


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 754/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/06/2024	<p>The appeal of Dr. Muhammad Kabir presented today by Muhammad Maaz Madni Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 06.06.2024. Parcha Peshi given to counsel for the appellant .</p> <p>By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

**CHECK LIST**

Case Title: DR. MUHAMMAD KABIR V/S GOVT. OF KP & OTHERS

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <b>MUHAMMAD MAAZ MADNI</b>	✓	
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: Muhammad Maaz Madni

Signature: \_\_\_\_\_

Dated: 04-06-2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

APPEAL NO. 754 /2024

DR. MUHAMMAD KABIR

V/S

GOVT. OF KP  
& OTHERS

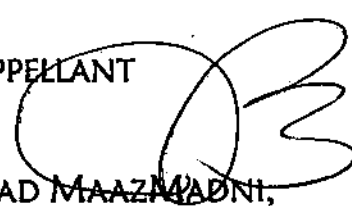
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Dated: 03<sup>rd</sup> June, 2024

APPELLANT

Through:

  
MUHAMMAD MAAZ MADNI,  
ADVOCATE HIGH COURT, PESHAWAR  
TF-291, 292, Deans Trade Centre,  
Peshawar Cantt:  
0333-9313113, 0314-9965666  
[muhammad.m3adv@gmail.com](mailto:muhammad.m3adv@gmail.com)

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

APPEAL NO. 754 /2024

**DR. MUHAMMAD KABIR** S/O Bashir Ahmad, EX-MO (B-17),  
r/o Daman, PO Matta Mughal Khel, Samar Bagh, Shabqadar, District Charsadda.  
.....APPELLANT

**VERSUS**

**1- GOVERNMENT OF KHYBER PAKHTUNKHWA,**  
through Chief Secretary, Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.

**2- THE SECRETARY (HEALTH DEPARTMENT),**  
Government of Khyber Pakhtunkhwa,  
HRD Building, Khyber Road, Peshawar.

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ**  
**WITH ALL ENABLING LAWS & RULES AGAINST THE**  
**IMPUGNED NOTIFICATION DATED 29-12-2023** *(received*  
*to the appellant on 18-01-2024 through registered post)*  
**WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR**  
**PENALTY FROM SERVICE IN UTTER VIOLATION OF LAW**  
**& PREVAILING RULES AND AGAINST NO ACTION TAKEN**  
**ON THE DEPARTMENTAL APPEAL DATED 06-02-2024**  
**WITHIN THE STATUTORY PERIOD OF NINETY DAY**

**PRAYER:**

**That on acceptance of the instant service appeal the**  
**impugned Notification dated 29-12-2023** *(received to the appellant*  
*on 18-01-2024 through registered post), may very kindly be set aside*  
**and the appellant be re-instated into service with all back &**  
**consequential benefits. Any other remedy which this august**  
**Tribunal deems appropriate that may also be awarded in**  
**favor of the appellant.**

*Respectfully Sheweth;*

**FACTS:**

**Brief facts giving raise to the instant appeal are as under:**

1. That appellant is a regular employee of the respondent Department and was initially appointed as Medical Officer (B-17) on contract basis vide notification dated 20/06/2012 on proper recommendation of the Departmental Selection Committee after fulfilling all the legal & codal formalities required for the post and whereafter the services of the appellant was regularized on 21-10-2015 and since then the appellant is performing his duty quite efficiently whole heartedly and upto the entire satisfaction of his high ups.

Copy of Appointment Notification  
Dated 20.06.2012 is attached as  
Annexure ..... A.

2. That appellant being a qualified person for the post of Medical Officer at the time of appointment as the appellant is having MD degree from Afghanistan completed in 2003 and having being eligible by the Pakistan Medial & Dental Council, Islamabad vide No. 1489 and even the current Pakistan Medical Commission has issued a certificate vide dated 21-09-2021 in respect of my eligibility.

Copy of Educational proof is attached as  
Annexure ..... B.

3. That in the year 2020 inquiry proceeding was started and like another doctor namely Dr. Ikram Ullah Safi who filed a writ petition No. 886-B/2020 before the Peshawar High Court Bannu Bench, I also filed a writ petition no. 5539-P/2020 and vide order sheet dated 23.12.2020 interim Relief was granted to the extent that no adverse action shall be taken against the petitioner.

Copy of W.P. No. 5539-P/2020 &  
Relevant Order Sheet is attached as  
Annexure ..... C.

4. That the W.P. No. 5539-P/2023 was disposed of vide judgement dated 09-10-2023 by the divisional bench with the direction in 2<sup>nd</sup> para of the judgment as:

*“In view of the above, this petition is disposed of with the direction to Respondent No. 1 and 2 to proceed with the matter in accordance with law and pass an appropriate order on the basis of inquiry conducted by the department, after providing the petitioner due opportunity of hearing, within a period of three (3) months from the date of receipt of this order”.*

Copy of Judgement dated 09.10.2023 is attached as Annexure ..... D.

5. That astonishingly, neither the above-mentioned direction issued by the Peshawar High Court Peshawar has been followed by the respondents nor any other procedure has been adopted and the appellant was issued with the impugned notification dated 29/12/2023 (received to the appellant through registered post on 18/01/2024) whereby major penalty of “Removal from Service” has been imposed upon the appellant in utter violation of Law & Rules.

Copy of Impugned Notification dated 29.12.2023 is attached as Annexure ..... E.

6. The feeling aggrieved from the impugned notification dated 29/12/2023 appellant filed Departmental Appeal before Respondent No. 1 which was allotted a diary no. 643-P dated 15/02/2024 and a copy of the same was also filed in the office of respondent no. 2 whereby it was also allotted with diary no. 1215 dated 15/02/2024, but till date no response from any end has been received in respect of appellate order after passage of statutory period of ninety (90) days

Copy of Departmental Appeal dated 15.02.2024 is attached as Annexure ..... F.

7. That appellant being highly aggrieved and is left with no other remedy but to file the instant service appeal before this Honourable Tribunal on the following grounds:

**GROUND:**

- A- That act of the respondent by issuing the impugned notification dated 29/12/2023 (received to the appellant through registered post on 18/01/2024) is against the law, rules, facts, void ab initio, Norms of Natural Justice and materials available on the record hence not tenable in the eye of Law and needs interference of this tribunal.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore the respondent has to act upon the ibid Article of the constitution and had to remove the disparity from the service of the appellant but the respondent issued the impugned notification dated 29/12/2023 (received to the appellant through registered post on 18/01/2024).
- D- That the respondent has acted in an arbitrary and malafide manner by issuing the impugned notification dated 29/12/2023 (received to the appellant through registered post on 18/01/2024) whereby major penalty of Removal from Service has been imposed upon the appellant.
- E- That act of the respondents is against the Fundamental Rights as enshrined in the Constitution & also against various judgments passed by the Apex Supreme Court of Pakistan.
- F- That, in the impugned removal notification dated 29-12-2023 (received through registered post on 18.01.2024), it has been mentioned that a formal inquiry has been conducted which mean that no regular inquiry has been conducted in the matter and as per the latest judgment of the apex Supreme

Court of Pakistan differentiation has been made in between the regular and formal inquiry and accordingly on the basis of a formal inquiry no one could be penalized for which a regular inquiry is required, hence the impugned notification needs to be stuck down and I may be reinstated into service from the date of its issuance i.e. 29-12-2023.

- G- The removal notification dated 29-12-2023 (*received through registered post on 18.01.2024*) has been passed in a hasty manner without fulfilling the codal formalities required for imposing major penalty.
- H- That, in the impugned removal notification dated 29-12-2023 (*received through registered post on 18.01.2024*), it has been mentioned that formal inquiry has been conducted but the copy of the inquiry report has not been provided to me which is mandatory as per E&D Rues 2011.
- I- That, the impugned removal notification dated 29-12-2023 (*received through registered post on 18.01.2024*), is passed without fulfilling the formality of cross-examination or personal hearing which is against the norms of Natural Justice.
- J- That respondent while issuing the impugned removal notification dated 29-12-2023 (*received through registered post on 18.01.2024*), the appellant has been condemned unheard as no proper show cause notice, charge sheet or statement of allegation has been served upon me which is not only against the Law but also against the injunction of Islam.
- K- That clear direction dated 09-10-2023 issued by Peshawar High Court Peshawar has not been followed in its true letter & spirit while issuing the impugned removal notification dated 29-12-2023 (*received through registered post on 18.01.2024*).
- L- That the appellant has also been discriminated on the score that other doctors whom have deficiencies in the eligibility for the post are still working and performing duties without any hindrance but only the appellant has been made the scapegoat in the matter despite the fact the appellant has all the relevant & verified documents required for the eligibility to the post but even then, the appellant has been issued with the impugned removal notification dated 29-12-2023 (*received through registered post on 18.01.2024*).




M- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 04-06-2024

Appellant

  
**DR. MUHAMMAD KABIR**

Through:

  
**MUHAMMAD MAAZ MADNI**  
Advocate, High Court, Peshawar

**CERTIFICATE**


No, such like appeal has been filed or pending on the subject matter between the parties before this Honourable Tribunal.

  
**ADVOCATE**

**A F F I D A V I T**

I, Dr. Muhammad Kabir s/o Bashir Ahmad, do hereby solemnly affirm on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
04/06/24

  
**DEPONENT**  
17101-5671498-3  
0300-9399176



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A

GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 20<sup>th</sup> June, 2012

**NOTIFICATION**

No.SO/EH-II/3-18/2012. The Competent Authority on the recommendation of Departmental Selection Committee constituted in FATA Secretariat is pleased to appoint the following doctors as Medical Officers (BS-17) on contract basis for a period of one year or till the arrival of regular selectee of Khyber Pakhtunkhwa Public Service Commission whichever is earlier. Consequent upon their appointment, their services are placed at the disposal of FATA Secretariat for further posting.

S.No.	Name of candidate	Domicile
1.	Dr. Qadar Khan s/o Amir Rahman, MO (BS-7)	Bunner
2.	Dr. Abdur Rehman s/o Jehanzeb, MO (BS-17)	Charsadda
3.	Dr. Muhammad Kashif s/o Samiullah, MO (BS-17)	Charsadda
4.	Dr. Haji Khan s/o Muhammad Afzal, MO (BS-17)	Khyber
5.	Dr. Aamad Zeib s/o Gul Dad Khan, MO (BS-17)	Nowshera
6.	Dr. Nasir Iqbal s/o Momin Gul Khattak, MO (BS-17)	Nowshera
7.	Dr. Mir Wais s/o Liaqat Ali, MO (BS-17)	Bajaur
8.	Dr. Ikramullah Khan s/o Yar Jan, MO (BS-17)	Mohmand
9.	Dr. Zahidullah s/o Habib-ur-Rehman	Mohmand
10.	Dr. Waheed Kamran s/o Firdaus Rahim, MO (BS-17)	Charsadda
11.	Dr. Pervaiz Iqbal s/o Ghulam Rasool, MO (BS-17)	Mohmand
12. ✓	Dr. Muhammad Kabir s/o Bashir Ahmad, MO (BS-17)	Peshawar
13.	Dr. Qasim Riaz s/o Dr. Azam Khan, MO (BS-17)	NWA
14.	Dr. Muhammad Akbar s/o Ali Akbar, MO (BS-17)	Khyber
15.	Dr. Azmat Wali Shah s/o Nigah Ban Shah, MO (BS-17)	Chitral
16.	Dr. Asadullah s/o Muhammad Sher, MO (BS-17)	Dir
17.	Dr. Iftikhar Ali S/O Afzal Khan, MO (BS-17)	Bajaur
18.	Dr. Jamal Hussain S/O Dr. Samjullah, MO (BS-17)	Dir
19.	Dr. Muhammad Attaullah Khan S/O Sher Muhammad, MO (BS-17)	Bajaur
20.	Dr. Bashir Ali Khan S/O Shapir Khan, MO (BS-17)	Chitral
21.	Dr. Muhammad Irfan S/O Syed Nazif Shah, MO (BS-17)	Mardan
22.	Dr. Umar Zada S/O Shahtar Khan, MO (BS-17)	Bajaur
23.	Dr. Azizullah S/O Gul Dast, MO (BS-17)	Khyber
24.	Dr. Masood Jan S/O Mahboob Jan, MO (BS-17)	Bajaur
25.	Dr. Rafiullah S/O Abdul Hamid Khan, MO (BS-17)	Dir
26.	Dr. Khawaja Irfanullah S/O Khawaja Subhan Ali, MO (BS-17)	Swat

ms  
7/12/18

DR

27.	Dr. Inayat-ur-Rehman S/O Abdu Rauf, MO (BS-17)	Bajaur
28.	Dr. Hafeezullah S/O Gul Amin Khan, MO (BS-17)	Dir
29.	Dr. Hidayatullah S/O Bakhtawar Khan, MO (BS-17)	Dir
30.	Dr. Muhammad Kamal S/O Muhammad Musharaf Khan, MO (BS-17)	Bajaur
31.	Dr. Abdul Qahar Shinwari S/O Haji Ahmed Shah, MO (BS-17)	Khyber
32.	Dr. Imran Shahzad S/O Ghazi Hussain, MO (BS-17)	Dir
33.	Dr. Fazal Mahmood S/O Fazal Haq, MO (BS-17)	Dir
34.	Dr. Noor Badshah S/O Bakht Jamal, MO (BS-17)	Bajaur
35.	Dr. Arif Kamal S/O Noor Sahib Khan, MO (BS-17)	NWA
36.	Dr. Shema Noor Khan D/O Ahmad Khan, WMO (BS-17)	NWA
37.	Dr. Akbar Jamal S/O Gul Jamal, MO (BS-17)	NWA
38.	Dr. Abdul Manan S/O Abdul Khanan, MO (BS-17)	Kurram
39.	Dr. Afsar Khan S/O Mehmood Shah, MO (BS-17)	FR Peshawar
40.	Dr. Owais Haroon S/O Haroon-ur-Rashid, MO (BS-17)	D.I Khan
41.	Dr. Khitab Gul S/O Muhammad Saleem Khan, MO (BS-17)	D.I Khan
42.	Dr. Ramazan Khan S/O Abdus Sattar Khan, MO (BS-17)	SWA
43.	Dr. Ahmadullah S/O Sarwar Khan, MO (BS-17)	NWA
44.	Dr. Saeedullah Khan S/O Noor Sala Khan, MO (BS-17)	NWA
45.	Dr. Burhan-ud-Din S/O Gul Awaz Khan, MO (BS-17)	SWA
46.	Dr. Azizullah S/O Maa Khan, MO (BS-17)	SWA
47.	Dr. Amim Jan S/O Muhammad Khan, MO (BS-17)	Khyber
48.	Dr. Muhammad Arif S/O Haji Nazir Khan, MO (BS-17)	Khyber
49.	Faisal Ali S/O Khushdil Khan, MO (BS-17)	Karak
50.	Dr. Kaunain Syed S/O Syed Ashiq Hussain, MO (BS-17)	Kurram
51.	Dr. Kausar Shah S/O Naqin Shah, MO (BS-17)	Orakzai
52.	Dr. Sarmad Mansoor S/O Syed Imtiaz Hussain, MO (BS-17)	Kohat
53.	Dr. Ikramullah S/O Musa Khan, MO (BS-17)	NWA
54.	Dr. Anser Muhammad S/O Ghous Muhammad Khan, MO (BS-17)	Kohat
55.	Dr. Mehraban Shah S/O Duran Shah, MO (BS-17)	Khyber

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56.	Dr. Muhammad Faheem S/O Haji Gul, MO (BS-17)	FR Kohat
57.	Dr. Sanatullah S/O Haji Faiz Ullah, MO (BS-17)	Tank
58.	Dr. Ikramullah S/O Wali Muhammad, MO (BS-17)	FR Tank
59.	Dr. Kiramatullah S/O Nasem Khan, MO (BS-17)	FR Bannu
60.	Dr. Nasimullah Wazir S/O Amanullah Khan, MO (BS-17)	FR Bannu
61.	Dr. Muhammad Hayat S/O Haji Akbar Gul, MO (BS-17)	Khyber
62.	Dr. Qamar Abbas S/O Ishaq Hussain, MO (BS-17)	Kurram
63.	Dr. Mian Dayem Hussain S/O Ghulam Hussain, MO (BS-17)	Malakand
64.	Dr. Zia-ur-Rehman S/O Inam-ur-Rehman, MO (BS-17)	Bajaur
65.	Dr. Aziz-ur-Rahim S/O Tota Gul, MO (BS-17)	Swat
66.	Dr. Rehman Shah S/O Haji Jan Badshah, MO (BS-17)	Khyber
67.	Dr. Muhammad Uzair S/O Shamshad Ali, MO (BS-17)	Peshawar

Their appointment is subject to the following terms and conditions:

1. They are specifically appointed on contract basis for posting in FATA.
2. The employee will be entitled to receive salary equal to the minimum of BS-17 in addition to other allowances as admissible to Civil Servants of the same scale.
3. The appointment shall be health facility specific and non-transferable.
4. The appointment will be purely on contract basis for a period of one year or till the arrival of regular selectee of Khyber Pakhtunkhwa Public Service Commission whichever is earlier.
5. On the expiry of one year or on arrival of the regular incumbent from deputation/long leave whichever is earlier, the services of the employee shall stand automatically terminated.
6. No extension will be granted on the expiry of contract appointment.
7. The employee shall be entitled to medical treatment as admissible under the Khyber Pakhtunkhwa Government Servants Medical Attendance Rules, 1959.
8. Leave: a) The employee shall be entitled to two days casual leave on full pay for every calendar month on duty rendered.
9. The employee shall not be entitled to undergo any kind of training inside the country or abroad.
10. The absence from duty, of the employee, even for a single day, will be considered as misconduct and violation of the agreement. In that case the Health Department is competent to terminate the agreement without any notice.
11. The employee shall not be required to contribute to CP/GP Fund.
12. The contract appointment is non-pensionable and without gratuity.



GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 21<sup>st</sup> October-2015

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**NOTIFICATION**

NO. SOH(E-II)3-18/2015 The Competent authority is pleased to regularize the services of the following Medical Officers (BS-17) working on contract basis under the Khyber Pakhtunkhwa Medical Officers and Dental Surgeons (Regularization of Services) Act, 2015 with effect from 20<sup>th</sup> March, 2015

S.No.	NAME OF DOCTORS	PLACE OF POSTING
1.	Dr. Muhammad Tahir S/O Rehmat Ali	Khalifa Gulnawaz Teaching Hospital Bannu
2.	Dr. Irfan Rahim D, O Akbar Rehman	Khalifa Gulnawaz Teaching Hospital Bannu
3.	Dr. Akbar Jamal S/O Gul Jamal	Khalifa Gulnawaz Teaching Hospital Bannu
4.	Dr. Rafique Muhammad Khan S/O Tale Muhammad Khan	Khalifa Gulnawaz Teaching Hospital Bannu
5.	Dr. Sajjad Anwar S/O Amanullah Khan	Khalifa Gulnawaz Teaching Hospital Bannu
6.	Dr. Syed Usman Jafar Shah S/O S.M Jafar Shah	Khalifa Gulnawaz Teaching Hospital Bannu
7.	Dr. Syed Akhtar Khan S/O Akbar Ali Jan	Khalifa Gulnawaz Teaching Hospital Bannu
8.	Dr. Farooq Nawaz s/o Sher Nawaz	KGNTH Bannu
9.	Dr. Farhad s/o Ghulam Rahman, Medical Officer (BS-17)	BHU Palosa Torghar
10.	Dr. Dayar Khan S/O Sher Ahmad, Medical Officer (BS-17)	BHU Darbani Torghar
11.	Dr. Khalid S/O Amir Bahadar, Medical Officer (BS-17)	BHU Maira Mada Khel, Torghar
12.	Dr. Salman Gohar S/O Gohar Ali Khan, Medical Officer (BS-17)	BHU Judbah, Torghar
13.	Dr. Nawab Ali Khan S/O Abdul Hameed Khan, Medical Officer (BS-17)	BHU Shingal Dar Torghar
14.	Dr. Muhammad Nasir Waheed s/o Abdul Waheed	CD Zaryab Colony, Peshawar
15.	Dr. Abdur Rehman s/o Sakayat Khan	RHC Badaber, Peshawar.
16.	Dr. Majid Jalil Qureshi s/o Musa	RHC Badaber Peshawar.
17.	Dr. Nasir Ayaz s/o Muhammad Ayaz	Services Hospital Peshawar.
18.	Dr. Imtiaz Ahmad s/o Shehzad Khan	Moulvi Ameer Shah Memorial Hospital Peshawar
19.	Dr. Syed Shah Faisal s/o Syed Chan Badshah	Moulvi Ameer Shah Memorial Hospital, Peshawar
20.	Dr. Saeed ul Haq s/o Faez ul Haq	Moulvi Ameer Shah Memorial Hospital Peshawar

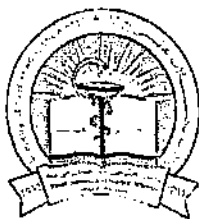
Section Officer-II,  
Govt. of Khyber Pakhtunkhwa,  
Health Department.

201	Kaunain Syed S/O Syed Ashiq Hussain	At the disposal of DHS FATA
202	Mehraban Shah S/O Duran Shah	At the disposal of DHS FATA
203	Mir Wais S/O Liaqat Ali	At the disposal of DHS FATA
204	Ahmad Zaib S/O Gul Dad Khan	At the disposal of DHS FATA
205	Arif Kamal S/O Noor Sanib Khan	THQ Mir Ali
206	Muhammad Kabir S/O Bashir Ahmad	BHU Kassal Mohmand Agency
207	Nasimullah S/O Amanullah	BHU, Addat Khan Kot NW Agency
208	Ikramullah S/O Musa Khan	CH Shiwa NW Agency
209	Dr. Fayyaz Ali Romi	DHQ Hospital Chitral
210	Dr. Shabana Saifdar	LMH Kohat
211	Dr. Sarfaraz Khan s/o Gul Rehman	DHQ Hospital Batakheila
212	Dr. Yamin Shehzad s/o Amir Abdullah Khan	DHQ Hospital Batakheila
213	Dr. Naveed Alam s/o Muhammad Ilyas	DHQ Hospital Batakheila
214	Dr. Arshad Hussain s/o Taj Muhammad	DHQ Hospital Batakheila
215	Dr. Habib Nabi s/o Mustafa Kamal	DHQ Hospital Batakheila
216	Dr. Abid Manan s/o Hazrat Manan	DHQ Hospital Batakheila
217	Dr. Azmat Shah s/o Munammad Shan	DHQ Hospital Batakheila
218	Dr. Karim ur Rehman s/o Amin Jilal Khan	DHQ Hospital Batakheila
219	Dr. Gohar Rehman Khan s/o Khalil ur Rehman	DHQ Hospital Batakheila
220	Dr. Ikram Ullah s/o Sherin zada	DHQ Hospital Batakheila
221	Dr. Fazal Rabani s/o Haji Badesh	At the disposal of DHO Swat
222	Dr. Khurshid Ali s/o Main Zureen Jan	At the disposal of DHO Dir Lower
223	Samad Khan S/O Mehboob Wali Khan	DHQ Hospital Chitral
224	Shama Noor s/o Ahmad Khan	CH Razmak
225	Sibghatullah Khan S/O Abdur Rahman	THQ Hospital Mirali
226	Dr. Muhammad Tariq Khan S/O Muhammad Shah Khan	RHC Khazana Swat
227	Dr. Kausar Parveen, WMO (BPS-17)	DHQ Hospital Hangu
228	Sudayat Hussain s/o Masood Khan	RHC Badaber Peshawar
229	Amjad Ali S/O Ahmad Khan	THQ Dargu Mulakand
230	Qadir Nasser S/O Muhammad Gul	RHC Regi Peshawar
231	Dr. Bushir Ahmad MO (BPS-17)	At the Disposal of DHO Hangu
		Hospital, Peshawar

Section Officer-II,  
Dept. of Khyber Pakhtunkhwa,  
Health Department.

12

# ANNEXURE - "B"



Ministry of Higher Education  
Kahol University of Medical Science (KUMS)  
"Ain Ali Bin Sina"  
House Job Certificate

9



**Full Name:** Muhammad Kabir  
**Father Name:** Bashir Ahmad  
**Faculty:** Medicine  
**Date of Birth:** 13/04/1978  
**Duration:** 30/09/2003 - 01/09/2004



This certificate is granted to the above mentioned doctor after the completion of one year house job

No.	Subject	Hospital	Duration	Marks
1	Internal Medicine	AATH	8 weeks	89
2	Infectious Diseases	IDH	2 weeks	90
3	Tuberculosis	NTB	2 weeks	97
4	Internal Medicine (OPD)	CPC	2 weeks	89
5	OBS/Gynecology	STH	4 weeks	88
6	E.N.T	MTH	2 weeks	89
7	Dermatology	MTH	2 weeks	98
8	Ophthalmology	STH	2 weeks	90
9	General Surgery	AATH	8 weeks	89
10	ACLS	ICD	2 weeks	86
11	Forensic Medicine	FMD	2 weeks	87
12	Public Health	MMH	2 weeks	89
13	Psychiatry/Neurology	AATH	2 weeks	90
14	Rational drug use/ (prescription writing)	PD	1 weeks	90
15	Pediatrics Medicine	MTH	6 weeks	91

Dean of Faculty

Vice-Chancellor of  
Student Center

Chancellor of (KUMS)

General Department  
Students Affairs  
Ministry of Higher Education

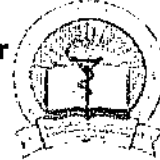
03

13

Name	Mathammad Kabir
S/D of	Bashir Ahmad
Faculty	Medicine
Department	Curative
Admission Date	1997
Graduation Year	2003
Date of Birth	13/04/1978



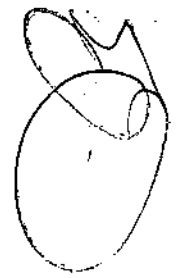
ISLAMIC REPUBLIC OF PAKISTAN  
 Ministry of Higher Education  
 Kabul University of Medical Science (KUMS)  
 Vice chancellor's office for student's affair  
 Medical Faculty  
 Student's Educational Career  
 Transcript



National ID Card	17101-5671498-3
Place of Birth	Pakistan
Percentage	89.35%
Diploma Project/ Monograph/ State Exam	Pass
Diploma	AA0036348



2



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1 <sup>st</sup> Semester, Year (1997)				2 <sup>nd</sup> Semester, Year (1998)				3 <sup>rd</sup> Semester, Year (1998)				4 <sup>th</sup> Semester, Year (1999)				5 <sup>th</sup> Semester, Year (1999)				6 <sup>th</sup> Semester, Year (2000)									
Subjects	Number of Credits	Periods per Semester	Grades	GPA	Subjects	Number of Credits	Periods per Semester	Grades	GPA	Subjects	Number of Credits	Periods per Semester	Grades	GPA	Subjects	Number of Credits	Periods per Semester	Grades	GPA	Subjects	Number of Credits	Periods per Semester	Grades	GPA					
																									Biology			88	
English			93		Biology			88		Anatomy			95		English			96		Microbiology			97		Physiology			90	
Physics			90		Chemistry			95		Biophysics			96		Histology			90		Anatomy			78		Microbiology			95	
Mathematics			88		Physics			79		English			80		Anatomy			91		Physiology			94		Biochemistry			89	
Chemistry			90		Statistics			88		Histology			93		Physiology			97		Histology			89		Anatomy			87	
Islamic Studies			93		English			89		Physiology			96		Islamic Studies			89		////			////		Histology			90	
////			////		////			////		///			///		Embryology			88		////			///		///			///	
////////			////////		////////			////////		////////			////////		////			////		////			///		////			////	
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////			////		////			////		////			///		////			////		////			///		////			////	
<b>Total</b>			<b>542</b>		<b>Total</b>			<b>526</b>		<b>Total</b>			<b>547</b>		<b>Total</b>			<b>629</b>		<b>Total</b>			<b>447</b>		<b>Total</b>			<b>544</b>	
<b>Average Percentage</b>			<b>90.33%</b>		<b>Average Percentage</b>			<b>87.66%</b>		<b>Average Percentage</b>			<b>91.16%</b>		<b>Average Percentage</b>			<b>89.85%</b>		<b>Average Percentage</b>			<b>89.40%</b>		<b>Average Percentage</b>			<b>90.66%</b>	
<b>Result</b>			<b>Pass</b>		<b>Result</b>			<b>Pass</b>		<b>Result</b>			<b>pass</b>		<b>Result</b>			<b>Pass</b>		<b>Result</b>			<b>Pass</b>		<b>Result</b>			<b>Pass</b>	



7 <sup>th</sup> Semester, Year (2000)			8 <sup>th</sup> Semester, Year (2001)			9 <sup>th</sup> Semester, Year (2002)			10 <sup>th</sup> Semester, Year (2003)			11 <sup>th</sup> Semester, Year (2003)			12 <sup>th</sup> Semester, Year (2004)		
Subjects	Number of Credits	Grades	Subjects	Number of Credits	Grades	Subjects	Number of Credits	Grades	Subjects	Number of Credits	Grades	Subjects	Number of Credits	Grades	Subjects	Number of Credits	Grades
Int. Medicine		90	Int. Medicine		90	Int. Medicine		90	Int. Medicine		92	Ophthalmology		90			
Gen. Surgery		97	Gen. Surgery		96	Tuberculosis		87	Public Health		88	Pediatrics Medicine		85	Int. Medicine		89
Parasitology		93	Pathology		90	Surgery		89	Ultrasound		87	Management		80	Forensic Medicine		87
Pathology		90	Pharmacology		89	Radiology		94	Abdomen Surgery		93	neurosurgery		87	Traumatology		80
Pharmacology		90	Public Health		87	Obstetrics		88	Dermatology		95	Surgery		94	Psychiatry		83
						Pharmacology		95	Anesthesia		88	Nervous Interior		89	Pediatrics Medicine		87
						Int. Medicine		78	Urology		90	E.N.T		83	Pediatrics Surgery		89
						Public Health		88	Obstetrics		90	Gynecology		79	Medical Justice		86
															Gynecology		89
															Public Health		86
<b>Total</b>		<b>460</b>	<b>Total</b>		<b>453</b>	<b>Total</b>		<b>709</b>	<b>Total</b>		<b>721</b>	<b>Total</b>		<b>699</b>	<b>Total</b>		<b>871</b>
<b>Average Percentage</b>		<b>92.00%</b>	<b>Average Percentage</b>		<b>90.60%</b>	<b>Average Percentage</b>		<b>88.62%</b>	<b>Average Percentage</b>		<b>90.12%</b>	<b>Average Percentage</b>		<b>87.37%</b>	<b>Average Percentage</b>		<b>87.10%</b>
<b>Result</b>		<b>pass</b>	<b>Result</b>		<b>Pass</b>	<b>Result</b>		<b>Pass</b>	<b>Result</b>		<b>Pass</b>	<b>Result</b>		<b>Pass</b>	<b>Result</b>		<b>Pass</b>

Vice Chancellor of Student Affairs

Deputy of Faculty

Academy Registration

31

15

10



Eligibility No. 1489

PAKISTAN  
MEDICAL & DENTAL COUNCIL

G-10/4, Mauve Area,  
Islamabad  
Provisional

CERTIFICATE OF ELIGIBILITY  
FOR  
REGISTRATION EXAMINATION BOARD



Certified that Muhamad Kabir whose  
photograph is affixed above, has obtained the qualification  
his/her documents from Afghanistan in 2003  
been declared eligible to appear in the Examination to be  
conducted by the National Examination Board.

Documents received vide receipt No. 2-80 dated 6-1-2004

  
Assistant Secretary  
NATIONAL EXAMINATION BOARD.





16

No. PF.15-F-2021/licensing/020  
PAKISTAN MEDICAL COMMISSION  
Marve Area, G-10/4, Islamabad  
[www.pmc.gov.pk](http://www.pmc.gov.pk)  
Tel: 92 51 9106151-54, Fax: 9106159  
Email: [licensing@pmc.gov.pk](mailto:licensing@pmc.gov.pk)

Dated: <sup>14</sup>29 Sep, 2021

**TO WHOM IT MAY CONCERN**

It is informed that Dr. Muhammad Kabir S/o Bashir Ahmad has applied for Pak National Foreign Basic Registration Certificate vide Bank Challan No.1110730664, dated 17<sup>th</sup> March, 2021.

His case is under process till fulfillment of all official proceedings, which required stipulated time.

MEMBER LICENSING

(17) ANN- "C"

**IN THE COURT OF  
PESHAWAR HIGH COURT, PESHAWAR**



Writ Petition No. 5539 /2020

Muhammad Kabir S/o Bashir Ahmad resident of Daman,  
P.O. Matta Mughal Khel, Samar Bagh, Shabqadar, District  
Charsadda

(Petitioner)

**V E R S U S**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) Secretary Health, Khyber Pakhtunkhwa, Peshawar
- 3) Additional Secretary Health, Khyber Pakhtunkhwa, Peshawar
- 4) Director Health Services Merged Areas, Peshawar
- 5) Director General Health Services, Khyber Pakhtunkhwa, Peshawar
- 6) Director National Accountability Bureau (NAB), Hayatabad Phase 5, Peshawar

(Respondents)

**Writ Petition Under Article 199 of  
Constitution of Islamic Republic of  
Pakistan 1973 as amended up to date.**

**ATTESTED**  
  
**EXAMINER**  
Peshawar High Court

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Respectfully Sheweth,

The petitioner humbly submits as under:

- 1) That the petitioner is the law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
- 2) That the petitioner being a qualified person having the degrees of Medical (MD) and the respondents department appointed the petitioner on the post of Medical Officer on 20.06.2012 has been assigned the duties of Union Council Medical Officer (UCMO) and is still performing his duties as UCMO, on the said post. The petitioner served for sufficient time. (Copy of the academic record as well as brief history of the service period of the petitioner are attached as Annexure A)
- 3) That after the appointment of the petitioner he has been posted on the above mentioned positions and since his appointment till now he is performing his duty with great zeal and zest and without given any opportunity to his high ups and being forwarded any complaint against him whatsoever may be, therefore, he has unblemished service record.
- 4) That the petitioner after getting his basic qualification of MD, he has joined house job and

**TESTED**  
**EXAMINER**  
Seshawar High Court

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after completion of his house job he has forwarded a letter to the PMDC for registration and accordingly a certificate of eligibility for registration of recognized board of PMDC was also issued and he has been appeared in examination of PMDC, the PMDC accordingly recognized and verified the degree of the petitioner from the concern quarter, therefore the petitioner time and again appear for issuance of registration with the PMDC but due to the prevailing circumstances of PMC and PMDC at the issued that for the time being the PMDC is operational for some time PMC is operational. (Copy of relevant document is attached as Annexure B)

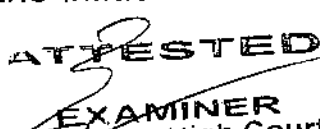
- 5) That this hon'ble court at circuit bench at Bannu has already taken cognizance in respect of the same issue in Writ Petition No. 886-B/2020 in case titled "Ikram Ullah Khan VERSUS Govt. of KP and others" wherein this hon'ble court has granted interim relief to the above mentioned person vide order dated 23.09.2020, therefore the petitioner is also deserved to be treated the same treatment. (Copy of the writ petition a/w order dated 23.09.2020 is attached as Annexure C)
- 6) That the petitioner lastly posted and served on the post of Medical Officer at Civil Hospital Nawa Kalay, Tehsil Halimzai, District Mohmand.
- 7) That the entire service record of the petitioner is unblemished which is crystal clear from the above

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

(26) 4

mentioned posting of the petitioner as he remained on VCMO & Focal Person Corona (COVID-19) which are mentioned above, but after his transferred to the post of above mentioned VCMO Nawa Kalay, the respondent No. 2 issued a ridiculous notification vide dated 17.09.2020, whereby the allegations leveled against the petitioner that he has no registration with the PMDC and also a letter referred in the same impugned order sent by the respondents authorities to the respondents and accordingly the petitioner has been suspended. (Copy of the impugned notification dated 17.09.2020 is attached as Annexure D)

- 8) That the above mentioned impugned notification issued by the respondent No. 2 with the manipulation of other Civil Servant Cadre employees of the respondents department, there is a group of persons in the management cadre who do not want to post any fair person on the post of VCMO, therefore the impugned letter issued through influence of these persons with the involvement of political figures.
- 9) That the impugned order is issued by the respondent No. 2 on the basis of inquiry proceedings and fake, bogus and concocted papers of the governors inspection team produce by the group of person of the same Civil Servant and there after without confronting the petitioner issued the impugned order by the influence of the

**ATTESTED**  
  
**EXAMINER**  
Peshawar High Court

(21)

(5)

group of persons.

- 10) That feeling aggrieved from the act of respondents, having no other adequate and efficacious remedy, approaches this hon'ble court on the following grounds inter alia:

**GROUNDS**

1. That the petitioner is a law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
2. That the respondent No. 2 with connivance of some elements of the respondents department has issued the impugned notification, whereby the petitioner has been punished without following the relevant rules, laws and prescribed procedure, the petitioner without having any knowledge in respect of the subject inquiry, he has been penalized without any fault on his part.
3. That it is pertinent to mention here that the petitioner is a qualified person having the degree of M.D. from the Islamic State of Afghanistan and after appointment of the above mentioned post he has applied for obtaining the Registration from PMDC and in this respect he was Role Order No. 072237 from the PMDC and appeared in the

**ATTESTED**  
**EXAMINER**  
Peshawar High Court



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examination under the supervision of PMDC and he has passed the above mentioned examination in November, 2007 at Islamabad, but inspite of above mentioned facts and circumstances no fault and circumstances and due to available circumstances no fault of the petitioner the PMDC has not yet issued registration certificate to the petitioner. (Copy of role number is attached as Annexure E)

4. That it is pertinent to mention here that as per the PMDC ordinance there is no criteria there is no need of the Management Cadre Service, that he must be registered with the PMDC, as the services of Management Cadre is governing by the above mentioned rules and he can serve on the administrative post under the above mentioned rules, infact the ground which has been mentioned in the impugned letter by the respondent No. 2 is baseless and without having any plausible justification under the rules, but issue don the basis of political influence with the connivance of a group of person of the respondent NO. 2 department, which is highly inflammable and the services of the petitioner has been attacked just to relieve form the said post which is illegal, unlawful, without lawful authority and liable to be declared so.
  
5. That the fundamental right of the petitioner has blatantly violated by the respondents and the petitioner has been discriminated and has been

**ATTESTED**  
**EXAMINER**  
Deputy High Court

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denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.

6. That as per the inquiry papers there is no date and even the persons mentioned as complainant have recorded their statement that we have not forwarded any complaint against the present petitioner on this score alone this inquiry proceedings as well as the papers of the inquiry are likely be bogus, concocted and fake one and it has been based in the impugned order just to humiliate the petitioner for ulterior motives in this respect the persons involved in the issuance of impugned order.
7. That the petitioner victimizing by other colleagues do not want to remain the petitioner on the subject post, infact neither the inquiry proceedings has been initiated against the petitioner nor any allegations whatever may be are present against him but infact this papers has been produced and the impugned order has been issued to respondent No. 2, if at all there was any allegations against the petitioner for the last 2 and 3 years the respondent No. 2 must be informed the petitioner and he must be associated with the inquiry proceedings as per the law and ordinance of the efficiency and disciplinary 2011, the impugned order issued on basis of inquiry is illegal, unlawful, unwarranted in the eyes of law and against the natural justice.

**ATTESTED**  
**MINER**  
**EXAMINER**  
Peshawar High Court

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8. That it is a well settled principles, that in case of major penalty where serious allegations were made and same were denied by the employee, a regular inquiry into the allegations, was absolutely necessary and a final notice had also to be issued and employee had to be given a chance of personal hearing. Such having not been done in case of the appellant, penalty of suspension of service could not be imposed, impugned order of suspension from service, without holding regular inquiry, without showing final show cause notice and also without giving appellant an opportunity of hearing, could not be maintained.
9. That it is pertinent to mention here that the respondent No. 2 has issued the impugned order of the petitioner on the basis of political victimization as the petitioner was transferred by the competent authority and till his last transfer there was nothing against the petitioner but after his charge assumption the then DHO with the manipulation of other group of the respondent No. 2 department the said allegation has first time produced and disclosed which is neither against the petitioner nor any inquiry has ever been conducted on such allegations this acts and conducts of the respondents are illegal, against the natural justice and violation of the fundamental rights enshrined by the constitution.
10. That from the perusal of the impugned order it is crystal clear that this impugned order has issued

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

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just to deprive the petitioner from his lawful post and to relieve from the said post without keeping in view the facts that from the last so many years the petitioner performing his duties in the most danger areas specially in the regime of Talibanization, if in case there was any allegations against the petitioner non the basis of which inquiry was under process the respondent No. 2 was having no authority to assigned the responsible post, but infact there was nothing against the petitioner and it has been preplanned and concocted notification has been issued which is against the fundamental rights enshrined by the constitution of Islamic Republic of Pakistan.

11. That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

**Prayer:**

It is therefore humbly prayed that on the acceptance of this writ petition, an appropriate writ may please be issued declaring:

1. That he impugned order dated 17.09.2020 issued by the respondent No. 2, whereby the allegations leveled against the petitioner and simultaneously suspension order in

**ATTESTED**  
**EXAMINER**  
Peshawar District Court

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respect of the petitioner is illegal, unlawful, without lawful authority and of no legal effect upon the right of the petitioner and the same is liable to be struck down in the eyes of law.

2. Declare the impugned acts in action of the respondents as the petitioner being the employee of Management Service Cadre in Health Department and as per the allegations leveled in the impugned order that the petitioner has no registration with the PMDC, as the petitioner has already appeared in examination with PMDC and the PMDC has already promised that he will be registered within 2 weeks, hence the allegations leveled in the impugned order may kindly be declared null and void in the eyes of law.

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

Interim Relief:

**ATTESTED**  
  
**EXAMINER**  
Peshawar High Court

By way of interim relief, the impugned notification may kindly be suspended

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and the respondent No. 2 be directed not to interfere in the job of petitioner and no adverse action may be taken against the petitioner, till the final disposal of the instant writ petition.

Petitioner

Through

Muhammad Jamil Warsak  
Advocate Supreme Court of  
Pakistan

Dated: 23.11.2020

**Certificate:** No such like writ has earlier been filed before this Honourable Court by the petitioner.

ADVOCATE

**List of Books:**

- 1) Constitution of Islamic Republic of Pakistan 1973
- 2) Law books as per need

EXHIBIT TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Qanun-e-shahadat Order 1988

24 DEC 2020

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**PESHAWAR HIGH COURT, PESHAWAR.**

**FORM 'A'  
FORM OF ORDER SHEET**



Date of Order or Proceedings 1	Order or other Proceedings with Signature of Judge or that of parties counsel where necessary 2
23.12.2020	<p><b><u>W.P No. 5539-P/2020</u></b></p> <p>Present: Mr. Muhammad Jamil Warsak, Advocate for the petitioner.</p> <p style="text-align: center;">*****</p> <p>Comments of respondents No. 2, 4 and 5 be called for, so as to reach this Court within a fortnight positively. The learned counsel for the petitioner further states that identical Writ Petition No. 886-B/2020, is pending adjudication, therefore, this petition be clubbed therewith to be heard together. Order accordingly.</p> <p><b><u>Interim Relief</u></b></p> <p>Notice. Meanwhile the respondents may continue the inquiry proceedings but no adverse action shall be taken against the petitioner.</p>

No. 20460

Date of Presentation 24/12/2020

No of Pages 19

Copying fee \_\_\_\_\_

Total 24710/5020

Date of Preparation of Copy 24/12/2020

Date of Delivery of Copy \_\_\_\_\_

Received By \_\_\_\_\_

JUDGE

JUDGE

(Tchangir Khan, SSS)

\*D.B\*

Hon'ble Mr. Justice Muhammad Nasir Mahfooz, J  
Hon'ble Mr. Justice Syed Arshad Ali, J

**ENTIRELY TO BE TRUE COPY**

Examined  
Peshawar High Court, Peshawar  
Satisfied Under Article 87 of  
the Constitution of Pakistan Order 1998

**04 DEC 2020**

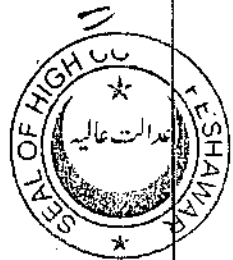
29

ANWER-D

**PESHAWAR HIGH COURT, PESHAWAR**

**Form "A"**

**FORM OF ORDER SHEET**



Date of Order or Proceedings	Order or other Proceedings with Signatures of Judge or that of parties or counsel where necessary
09.10.2023	<p><b><u>W.P No.5539-P/2020 with IR</u></b></p> <p><b><u>Present:</u></b></p> <p>Mr. Muhammad Jamil Warsak, Advocate, for the petitioner.</p> <p>Mr. Kamran Qaiser, AAG, for the Provincial Government/respondents No.1 to 5.</p> <p>Arbab Kalim Ullah, ADPG, for NAB/ respondent No.6.</p> <p>*****</p> <p><b><u>SHAKEEL AHMAD, J.-</u></b> At the very outset, the learned ADPG representing the NAB (respondent No.6) stated that after holding an inquiry, the NAB has submitted a comprehensive inquiry report to respondents No.1 and 2. The learned AAG appearing on behalf of the Provincial Government stated that an appropriate direction may be issued to the said respondents to proceed with the matter in accordance with law and pass an appropriate order on the basis of inquiry conducted by the department, after providing due opportunity of hearing to the petitioner. The learned counsel representing the petitioner showed his satisfaction over the statement of the learned AAG.</p> <p>In view of the above, this petition is <b><u>disposed</u></b> of with the direction to respondents No.1 and 2 to proceed with the matter in accordance with law and pass an appropriate order on the basis of inquiry conducted by the department, after providing the petitioner due opportunity of hearing, within a period of three (3) months from the date of receipt of this order.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

13345

12-10-2023

Date of Presentation of Application

No of Pages. 13

Copying fee.

Total. 52-00

Date of Preparation of Copy. 12-10-2023

Date of Delivery of Copy. 12-10-2023

(S) Shahid Nawaz, Steno

(DB)

Hon'ble Mr. Justice Shakeel Ahmad & Hon'ble Mr. Justice Bilal Ahmad

CERTIFIED TO BE TRUE COPY

EXAMINED  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Qanun-e-Shahadat Act 1984

12 OCT 2023



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ANNEX - E  
11

GOVT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT



Dated: Peshawar the 29<sup>th</sup> December 2023

NOTIFICATION

185  
03/01/24  
U  
NO. SOH(E-V)2-2/2023 WHEREAS, on the approval of the Competent Authority (Chief Minister Khyber Pakhtunkhwa) and consequent upon initiation of formal inquiry vide Health Department's letter No. SOH(E)H-III-1-1/2020 dated 02.11.2020 against DR. MUHAMMAD KABIR (1710156714983) S/DW of BASHIR AHMAD, Medical Officer (BS-17) attached to CHO office Mohmand a charge sheet alongwith statement of allegation on the allegation of appointment on bogus PM&DC Registration was issued which was properly replied by the accused officer.

2. AND WHEREAS, After completion of formal inquiry, the charges leveled against the above named doctor have been proved and recommended him for imposition of major penalty of dismissal from service under Rules-4(b)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Consequently the Competent Authority (Chief Minister Khyber Pakhtunkhwa) on the recommendations of the inquiry committee, issued a show cause notice to the accused which he replied.

3. AND WHEREAS, After perusal of the inquiry report, reply of the accused and awarding him an opportunity of personal hearing and opportunity of defence on 16.08.2022 to the accused officer, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is satisfied that the charges in the charge sheet alongwith statement of allegation have been proved beyond any shadow of doubts and the doctor concerned is found guilty of misconduct.

4. NOW THEREFORE, In exercise of the power conferred under the Khyber Pakhtunkhwa (E&D) Rules, 2011 and all such powers on that behalf, the Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to impose major penalty of "Removal from Service" under Rule-4(b)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 upon DR. MUHAMMAD KABIR (1710156714983) S/DW of BASHIR AHMAD, Medical Officer (BS-17) attached to DHO office Mohmand with immediate effect.

SECRETARY HEALTH  
KHYBER PAKHTUNKHWA

No. 3311-20 /Notification of even No. & dated:  
Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. CSO to Chief Secretary, Khyber Pakhtunkhwa.
4. District Health Officer, Mohmand.
5. District Accounts Officer, Mohmand.
6. Deputy Director (IT), Health Department, Peshawar.
7. PS to Secretary Health Department Khyber Pakhtunkhwa
8. Accused concerned.
9. Personal file of the accused.

03/01/24  
E-T  
J  
OB  
FAZAL AMIN  
SECTION OFFICER (E-V)

31

OFFICE OF THE DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No. 398-403/E-1

Dated: 08/01/2024

Copy of the above is forwarded to:-

Registered

- 1. Dr. Muhammad Kabir S/O Bashir Ahmad Ex-MO BPS-17 Health Department KP Mohalla Samar Bagh Daman Matta Mughal Khel District Charsadda.
- 2. District Health Officer Mohmand.
- 3. DAO Mohmand.
- 4. Deputy Director HRMIS DGHS Office Peshawar.
- 5. AE-I, AE-II, AE-IV DGHS Office Peshawar.

For information and further necessary action

DIRECTOR (HRM)  
DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR

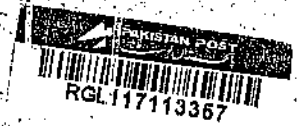
08/01/2024

C.C.

P.S to Secretary Health, Government of Khyber Pakhtunkhwa Peshawar for information.

o.f.s.s. 398-403

To: Dr. Muhammad Kabir S/O.  
Bashir Ahmad  
Mohallah Samar Bagh.  
Daman Matta Mughal  
Distt: Charsadda.



Personal

PS/O.S. 10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100  
Diary No. 643-P  
Date 15/12/24

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To

THE WORTHY CHIEF SECRETARY,  
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST REMOVAL FROM SERVICE ORDER DATE 29-12-2023 COMMUNICATED & RECEIVED ON 18-01-2024

Respected Sir,

Reference to the removal order dated 29-12-2023 communicated and received to me through registered post on 18.01.2024, in this respect it is states as under that:

1. I was appointed as Medical Officer (BS-17) in the erstwhile FATA (now merged area) on contract basis vide order dated June 2012 after fulfilling all the legal & codal formalities required for the post and was accordingly posted in District Mohmand at the disposal of District Health Officer District Mohmand.
2. While performing for a sufficient time, I was regularized as Medical Officer (BS-17) in the year 2015.
3. Later on, a concocted, frivolous and a baseless complaint was filed against me regarding my PM&DC registration by an unknown complainant wherein it have been stated that I have submitted a fake registration which was attached with the complaint, which I denied that I have never submitted any fake PM&DC registration. Moreover, as per instruction of the Government unanimous complaints cannot be entertained.
4. I was issued with show cause notice and statement of allegation in 2022 which was properly replied by denying all the allegation as well as submitted all the relevant documents submitted and verified at the time of initial appointment.
5. I also filed a writ petition before the Peshawar High Court Peshawar which was dispose of vide judgement dated 09-10-2023 with the direction to proceed with the matter in accordance with Law and pass an appropriate order on the basis of inquiry conducted by the department, after providing the petitioner due opportunity of hearing, within a period of three (03) months from the date of receipt of the order.

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6. I was astonished on receiving the impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024) while I was busy in the performance of duty at my duty station at District Mohmand.
7. In the impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024), it has been mentioned that a formal inquiry has been conducted which mean that no regular inquiry has been conducted in the matter and as per the latest judgment of the apex Supreme Court of Pakistan differentiation has been made in between the regular and formal inquiry and accordingly on the basis of a formal inquiry no one could be penalized for which a regular inquiry is required, hence the impugned order needs to be stuck down and I may be reinstated into service from the date of its issuance i.e. 29-12-2023.
8. The removal order dated 29-12-2023 (received through registered post on 18.01.2024) has been passed in a hasty manner without fulfilling the codal formalities required for imposing major penalty.
9. In the impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024), it has been mentioned that formal inquiry has been conducted but the copy of the inquiry report has not been provided to me which is mandatory as per E&D Rues 2011.
10. The impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024), is passed without fulfilling the formality of cross-examination or personal hearing which is against the norms of Natural Justice.
11. While issuing the impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024), I have been condemned unheard as no proper show cause notice, charge sheet or statement of allegation has been served upon me which is not only against the Law but also against the injunction of Islam.
12. The direction dated 09-10-2023 issued by Peshawar High Court Peshawar has not been followed in its true letter & spirit while

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issuing the impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024).

13. I have also been discriminated on the score that other doctors whom have deficiencies in the eligibility for the post are still working and performing duties without any hindrance but only I have been made the scapegoat in the matter despite the fact the I have all the relevant & verified documents required for the eligibility of the post but even then, I have been issued with the impugned removal order dated 29-12-2023 (received through registered post on 18.01.2024).

It is, therefore, most kindly requested that by accepting the instant Departmental Appeal the impugned removal order dated 29-12-2023 through registered post on 18-01-2024 may very kindly be set aside and I may be reinstated into service from the date of its issuance with all back and consequential benefits. I shall be very thankful to you for this kindness.

Sincerely Yours,

*M. Kabir* 6-2-24  
DR. MUHAMMAD KABIR,  
Ex-Medical Officer,  
o/o DHO, Mohmand.

CC:

1. Secretary, Government of Khyber Pakhtunkhwa Health Department, HRD Building, Khyber Road, Peshawar.
2. Director General Health Service, Warsak Road, Peshawar.



# (POWER OF ATTORNEY)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. \_\_\_\_\_/2024

DR. MUHAMMAD KABIR

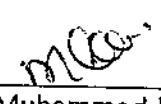
VS

GOVT. OF KP & OTHERS

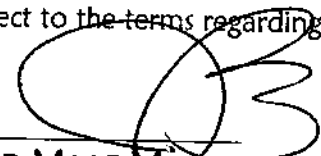
I, Dr. Muhammad Kabir do hereby nominated and appointed **MUHAMMAD MAAZ MADNI**, Advocate High Court, Peshawar, to be counsel in the above matter for me/us and on my/our behalf as agreed to appear, plead, act and answer in the above court or any appellate court or any court to which the business is transferred in the above matter as and is agreed to sign and file petition, appeals, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrants or order and to conduct any proceedings that may arise there out; and to apply for and receive payment of any or all sums or submit the above matter to arbitration, and to employ an other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

AND to do all acts legally necessary to manage and conduct the said case in all respects whether herein specified or not, as may be proper and expedient.  
AND I/WE hereby agree to ratify and confirm all lawful acts done on my/our behalf; under or by virtue of these present or of the usual practice in such matter. PROVIDED always that I/WE undertake at the time of calling of the case by the court I/MY authorized agent shall inform the advocate and make him appear in the court, if the case may be dismissed in default, it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS WHERE OF I/We hereunto set MY/OUR hand to these presents, the contests of which have been explained to and understood by ME/US this 4th day of June, 2024.

EXECUTANT   
(Dr. Muhammad Kabir)

Accepted subject to the terms regarding fees:

  
**MUHAMMAD MAAZ MADNI,**  
ADVOCATE HIGH COURT, PESHAWAR  
BC No. (BC-11-1460)  
CNIC No. 17101-9263898-1

OFFICE: KHATTAK LAW ASSOCIATES,

TF-291 & 292, Deans Trade Centre, Peshawar Cantt.

Contact#: 0333-9313113, 0314-9965666