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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO _____

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Dr. Amjid Ali vs Health

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Muharir
Compilation

Incharge Judicial Branch

12/7/24

OFFICE ORDER NO. 117 DATED PESHAWAR THE 15/4/1993 ISSUED BY

MR. SHABIR HUSSAIN DIVISIONAL FOREST OFFICER FATA FOREST DIVI: PESH

On the recommendation of Departmental Selection Committee vide minutes dated: 6.3.1993, the following candidate hereby appointed as Forest Guards in BPS-12 i.e Rs.945-42-1425 with usual allowances admissible under the rules against the existing vacancies in FATA-I Forest Divn: under provincial scheme namely Watershad in Bajaur Agency" on purely on temporary basis with effect from the date they arrived for duties:-

1. Mr. Sher Zada S/O Bakhtiar of Yousaf Abad Bajaur Agency.
2. Mr. Perviz Khan S/O Subhan Vill Hayati, Bajaur Agency.
3. Mr. Kifayatullah S/O Abdul Haleem Vill: Salatai Bajaur Agency.
4. Mr. Mohammad Janas Khan S/O Subar Khan-Vill: Khar Bajaur Agency.
5. Mr. Syed Badshah S/O Pacha Vill: Garo Bajaur Agency.

Their appointments are subject to the following terms and conditions:-

1. Their appointments are purely temporary and on contract basis. Their services, can be terminated without giving notice or assigning any reason at any time or on expiry/completion of scheme abolition of the post whichever is earlier. They will not confer any right of continuity on post/absorption or else-where or regularization of their services.
2. They will join their duty on their own expenses.
3. They will be on probation for a period of six months.
4. Their appointment are subject to production of original Education/Health and Domicile and Character, Certificate etc.
5. In case they wish to resign at any time, 30 days notice will be necessary or in lieu thereof 30 days pay will be forfeited.
6. They will be governed by the rules and order relating to leave, travelling, medical attendance and to (E&D) Rules pay etc as may be issued by Government from time to time.

Sd/(Mr. Shabir Hussain)
Divisional Forest Officer
FATA-I, Forest Division,
Peshawar

No.3556-59/E,

Copy forwarded for information to the:-

1. Conservator of Forests FATA/Social Forestry Circle, Peshawar.
2. Range Officer, Bajaur at Khar
3. All concerned. They are directed to join their duty within a week time.
4. Personal file.
5. Divisional Accountant.

Divisional Forest Officer
FATA-I, Forest Division,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 790/2018

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

Dr. Amjad Ali Shah, MBBS FCPS, Forensic Medicine Department, BPS- 17,
Khyber Girls Medical College, Peshawar.(Appellant)

Versus

1. Director General Health Services Peshawar.
 2. The Principal of Khyber Girls Medical College, Peshawar.
 3. Secretary Health Khyber Pakhtunkhwa Peshawar.
 4. Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
-(Respondents)

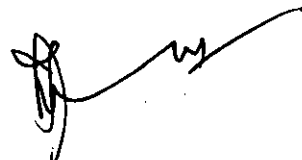
Mst. Roeceda Khan,
Advocate ... For appellant

Mr. Muhammad Jan,
District Attorney ... For respondents

Date of Institution.....	11.06.2018
Date of Hearing.....	31.05.2024
Date of Decision.....	31.05.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 25.08.2016 whereby the appellant was relieved from the post of Demonstrator, BPS- 17, Khyber Girls Medical College Peshawar to Health Department, against which his departmental appeal dated 20.09.2016 was not responded within the statutory period of ninety days. It has been prayed that on acceptance of the appeal, the impugned order dated 25.08.2016 might be set aside and the respondent department be directed to adjust the appellant to the post with all back benefits, alongwith any other remedy which the Tribunal deemed appropriate.



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Peshawar

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was selected as Medical Officer (BPS- 17) in the Health Department in the year 2012. He was initially posted as Medical Officer in Civil Dispensary Gulbahar, Peshawar, where he remained posted till 2015 and then he was transferred to Khyber Girls Medical College Peshawar as Demonstrator for 03 years. He submitted an application for 04 months earned leave due to some domestic issues, which was sent by KGMC to the Health Department on the ground that the leave was not permissible to him under the MTI Rules and vide the same letter dated 25.08.2016, he was relieved to pursue his earned leave from Health Department, being a civil servant. The appellant visited the Health Department for his adjustment many times but in vain. He submitted departmental appeal on 20.09.2016 followed by applications dated 25.03.2017, 20.08.2017 and 09.03.2018 to the respondent department but no response was given, hence the instant service appeal.

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

4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order was illegal, void and in utter violation of law and rules on the subject. She argued that being a civil servant, it was the responsibility of the department to adjust him against his post. She further argued that no charge sheet or statement of allegations nor show cause notice was served upon him. The appellant was neither removed nor dismissed from



service, so his non-adjustment was tainted with malafide on the part of the respondent department. She requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant neither applied for 04 months leave on proper form nor got it verified from the Audit Office. Moreover, as per MTI Rules & Regulations, the appellant was not entitled to leave applied for and was rightly relieved by the Dean, Khyber Girls Medical College, Peshawar. The learned District Attorney added that after getting relieved, he did not report to the Health Department or Directorate Health Services for his further adjustment and absented himself from duty since August 2016. He further argued that absence notice was served upon him at his home address vide registered letter dated 03.09.2018 but he did not respond to the notice. He requested that the appeal might be dismissed.


6. From the arguments and record presented before us, it transpires that the appellant was appointed as Medical Officer in the Health Department in 2012. Vide a notification dated 23.04.2015 he, alongwith other Medical Officers, was posted as Demonstrator in the Khyber Girls Medical College on deputation basis for a period of three years. He applied for four months earned leave, which was not permissible in the MTI Rules and hence he was relieved by the Dean, Khyber Girls Medical College vide a letter dated 25.08.2016. The officer did not submit his arrival report in the Health Department and instead he preferred a departmental appeal on 20.09.2016 against the letter of Dean KGMC. The plea taken by the learned counsel for the appellant during



arguments before us was that the department did not adjust him whereas the learned District Attorney as well as the departmental representative present before us contended that he did not submit any arrival report and absented himself from duty since August 2016. According to them absence notice dated 03.09.2018 was sent at his home address through registered post but the appellant did not respond to it. They could not provide any evidence whether the notice was actually served at his home address and received by him or anyone at his home. Record is silent about any action taken by the department after serving the absence notice.

7. In view of the above discussion it would be in the fitness of the matter that the appellant should immediately report to his parent department, which is the Health Department/Health Directorate. The Health Department/Directorate is directed to initiate proper inquiry against the appellant under the Khyuber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in order to ascertain any misconduct or absence on his part. The entire process should be completed within ninety days of the receipt of copy of this judgment. Cost shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 31st day of May, 2024.*


(FARVEHA PAUL)
Member (E)


(RASHIDA BANO)
Member(J)

SA 790/2018

31st May, 2024 01. Mst. Roeeda Khan, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, it would be in the fitness of the matter that the appellant should immediately report to his parent department, which is the Health Department/Health Directorate. The Health Department /Directorate is directed to initiate proper inquiry against the appellant under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in order to ascertain any misconduct or absence on his part. The entire process should be completed within ninety days of the receipt of copy of this judgment. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31st day of May, 2024.*


(FARZEHA PAUL)
Member (E)


(RASHIDA BANO)
Member(J)

Fazal Subhan PS


6


SA 790/18

30.05.2024

01. Appellant present in person. Mr. Muhammad Jan, District Attorney alongwith Safiullah, Focal Person for the respondents present.

02. Appellant is directed to produce passport, salary slip and appointment order and representative of the respondents shall produce personal file of the appellant on the date fixed. To come up for record and arguments on 31.05.2024 before the D.B. PP given to the parties.


(Fareeha Paul)
Member(E)


(Rashida Bano)
Member(E)

Fazle Subhan, P.S

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12.12.2023


1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney for the respondents present.


2. Learned counsel for the appellant requested for adjournment on the ground that cost of Rs. 5000/- imposed on the appellant ^{has been deposited} on the next date.

Adjourned. To come up for cost of Rs. 5000/- as well as arguments on

27.02.2024 before D.B. P.P given to the parties.

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Peshawar


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)


Ziaulhaq


27.02.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Safi Ullah, Focal Person for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for payment of cost as well as arguments on 30.05.2024 before D.B. P.P given to the parties.

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KPST
Peshawar


(Fareeha Paul)
Member (E)

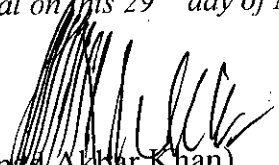

(Rashida Bano)
Member (J)


kaleemullah

29.11.2023 1. Learned counsel for the applicant present. Mr. Asad Ali Khan
learned counsel for respondents present.

2. Instant application is for restoration of appeal which was dismissed
in default on 28.11.2022 while this application has been moved on
26.07.2023. Learned Assistant Advocate General raised no objection on
acceptance of the instant application seeking restoration of main appeal.
Considering contention of learned counsel for the applicant and in the
interest of justice, instant service appeal is restored to its original
number on cost of Rs. 5000/- To come up for arguments on 12.12.2023
before D.B. P.P given to the parties.

3. *Pronounced in open court in Peshawar and given under our hands and
seal of the Tribunal on his 29th day of November, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)

SCANNED
KFPT
Peshawar

6th Oct. 2023

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

2. Learned counsel for the applicant seeks time to file application for condonation of delay. He may do so within a week. To come up for arguments on restoration application on 24.10.2023 before D.B. P.P given to the parties.

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Peshawar



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

Adnan Shah

24.10.2023

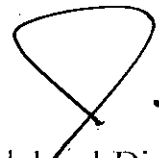
Clerk of learned counsel for the applicant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the applicant requested for adjournment on the ground that learned counsel for the applicant is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on restoration application on 29.11.2023 before the D.B. Parcha Peshi given to the parties.

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Peshawar



(Muhammad Akbar Khan)
Member (E)



(Salah-ud-Din)
Member (J)

Naeem Amin

FORM OF ORDER SHEET

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KT
Peshawar

Court of _____


Restoration Application No. 538/2023


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.07.2023	The application for restoration of Appeal no 790/2018 submitted today by Roeeda Khan Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>01-08-23</u> . Original file be requisitioned.

By the order of Chairman


 REGISTRAR

- 1st August, 2023
- Learned counsel for the petitioner present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
 - Learned counsel for the petitioner requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on restoration application on 06.10.2023 before the D.B. PP given to the parties.

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KT
Peshawar

 (Fareeha Paul)
 Member (E)


 (Rashida Bano)
 Member (J)

790/2018


28th Nov. 2022

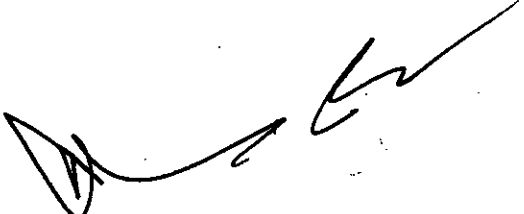
01. Nemo for the appellant. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.

02. Called several times, till rising of the court but nobody turned up on behalf of the appellant. The appeal is, therefore, dismissed in default. Consign.

03. *Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 28th day of November, 2022.*

SCANNED
KPST
Peshawar


(Kareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

17.06.2022

Nemo for the appellant. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments on 18.08.2022 before the D.B.

*Noted
28-7-2022*

(Mian Muhammad)
Member (E)

(Salah-ud-Din)
Member (J)

18.8.22

Due to summer vacation the case is adjourned to 16.9.22 for the same.

16.09.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Arguments could not be heard as learned Member Executive (Miss. Fareeha Paul) is on leave. Therefore, case is adjourned to 28.11.2022 for arguments before D.B.

(Rozina Rehman)
Member (J)

01.12.2021

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General present. Zia Ullah Law Officer representative of respondent No.3 present.

In view of the available record, representative of respondent No.3 made a request for adjournment in order to produce relevant record; allowed. To come up for production of relevant record and arguments on 24.01.2022 before D.B.

(Atiq ur Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

24.01.2022

Learned counsel for the appellant present. Mr. Suleman Khan Senior Instructor alongwith Mr. Kabir Ullah Khattak Additional Advocate General for the respondents present.

Mrs. Rozina Rehman learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 03.03.2022 before D.B.

(Salah-Ud-Din)
Member (J)

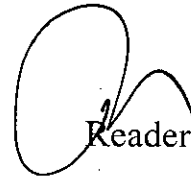
3-3-22

*due to retirement of the Honble Chairman
the case is adjourned to come up for
the same as before on 17-6-22*

*Shah
Rehman*

28.04.2021

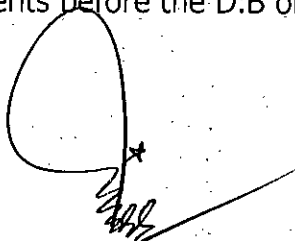
Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 25.08.2021 for the same as before.


Reader

25.08.2021

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents No. 1,3 and 4 and clerk of learned counsel for respondent No.2 for the respondent No.2 present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 08.11.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

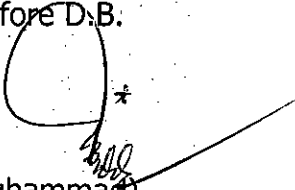


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

8.11.2021

Clerk of learned counsel for the appellant present. Mr. Muhammad Rashid, DDA for respondents present.

Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for arguments on 01.03.2022 before D.B.



(Mian Muhammad)
Member(E)



(Rozina Rehman)
Member(J)

15.10.2020

Counsel for the appellant is present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General alongwith Mr. Saleem Javed for official respondents and counsel for respondent No.2 is present.

Learned counsel for the appellant seeks adjournment as he has not prepared the brief.

Adjourned to 24.12.2020 for arguments before D.B.

(Mian Muhammad)
Member (E)

(Rozina Rehman)
Member(J)

24.12.2020

Due to summer vacation, case is adjourned to 29.03.2021 for the same as before.

Reader

29.03.2021

Appellant with counsel present.

Muhammad Rasheed learned Deputy District Attorney alongwith Nisar Ahmad Assistant present. Junior to counsel for appellant present.

Former submitted rejoinder. Request for adjournment was made by the junior to counsel for respondent No.2 as senior counsel is not available. Adjourned. To come up for arguments on 29/04/2021 before D.B.

(Atiq ur Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

10.02.2020

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 11.03.2020 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

11.03.2020

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 23.04.2020 before D.B.


Member


Member

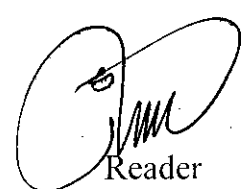
23.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 04.08.2020 before D.B.


Reader

04.08.2020

Due to summer vacation case to come up for the same on 15.10.2020 before D.B.


Reader

08.10.2019

Counsel for the appellant and Addl. AG alongwith Hazrat Shah, Superintendent and Manzoor Shah Superintendent for the respondents present.

Representative of respondents No. 1 to 3 has submitted reply on behalf of the said respondents which is placed on record. Comments on behalf of respondent No. 3 already submitted. To come up for arguments on 10.12.2019 before the D.B. The appellant may submit rejoinder, within a fortnight, if so advised.

Chairman 

10.12.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Ziaullah, Deputy District Attorney for the respondents present. Adjourned to 07.02.2020 for rejoinder and arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

07.02.2020

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for respondent No.2 present. Joint request ^{on behalf of appellant & DDA} made for adjournment. Adjourn. To come up for arguments on 10.02.2020 before D.B.


Member


Member

24.06.2019 None for the appellant present. Addl: AG for respondents present. Written reply/comments on behalf of respondent no. 1,3 and 4 not submitted. Notices be issued to the respondents for submission of written reply/comments. Case to come up for written reply/comments on 16.08.2019 before S.B.


(Ahmad Hassan)
Member

16.08.2019 None present on behalf of the appellant. Mr. Ziaullah, Deputy District Attorney for respondents No. 1, 3 & 4 and counsel for respondent No. 2 present. Representative of respondents No. 1, 3 & 4 not present, therefore, notices be issued to respondents No. 1, 3 & 4 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Learned counsel for respondent No. 2 also requested for further time to submit written reply. Adjourned to 16.09.2019 for written reply/comments before S.B.


(MUHAMMAD AMIN KUNDI)
MEMBER

16.09.2019 Jr. to counsel for the appellant. Junior to counsel for respondent No. 2 present.

Comments on behalf of respondent No. 2 has already been submitted and placed on record. Fresh notices bne issued to respondents No. 1, 3 and 4 for submission of written reply/comments on 08.10.2019.


Chairman

11.03.2019

Counsel for the appellant present. Mr. Kabirullah Khattak Additional AG for the respondents present. Representative of the department is not present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 15.04.2019 before S.B.

M.A.
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.04.2019

No one present on behalf of appellant. Clerk to counsel for respondent No.2 present. Written reply on behalf of respondent No.2 already submitted. Written reply/comments is still awaited on behalf of remaining respondents. Mr. Hazrat Shah Superintendent and Jafar Ali Assistant representatives of respondents No.1 & 3 absent. They be summoned with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 23.05.2019 before S.B

H.S.
Member

22.05.2019

Learned counsel for the appellant present. Written reply on behalf of respondents No.1 & 3 awaited. Hazrat Shah representative of respondent No.3 present and seeks time to furnish reply. Jafar Ali Assistant representative of respondent No.1 absent. Respondents No.1 and absent representative be put to notice for submission of reply. Adjourned for 24.06.2019 before S.B.

J.A.
Member

24-10-18 Due to retirement of Honorable
Chairman the Tribunal is non
functional therefore the case is
adjourned to come up for the
same on 13-12-2018

Jaffar
Reader

13.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak; Additional AG alongwith Mr. Hazrat Shah, Superintendent and Mr. Jaffar Shah, Assistant for the respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 02.01.2019 before S.B.

M A
Muhammad Amin Khan Kundi
Member

02.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Jaffar Shah, Assistant for respondents No. 1, 3 & 4 and clerk of counsel for respondent No. 2 present. Written reply on behalf of respondent No. 2 submitted. Learned Additional AG requested for adjournment on behalf of respondents No. 1, 3 & 4 for filing of written reply. Adjourned. To come up for written reply/comments on behalf of respondents No. 1, 3 & 4 on 11.03.2019 before S.B.

M A
Muhammad Amin Khan Kundi
Member

27.07.2018

Counsel for the appellant Miss. Roeda Khan, Advocate present and heard in limine.

Contended that after reliving by Forensic Medicine Department when he approached D.G Health office to adjust him against some seat, his request was not entertained and in this respect he submitted written application but the D.G Health office is neither adjusting the appellant nor issuing any order in writing. Further contended that the appellant is regular civil servant and neither removed nor dismissed from service but he is kept deprived from performing his lawful duties.

Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 05.09.2018 before S.B.

Appellant Deposited Security & Process Fee


Chairman

05.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Written reply not submitted on behalf of the official respondents. Learned Additional Advocate General requested for adjournment. Adjourned. To come up for written reply/comments on 29.10.2018 before S.B.


(Muhammad Amin Kundi)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 790/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
<p>1-</p> <p>2-</p>	<p>11/06/2018</p> <p>SCANNED KPST Peshawari</p> <p>25.06.2018</p> <p>16.07.2018</p>	<p>The appeal of Dr. Amjid Ali Shaht presented today by Miss. Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p><i>[Signature]</i> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/6/18</u>.</p> <p><i>[Signature]</i> CHAIRMAN</p> <p>Appellant absent. Learned counsel for appellant also absent. Adjourned. To come up for preliminary hearing on 16.07.2018 before S.B.</p> <p><i>[Signature]</i> Member</p> <p>Clerk to counsel for the appellant present and seeks adjournment due to general strike of the Bar. Adjourned. To come up for preliminary hearing on 27.07.2018 before S.B.</p> <p><i>[Signature]</i> (Ahmad Hassan) Member</p>

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re Service Appeal 790 /2018

Dr. Amjad Ali Shah

VERSUS

Director General Health Services Peshawar and others

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Dated: 11/06/2018

Amjad

Appellant

Through

(P)

Roeeda Khan

& (P)

Afshan Manzoor

Advocates, High Court
Peshawar

24-1

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

In Re S.A 790 /2018

Diary No. 1042

Dated 11-6-2018

Dr. Amjad Ali Shah MBBS FCPS Forensic Medicine

Department BPS-17. *Khyber Girls Medical College Peshawar*

-----*(Appellant)*

VERSUS

1. Director General Health Services Peshawar.

2. The Principal of Khyber Girls Medical College
Peshawar.

3. Secretary Health Khyber Pakhtunkhwa Peshawar.

4. Chief Secretary ~~Government of KPK~~ Peshawar.

-----*(Respondents).*

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 25-08-2016 WHERE BY THE
APPELLANT HAS BEEN RELIEVED FROM
THE POST OF DEMONSTRATOR BPS-17
KHYBER MEDICAL GIRLS COLLEGE
PESHAWAR TO HEALTH DEPARTMENT
AGAINST WHICH THE DEPARTMENTAL
APPEAL DATE: 20/09/2016 HAS NOT BEEN**

Filed to-day

Registrar

11/6/18

RESPONDED WITHIN THE STATUTORY
PERIOD OF 90 DAYS

Prayer:-

ON ACCEPTANCE OF THIS APPEAL
THE IMPUGNED ORDER DATED
25/08/2016/MAY KINDLY BE SET-ASIDE
AND THE RESPONDENT DEPARTMENT
MAY KINDLY BE DIRECTED TO
ADJUST THE APPELLANT IN TO POST
WITH ALL BACK BENEFITS AND ANY
OTHER RELIEF MAY KINDLY BE
GRANTED DEEMED FIT IN THE
CIRCUMSTANCES

Respectfully Sheweth:-

1. That the appellant has been selected as a
Medical Officer on BPS-17 in health department
on 2012.
2. That after the completion of the training the
appellant I initially appointed as medical Officer
in civil dispensary Gulbahar till 2015 and
perform his duty with full devotion.

3. That the appellant has been transferred to
Khyber Girls Medical College as demonstrated
for 3 Years.

4. That the appellant submitted an application for
4 months earned leave due to some domestic
issues. (Copy of application is annexed as
annexure "A").

5. That on the response of which the KGMC sent
the letter of the appellant to Health
Department.

6. That the appellant visited to Health
Department for his adjustment to so many
times but in vain.

7. That on 25/08/2016 the Respondent issued a
letter where the appellant has been relieved
from service. (Copy of Relieved order is annexed
as annexure "B")

8. That the appellant submitted a Departmental
appeal on 20/09/2016 but no response has been

given by the Respondent department. (Copy of Departmental Appeal is annexed as annexure "C")

9. That the appellant submitted so many application to the Respondent Department for his adjustment but in vain. (Copy of applications are attached "D/D1/D2")

25-3-2017 20-8-2017 9-3-2018

10. That the order impugned is liable to be set aside on the following grounds

Grounds:

A. That the impugned order is illegal, void and being passed in utter violation of law and rules on the subject.

B. That the appellant has not been treated according to law and mandatory provisions of law have been violated by Respondents.

C. That the impugned relieving order is void because there is no illegality in part of the appellant.

D. That the appellant is a Civil Servant and it is the responsibility of the Department to adjust the appellant to his post.

E. That the appellant has not been removed or dismissed from service so non adjustment of the appellant in his job is clear cut malafidely on part of Respondent department.

F. No charge sheet statement of the allegation and no show cause notice has been issued or received by the appellant that the appellant has been relieved from service without any reason.

G. That he appellant seeks permission of this Hon'ble Tribunal for further additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Appeal the impugned order, dated 25-08-2016 may kindly be set aside and the appellant may kindly be re-instated into service with all back benefits of service.

Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case.

Dated: 11/06/2018

*Aslam
Afshar*
Appellant

Through

Roeeda Khan
Roeeda Khan

*A &
Afshan Manzoor*
Afshan Manzoor

Advocates, High Court
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

P
Advocate.

30

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re Service Appeal _____/2018

Dr. Amjad Ali Shah

VERSUS

Director General Health Services Peshawar and others

AFFIDAVIT

I, Dr. Amjad Ali Shah MBBS FCPS Forensic Medicine Department BPS-17, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Amjad

DEPONENT

Identified By:

Roeeda Khan

Roeeda Khan
Advocate High Court
Peshawar.



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8

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR.**

In Re Service Appeal _____/2018

Dr. Amjad Ali Shah

VERSUS

Director General Health Services Peshawar and others

ADDRESSES OF PARTIES

APPELLANT.

Dr. Amjad Ali Shah MBBS FCPS Forensic Medicine
Department BPS-17.

RESPONDENTS:

1. Director General Health Services Peshawar.
2. The Principal of Khyber Medical College Peshawar.
5. Secretary Health Khyber Pakhtunkhwa Peshawar.
3. Chief Secretary Health Department Peshawar.

Dated: 11/06/2018

Amjad
Amjad
Appellant

Through

Roeeda Khan
Roeeda Khan

Afshan Manzoor
Afshan Manzoor

Advocates, High Court
Peshawar.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

Dr. Amjad Ali Shah

VERSUS

Director General Health Services Peshawar and others

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth,

Petitioner submits as under:

That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.

Grounds:

- A. That the impugned orders are void order and no limitation run against the void orders.
- B. That the appellant visited to the Health Department so many times for his adjustment. (**Adjustment application are attached with the appeal**)
- C. That there is no illegality on part of the appellant so the reliving order is a void order and non adjustment

of the appellant to his post is the other illegality on part of the Respondent department.

- D. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

Dated: 08/06/2018

Afshan
Afshan
Appellant

Through

RK
Roeeda Khan
&
Afshan Manzoor
Advocates, High Court
Peshawar.

34

Amjad Ali Shah

11

OFFICE OF THE DEEN KHYBER GIRLS MEDICAL
COLLEGE PESHAWAR

APPLICATION FOR GRANT OF EARNED
LEAVE FOR A PERIOD OF 4 MONTHS

Respectfully Sheweth,

That the applicant is a regular employee of Khyber Girls Medical College and performed his duty with full devotion. That due to some domestic issues the applicant has been requested for four months earned leave.

It is therefore most humbly prayed that the application of the applicant for grant earned leave may kindly be accepted.

Amjad Ali Shah

Dr. Amjad Ali Shah

P

ATTESTED

35

Amjad B

121



OFFICE OF THE DEAN
KHYBER GIRLS MEDICAL COLLEGE, PAKISTAN
GOVT. OF KHYBER PAKHTUNKHWA, HEALTH DEPARTMENT



PHONES: +92 91 92 17 701

FAX: +92 91 92 17 702

Email: info@kgmc.edu.pk

No. 6583 /Estt/KGMC

Dated 25/08 2016

To

The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar.

Subject: APPLICATION FOR FOUR (04) MONTHS EARNED LEAVE IN RESPECT OF DR. AMJAD ALI SHAH, DEMONSTRATOR BPS-17 FORENSIC MEDICINE DEPARTMENT KGMC PESHAWAR.

R/Sir,

Dr. Amjad Ali Shah was transferred in Forensic Medicine Department as Demonstrator BPS-17 by Health Department Govt. of Khyber Pakhtunkhwa in September 2012. He has applied for four (04) Months Earned Leave which is not permissible in MTI Rules and Regulations. The doctor concerned is keen to avail the said leave due to some critical domestic issues..

As his applied leave cannot be entertained at this end, he is hereby relieved from the post of Demonstrator BPS-17 Khyber Girls Medical College, Peshawar to pursue his Earned Leave from Health Department as he is Civil Servant.

DEAN

Khyber Girls Medical College,
Hayatabad Peshawar.

6583-85

No. _____ /Estt./KGMC

Copy forwarded to:

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
2. The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 3- Copy to HOD Forensic Medicine, KGMC
- 4- Dr Amjad Ali Shah, Demonstrator Forensic Medicine, KGMC.

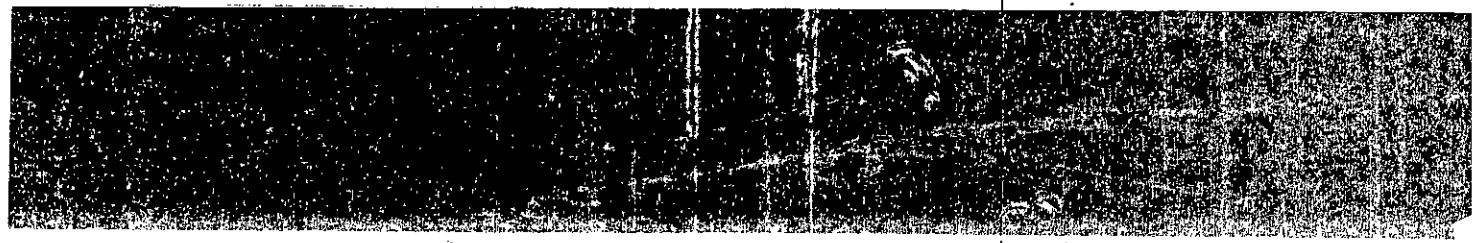
DEAN

Khyber Girls Medical College,
Hayatabad Peshawar.

OIC
SA

P.D.A Building, Block # IV, Phase-V, Hayatabad Peshawar

ATTESTED



(36)

Amjad

(13)

TO THE SECRETARY HEALTH KHYBER PAKHTUNKHWA
PESHAWAR

DEPARTMENTAL APPEAL AGAINST
THE ORDER DATED 25/08/2016

Respectfully Sheweth:-

That the appellant has been selected as medical officer in Health department on 2012. That the appellant has been transferred to KGMS as demonstrator for 3 years.

Their due to some domestic issues the appellant applied for 4 month earned leave. That on the response of which the Respondent department issued a letter on 25/08/2016 where the appellant has been relieved from service that there is no illegality on part of appellant nor the appellant has been removed or dismissed.

It is therefore most humbly prayed that the departmental appeal appellant may kindly be accepted.

Appellant

Dr. Amjad Ali Shah

Amjad

Dated 20/09/2016

(P)
ATTESTED

37

Amjad Ali Khan

149

TO THE DIRECTOR GENERAL HEALTH KHYBER
PAKHTUNKHWA PESHAWAR

APPLICATION FOR THE ADJUSTMENT
OF THE APPELLANT

Respectfully Sheweth,

That due to some unknown reason the applicant has been relieved from service on dated 25/08/2016. Against which the applicant submitted departmental appeal. Now the applicant has been submitted the instant applicant for the adjustment of the applicant because there is no illegality on part of the applicant, nor the applicant has been removed nor dismissed without any reason the applicant has been relieved and nor adjustment of the applicant is another illegality on part of the other Respondent departments.

It is therefore most humbly prayed the applicant may kindly be adjusted to any where according to his job adjustment.

Ashraf
Amjad Ali Khan

Dr. Amjad Ali Khan

Dated: 25/03/2017

P

ATTESTED

38

Amjad

15

TO THE DIRECTOR GENERAL HEALTH KHYBER
PAKHTUNKHWA PESHAWAR

APPLICATION FOR THE ADJUSTMENT
OF THE APPELLANT

Respectfully Sheweth,

That due to some unknown reason the applicant has been relieved from service on dated 25/08/2016. Against which the applicant submitted departmental appeal. Now the applicant has been submitted the instant applicant for the adjustment of the applicant because there is no illegality on part of the applicant, nor the applicant has been removed nor dismissed without any reason the applicant has been relieved and nor adjustment of the applicant is another illegality on part of the other Respondent departments.

It is therefore most humbly prayed the applicant may kindly be adjusted to any where according to his job adjustment.

Amjad
Amjad

Dr. Amjad Ali Khan

Dated: 20/08/2017

Amjad
ATTESTED

(39)

Ann "D" 2

(16)

TO THE DIRECTOR GENERAL HEALTH KHYBER
PAKHTUNKHWA PESHAWAR

APPLICATION FOR THE ADJUSTMENT
OF THE APPELLANT

Respectfully Sheweth,

That due to some unknown reason the applicant has been relieved from service on dated 25/08/2016. Against which the applicant submitted departmental appeal. Now the applicant has been submitted the instant applicant for the adjustment of the applicant because there is no illegality on part of the applicant, nor the applicant has been removed nor dismissed without any reason the applicant has been relieved and nor adjustment of the applicant is another illegality on part of the other Respondent departments.

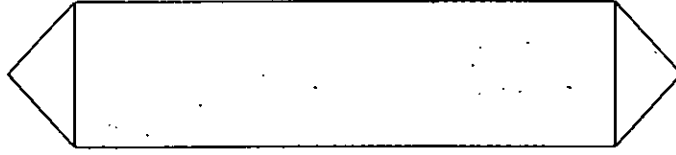
It is therefore most humbly prayed the applicant may kindly be adjusted to any where according to his job adjustment.

Ashe
Amjad

Dr. Amjad Ali Khan

Dated: 09/03/2018

(16)
ATTENDED



مورخہ
مقدمہ
دعویٰ
جرم

2018ء منجانب

ڈاکٹر عبدالرحمن صاحب

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام حسناہ کیلئے لویڈ خانہ ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Acceptance
By
P

2018

ماہ جون

8

المرقوم

ڈاکٹر عبدالرحمن صاحب
Advocate

العبد گواہ العبد

کے لئے منظور ہے۔

مقام حسناہ

45

1

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

In Service Appeal No. 790/2018

Dr. Amjad Ali Shah

VS

Director General Health Services Peshawar & Others

COMMENTS FOR AND ON BEHALF OF RESPONDENT NO. 2

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action, nor any locus standi to institute the present Appeal.
2. That the present Appeal of the Appellant is not maintainable in its present form.
3. That the present appeal of the Appellant is time barred and the statutory requirements are not complied with, hence, may be dismissed on this ground alone.

ON FACTS:

1. Para No. 1-3 needs no comments.
4. Para no. 4 & 5 are correct.

For the purpose of clarity it would be relevant to mention here that the Appellant applied for four (04) months Extra Ordinary leave due to his personal engagements at home and as per the regulations of the Medical Teaching Institutions (MTI), such extra ordinary leave were not permissible, hence, his case was referred to the Director General Health Services (DGHS), Government of Khyber Pakhtunkhwa Peshawar vide letter dated 25.08.2016 with the remarks that

his services are placed at the disposal of Director General Health Services (DGHS).

6. **Para No. 6** not relates to the Answering Respondent hence, needs no comments.

7. **Para No. 7** is correct.

True facts are that the DGHS relieved the services of the Appellant but due to some clerical mistake by the Establishment section the salary of appellant was not stopped as copy of the relieving order was not send to the Account Section of the Answering Respondent. Furthermore, the Account superintendent of the Answering Respondent vide letter No. 53/Acctt./KGMC dated 20.04.2018 detected this anomaly and reported to the Dean, KGMC that the Appellant has been paid an amount of Rs. 16,52,361/- till March 2018 from the date of his relieving to DGHS dated 25.08.2016. In this respect the Appellant was duly informed and directed by the Answering Respondent vide a number of letters to deposit the amount which was illegally withdrawn in lieu of salary but the appellant failed to do so. And for this illegal of Appellant, the Dean KGMC reserve the right to knock at the door of competent court of law to initiate civil as well as criminal proceedings against the Appellant.

(Copies of the letters are attached as Annexure "RAA")

8. **Para No. 8 & 9** are in correct.

The Appellant never approached the Answering Respondents.

10. **Para No. 10** is incorrect.

ON GROUNDS:

A. **Ground A & B** are incorrect.

The Appellant is treated in accordance with law.

B. **Ground C & D** are incorrect.

The Appellant had applied for four (04) months extra ordinary leave due to his personal engagements at home and as per the regulations of the Medical Teaching Institutions (MTI), such extra ordinary leave were not permissible, his case was referred to the Director General Health Services and the DGHS relieved the Appellant from his service.

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3

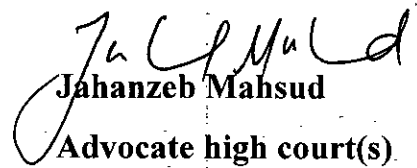
C. Ground E to G are incorrect.

The Appellant was relieved from his service in accordance with law and all legal formalities were complied in this regard but the appellant illegally withdrew the salary from KGMC account till March 2018 inspite of the fact that he was relieved from MTI KGMC since 25/08/2016 for which separate legal proceedings will be initiated against the Appellant.

It is, therefore, most respectfully prayed that on acceptance of the instant comments the appeal of the appellant may kindly be dismissed with cost.

Respondent No. 2

Through


Jahanzeb Mahsud
Advocate high court(s)

(48)

4

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Service Appeal No. 790/2018

Dr. Amjad Ali Shah

VS

Director General Health Services Peshawar & Others

AFFIDAVIT:

I, MR. MOHSIN AID RAZZOOR, MANAGER HR - KGMU Peshawar,
do hereby solemnly affirm and declare on oath that the contents of the accompanying
Comments are true and correct to the best of my knowledge and belief and nothing has
been concealed from this Honorable Court.

[Signature]
Deponent

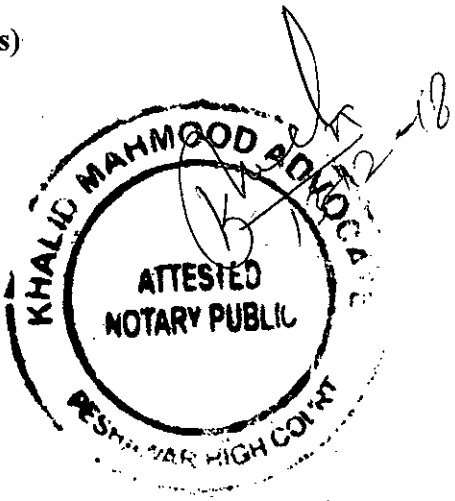
CNIC No. 17101-9034382-7

7 0344-9261415

IDENTIFIED BY:

[Signature]
Waqar Khalil

Advocate High Court(s)





49

5 RAA's



**OFFICE OF THE DEAN
KHYBER GIRLS MEDICAL COLLEGE, PAKISTAN
GOVT. OF KHYBER PAKHTUNKHWA, HEALTH DEPARTMENT**



PHONES: +92 91 92 17 701 FAX: +92 91 92 17 702
Email: info@kgmc.edu.pk

No. Estt KGMC

To
The Director General Health Services
Khyber Pakhtunkhwa
Peshawar

Subject APPLICATION FOR FOUR (04) MONTHS EARNED LEAVE IN RESPECT OF DR. AMJAD ALI SHAH, DEMONSTRATOR BPS-17 FORENSIC MEDICINE DEPARTMENT KGMC PESHAWAR.

R/Sr

Dr. Amjad Ali Shah was transferred to Forensic Medicine Department as Demonstrator BPS-17 by Health Department Govt of Khyber Pakhtunkhwa in September 2012. He has applied for four (04) Months Earned Leave which is not permissible in MTI Rules and Regulation. The doctor concerned is keen to avail the said leave due to some critical domestic issues.

As his applied leave cannot be entertained at this end, he is hereby relieved from the post of Demonstrator BPS-17 Khyber Girls Medical College Peshawar to pursue his Earned Leave from Health Department as he is Civil Servant.

[Handwritten Signature]

DEAN

Khyber Girls Medical College
Peshawar

No. Estt KGMC

- Copy forwarded to
- 1. The Secretary to Govt of Khyber Pakhtunkhwa, Health Department
 - 2. The Accountant General, Khyber Pakhtunkhwa Peshawar
 - 3. Dep. Health Secretary, Peshawar
 - 4. Dr. Amjad Ali Shah, Demonstrator BPS-17 Forensic Medicine Department KGMC Peshawar

[Handwritten Signature]

DEAN

Khyber Girls Medical College
Peshawar

68

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 790 OF 2018

Dr. Amjad Ali Shah.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Preliminary Objections:-

1. That the Appellant has got neither cause of action nor 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 the present form and also in the present circumstances of the issue.
5. That the Appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the Appellant has not come to the Tribunal with clean hands.
7. That the Appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.

ON FACTS:

1. Para No. 1 correct.
2. Para No. 2 correct to the extent that the Appellant was appointed as MO (BPS-17) and posted in Civil Dispensary Gulbahar Peshawar and worked over there till 2015.
3. Para No. 3 correct.
4. Para No. 4 is incorrect. The Appellant neither applied for 04 months leave on proper leave form nor verified his application from Audit Officer. Moreover, as per MTI rules & regulations, 04 months leave is not permissible.
5. Para No. 5 incorrect. As per MTI rules & regulation, 04 months earned leave is not permissible in MTI rules.
6. Para No. 6 incorrect. The Appellant did not appeared in DGHS office in connection with his adjustment as there is no written proof provided by the Appellant.
7. Para No. 7 correct. But after relieving from Khyber Medical College Peshawar, the Appellant did not report to DGHS, or Health Secretariat for further adjustment.
8. Para No. 8 is incorrect as per record.
9. Para No. 9 incorrect. The photo copy of the application for adjustment provided by the Appellant having neither diary number nor date.
10. No comments.

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ON GROUNDS:

- A. Para A related to Dean Khyber Girls Medical College Peshawar.
- B. Para B related to Dean Khyber Girls Medical College Peshawar.
- C. Para C related to Dean Khyber Girls Medical College Peshawar.
- D. After relieving from Khyber Girls Medical College, Peshawar, the Appellant did not submit report to Health Department for further posting and absented himself from duty since August 2016.
- E. Para-E as in para-D above.
- F. Para-F is incorrect. As absence notice has already been served upon the Appellant at his home address vides registered letter No. 11787/E (A-313) dated 03/09/2018, but the Appellant did not respond to the notice.
- G. In reply to Para-G of the Grounds, it is submitted that the Appeal of the Appellant is time barred and may be dismissed on the Grounds above.

PRAYER:

It is therefore most humbly prayed that on acceptance of comments, the instant Appeal may very graciously be dismissed with cost.



Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 01



Secretary, Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 03

70

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A # 790/2018

Dr. Amjad Ali Shah

Versus

Govt. of Khyber Pakhtunkhwa & Others

REJOINDER ON BEHALF OF
APPELLANT

Respectfully Sheweth,

All the Preliminary objection raised by the Respondents are incorrect and baseless and not in accordance with law and rules rather the Respondents are stopped due to their own conduct to raised any objection at the stage on the appeal.

Facts

1. Para No1 is correct.
2. Para No.2 is correct after appointment the appellant performed his duty with full devotion.
3. Para No.3 is correct.

4. Para No.4 and 5 of the appeal as well as reply of respondent No.2 is correct to the extent that the appellant submitted an application for 4 months leave in respondent of which the KGMC sent the letter of the appellant to Health Department while reply of rest of respondent is incorrect and baseless.
5. Para No.6 of the appeal is correct, while reply is incorrect.
6. Para No.7 of the appeal is correct while reply of respondents is incorrect to the extent that the appellant did not report respondent department, in fact after reliving the appellant visited so many time to held department for further adjustment but in vain further more the reliving order of the appellant has been passed by in competent authority which is void and illegal, and is liable to be set aside as well as reply of respondent No.2 is also incorrect to the extent that due to some clerical mistake by establishment section the salary of the appellant was not stopped. In fact the reliving order passed by Dean KGMC Hayatabad instead of DGHS who was not competent the DGHS was unaware regarding the reliving order so the appellant was not illegally

withdrawn any amount from respondent department as there is no legality on part of appellant the illegality has been committed by the respondent department, and it is well settle a principle of law when in illegality has been committed by the department the sufree should not be civil servant. The appellant was still on the strength of department which has been clarified from the promotion order passed by DGHS. (Copy of promotion order is attached).

7. Para No.8 & 9 of the appeal is correct.


8. Para No.10 is also correct.

Grounds:-

All the grounds of appeal are correct while reply is incorrect to the extent that the appellant did not report to respondent department and further more the appellant was still on the strength of department.

It is, therefore, most humbly prayed that on acceptance of the instant rejoinder the appeal of the appellant may kindly be accepted as prayed for.

Dated 29/03/2021

Petitioner
Through 
Roeeda Khan
Advocate, High Court
Peshawar.



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**DIRECTORATE GENERAL HEALTH SERVICES
GOVERNMENT OF N.W.F-P PESHAWAR.**

NO. _____ /AE.I,

DATED _____ / _____ /2020

MOST IMMEDIATE.

To

1. Director General Health Services, Punjab Lahore.
2. Principals, KMC/KGMC, Peshawar and BMC, Bannu & GMC, DIKhan.
3. Hospital directors LRH/KTH/HMC, Peshawar.
4. Medical Superintendents, DHQH, Kohat, Haripur, Abbottabad, Mansehra, MMC/DHQ Mardan, Nowshera, Swabi, Charsadda
5. Medical Superintendent Police Hospital, Peshawar.
6. Director Health Services (Merge Distt).
7. Medical Superintendent, ATH/AMC, Abbottabad.
8. Medical Superintendent, City Hospital, Peshawar.
9. Medical Superintendent, Molvi Jee Hospital, Peshawar.
10. Medical Superintendent, ID Children Hospital, Peshawar.
11. District Health Officers, Haripur, Abbottabad, Mansehra, Lakki, Bannu, Malakand, Nowshera, Peshawar, DIKhan, Buner, L/Dir, Swabi, Mardan, Charsadda, Bannu.

SUBJECT: - PROMOTION OF MEDICAL OFFICERS (BS-17) TO THE POST OF SENIOR MEDICAL OFFICERS (BS-18).IN THE HEALTH DEPARTMENT, K.P.K.

Memo,

Please furnish the PERs alongwith No Departmental/Anti-Corruption

Certificate (two copies) and ten(10) fresh photographs passport size/Course Completion Certificate of the mandatory training required for promotion to BS-18 in respect of the following Medical Officers (BS-17) working under control, to this Directorate within week time of the receipt of this communication as the same is urgently required to the Government in connection with their promotion:-

S.NO	NAME OF SENIOR MEDICAL OFFICERS	PLACE OF POSTING	MISSING ACRs REQUIRED.
1	Dr. Mahnaz Khan D/O Purdil Khan,	WMO, DHQH, Nowshera	1992, 93,98, 2002 to 2019
2	Dr.Muhammad Iqbal s/o Haji Pir Muhammad,	MO.LRH, Peshawar	1996, 02,2004, 2008 to 2019
3	Dr.Altaf Hussain s/o Abdul Khaliq,	MO, Type-D Hospital Sarai Niamat Khan, Haripur.	1993-94,96 to 2012,14 to 2019
4	De. Muhammad Ayub S/O Muhammad Yousaf	DHQH Haripur	2019
5	Dr.Faridullah Khan s/o Khan Zaman,	THQH, Khan Pur, Haripur.	Full service
6	Dr.Muhammad Tariq Khan s/o Qazi Khan,	MO, EDO(H) Office, Nowshera	1992 to 20189
7	Dr.Manzar Ijaz s/o Muhd Ijaz Akbar,	DHO Abbottabad	1992 to 2019
8	Dr.Muhammad Hanif s/o Yar Badshah,	MO,RHC, Ghara Tajik, Peshawar	1992 to 2019
9	Dr.Muhammad Iqbal Siddiqui s/o Sahib Dola,	MO, BHU, Serai Saleh, Haripur	1992 to 2019
10	Dr.Naveed Alam s/o Abdul Wahab,	Demonstrator, KMC, Peshawar	1998, 2000,2008 to 2019
11	Dr.Khalid Javed s/o Abdur Rehman,	MO,CH,Nathiagali, Abbottabad	1992 to 2019
12	Dr. Asma Masud D/O Lt: Col: M.Masud	WMO,RHC, Khair Abad, Nowshera.	1992 to 2019
13	Dr.Muhammad Naeem Khan s/o Raza Khan,	MO,DHQH, Swabi.	1992 to 2019

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866	Dr.Abdul Salar Khan S/O Mamoor Khan	At the disposal of DHS, Merge Distt	2012 to 2019
867	Dr.Abdul Sami S/O Abdul Hafeez.	MO,W&C Hosp: Kohat	2012 to 2019
868	Dr.Abid Hussain S/O Manzoor Hussain	MO,BHU, Darban DIKhan.	2012 to 2019
869	Dr.Adeeba Ahmad D/O Ifrikhar Ahmad	WMO,Maternity Hsosp: Peshawar	2019
870	Dr.Adeel Khan S/O Liaqat Ali	MO,RHC, Sheikh Jana Swabi	2012 to 2019
871	Dr.Adnan Ahmad S/O Fazal Ahmad	MO At the disposal DHO, Peshawar	2012 to 2019
872	Dr.Adnan Alam S/O Sher Khan uddin	MO At the disposal DHO, Peshawar	2012 to 2019
873	Dr.Aftab Ahmad S/O Manzar Khan	MO At the disposal DHS Merge Distt	2018,2019
874	Dr.Aftab Ahmad S/O Khushmir Khan	ESH, Pabbi Nowshera	2012 to 2019
875	Dr.Afzal Khan S/O Yousaf Khan	MO At the disposal DHS, Merge Distt	2012 to 2019
876	Dr.Ahmae Nawaz Babar S/O Allah Nawaz Babar.	MO,BHU, Sagu DiKhan.	2012 to 2019
877	Dr.Ahmad Shuaib Baloch S/O Khuda Bakhsh Baloch.	MO,BHU,shorkot D.I.Khan.	2012 to 2019
878	Dr.Ahmad Inamullah Qeshi S/O Haji Muhamamd Younas	MO At the disposal DHO, Haripur.	2019
879	Dr.Akhunzada Muhammad Aftab S/O Muhammad Ibara	MO,Category-D Hosp: Mattani Peshawaer	2012 to 2019
880	Dr.Alamgir Khan S/O Abdul Matin Khan	MO At the disposal DHS, Merge Distt	2012 to 2019
881	Dr.Alauddin S/O Bacha Khan	MO, DHQH, Timergara.	2012 to 2019
882	Dr.Amir Said S/O Bakht Said	MO,Pacha Killi, Buner.	2012 to 2019
883	Dr.Amjaid Ali S/O Shamroz Khan	MO.DHQH, Timergara.	2012 to 2019
884	Dr.Amjaid Ali Shah S/O Anwar Shah	MO At the disposal DHO, Peshawar	2012 to 2019
885	Dr.Amjaid Nabi S/O Ghulam Nabi Khan	MO, CH, Topi Swabi.	2012 to 2019
886	Dr.Amjaidur Rehman S/O Sher Hussain.	MO At the disposal DHS, Merge Distt	2019
887	Dr.Irshad Ali S/O Ghulam Haider Khan	MO,DHQH, Timergara	2012 to 2019
888	Dr.Irshad Khan S/O Rangeen Shah	MO,BHU, Punj Pir Swabi	2012 to 2019
889	Dr.Arshad Saeed Awan S/O Gohar Rehman	MO At the disposal DHO, Haripur.	2019
890	Dr.Irshad Sohail S/O Gul Ghafoor Khan	MO,CH, Terri Karak.	2012 to 2019
891	Dr.Arzo Gul Bangash D/O Mudasir Hussain	WMO, W&C Hosp: Kohat.	2012 to 2019
892	Dr.Asad Nabi S/O Ghulam Nabi	BKMC, Swabi on leave upto 30.12.2018.	2012 to 2019
893	Dr.Asadullah Jan S/O Hamidullah Jan.	MO,BHU,Mamesh Khail Bannu	2012 to 2019
894	Dr.Ashfaq ur Rehman S/O Attaure Rehman	MO At the disposal DHS, Merge Distt	2012 to 2019
895	Dr.Asif Izaz Khan S/O Shahjehan.	MO At the disposal DHS, Merge Distt	2012 to 2019
896	Dr.Aisf Iqbal S/O Muhammad Iqbal	MO, Categ-C Takht Bahi, Mardan.	2012 to 2019

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	Merge Distt	
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The matter may be treated as Most Urgent.

DEPUTY DIRECTOR (HRM)
Directorate General Health Services,
Khyber Pakhtunkhwa, Peshawar.

CC.

The Secretary to Govt: of Khyber Pakhtunkhwa Health Department Peshawar for information