

**BEFORE THE KHYBER PAKHTUNKHA SERVICE TRIBUNAL, PESHAWAR.**

Appeal No: 1786 of 2023

Dr. Salma Bibi .....Appellant/Petitioner

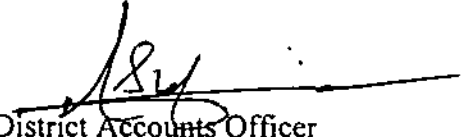
**VS**

1. The Secretary Health Services Govt; of Khyber Pakhtunkhwa, Peshawar.
2. The Director Health Services Govt; of Khyber Pakhtunkhwa, Peshawar.
3. The Medical Superintendent Miangul Abdul Haq Jehanzeb Kidney Hospital, Manglawar, District Swat.
4. The District Accounts Officer Swat at Saidu Sharif, District Swat.

..... Respondents

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District Accounts Officer

Swat



Office of the  
**District Accounts Officer**

Swat  
Phone: 0946-9240345

**AUTHORITY LETTER**

Mr. Muhammad Jamil Assistant Accountant BPS-17 (Litigation Officer) of District Accounts Office, Swat is hereby authorized to attend Appeal No. # 1786 of 2023 the **KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR** on behalf of undersigned.

  
District Accounts Officer

Swat

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

Writ Petition # 1786 of 2023

Dr Salma BiBi ----- Petitioner

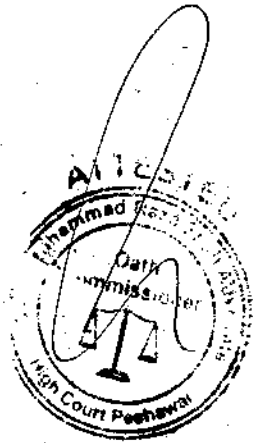
**VERSUS**

The Secretary Health Services Government of KPK & Others -----The Respondents.

**AFFIDAVIT**

I, Ashfaq Anwar, Accounts Officer of District Accounts Office, Saidu Sharif, Swat do hereby solemnly affirm & declare that contents of the accompanying reply are true to the best of my knowledge & belief. *It is further stated on oath that the answering respondents have neither been plain Ex party nor their defense struck up/lost.*

  
DEPONENT



04 APR 2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.: 1786 of 2023

Dr. Salma Bibi

..... Appellant/Petitioner

VS

1. The Secretary Health Services Govt; of Khyber Pakhtunkhwa, Peshawar.
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..... Respondents

Khyber Pakhtunkhwa  
Service Tribunal

Para Wise Reply On Behalf Of Respondent No. 4

Respectfully Sheweth,

Diary No. 13075

Preliminary Objections:

Dated 30/5/24

1. That the appellant has got neither cause of action nor locus standi to file the instant appeal.
2. That the instant appeal is against the prevailing Law and Rules.
3. That the appeal is not maintainable in the present form and also in the present circumstance of the issue.
4. That the appellant has filed instant appeal with mala-fide intention hence liable to be dismissed.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

ON FACTS:


- i. The appellant was appointed as WMO, BS-17 vide Government of Khyber Pakhtunkhwa, Health Department Notification No. SO (E) H-II/3-18/2011 dated: 25<sup>th</sup> October, 2011 on purely Adhoc basis for a period of one year subject to the following conditions reproduced as:
  - c) Condition (3): *"Appointment will be purely on Adhoc basis for a period of one year or till the arrival of regular selectee of Khyber Pakhtunkhwa, Public Service Commission whichever is earlier."*
  - d) Condition (4): *"On the expiry of one year or on arrival the recommendee of the commission, whichever is earlier the services of the employee shall stand automatically terminated"*
- ii. The services of the appellant were regularized w-e-f **20<sup>th</sup> March, 2015** vide Government of Khyber Pakhtunkhwa, Health Department Notification No. SOH (E) 3-18/2015 dated: 21<sup>st</sup> October, 2015. Thus the annual increments entitled to the appellant from regularization till this time has been granted regularly.
- iii. The department concern is in better position to reply this Honorable Court.
- iv. Upon promotion if the appellant from BS-17 to BS-18 revised pay slip was issued to the concerned department in BS-18. Whereas, recovery was pointed out on account of annual increments granted for the Adhoc services. As the Adhoc services do not count regular service which has been laid down vide notification No. SOIV(S&GAD)16-14(Policy), dated 20<sup>th</sup> October, 1996.
- v. The department concern is in better position to reply this Before Honorable court.
- vi. The department concern is in better position to reply this Before Honorable court. The concerned department produced source for the recovery being pointed out and recovery of overpayment was started at the mentioned rated accordingly.

**GROUND:**

- a) Incorrect hence denied the appellant has been treated in accordance with the law and rules as explained in the above para no. IV.
- b) Pertains to record.
- c) Pertains to record.
- d) Incorrect hence denied as the annual increment are only subjected to a regular employee.

**PRAYER:**

It is therefore most humbly prayed that the appellant is the result of misrepresentation, incorrect, against the real facts and liable to be dismissed with heavy cost. Any other relief which the court deem fit and just may also be graciously awarded to the respondent No. 4 against the appellant, please.



Ashfaq Anwar

NIC No.

16102-4756765-9

District Accounts Officer,

Swat.

(Respondent No.4)

## Counting of Adhoc Service

Adhoc Service  
Adhoc Appointment

This Department's letter No.SOIV(S&GAD)16-14/64(Policy), dated 20th October, 1996, on the subject noted above, and to say that in view of the complaints of favoritism and irregularities in the making of adhoc appointments, a decision was taken by Government to withdraw these powers from the Administrative Departments. An Adhoc Appointments Committee was constituted with the Chairman Public Service Commission as its head.

2. The position has since been reviewed by the Government. The Administrative Departments have been pressing for restoration of powers of making adhoc appointments. It has been urged that powers of making appointments on an emergency basis, would give greater operational freedom to executing agencies and would speed up the implementation of projects and programmes. The grant of these powers to the Administrative Departments will ensure that responsibility for failure to fulfil the prescribed targets rests squarely on the Administrative Departments. In view of the considerations mentioned above, it has been decided to restore the powers of making adhoc appointments to the Administrative Departments and other authorities. The Adhoc Appointments Committee has been abolished with immediate effect.

3. To ensure that there is no repetition of complaints with regard to favoritism and irregularities, it has been decided that the following procedure/instructions shall be observed strictly by appointing authorities:-

- (i) **Requisition to Public Service Commission:-** a requisition must be sent to the Public Service Commission before action is taken to fill up the post on an adhoc basis.
- (ii) **Advertisement of vacancies:-** The vacancies for direct recruitment should be filled up after proper advertisement only.
- (iii) **Appointment to conform to recruitment rules-** The appointments should conform to the provisions of the service/recruitment rules and in particular, the regional quotas prescribed by Government should be strictly adhered to.
- (iv) **Criteria for selection-** (a) The selection should be made on the basis of merit and objective criteria should be used.  
(b) In the absence of any other important factor, the selection of direct recruits should be based on the marks obtained by the candidate in the examination for the degree/diploma, etc. which is prescribed as the minimum qualifications for the post.

ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

- (c) In the case of promotions, the selection should be based strictly on the service record.
- (d) The particulars of all candidates applying for the post should be tabulated in appropriate form, and signed by the Chairman of the Selection Board. Where candidates have been eliminated on the basis of a qualifying minimum e.g, examination/grades(it would not be necessary to list all the particulars of the candidates).
- (v) Setting up of Selection Board - The Selection should be made by a Selection Board consisting of three officers and headed by an officer not below the rank of Secretary/additional Secretary of the Administrative Department for class I and by the Regional Head/Divisional Commissioner for Class II. Immediate steps should be taken to constitute Selection Boards at the two levels.
- (vi) Appointment Orders- The appointment order should certify that a requisition for direct recruitment or promotion has been sent to the Public Service Commission.
- (vii) Appointment orders will indicate that it is subject to revocation at the discretion of the Review Board.
- (viii) Appointment orders of adhoc appointment will be published in Gazette.
- (ix) Special conditions with regard to adhoc Service- Adhoc appointments will not confer any right on the Government servants in the matter of regular appointment to the same post nor the service will count towards seniority.
- (x) Service in an adhoc capacity will count as experience for the purpose of minimum qualification of a post.
- (xi) The adhoc appointment will only last till the recommendations of the Commission have been received and Government has approved the selection of a candidate for the vacancy. On this the services of adhoc appointees, if not approved by the Commission, shall be terminated.
- (xii) Provision for disposal of representation-
  - (a) Class-I - Persons aggrieved by an adhoc appointment to a Class I post may submit representations to a Review Board consisting of a Member, Board of Revenue and Additional Chief Secretary, Services and General Administration Department. The representation will be submitted within 15 days of the publication of the Gazette notifying the appointment. The Review Board would have the authority to pass appropriate orders including the revocation of an appointment already