pakhtun and that the Drug Inspector had come to his residence. However, he demanded that the amount of Rs. 1,10,000/- received by the Drug Inspector would be returned to him. In response, Mr. Amin Ul Haq said that he would call the qualified person and if he agreed to cancel his Licence he would return the amount.

The above statement reveals that Mr. Amin ul Haq had received an amount of Rs. 1,10,000/- from Dr. Noor Islam. Which is a concrete evidence of acceptance of bribe by the accused Drug Inspector.

1. It was further observed that on one hand the accused Drug Inspector, Mr. Amin ul Haq Sr. Drug Inspector Mardan admitted that pharmacy of Dr. Noor Islam was de-sealed after issuance of Drug Licence by him on 18:03.2019. But on the other hand he failed to produce the application of Dr. Noor Islam for issuance of the Drug Licence and copy of the Drug Licence issued to the aforementioned Doctor despite repeated requests of the PIT. Furthermore, the above Drug Inspector, as per the data provided by Health Department, revealed that he had issued only three Drug Licences during March 2020 which did not include the Drug Licence issued to the pharmacy of Dr. Noor Islam (the complainant). It

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Health Department
Khyber Pakhtunkhwa

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Section Officer (Ld-II)
Health Department
Khyber Pakhtunkhwa

confirmed the claim of Dr. Noor Islam that he was issued a fake Drug Licence by Mr. Amin ul Haq Drug Inspector just for extorting illegal money from him. Furthermore, it was found that the pharmacy was sealed on 17.03.2020 and de-sealed on 18.03.2020 after issuance of Drug Licence which casts doubts as to how the formalities of moving application by Dr. Noor Islam for Drug Licence, arrangement of qualified person for Drug Licence, processing of application and issuance of Drug Licence were fulfilled in just one day. Similarly, statement of Mr. Rasheed Khan S/O Ghulam Sarwar owner of Rasheed Medical Store, jhandi Bazar, Mardan revealed that the said Drug Inspector had received an amount of Rs.1,10,000/- from Dr. Noor Islam.

Similarly, Statements of Mr. Muhammad Ikram S/O Shakar Khan & Muhammad Ibrar S/O Muhammad Ikram owners of Takht Bhai Veterinary, Takht bhai, Mr. Jamshed Khan S/O Sarfaz Khan owner of Shahab/Khyber Medicos, Takht bhai and Mr. Yousaf Shah S/O Niqab Shah owner of Sufyan Medicine company Manga Mardan were sufficient concrete evidence of eye witness and proved without any shadow of doubt that Amin-ul Haq Drug Inspector had accepted bribe in aforementioned cases which tantamount to the fact that the accused Drug

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 Khyber Pakhtunkhwa

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 Section Officer (Lit-II)
 Department
 Khyber Pakhtunkhwa

Inspector does not enjoy reputation of an honest officer and is involved in taking illegal money from the Drug Sellers.

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5. Conclusion/Findings

Based on the observation/analysis of this report the conclusion/findings of the PIT are as under;

Fake Licence;

a. As mentioned in para-4(l), it was proved that the accused Drug inspector (Mr. Amin ul Haq) issued the complainant a fake Drug Licence (Licence particulars mentioned in para-4-a) in a private Medical Store having no official record in contravention with Rule-14 of the Drug Rules 1982 as amended in 2017. In addition, as informed by Health Department, only three Drug Licences were issued by the accused Drug Inspector during the concerned month (March 2020) which does not include the licence issued to the pharmacy of Dr. Noor Islam. It further validated the claim of the complainant that he was issued a fake Licence for illegal money which has no official record.

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Commissioner
Health Department
Khyber Pakhtunkhwa

Bribe/illegal Money

The allegation that an amount of Rs. 1,10,000/- was illegally extorted by the above Drug Inspector from the complainant was also proved

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Commissioner (Lit-II)
Health Department
Khyber Pakhtunkhwa

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by the circumstances that the accused issued a fake and forged Drug Licence upon which he had de-sealed the pharmacy which shows undue favour to the complainant. Similarly, as per the statement of Mr. Rasheed Khan S/O Ghulam Sarwar owner of Rasheed Medical Store Jhandi Bazar Mardan Mr. Amin ul Haq had received an amount of Rs.1,10,000/- from Dr. Noor Islam which was demanded back by the said Doctor during a Jirga. Similarly, the statements of other owners of Drug sellers mentioned in para-4(l) also confirmed receipt of illegal money/bribe from the Drug sellers by the accused Drug Inspector. Thus, the accused Drug Inspector (Mr. Amin ul Haq) misused his authority and committed corruption.

Others

- c. The PIT found during the proceedings of the inquiry that the Drug Licences mentioned in para-4(g), did not have any official record and are doubtful.
- d. The PIT found that Medicos of the Dr. Noor Islam is situated inside his clinic (Annex-V). However, he is required to move application for obtaining a legal Drug Sale Licence as required under the Law.
- e. The Health Department is also required to look

AM
Amir
Section Officer
Health Department
Khyber Pakhtunkhwa

Attested
Amir
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

into the claim of accused Drug Inspector that Dr. Noor Islam had misbranded/Indian drugs at his clinic and take necessary action accordingly under the law.

6- Recommendations.

In light of the observations/findings and conclusion of this report, recommendations of the PIT as under;

I. Strict Disciplinary action may be initiated against Mr. Amin-ul-Haq Sr. Drug Inspector Mardan for issuing a fake Drug Licence and receiving illegal money/bribe from Dr. Noor Islam. Furthermore, a case regarding issuance of fake/forged Drug Licence and accepting bribe may be registered in Anti-Corruption Establishment Khyber Pakhtunkhwa for taking legal action.

II. The above Drug Inspector may immediately be removed from field posting and he may not be posted in field in future.

III. The administrative Department may be directed to conduct an inquiry into the Drug Licences mentioned in para-4(g) issued by Mr. Amin ul Haq, Tayyab and Muhammad Shoaib Khan Drug Inspectors during their tenures in District Mardan to take legal action accordingly under intimation to the PIT.

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Health Department
Khyber Pakhtunkhwa

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Section Officer-III
Health Department
Khyber Pakhtunkhwa

IV. Dr. Noor Islam (the complainant) may also be directed to move application for obtaining a legal Drug Sale Licence as required under the law.

V. In the Drug Licences the contents and addresses of the qualified person should be incorporated for the purpose of verification. Similarly, Drug Licences may be issued on-line throughout the Province.

VI. The Health Department may be directed to look into the claim of accused Drug Inspector that Dr. Noor Islam had misbranded/Indian drugs at his clinic and take necessary action accordingly in light of the relevant law/rules. The Department may also ensure that no such drug is sold in the Market so as to protect human lives.

[Signature]
KHALID KHAN
Research Officer-I
Provincial Inspection Team

[Signature] 07/01/21
LIAQAT ALI MOHMAND
Member Enquiry
Provincial Inspection Team

[Signature] 07/01/2021
SALAH UD DIN
Member General
Provincial Inspection Team

[Signature] 07/01/21
FARUKH SAIR
CHAIRMAN
Provincial Inspection Team

[Signature]
Section Officer-III
Health Department
Khyber Pakhtunkhwa

[Signature]
Section Officer (QA-IV)
Health Department
Khyber Pakhtunkhwa



Dated the Peshawar 24th June, 2020

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NOTIFICATION.

No. SOH-III/7-262/2020. The Competent Authority is pleased to constitute the following committee regarding conduction of comprehensive audit in Districts (Kohat, Peshawar, Mardan & Dir lower) regarding Drugs activities like licenses data, NOCs issued, case properly pending cases and status of FIR etc with immediate effect in the public interest.

- i) Additional Secretary (Dev) Chairman
- ii) Director General, Drug Control & Pharmacy Service. Member
- iii) Director, Drug Control & Pharmacy Services. Secretary/Member
- iv) Section Officer (Drugs) Health Department. Member

The said committee shall submit its report with findings/recommendations within one month positively for perusal of the Competent Authority.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

23-6-2020

Endst of even No and Date.

Copy forwarded to the:-

1. The Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Drug Control & Pharmacy Services, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Director (I.T) Health Department.
4. PS to Secretary Health, Khyber Pakhtunkhwa.
5. PA to Special Secretary-I, Khyber Pakhtunkhwa.
6. PA to Additional Secretary (Estab/Dev) Health, Khyber Pakhtunkhwa.
7. PA to Deputy Secretary (Admn); Health, Khyber Pakhtunkhwa.
8. Members of the Committee concerned.

Handwritten signatures and dates: 25/6/2020

Section Officer-III
Health Department
Khyber Pakhtunkhwa

24/6/2020
SECTION OFFICER-III

COMPREHENSIVE AUDIT REPORT OF DISTRICT MARDAN

Prologue:

The Competent Authority constituted a four members committee under the chairmanship of Additional Secretary (B&D), Health Department for comprehensive audit of the Offices of Drug Inspectors of Districts Mardan, Kohat, Dir Lower and Peshawar with regard to their activities in respect of Drug Sale Licenses's data, NOCs issued, case properties, pending cases and the status of FIRs etc **(Annex-I)**.

Authorization:

Health Department's Notification No. SOH-III/7-262/2020, dated 24-06-2020 **(Annex-II)**.

Methodology of Inquiry:

Office of Drug Inspectors of District Mardan was visited on 15th July 2020 for checking the relevant records/activities. In this context a letter was issued to field officers for the assigned task **(Annexure-III)**.

Documents Reviewed:

- a. The Drugs Act, 1976
- b. Drug Rules, 1982
- c. Record of the Drug Sale Licenses
- d. Attendance of the Drug Cell
- e. Inspection record of the Medical stores/distribution outlet
- f. Warehouse/Godown of the Seized Stock
- g. Drug Samples record of the last two years
- h. Cases submitted to PQCB
- i. Cases submitted to Drug Court
- j. Sealing orders of the Stores
- k. FIR Cases
- l. Substandard, unregistered and misbranded etc. cases
- m. Drug Cases record in Drug office
- n. NOCs issued to Applicants holding Cat. A, B & C
- o. Verification of Categories issued from Khyber Pakhtunkhwa Pharmacy Council.

Section Officer
 Health Department
 Khyber Pakhtunkhwa

Currently the Drug Inspectors Office of District Mardan consists of the following positions;

S#	Position	BPS	No. of post	Filled	Vacant
1.	Chief Inspector	Drug 19	1	0	1
2.	Senior Inspector	Drug 18	1	1	0
3.	Drug Inspector	17	3	2	1
4.	Junior clerk	11	1	1	0
5.	Naib Qasid		1	1	0
6.	Driver		1	1	0

Section Officer
 Health Department
 Khyber Pakhtunkhwa

Report of Senior Drug Inspector, Mr. Amin-ul-Haq (BPS-18).

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Mr. Amin-ul-Haq assumed the charge of BS-18 vide Health Department's Notification No. SOH-III/10-4/2019, dated 30th October 2019.

Following were observed from the record;

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. No record of sealing of medical stores was available.
- C. No samples were failed in his tenure.
- D. No attendance record of the officer was available.
- E. No record of NOCs issued to applicants of Distt. Mardan who applied for getting DSLs in other districts/provinces.
- F. Licensing record was lying in dilapidated condition.
- G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses.
- H. Form-8 was not properly filled. Presence of Qualified Person was not assured at the time of issuing DSL.
- I. Seized medicines property and its record was in bad condition and was not identifiable.
- J. A single case was not launched in the Drug Court, Khyber Pakhtunkhwa.
- K. No taking over/handing over record was available.
- L. Market sampling of drugs for checking their quality was negligible.
- M. Being head of Drug Control in Distt. Mardan, his performance in the implementation of the Drug laws/rules, was poor.
- N. Statement of Dr. Noor Islam was received that Mr. Amin-ul-Haq, Senior Drug Inspector took one rupees lac twenty thousand (Rs. 120,000) through his private tout namely, Mr. Rashid for granting Drug Sale license for his Medical Store.

Mr. Shoaib Khan, Senior Drug Inspector (BPS-17) Mardan

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

Mr. Shoaib Khan was appointed and posted as Drug Inspector (BS-17) in September, 2017. The following were observed during the visit;

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. In his Progress Report eighty seven (87) Medical Stores were reflected sealed at district Mardan but single evidence for de-sealing of the said stores was not present.

Section Officer (Lit-II)
Health Department

- 24
- C. In his entire tenure only two samples of drugs were failed by Drug Testing Lab, showing his poor performance on implementing the Drug Laws/Rules.
 - D. Attendance record of the officer was not present.
 - E. No NOCs record for other districts/provinces was present.
 - F. Licensing record was lying in dilapidated condition.
 - G. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses.
 - H. Form-8 was not properly filled. Presence of Qualified Person was not assured at the time of issuing DSL.
 - I. No record of the cases sent to Provincial Quality Control Board (POCB) or Drug Court Khyber Pakhtunkhwa, was available.
 - J. Proper handing over/taking over record was not present.
 - K. Market sampling of drugs for checking their quality was negligible.
 - L. No chain of command was observed in the issuance of DSLs to Medical Stores having no or poor documentation which create doubt in the authenticity of the said DSLs.

Audit of Mr. Shehzada Mustafa Anwar Drug Inspector (BPS-17) Mardan

Mr. Shehzada Mustafa Anwar assumed the charge of Drug Inspector (BS-17) in Distt. Mardan in December, 2018. The following were observed during inspection.

- A. No Register/File was maintained for inspection of Medical Stores/Distributors.
- B. Though his performance, as compared to his other colleagues, in taking Drug Samples for the purpose of test/analysis was good (06 samples per month) but in fact it's negligible.
- C. Record of attendance of the officer was not present.
- D. No NOCs record for other districts/provinces was present.
- E. Licensing record was lying in dilapidated condition.
- F. No NOC was obtained from Khyber Pakhtunkhwa Pharmacy Council for the grant or renewal of Drug Sale licenses.
- G. Form-8 was not properly filled. Presence of Qualified Person was not assured at the time of issuing DSL.
- H. Seized property and its record was in bad condition and was not identifiable.
- I. Proper handing over/taking over record was not present.

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 Section Officer (Lit-II)
 Health Department
 Khyber Pakhtunkhwa

Attested
 Section Officer (Lit-II)
 Health Department
 Khyber Pakhtunkhwa

Findings:

After going through the available record and discussion with the field officers in respect of activities carried out under The Drugs Laws and rules in Mardan district. Following anomalies were observed by the committee.

- There was no proper record of the Drug Sale licenses (DSL) maintained rather mix files containing some partial documents were dumped haphazard in samples room. Committee randomly collected 69 files for its verification and authenticity of documents. Amongst 69 files, the 7 categories (Pharmacy registration was found fake as per record tallied with Khyber Pakhtunkhwa Pharmacy council but the Drug Inspectors have issued Drug licences against it without confirming the authenticity of Registration in violation of policy of the govt **(Annexure-IV)** Seven numbers of licenses were found issued on registration against which licenses were issued in other Districts or Province **(Annexure-V)** and no NOC was sought prior to issuance of these Licences from relevant quarter.
- No record was present for inspection of medical stores, tour program for checking of medical stores.
- Mostly samples of drugs supplied through MCC were drawn and sent for the test analysis to DTL and market samples were not focused which indicates that quality assurance of the Drugs/Medicines selling in market were not screened for its quality and safety.
- Data for sealing of medical stores for the last few years were checked but no record found. Although verbally reported about some sealing of stores but its lawful de-sealing was not followed. It was observed that inspectors were abusing their authority personal whim and wishes which are detrimental to the system.
- No inspection proforma/checklist has been found filled mandatory for grant and renewal of DSL.
- The seized stock was kept disorganized in a dilapidated condition without any detail and the committee could not tally the same with any seizure record.
- Under The Drugs Act 1976, DIs have to convey seizure of the seized stock to the Competent Authority but no such correspondence /permission found in the record that could indicate the quantity of the seized stock.
- Performance of Mr. Shehzada Mustafa Anwar, Drug Inspector was comparatively good than his other 02 colleagues. His performance as Drug

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Khyber Pakhtunkhwa

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Inspector Distt. Swat was good but when he has transferred to Distt Mardan, his performance has been dropped to an average level which indicate that under the influence of two other DIs in corrupt system where ministerial staff were also hand in glove, he remained unable to work efficiently.

- The ministerial staff specially the one Kamran clerk has failed to keep the office record in proper manner that indicates his poor performance for his vested interests.

Recommendations.

In view of the forgoing the following recommendations are proposed.

- Disciplinary action against Mr. Amin-ul-Haq, Senior Drug Inspector and Mr. Shoaib Khan, Drug Inspector, Mardan may be initiated under the F.&D Rules.
- The office of the drug control at Mardan may be directed to compile record of all type of drug licenses along with streamlining the relevant record and NOC issued for other districts and submit the same within two weeks to the office of Director General Drug control & Pharmacy Services for further Necessary action.
- The department may take remedial measures to sack them from field duty on account of poor performance and corrupt practices and post them in hospitals as they have miserably failed in doing away the job assigned to them in fulfillment of the provisions of the Drugs Act, 1976 to protect the public interest at large.
- The supporting staff required to be replaced with new faces by directing DHO concerned to do the needful to protect public interests ensuring the office of drug control Mardan does not go on sale.

Section Officer
Health Department
Khyber Pakhtunkhwa

Kaleem Ullah
Additional Secretary (B&D)
Health Department

Saleem Khan
Director General, Drug Control & Pharmacy
Services

Dr. Abbas Khan
Additional Director (Drugs) DG, DC & PS

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

Naseer Ahmad
Section Officer (Drugs), Health Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1369/2023

Dr. Amin Ul Haq

.....

Appellant

VERSUS

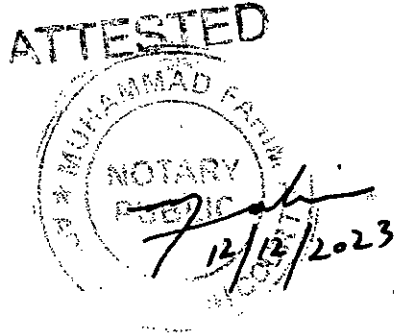
Government of Khyber Pakhtunkhwa
Health Department & Others

.....

Respondents

AFFIDAVAT

I, Abbas Khan, DG Drugs, DGHS office Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the Written Reply alongwith annexures are true and correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.



DEPONENT

(Abbas Khan)

(Director General Drugs)

Health Directorate Khyber Pakhtunkhwa,

IDENTIFIED BY:



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

AUTHORITY LETTER

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

(MAHMOOD ASLAM)

Secretary to Govt. of Khyber Pakhtunkhwa.

Health Department
Secretary to Govt. of
Khyber Pakhtunkhwa
Health Department

9/15/23

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

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Govt of NWFP,
Services and General Admn Deptt,
(Regulation Wing)

No. SOR-I (S&GAD)A-2/82,
Dated 15.01.1992

To

1. All Administrative Secretaries to Government of NWFP.
2. Secretary to Governor, NWFP.
3. Secretary to Chief Minister, NWFP.
4. All Divisional Commissioners in NWFP
5. All Heads of attached Departments in NWFP
6. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP
7. All Deputy Commissioners/Political Agents in NWFP
8. The Registrar, Peshawar High Court, Peshawar.
9. All District and Session Judges in NWFP
10. The Registrar, NWFP Services Tribunal, Peshawar
11. The Secretary, NWFP Public Service Commission
12. The Director, Anti-Corruption Establishment, Peshawar.
13. The Secretary, Board of Revenue, NWFP

SUBJECT - SIGNING OF PARA-WISE COMMENTS ETC. IN SERVICE APPEALS FILED IN THE NWFP SERVICES TRIBUNAL BY CIVIL SERVANTS.

Sr

I am directed to refer to the subject noted above and to say that pursuant to Rule-12(2) of NWFP Services Tribunal Rules, 1974, the competent authority has been pleased to authorize the Administrative Secretaries concerned or a subordinate officer to be nominated by the Administrative Secretary to sign para-wise comments etc. on behalf of the Chief Minister, NWFP and Chief Secretary, NWFP, as the case may be in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal.

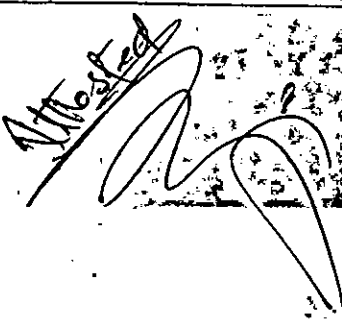
Yours Obedient Servant,

Sd/xxx

SECTION OFFICER (REGULATION-I)
S&GAD,

Encls: Even No. in date.

- A copy is forwarded for information to the:-
1. All Adml Secretaries/Dy. Secretaries in S&GAD.
 2. All Section Officers/Estate Officers in S&GAD.
 3. P.S. to Chief Secretary, NWFP.
 4. P.S. to Secretary S&GAD



STATE OF PAKISTAN
FEDERAL BUREAU OF INVESTIGATION

1303/2023

ASST. UL. HQ

Advocate: NAVEED AKHTAR

13/01/2024 14:09:18

ending Date 16/4/2024

NAVEED AKHTAR

STATE OF PAKISTAN, FEDERAL BUREAU OF INVESTIGATION

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

CM No. _____/2024

In

Service Appeal No. 1369/2023

Dr. Amin Ul Haq

VERSUS

Government of Khyber Pakhtunkhwa and others

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Appellant

Through

Naveed Akhtar

Naveed Akhtar

Advocate Supreme Court

Mob No. 0300-9596181

Munir Ud Din Ghori

Munir Ud Din Ghori

Advocate High Court

Dated: 10.01.2024

NFA

[Signature]
29/1/24

SCANNED
KPST
Peshawar

23/1/24

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

CM No. _____/2024

In

Service Appeal No. 1369/2023

SCANNED
KPST
Peshawar

23/1/24

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10740

Dated 23-1-2024

Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman
Khail, District Charsadda. Senior Drug Inspector BPS-18.

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil
Secretariat, Peshawar and others

.....Respondents

APPLICATION FOR EARLY HEARING IN THE
ABOVE TITLED WRIT PETITION ON BEHALF
OF PETITIONER.

Respectfully Sheweth: -

1. That the above titled petition is pending adjudication before this Hon'ble Court and is fixed 21.04.2024.
2. That the above titled appeal has filed against the impugned notification no. SOH-iii/7-262/2023(amin) dated 02.02.2023, whereby major penalty of removal from service upon the appellant was imposed.
3. That the appeal is pending since long and comments on behalf of the department have also been filed.
4. that the appellant may kindly be allowed to adduce additional arguments /documents at the time of hearing of the instant application

It is, therefore, humbly prayed that on acceptance of the instant application the above titled appeal may kindly be accelerated convenient to this Hon'ble Tribunal in the interest of justice.

Any other remedy this august tribunal deems fit may kindly be awarded in favor of the appellant as well.

Appellant

Through



Naveed Akhtar

Advocate Supreme Court

Mob No. 0300-9596181



Munir Ud Din Ghori

Advocate High Court

Dated: .01.2024

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

CM No. _____/2024

In

Service Appeal No. 1369/2023

Dr. Amin Ul Haq

VERSUS

Government of Khyber Pakhtunkhwa and others

AFFIDAVIT

I, Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman Khail, District Charsadda. Senior Drug Inspector BPS-18, do hereby solemnly affirm and declare on oath that the contents of accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT



BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR



Service Appeal No. 1369 /2023

Dr. Amin Ul Haq S/o Abdul Haq R/o Tangi Nasratzai, Muhalla Usman
Khail, District Charsadda. Senior Drug Inspector BPS-18.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa through Principal Secretary, CM Secretariat, Peshawar.
3. Secretary Health Services, Government of Khyber Pakhtunkhwa Peshawar.
4. Director General, Drug Control and Pharmacy Services, Khyber Pakhtunkhwa.
5. Director General Health Services, Government of Khyber Pakhtunkhwa Peshawar.

.....Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO. SOH-III/7-262/2023 (AMIN) DATED 02.02.2023, WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT WAS IMPOSED AND THE REVIEW PETITION OF THE APPELLANT DATED 12.02.2023 FILED AGAINST THE IMPUGNED ORDER, TOO WAS LET UN-ANSWERED.

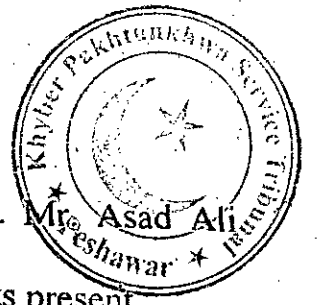
PRAYER:

THAT ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED OFFICE ORDER DATED 02.02.2023 OF THE RESPONDENT NO. 2 MAY KINDLY BE SET-

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1369 / 2023



12th Dec. 2023

1. Junior to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.
2. Reply alongwith cost of Rs.5000/- has been submitted through office. Copy of reply was given to the junior to counsel for the appellant. To come up for arguments on 16.04.2024 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar

Muazem Shah

(Kalim Arshad Khan)
Chairman

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 10/11/23
 Number of Words 27
 Copying Fee 70/-
 Urgent 5/-
 Total 137/-
 Name of Copyist _____
 Date of Completion of Copy 10/11/23
 Date of Delivery of Copy 10/11/23

PLD 2013 Supreme Court 392

Present: Mian Saqib Nisar and Muhammad Ather Saeed, JJ

FARMAN ALI---Appellant

Versus

MUHAMMAD ISHAQ and others---Respondents

Civil Appeal No.635-L of 2012, decided on 7th March, 2013.

(On appeal from the judgment dated 16-7-2010 of Lahore High Court, Multan Bench passed in Civil Revision No.601 of 1993).

(a) Civil Procedure Code (V of 1908)---

---S. 115---Revisional jurisdiction---Object and principles---Revisional jurisdiction of court was helpful in curtailing the possibility of frequent remand of cases, as the orders etc. were scrutinized and corrected at an early stage, thus saving time and rescuing the litigant from the menace of delay and inconvenience---High Court should necessarily possess and exercise revisional jurisdiction in order to keep the litigants protected and secured against errors noted in S.115, C.P.C, committed by subordinate courts---Revisional jurisdiction had the aim and object of dispensation of justice.

Karamat Hussain and others v. Muhammad Zaman and others PLD 1987 SC 139 and Riasat Ali v. Muhammad Jaffar Khan and 2 others 1991 SCMR 496 ref.

(b) Civil Procedure Code (V of 1908)---

---S. 115---Revisional jurisdiction of High Court---Scope---Flaws/deficiencies in filing a revision petition---Effect---High Court should not shy away from its duty to examine and look into orders/judgments challenged before it in revisional jurisdiction merely on account of technical flaws in the institution of revision petition or proper documentation attached with the same; because any deficiency in the proper filing of revision petition cannot be termed as insurmountable deficiency or defect, which cannot be cured under the law---Litigants must be provided with sufficient and fair chance to remove such deficiencies, however revision petition should accompany certified copy of the decision under challenge and should be filed within the prescribed period of limitation.

(c) Civil Procedure Code (V of 1908)---

---S. 115---Limitation Act (IX of 1908), S. 5---High Court (Lahore) Rules and Orders, Vol. V, Ch. 1, Part A, Rr. 9-A, 9, 6 & 7---Power of office of High Court to return a revision petition for re-filing the same after making up deficiencies therein---Scope---Revision petition filed before High Court suffering from certain deficiencies---Deputy Registrar of High Court returning revision petition for re-filing of the same within specific time period after removal of deficiencies--- Petitioner failing to re-file the revision petition within the said specific time period---Deputy Registrar of High Court requiring petitioner to file an application for condonation of delay in re-filing revision petition---High Court dismissing said application and consequently the revision petition observing that condonation of delay (section 5 of Limitation Act, 1908) was inapplicable to a civil revision petition---Legality--- Rule 9 of High Court (Lahore) Rules and Orders Volume V, Chapter 1, Part A authorized Deputy Registrar of High Court to return a revision petition for making up deficiencies therein if it was not in consonance with Rule 6 or 7 of the said Rules. however, it did not empower the Deputy Registrar to refuse to entertain the petition, or in other words to dismiss the petition as having not been validly instituted---In case, however, the deficiency was not corrected by the petitioner and revision petition was not re-filed within the time given by Deputy Registrar, Rule 9-A of the said Rules postulated that a notice should be affixed upon the notice board for such purpose and if within seven days, thereafter, the deficiency was still not made good, the matter should be placed before a Judge of the High Court for an order on a date to be notified by fixing such a petition in the motion cause list---High Court had to decide as to what should be done with such a deficient petition, because the ministerial and administrative staff of the High Court could not be empowered and allowed to decide the fate of the revision petition (even if it was deficient)--- Deputy Registrar had no authority to declare a deficient revision petition, which had been filed within the prescribed period of limitation, as time barred, only because the office objection had not been met in time; he could also not require the petitioner to file an application for condonation of delay---Where the revision petition was filed beyond the period of limitation, the Deputy Registrar could point out to the petitioner such aspect and caution him, but had to fix the matter before the High Court for its decision on the question of limitation leaving it for the petitioner to seek the indulgence of the court on the question of limitation or otherwise---Error had been committed in the present case by the Deputy Registrar when he rendered the revision petition as time barred due to failure of petitioner in making up deficiencies in the time specified by the office and by requiring the petitioner to file an application for condonation of delay---High Court was also in error for simply dismissing the revision petition-- Appeal was allowed by the Supreme Court, judgment of High Court was set-aside and the matter was remanded to the High Court for decision afresh on merits.

Mst. Sabiran Bi v. Ahmad Khan and another 2000 SCMR 847 rel.

Syed Kabeer Mehmood, Advocate Supreme Court for Appellants.

Mian Allah Nawaz, Senior Advocate Supreme Court and Ahmad Waheed Khan, Advocate Supreme Court On Court's call.

Nemo for Respondents.

Date of hearing: 4th January, 2013.

JUDGMENT

MIAN SAQIB NISAR, J.---This appeal, with leave of the Court, requires resolution of a proposition; whether in the facts and circumstances of this case, the civil revision filed by the appellant shall be barred by limitation or not? In the context of the above the relevant facts are, that a civil revision petition was filed by the appellant before the learned High Court within the prescribed period of limitation, but the same was returned by the office of the Court, pointing out certain deficiencies (raising objections) and requiring the re-filing of the petition after making up of the inadequacies within a specific period of time, however the re-filing could not be done within the time provided.

2. It may further be mentioned that, the appellant is a pre-emptor, whose suit was dismissed by the learned trial Court and his appeal also could not succeed vide judgment 18-1-1993. The appellant assailed these (two) decisions by filing a civil revision petition before the learned High Court on 18-4-1993, which was within time. However, DRR (Civil) directed "returned with the objection at serial Nos.3, 5, 6, 7, 15, 16, 21 and 23 above to be resubmitted after removal of these objections within limitation days, positively". The appellant could not remove the objections within the time provided to him, not only once, but more than one chances availed, and ultimately when the revision petition was re-filed by him complete and adequate in all respects, a period of 154 days (from the decision of the appellate court) had elapsed from the date of the decision challenged therein. In this situation, the office required the appellant to file an application for the condonation of delay, therefore he accordingly moved C.M. No.1-C/1993. When the matter came up for hearing before the learned High Court, the noted C.M. was taken up first and the learned Judge in Chambers while holding that the provisions of section 5 of the Limitation Act, 1908 are inapplicable to civil revision petition, filed under section 115, C.P.C., dismissed the application and consequently the revision petition also met the same fate (dismissed), as being barred by time.

3. Despite service, the respondents are not present, therefore they are proceeded ex parte, however in view of the importance of the issue involved, Mian Allah Nawaz, Senior Advocate Supreme Court and Mr. Ahmad Waheed Khan, Advocate Supreme Court have been heard as amici curiae.

4. Heard. Without going much into details, as to when and how the revisional empowerment was conferred upon the courts in the Civil Procedure Code, but in order to attend to the proposition involved herein, I find it expedient to highlight the nature of this jurisdiction, which has been authoritatively spelt out in the cases reported as Karamat Hussain and others v. Muhammad Zaman and others (PLD 1987 SC 139) and Riasat Ali v. Muhammad Jaffar Khan and 2 others

(1991 SCMR 496). In the latter case, the apex Court after considering the legislative history of the revisional jurisdiction, expressed about the importance and nature thereof as follows:--

"The power conferred by section 115 of the Code of Civil Procedure is exceptional but a necessary power intended to secure effective exercise of High Court's superintending and visitatorial powers and correction of jurisdictional errors or material irregularities in proceedings of the subordinate Courts. Such a power should not be inhibited by technicalities of procedure or entirely by the conduct of the parties. Even the discretionary nature of the power does not justify introduction of such technicalities in its exercise. This Court has in the case of Karamat Hussain and others v. Muhammad Zaman and others (PLD 1987 SC 139) pointed out as hereunder:--

"True, the exercise of this jurisdiction by the High Court is discretionary but that does not mean that a revision is not a right but only a privilege. A privilege is some particular benefit or advantage conferred on a person or a class of persons which other citizens do not enjoy; while a right is some benefit conferred on a person by virtue of a given law. Here, the provisions of section 115 of the C.P.C. confer on every person who has litigated before Court subordinate to the High Court the right to assert before the latter that the decision rendered by the subordinate Court against him is liable to correction under its revisional jurisdiction. Indeed where the conditions for the exercise of revisional jurisdiction are satisfied the High Court should itself interfere. Of course, it may in certain circumstances, in exercise of its judicial discretion, refuse to exercise its discretion in favour of the petitioner such as where the petitioner has approached the Court, without reasonable cause, with undue delay or his conduct has been contumacious or because of the existence of some other special circumstances which disentitle him from relief. But the mere fact that the exercise of revisional jurisdiction is discretionary does not mean that it is a privilege."

Adding slightly to the above settled nature of the revisional jurisdiction, it is stated that over the period of time, with the liberal interpretation, of the expression 'case decided' appearing in section 115, C.P.C. by the superior Courts, even certain interim orders have been subjected to the revisional jurisdiction; moreover such jurisdiction has also been conferred upon the District Court (subject to pecuniary limitation). The obvious purpose of the above seems to save the litigant public from the delays, which may occur awaiting for the challenge(s) to those orders, which fall within the mischief and purview of section 115, C.P.C., till the final decision of the case; rather it has enabled for an expeditious and convenient remedy in terms of time, the forum and also the procedure; the revisional remedy has been time bounded to ninety days as against no prescribed period of limitation earlier; subject to the pecuniary jurisdiction, authority has also been conferred upon the District Court to correct the error of the Courts subordinate to it, which is an addition towards the convenience of the forum, and the calling of the record has been dispensed with, as along with the impugned order/judgment requisite documents (mentioned in section 115, C.P.C.) have to be filed, which is a step in the direction of speedy disposal of the revisional matter(s) saving the summoning of the record and unnecessary and automatic stoppage of the proceeding before the courts below. Thus, the procedure has been simplified. This all is also helpful in curtailing the

possibility of frequent remand of the cases, as the orders etc. are scrutinized and corrected at an early stage, thus saving and rescuing the litigant public from the menace of delays and inconvenience. In relation to the High Courts especially, this jurisdiction is aptly termed as the supervisory jurisdiction; a jurisdiction of superintendence of the High Court over the Court subordinate to it, which jurisdiction the High Court(s) should, necessarily possess and exercise in order to keep the litigants protected and secured against the errors noted in section 115, C.P.C. which are committed by the Courts subordinate (to it). This jurisdiction truly has the aim and object of dispensation of justice and in pursuit thereof, which (object) undoubtedly is the primary duty of the Courts. The High Court thus ordinarily should not feel shy and shun its duty to examine and look into the orders/judgments challenged before it merely in the revisional jurisdiction on account of technical flaws in the institution or proper documentation thereof; because any (emphasis supplied) deficiency, in the proper filing of the revision cannot be termed as insurmountable deficiency or the defect, which cannot be cured under the law, rather the litigants must be provided with sufficient and fair chance to remove such deficiencies with the exception, however the revision petition should accompany the certified copy of the decision(s) under challenge and should be filed within the prescribed period of limitation. In any case, a revision petition should not be dismissed which although has been brought in time, but suffers from a curable defect/deficiency, only for the reason that the defect has not been removed within the time given by the office and the period of limitation by that time has lapsed and/or when the refiling is done after the time provided by the office and by then the prescribed period of limitation has expired, the time should be reckoned from the date when the defect is cured.

5. The question herein involved thus needs to be resolved in the context of the above stated object of the revisional jurisdiction and the principle(s) of law enunciated. However, before proceeding further in the matter it may be elucidated and reiterated that the limitation is not a question of mere technicality and if a revision petition, as initially filed, is beyond time, the law will take its own course. Be that as it may, in relation to the proposition in hand, reference can be made to Chapter-1, Volume 7 of the High Court Rules and Orders and Part-A. Rules 6 and 7 which prescribe certain requirements for the institution of a civil revision, and stipulates as below:--

"6. Particular ground to be specified in petition for revision.--A petition to the High Court to exercise the powers conferred by section 115, Civil Procedure Code shall specify the particular ground on which the aid of the High Court is invoked--

(a) If the ground be that the Court which decided the case exercised a jurisdiction not vested in it by law, the petition shall set out clearly the particular exercise of jurisdiction complained of

(b) if it be that the Court which decided the case failed to exercise a jurisdiction so vested, the jurisdiction which ought, in the petitioner's opinion, to have, and has not, been exercised shall be clearly set out;

(c) if it be that the Court acted in the exercise of its jurisdiction with material irregularity, the particular irregularity or irregularities complained of shall be similarly set out."

"7. (i) Documents to accompany such petitions.---Every such petition shall be stamped as required by law and shall be accompanied by certified copies of the pleadings and the documents which are necessary to support the pleas taken and the relief sought in the petition unless the Court on sufficient cause shown orders otherwise as well as a copy of the decree or order in respect of which such application is made and by a copy of the judgment upon which such decree is founded.

(ii) Documents to accompany petition for revision of decree or order of Appellate Court.-- In the case of petition for revision of the decree or order of an Appellate Court, a certified copy of the judgment or order of the first instance shall also be filed.

(iii) Every such petition shall be made within ninety days of the decision of the subordinate Court which shall provide a copy of such decision within three days thereof and the High Court shall dispose of such petition within three months without calling for the record of the subordinate Court."

Rule 9 provides the power and authority of the officer to return the revision petition for the amendment in the following terms:-

"9. Power to return petition for amendment.--The Deputy Registrar is authorized to return for amendment, or making up the deficiency or filing the requisite documents within a time to be specified on the objection memo. Appendix I in an order to be recorded by him on the petition, any petition not drawn up in conformity with the foregoing direction.

According to Rule 9-A, however, it is provided:-

"9-A. A list of petitions, appeals etc. ordered to be returned shall be notified on the Notice Board and petitions, appeals, etc. not received back within seven days of the publication of the list shall be placed before the Judge of the High Court for order on a date to be notified by including such petition in a motion cause list. It is clarified that any delay in placing such petition before the Court or issuing the list shall not furnish any justification for non-receipt of the returned petition in time and non-compliance of the objection taken within time specified by Deputy Registrar (Judicial)."

From Rule 9 *ibid*, it is clear that the Deputy Registrar of the High Court is only authorized to return a revision petition for the amendment etc. thereof; meaning thereby, if it is not in consonance with Rule 6 or 7 (*supra*), he can return the petition for the making up of any deficiency and for re-filing. This rule, however, does not empower the Deputy Registrar to refuse to entertain (note:- the expression understood in its legal sense) the petition or in other words to dismiss the petition as having not been validly instituted. In case, however the deficiency is not corrected by the revision petitioner within the time given by the Deputy Registrar, the situation is fully catered by Rule 9-A

supra, which postulates that if, within the time provided such petition is not re-filed/returned, a notice shall be affixed upon a notice board meant for that purpose and if within seven days thereafter, the deficiency is still not made good, the matter shall be placed before a Judge of the High Court for an order, on a date to be notified by fixing such a petition in the motion cause list (emphasis supplied). It is, thus, clearly mandated, that it is for the Court to decide as to what should be done with such a deficient petition, because the ministerial and administrative staff of the High Court cannot be empowered and allowed to decide about the fate of the revision petition (even deficient), which in fact is a compliant against the Court, subordinate to the High Court, to that Court, and not subordinate to DR; this is not permissible in the exercise of DR's ministerial/administrative function at all. In such an event, it is for the Court alone to take a decision as to what should be the fate of such a petition. And in the facts and circumstances of each case, the Court may have more than one options in this behalf, some are elucidated as (a) grant the delinquent party with a further chance within a specified period to meet the office objection and re-file the petition within that time (b) While recording reasons, to overrule the office objections and to consider the petition as it is, deeming it ,having been properly instituted and to hear it on merits the same day or some further day fixed for hearing (c) By upholding the objection to dismiss the petition as having been invalidly filed or being not maintainable, or to dismiss the same for non-prosecution, depending upon the nature of the deficiency involved in a particular case; but the last option should be resorted to an acute matter, where the defect/deficiency is absolutely inherent and incurable. However, all these actions are within the exclusive authority of the High Court, which cannot and have not been delegated to the office and the office (DR) has no authority and the empowerment that of his own to declare a petition, which has been filed within prescribed period of limitation as time barred, only because the office objection has not been met in time: the D.R. also in such a situation cannot require the petitioner to file an application for the condonation of delay. It may be emphatically held that such a revision petition, which was filed within time prescribed by law, but was deficient in some respect, and such deficiencies were not supplied and made up in the given time, cannot be termed to be barred by time. It may be pertinent to mention here that where the revision petition is beyond limitation, the DR can point out to the petitioner this aspect and caution him, but has to fix the matter before the Court for its decision on the question of limitation leaving it for the petitioner to seek the indulgence of the court on the question of limitation or otherwise. Be that as it may, we may like to refer here a verdict of this Court which has nexus to the matter i.e. Mst. Sabiran Bi v. Ahmad Khan and another (2000 SCMR 847) holding that:--

"Thus, in view of above discussions we are inclined to hold that once a suit, appeal or revision has been presented before the authorised officer of the Court within the prescribed period of limitation, it cannot be treated barred by time for the reason that the office has noted defects in the proceedings which have not been removed by the concerned party or his Advocate, and in such-like situation the Presiding Officer of the Court at the best can consider the maintainability of proceedings in view of the provisions of Order VII, Rule II or identical provisions available in the Code of Civil Procedure or the law under which the proceedings were instituted. It is also important to note that parties/ Advocates are also not absolved from their duty to remove the office objections

within the stipulated period prescribed by the concerned authorised officer subject to the condition that specific notice has been served upon the party or Advocate to do the needful. Even if after notice the defect is not removed the case shall be listed for non-prosecution before the Presiding Officer who may in his discretion allow time to comply with objections of office."

6. The upshot of the above discussion is, that where a revision petition has been filed within time, but the office objection(s) points out certain deficiencies in respect of the institution, for all intents and purposes, it shall be deemed to have been instituted within the period of limitation and where the petitioner does not remove the office objections and make up the deficiencies in the time provided by the office, the matter shall be placed before the Court on the judicial side and the Court shall decide about the fate of the petition in accordance with law, and as per some of the guidelines provided in the preceding part of this judgment. In the instant case, an error has been committed at both the levels, i.e. the office, where an impression was caused that the revision petition of the appellant is rendered time barred on account of the lapse of the period due to the failure on part of the appellant to make up the deficiencies in the time specified by the office and requiring the petitioner to file the application for the condonation of delay, and also at the stage of hearing when the learned High Court has not adverted to the fact of the case, the relevant law, quoted above, but has simply dismissed the petition as being time barred due to the non-application of section 5 of the Limitation Act, 1908 to the revision petitions. Therefore, the impugned judgment cannot sustain which is hereby set aside and the matter is remanded to the learned High Court for the decision afresh on merits. Before parting we may acknowledge and appreciate the valuable assistance rendered by the learned Amici in enabling us to resolve a substantial proposition of law. The appeal stands allowed in the above terms.

MWA/F-2/S

Appeal allowed.