

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

**SERVICE APPEAL NO. 543/2023**

Dr. Ihsan Ullah

..... Appellant

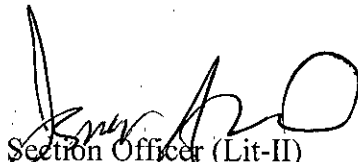
VERSUS

Government of Khyber Pakhtukhwa Health department & others

..... Respondents

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Section Officer (Lit-II)  
Govt. of Khyber pakhtunkhwa  
Health Department.

10-05-24  
Peshawar

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

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**Versus**

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

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 04**

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

1. That the Appellant has got neither cause of action nor did 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 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 this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

**ON FACTS:**

1. Pertains to record.
2. Pertains to record.
3. Correct to the extent of promotion as Senior Medical Officer vide Notification dated: 06/04/2015. His promotion as SMO is sufficient to prove that the appellant was a member of general cadre.
4. Correct to the extent of promotion to the post of PMO BPS-19 vide Notification dated: 25/09/2017 which is also a general cadre post.
5. Correct to the extent of seniority list issued vide Notification dated: 17/03/2022 wherein the appellant was placed at the serial No. 70 of the list of management cadre. It is worth to mention that in column No. 05 of the seniority list, it is clearly mentioned that he opted for absorption/joining into the management cadre from general cadre on 07/05/2018 whereas respondent No. 05 to 42 joined the management

cadre much before the appellant therefore they were placed senior to the appellant as per Khyber Pakhtunkhwa APT Rules 1989.

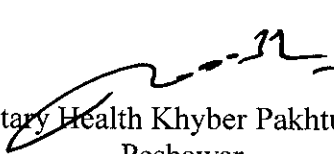
6. Pertains to record, however the appellant is not entitled for proforma promotion being most junior in the management cadre as discussed above.
7. Incorrect, the appellant had opted for absorption in management cadre on 07/05/2018 while the promotee officers to BS-20, opted for management cadre on 14/07/2009. Therefore being senior, they were promoted to BPS-20. According to approved seniority list of management cadre BS-19, Dr. Ihsan Ullah was at S. No. 70 of the list while the above promoted officers at S. No. 35, 38, 39, 40, 42 & 43. Therefore they were senior to the appellant and correctly promoted to BS-20 against the 07 vacant posts were lying vacant at the time of PSB.
8. No Comments being formal.

**GROUNDS:**

- A. Incorrect, the appellant was not in the promotion zone as explained in Para-07
- B. No violation of constitution of Pakistan has been made in the instance case.
- C. Incorrect, no discrimination has been committed in the instance case as per facts explain in para-07 above.
- D. He was not in promotion zone therefore could no promoted as explain in para-07.
- E. No violation of constitution of Pakistan has been made in the instance case.
- F. Incorrect, the factual position has been explained in para-07 above.
- G. Incorrect, as explain in Para-07 above.
- H. The respondents also seek permission to advance other ground and proofs at the time of hearing.

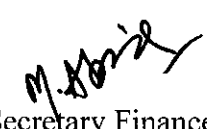
**PRAYER:**

it is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs

  
Secretary Health Khyber Pakhtunkhwa  
Peshawar.


(Respondent No-01 & 02)

(MAHMOOD ASLAM)

  
Secretary Finance  
Khyber Pakhtunkhwa Peshawar.

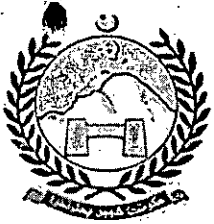
(Respondent No-03)

(SULTA AHMAD TAREEN)

  
Director General Health Services  
Khyber Pakhtunkhwa Peshawar

(Respondent No-04)

DR  
(SHOUKET ALI)



**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

*Attested to be  
True copy.*

Deputy Secretary Health  
Govt. of Khyber Pakhtunkhwa

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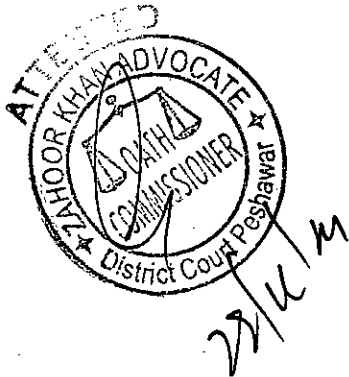
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Govt. of Khyber Pakhtunkhwa Health Deptt: & Others

.....Respondents

**AFFIDAVIT**

I **Mehmood Aslam** Secretary to Govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm on oath that the contents of the joint parawise comments are true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Tribunal. *Further more the respondents not placed ex-Parte or struck off their right nor any cost imposed upon them.*



*[Handwritten Signature]*  
Secretary Health,  
Govt. of Khyber pakhtunkhwa  
Peshawar.