

BEFORE THE KP, SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 306/2024

IN

APPEAL No. 1288/2019

Dr. Muhammad Salman-----PETITIONER

VERSUS

Secretary Health Deptt: Govt: of KP and others-----RESPONDENTS

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04.	Copy of office order dt: 25.7.16	---A1---	07
05.	Cop of LPC	---A2---	08
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RESPONDENT NO. 5.


Zafar Afridi, H.D KTH Peshawar

THROUGH:-


(M. ASIF YOUSAFZAI)
STANDING COUNSEL FOR
MTI KTH/KMC/KCD.

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 0312-9103240

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 306/2024

IN

APPEAL No. 1288/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13076

Dated 30/5/24

Dr. Muhammad Salman-----PETITIONER

VERSUS

Secretary Health Deptt: Govt: of KP and others-----RESPONDENTS

REPLY ON BEHALF OF RESPONDENT NO.05
(H.D, MTI KTH/KMC/KCD.)

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

1. That the appellant/petitioner has not cause of action against the replying respondent as the appellant had not performed a single day duty after being relieved from KTH Vide order dated 25.07.2016.
2. That the appellant/petitioner is a Civil Servant and cannot claim any right against the MTI/KTH being on deputation over there.
3. That the execution petition against the replying respondent is not maintainable, hence liable to be dismissed to that extent.
4. That the appeal of the appellant/petitioner was never accepted regarding repatriation and after relieving the MTI/KTH was no more responsible, rather it was the fault of appellant himself for not obeying the order.

FACTS:

1. Misconceived. The appellant was not in KTH after being relieved vide order dated 25.07.2016. Hence, no outstanding are there regarding salaries, against the replying respondent.
2. Misconceived. The replying respondent vide memo dated 22.03.2024 has informed the DGHS that since relieving the appellant was not in KTH, therefore, there is no outstanding pay

on the part of KTH. Copy of the memo is attached as Annex-
A. to A-3


3. Incorrect. The petitioner has no locus standi and cause of action against the replying respondent.
4. Misconceived. The replying respondent has never violated the judgment of the august Tribunal.

It is, therefore, most humbly prayed that the execution petition to the extent of replying respondent No. 5 (H.D, KTH) may be dismissed and consigned being not maintainable.

RESPONDENT NO. 5.


Zafar Afridi H.D KTH Peshawar

Through:-


(M. ASIF YOUSAFZAI)
STANDING COUNSEL FOR
MTI KTH/KMC/KCD.

BEFORE THE KP, SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 306/2024

IN

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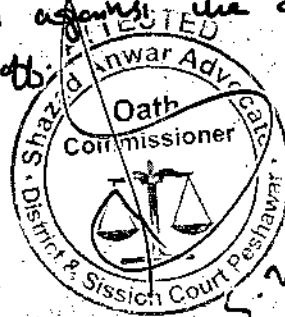
Dr. Muhammad Salman-----PETITIONER

VERSUS

Secretary Health Deptt: Govt: of KP and others-----RESPONDENTS

AFFIDAVIT

I, Zafar Afridi, Hospital Director Khyber Teaching Hospital, Peshawar (Respondent No. 05), do hereby affirm that the contents of this para wise comments are true and correct and nothing has been concealed from this Honorable Service Tribunal. *It is further stated that no Ex-Parte is placed against the answering Respondent nor his defence was struck off.*



DEPONENT

14301-4069539-5

IDENTIFIED BY:

**(M. ASIF YOUSAFZAI)
STANDING COUNSEL FOR
MTI KTH/KMC/KCD.**

**HOSPITAL DIRECTOR
Medical Teaching Institute
KTH, KMC, KCD,
Peshawar**



A
MEDICAL TEACHING INSTITUTION

KHYBER TEACHING HOSPITAL, PESHAWAR

Office of the Hospital Director



No. 6189 /KTH/HRD

Dated. 22/03/2024

To,

The Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPEAL FOR RELEASE OF SALARY FOR THE PERIOD FORM 01-07-2016 TO 27-02-2019.

Memo:

Enclosed please find an application along-with judgment of the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar which is reproduced as under: - "In view of the above discussion, the appeal is allowed and remitted back to the Respondents to settle the matter amicably in the interest of justice and salaries for the period as prayed be paid to the appellant by the respective Respondents i.e DG Health, KP and Hospital Director, MTI, Khyber Teaching Hospital, Peshawar. Discrepancy in the date of arrival 06-04-2018 as contended by the Appellants and 03-12-2018 as per the Respondents needs to be settled by the Respondents in such a way that there is no financial loss to the Appellant. Parties are left to bear their own costs. Consign".

It is important to mention that the appellant naming Dr. Muhammad Salman Ex-Medical Officer BPS-17 is a Civil Servant and employee of the health department. Moreover, the appeal is allowed to him by Honorable Khyber Pakhtunkhwa Service Tribunal is for period 01-07-2016 till 26-09-2019, further to add that the doctor concerned soon after his reliving had not given any doctor duty rota or duty to be performed. The appellant is not entitled for any sort of pay on the MTI, KTH, the doctor concerned was not performing any duty in connection to MTI, KTH, was clearly directed while relieving from such duties as to report to his parent department i.e DG Health for reporting.

It is therefore, requested that judgement may kindly be implemented letter & spirit may proceed further in the matter Dr. Muhammad Salman (being a Civil Servant) for further necessary action.

No. 6189 /KTH/HRD

Copy to: -

1. Medical Director, MTI, KTH, Peshawar.
2. Manager Legal, MTI, KTH, Peshawar.
3. Secretary to BOG, MTI, KTH/KMC/KCD, Peshawar.

Hospital Director
MTI, KTH, Peshawar.

Manager Legal
ATTESTED
To be true copy
RA
Eust

Hospital Director
MTI, KTH, Peshawar.



MEDICAL TEACHING INSTITUTION
KHYBER TEACHING HOSPITAL, PESHAWAR
 Office of the Hospital Director

A-1

(43)

No. 15307-15 /KTH/E

Dated 25/7 /2016

OFFICE ORDER

Dr. Watan Muhammad, Medical Officer, BPS-17, working in Surgical ICU is hereby relieved from this institution on account of Poor Performance, habitual of proceeding leave without sanctioned (copy of report attached) and directed to report to Director General Health Services, Khyber Pakhtunkhwa.

No. 15307-15 /KTH/E
 Copy to:

[Signature]
 Hospital Director
 MTI, KTH, Peshawar.
 2. *[Signature]*

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. Medical Director, MTI, KTH, Peshawar.
3. Director Administration, MTI, KTH, Peshawar.
4. Director Human Resources, MTI, KTH, Peshawar.
5. I/C Surgical ICU, MTI, KTH, Peshawar.
6. Accounts Officer, MTI, KTH, Peshawar.
7. Audit Officer, MTI, KTH, Peshawar.
8. Resident Assistant Director, (Audit), MTI, KTH, Peshawar.
9. Doctor concerned.

[Signature]
 Hospital Director
 MTI, KTH, Peshawar
[Signature]
 20/7/16

ATTACHED
 to be done
 WPT RA



DIRECTORATE OF FINANCE
(MTI) KMC/KCD/KHYBER TEACHING HOSPITAL PESHAWAR
Phone No.091-9224400 Ext: 2217

No: Audit/1136/19/DF/KTH

Dated: 25/02/2019

LAST PAY CERTIFICATE

P.No. 999900431361 GP Fund A/c No.Nil
Last Pay Certificate of Dr.Watan Mohammad (BPS-17) Medical Officer Khyber Teaching Hospital
Peshawar, proceeding on Transfer to Director General Health Service KPK Peshawar.
He has been paid up to 25/07/2016 at the following rates:-

B. Pay	CA	HRA	NPA	MA	Ad:10	HPA	Ad:13	Ad:15	Ad:2016	Total
40880	5000	4433	3000	2262	6035	15000	1220	828	4088	82746

DECUATION

G.P.F	BF	G.Ins	Room	I.Tax	Gas	Elec	AC	Ad:Gin	Total
2898	250	230	200	2991	200	300	1000	25	8094

DETAILS OF RECOVERIES

S.No	Nature of Recovery	Amount	Recovered	Balance	Instalments	Rates
1	GPF Advance					

SERVICE STATEMENT

Prior to 01.06.2012 He was under the audit control of District Accounts Officer Dera Ismail Khan

ALLOWANCES

Period	D. Pay	CA	SA	HRA	NPA	SA	MA	Dear	SA	A:9	MA	A:10	HPA	A:11	A:12	A:13	A:14	A:15	A:16	A:17
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Remarks. Relieved form this institute Vide: office of the Hospital Director office order No.15307-15/K Dated 25/07/2016

Handwritten notes:
Finance Officer (MTI) KTH, Peshawar
Reviewed CPC
Reviewed original
Peshawar Jib
25/2

Handwritten signature:
Audit Officer
KTH/KMC/KCD
Peshawar
25/2

ATTESTED
To be true copy
Handwritten initials

DIRECTORATE OF FINANCE, MTL, KTH, KMC & KCD, PESHAWAR

KTH-7-2016

999900431361 Dr Watan Mohammad Medical Officer BPS:17

08 BOK 0121 KTH Branch 5780-6 NTN 0 MRNo. 60000003788

Pays & Allowances	Amount	Deductions	Amount	Loan/Fund	Others	PRIN REPAID	Balance
A01151 B Pay	40880	G06103 G.P.Fund	2898				79842
A01203 CA	5000	G06214 B Fund	250				
A01202 H R A	4433	G06408 G Ins	230				
A01252 N P A	3000	PL305703 Room Rent	200				
A01217 Medical ALL	2262	E01152 I Tax	2991				
A021 Adhoc Rel 2021	6035	PL305703 Gas	200				
Health pro All	15000	PL305703 Elect	300				
Adhoc Rel 2013	1220	PL305703 AC Charges	1000				
Adhoc Rel 2015	828	PL305703 Add G Ins	25				
Adhoc Rel 2016	4088	A01101 Adj B Pay	22721				
Payment	82746	Deduction	30815				

Net Pay: 51931 Note: Exact GPFund is maintained in AG-Khyber Pakhtunkhwa

[Signature]
Finance Officer
(MTI) KTH, Peshawar

ATTESTED
To be true copy
RA
Bhatt

VAKALAT NAMA

E.P NO. 306 /2024
In S.A.No. 1288/2019.

IN THE COURT OF Service Tribunal KP, Peshawar

Dr. Muhammad Sulman (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

H.D. KTH. Ep others (Respondent)
(Defendant)

I/We, Respondent No. 5.

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC & Syed Noman Ali Bukhari AHC** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 30/5 /2024.

(CLIENT)

HOSPITAL DIRECTOR
Medical Teaching Institute
KTH, KMC, KCD.
Peshawar

ACCEPTED

M. Asif Yousafzai

M. ASIF YOUSAFZAI, ASC,

SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar