

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

**SERVICE APPEAL NO. 655/2023**

Abid Gulraiz.....Appellant

**Versus**

Government of Khyber Pakhtunkhwa & others .....Respondents

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*M. S. M.*  
**Deponent**

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Tour for A. A. Beal.*

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 655 OF 2023**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12266

Dated 18/4/24

Abid Gulraiz ..... Appellant

**Versus**

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

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

**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 and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with the male-fold 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.
9. That the matter in the service appeal has already been adjudicated by the Honorable Peshawar High Court void judgment dated 01.12.2020 in WP No. 180-A/2020 and judgment dated 16.02.2023 in CoC No. 67-A/2022 hence, the instant appeal is hit by Rule 23 of the Service Tribunal Rules 1974 and liable to be dismissed.

## ON FACTS:

- 1) Pertains to record.
- 2) Subject to proof.
- 3) Correct to the extent of nomination of the appellant in FIR No. 451 dated 15.12.1999 under section 302/324/148/149 PPC.
- 4) In the reply to para-04 it is submitted that after the involvement of appellant in March, 2002, the appellant was having no right to receive any payment in term of salary as he had not rendered any service for the said period. It is further to clarify that under a settled principle of law "*When there is work, there is pay when there is no work there is no pay*". Therefore, he was not entitled for the period he did not perform the duties.
- 5) Corrections to the extent that the allegations in the FIR No. 451 dated 15.12.1999 was proved against the appellant, therefore, he was awarded death penalty by the Honorable Court and the same was maintained confirmed up to the Apex Court however, on payment of diyat amount based on compromise, the Honorable Court acquitted the appellant.
- 6) Incorrect. In fact, the appellant under the garb of his release on the basis of compromise seeking relief as he has been Honorably acquitted which is not admissible under the relevant law.
- 7) Corrections to the extent of filling WP No. 180-A/2020 with the prayers for release of salaries w.e.f April 2002 to 15.12.2015 and thereafter, with all back benefits however, the Honorable Court void judgment dated 01.12.2020 held that the petitioner has not served the respondent department for the period for which he seeks back benefits in the form of salary therefore, he is not entitled to back benefits however, the Honorable Court left to the respondents to grant him salary for the period under suspension. The replying respondents re-instated the appealable vide order dated 01.11.2021 with immediate effect and further vide letter dated 24.10.2022 his arrear for the period he did not serve the department was refused therefore, the appellant filed a CoC Petition No. 67-A/2021 however, the Honorable Court vide order dated 16.02.2023 dismissed the same but the appellant once again brought the same matter before this

Honorable Tribunal which is hit by Rule 23 of Service Tribunal Rules 1974.


8. Pertains to record.
9. Incorrect. Already replied in para 07 above.


### GROUNDS


- A. Incorrect. The replying respondents acted as per law, Rules and judgment of the Honorable Peshawar High Court as discussed in detail in para 07 of the facts.
- B. As per para "A" above.
- C. Already replied in para 07 of the facts. However, the Apex Court has held in 2010 PLC CS 924 SC that "*Every case has different facts and circumstances needs to be decided on its own merit*".
- D. Incorrect. The matter has already been adjudicated as stated in para 07 of the facts and the judgments of Honorable Peshawar High Court judgment dated 01.12.2020 in WP No. 180-A/2020 and order dated 16.02.2023 in CoC Petition No. 67-A/2021 got finality therefore, he is not entitled for any relief from this Honorable Tribunal.


### PRAYER:

In view of the above it is therefore requested that the instant appeal of the appellant may very graciously be dismissed with costs.

  
Secretary to Govt. of  
Khyber Pakhtunkhwa Health Department  
(Respondent No. 01)

  
Director General Health Services Khyber  
Pakhtunkhwa Peshawar  
(Respondent No. 02)

  
District Health Officer  
Mansehra  
(Respondent No. 03)

  
District Account Officer  
Mansehra  
(Respondent No. 04)  
District Accounts Officer  
Mansehra

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**Affidavit**

I, Dr. Shaukat Ali, Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off / costs.

Deponent

02/04/24





**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services  
Peshawar and not to any official by name  
Office # 091-9210269 Fax # 091-9210230*

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**AUTHORITY LETTER**

Muhammad Yousaf Jamal Focal Person Litigation Section Directorate General Health Services Khyber Pakhtunkhwa is hereby authorized to attend/defend the court cases and file Parawise Comments / Reply on behalf of the undersigned before the Honorable Khyber Pakhtunkhwa Service Tribunal and its Camp Courts.

*AA maw  
02/04/24*

**Director General Health Services  
Khyber Pakhtunkhwa, Peshawar**