# BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

C. M. No · 635/2024 In Service Appeal No: 1814/2022

Khyber Pakhtukhwa Service Tribunal

Diary No. 13787

Dated 26/6/25

District Accounts Officer Bajaur

**Versus** 

Mst Bushra Perviz, LHV (BPS-12), BHU Kotki, Lar Sadin, Bajaur

APPLICATION FOR SETTING ASIDE EX-PARTE PROCEEDING, DATED 04-06-2024 BY HON'BLE TRIBUNAL.

# Respectfully Sheweth,

- 1. **That** the above titled suit is pending adjudication in this Hon'ble Court, which is fixed for 26/06/2024.
- 2. That the applicant/ defendant No. 3 was ex-parte proceeded vide order dated: 04-6-2024. (Annexure "A")
- 3. That the Applicant/ Defendant No.3 was not in knowledge about ex-parte proceeding initiated against the applicants/ defendants as well because defendant No.3 is recently posted and does not receive any notice or summon in this regard.
- 4. That the valuable rights of the applicant/ defendant No.3 are involved and it is settled principle of law that no one should be condemn unheard, solely on this ground the applicants/ defendants are entitled to the concession prayed.
- 5. That the Law always prefers adjudication upon merits and technicalities are to be avoided in best interest of justice, as held by the Apex Court of the Country in plenty of its Landmark Judgments.

6. That the application moved by the Applicant / Defendant No.3 is competent enough and is well within time.

It is therefore most humbly prayed that on acceptance of the instant application, the ex-parte proceedings dated: 04-06-2024 against the Applicant / Defendant No. 3 may kindly be set-aside and an opportunity be provided to the Applicants / Defendants to contest their case upon merits.

Dated: 26-6-2024

26/06/24

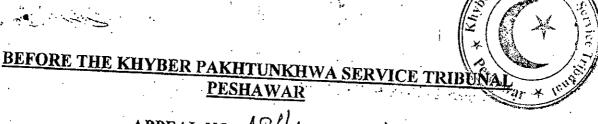
Applicant/ Defendant No. 3
District Accounts Officer, Bajaur

Zakiullah

# Affidavit:

I, Zakiullah D.A.O Bajaur, do hereby solemnly affirm & declare on oath that the contents of the instant application are true and correct and nothing has been concealed or mis-stated.

DEPONENT



APPEAL NO. 18/4 /2022

Mst; Bushra Perviz, LHV (BPS-12), BHU Kotki, Lar Sadin, Bajaur.

APPELLANT

#### VERSUS

- 1- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer, District Bajaur.
- 3- The District Account Officer, District Bajaur.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974, FOR THE RELEASE OF SALARIES W.E.F. JUNE, 2022 TILL DATE AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

### PRAYER:

That on acceptance of this appeal the respondent Department may very kindly be directed to release the monthly salaries of the appellant w.e.f. June, 2022 till date with all other consequential benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

## R/SHEWETH: ON FACTS:

# Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was appointed as Leady Health Visitor (BPS-9 now BPS-12) in the respondent department vide order dated 28.05.2015. That after appointment against the aforementioned post the appellant took over the charge and started performing her duty at the concerned station quite efficiently and upto the entire satisfaction of her superiors. Copies of the appointment order, medical certificate, arrival report & diploma are attached as annexure.

  A, B, C & D.
- 2- That from the date of initial appointment the appellant is performing her duty at the concerned station with devotion and with all zeal and zest and as such during the entire period of service there is no complaint whatsoever been received to the high ups against the appellant.

3- That during service the service book of the appellant was also prepared by the respondent Department and the appellant regularly performing her duty

ATTESTED BY

Service Tribunat

Mried-A

SA 1814/2022

Bushva Pervez & Gart

08.05.2024

01. Counsel for the appellant present. Mr. Umair Azam, Addl. AG for the respondents present.

SCANNED KPST Poshawar O2. Learned counsel for the appellant is directed to produce on the next date source form showing stoppage of salary of the appellant along with regularization order. To

come up for record and arguments on 04.06.2024 before the

B at camp court, Swat. PP given to the parties.

(Farceha Paul) Member(E) Camp Court, Swat.

\*Fazle Subhan, P.S\*

 $P_{CSMNN}$ 

(Rashida Bano) Member(E) Camp Court Swat

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04th June, 2024

Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Zakiullah, Assistant Account Officer on behalf of respondent No. 3 present and stated at the bar that reply/comments on behalf of respondent No. 3 had already been submitted and produced copy of its today but on perusal of record reveal that the same is not available, he requested for some time to make application for setting aside ex-parte proceeding initiated against respondent No. 3 as well as submission of reply/comments. Granted with direction to submit the same within a week positively without any delay. Adjourned. To come up for arguments on 26.06.2024 before D.B at the Principal seat Peshawar. P.P given to the parties.

(Muhammad Akbar Khan)

Member (E)

(Rashida Bano Member (J)

Camp Court Swat

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