

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO.177/2024

Ali Raza

V/S


Health Department

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RESPONDENT NO.9

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell No.03339390916

& 
(SHAKIR ULLAH TORANI)
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO.177/2024

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14410

Dated 22-07-24

Ali Raza S/O Aurangzeb,
Naib Qasidi In DG Health Services KP, Peshawar.

(APPELLANT)

VERSUS

1. The Govt. Of KP through its Chief Secretary KP, Peshawar.
2. The Secretary, Health department, Government of KP, Peshawar.
3. The Director General, (Health Services) KP Peshawar.
4. The Additional Director General (Admin) Directorate General Health Services KP, Peshawar.
5. The Director Health Services Merged Areas KP, Peshawar.
6. The accountant General KP, Peshawar.
7. The Medical Superintendent DHQ Hospital Mohmand.

(RESPONDENTS)

REPLY ON BEHALF OF RESPONDENT NO. 09

RESPECTFULLY SHEWETH:-

Preliminary Objections:

1. This appeal is not maintainable as the appellant did not file the departmental as per Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.
1. The instant service appeal is not maintainable to the extent of impugning the promotion order dated 30.10.2023 as he not filed departmental appeal against the promotion order dated 30.10.2023.
2. The appeal of the appellant is badly time barred.

FACTS:-

3. Pertain to record.
4. Subject to proof.
5. It is correct that respondent No.9 was appointed in the project and his project was regularized, but his service was not regularized due

to which he along with the his other Colleagues filed writ petition No.1378-P/2018 in the Honorable Peshawar High Court with the prayer to regularize them from the date of initial appointment which was allowed by the Honorable Court on 19.12.2018 and in the pursuance of the judgment of the Honorable Court, the competent authority i.e Secretary Health regularize the service of the respondent No.9 from the date of his appointment vide order dated 09.08.2019. (Copies of writ petition No.1378-P/2018, CM No. 797-P/2018, judgment dated 19.12.2018 and order dated 09.08.2019 are attached as Annexure-A,B,C,D&E)

6. As explained in the para-3 above.
7. Incorrect. The respondent department did not commits any irregularity and illegality as respondent No.9 along with the other filed writ petition No.1378-P/2018 in the Honorable Peshawar High Court Peshawar with the prayer to regularize them from the date of initial appointment which was allowed by the Honorable Court 19.12.2018 and in the pursuance of the judgment of the Honorable Court, the competent authority i.e Secretary Health regularize the service of the respondent No.9 from the date of his appointment i.e 27.03.2012 vide order dated 09.08.2019.
8. Pertain to record, however, the seniority list dated 25.04.2023 in which the respondent No.9 was placed on the top of the seniority list was never challenged by the appellant and gain finality.
9. Pertain to record.
10. Pertain to record.
11. Pertain to record.
12. Pertain to record.
13. Pertain to record.
14. The respondent No.9 was regularized from the date of his appointment i.e 27.03.2012 vide order dated 09.08.2019 by the competent authority in the pursuance of the judgment of the Peshawar High Court Peshawar and on that regularization order, seniority was assigned to the appellant in the final seniority list of Class-IV as seniority is always from the date of regular appointment.
15. Incorrect as explained in para 14 above.
16. Pertain to record.
17. Pertain to record.

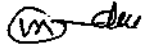
18. Incorrect. The respondent No.9 was regularized from the date of his appointment i.e 27.03.2012 vide order dated 07.08.2019 by the competent authority in the pursuance of the judgment of the Peshawar High Court Peshawar and on that regularization order, seniority was assigned to the appellant in the final seniority list of Class-IV as seniority is always from the date of regular appointment.
19. Pertain to record.
20. The departmental appeal of the appellant is not maintainable under Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and also time barred.
21. The appellant did not file departmental appeal against the promotion order dated 30.10.2023 and the instant service appeal is not maintainable to the extent of impugning the promotion order dated 30.10.2023.
22. The appellant has no cause of action to file the instant appeal which is liable to be dismissed.

GROUND:-


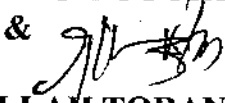
- A. Incorrect. The respondent department has acted in accordance with the law and rules and the impugned seniority as well as promotion order dated 30.10.2023 are liable to be maintain.
- B. Incorrect as explained in para A above.
- C. Incorrect. The respondent department has issued the impugned seniority list and promotion order according to the law and rules, therefore there is no need of departmental inquiry.
- D. Incorrect. The respondent No.9 was regularized from the date of his appointment i.e 27.03.2012 vide order dated 07.08.2019 by the competent authority in the pursuance of the judgment of the Peshawar High Court Peshawar and on that regularization order, seniority was assigned to the appellant in the final seniority list of Class-IV and was at the top of the seniority list.
- E. Incorrect. The respondent No.9 has assigned seniority according to his regularization order dated 07.08.2019 and both the appellant as well as private respondents were treated in accordance with law and rules and no one has deprived from his legal as well as constitutional right.
- F. Incorrect. Impugned final seniority list was prepared in accordance with law and rules.

- G. Incorrect. There is no need of inquiry on the issue of the appellant as the impugned seniority list was prepared in accordance with law and rules.
- H. Incorrect. The service of respondent No.9 was regularized from the date of his appointment i.e 27.03.2012 vide order dated 07.08.2019 by the competent authority i.e Secretary Health in the pursuance of the judgment of the Honorable Court dated 19.12.2028 and on the basis that regularization seniority was assigned to the appellant.
- I. Incorrect as explained in para H above.
- J. Incorrect. The service of respondent No.9 was regularized from the date of his appointment i.e 27.03.2012 vide order dated 07.08.2019 by the competent authority i.e Secretary Health in the pursuance of the judgment of the Honorable Court dated 19.12.2028 and on the basis that regularization seniority was assigned to the appellant and on that seniority list the appellant was promoted to the post of junior clerk being top on the seniority list.
- K. Incorrect as explained in above paras.
- L. Incorrect as explained in above paras.
- M. Incorrect as explained in above paras.
- N. Incorrect as explained in above paras.
- O. Incorrect as explained in above paras.
- P. Incorrect as explained in above paras.

It is, therefore, most humbly prayed that the service appeal of the appellant being not maintainable, devoid of merit and also suffers from limitation may be dismissed with cost throughout.


RESPONDENT NO. 9
Muhammad Adil

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
& 
SHAKIR ULLAH TORANI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO.177/2024

Ali Raza

V/S

Health Department

AFFIDAVIT

I, Muhammad Adil Junior Clerk Officer of the Director Health Services Merged Areas KPK, Peshawar, (Respondent No.9) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

M Adil

DEPONENT



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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. _____/2018

1. Mr. Nacem Ullah (Office Assistant)
Directorate of Health Services FATA. April 2007
2. Mr. Muhammad Niaz, (Senior Planning Officer),
Directorate of Health Services FATA. April 2010
3. Mr. Mustaqim Khan, (Planning Officer).
Directorate of Health Services FATA. April 2010
4. Mr. Ahsan Sajid (Monitoring &
Communication Support Officer).
Directorate of Health Services FATA. April 2010
5. Mr. Om Parkash, (Office Assistant).
Directorate of Health Services FATA. August 2009
6. Mr. Jawad (Office Assistant).
Directorate of Health Services FATA. June 2016
7. Mr. Naseer Khan (Computer Operator).
Directorate of Health Services FATA. April 2011
8. Mr. Muhammad Ibrahim (Driver).
Directorate of Health Services FATA. Nov 2006
9. Mr. Muhammad Adil, (Naib Qasid).
Directorate of Health Services FATA. March 2012
10. Mr. Akhlaq Ahmad (Class-IV).
Directorate of Health Services FATA. March 2005
11. Mr. Waqas Batti, (Sweeper).
Directorate of Health Services FATA. July 2011

PETITIONERS

VERSUS

1. The Additional Chief Secretary (FATA) FATA Secretariat Warsak Road,
Peshawar.
2. The Secretary to the Government of Pakistan, SAFRON Division
Pakistan Secretariat, Islamabad.



- 07
3. The Secretary, Social Sectors Department, (FATA), FATA Secretariat Warsak Road, Peshawar.
 4. The Director General Health Service, (FATA), FATA Secretariat Warsak Road Peshawar.
 5. The Secretary Finance, (FATA), FATA Secretariat Warsak Road, Peshawar.
 6. The Secretary Health KPK, Civil Secretariat, Peshawar.
 7. The Director General Health Services, KPK, Near Judicial Complex Peshawar.

RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISMLAIC REPUBLIC OF
PAKISTAN UPTO DATE.

RESPECTFULLY SHEWETH:

Brief facts giving rise to present petition are as under:-

1. That the petitioners are law abiding citizens of Pakistan and have every legal and constitution right duly protected under the law of the land.
2. That keeping in view the dire need of strengthening of Health facilities in the FATA area, the Federal Government started a project with the name of "STRENGTHENING OF HEALTH DIRECTORATE FATA" in which different posts were created.
3. The petitioners were appointed in the above mentioned project against various posts on dates mentioned against the name of each petitioner in the heading of Writ Petition. (Copy of Appointment Orders is attached as Annexure-A).
4. The petitioners performed their duties honestly and played vital role in establishing the said project. It is also worth to mention here that there is no complaint against the petitioners regarding their performance.



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5. That the petitioners are still working on their posts in the project and the concerned office has moved a SNE wherein, they intended to create some posts in which the posts of the petitioners were also included and the petitioners are under legitimate expectancy that their services will be regularized on that posts. The petitioners also filed application and time and again approached the respondents for issuing their regularization orders but in vain. (Copy of SNE and application are attached as Annexure-B&C)
 6. Thus, the petitioners having no other alternate remedy and are constrained to approach this Honorable Court in its Constitutional jurisdiction on the following grounds amongst the others.

GROUNDS:

- A) That the inaction of the respondents to regularize the petitioners on their posts is illegal, unlawful, without lawful authority, against the spirit of Constitution and guaranteed fundamental rights and against the norms of justice and principle of fair play. Therefore not tenable.
- B) That the posts of the petitioners are converted to regular side by approving the SNE and it is the legal rights of the petitioners to regularize on those posts.
- C) That it is clearly mentioned in the terms and conditions of the appointment order of the one of the petitioners (namely Naeem Ullah) that "His appointment is convertible to regular side subject to the scheme regularity" and now the project is converted to regular side but despite that the service of the petitioners are not regularized which is clear violation of the terms and conditions of the appointment order of the petitioner.
- D) That the petitioners have been working since long in the project, which now converted to regular side and not regularizing the petitioners on their posts is a form of worst exploitation and such exploitation is against the spirit of Article-3 of the constitution wherein, it is given. The state shall ensure the elimination of all forms of exploitation; therefore the petitioners are entitled for regularization because being highly qualified and experienced.
- E) That similar Writ petition 926-P/2015 was decided on 07.12.2016 by this Honorable Court in the favour of the petitioners and the petitioners are expected the same relief from this august Court. (Copy of judgment dated 07.12.2016 is attached as annexure-D)

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
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- F) That this august Court in a number of writ petitions regularized the services on the basis of discrimination and consistency and those judgments have also been upheld by the Supreme Court reported as 2016-SCMR-1375 and 2016-SCMR-1443. Therefore the petitioners also deserve the same treatment under the principles of equality.
- G) That the posts of the petitioners are converted to regular side and not regularizing the petitioners on their posts shows the arbitrary behavior of the respondents.
- H) That the treatment met to the petitioners of against the dictums of the apex Supreme Court of Pakistan and also against the Judgment of this Honorable Court.
- I) That inaction on the part of respondents in regularization of petitioners is against the spirit of Article 2A, 3, 4, 27 & 38 of Constitution of Pakistan.
- J) That the petitioners seek permission to advance other grounds and proofs at the time hearing.

It is, therefore, most humbly prayed that on acceptance of this writ petition the inaction of the respondent to regularization of the petitioners despite the posts of the petitioners are converted to regular side may be declared as illegal, unlawful without lawful authority and against the spirit of Constitution and guaranteed fundamental rights. The respondents may further please be directed to regularize the services of the petitioners by extending the benefits of conversions to regular side w.e from approval of SNE with all back and consequential benefits. Any other remedy deems appropriate by this court may also awarded in favor of petitioner.

INTERIM RELIEF.

The august Court is requested to direct the respondents not to terminate the petitioners from service or restrain from passing any adverse order against the petitioners detrimental to their service rights till the decision of main Writ Petition.


 PETITIONERS
 Naeem Ullah etc.
 THROUGH:

 (TAIMUR ALI KHAN)
 ADVOCATE HIGH COURT


ATTESTED

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

CM No. 787P /2018
In Writ Petition No. 1378-P/2018

Muhammad Ullah etc

VS

ACS FATA & others.

APPLICATION TO SEEK PERMISSION OF THIS
HONOURABLE COURT TO AMEND THE PRAYER IN
WRIT PETITION NO.1378-P/2018

RESPECTFULLY SHEWETH:

1. That the petitioners are the employees of "Strengthening of Health Directorate FATA" and has filed the instant writ petition for direction to the respondents to regularize the services of the petitioners by extending the benefits of conversion to regular side w.e from approval of SNE with all back and consequential benefits, which is fixed for arguments on 29.05.2018.
2. The similar Writ Petition No. 926-P/2015 was filed by other 6 officials of the same project with the prayer to direct the respondents to regularize the services of the writ petitioners w.e. from the date of appointment, which was allowed on 06.12.2016 and in-compliance of this Honorable Court decision dated 06.12.2016 in writ petition NO.926-P/2015, the 6 officials (petitioners in writ petition No.926-P/2015) were regularized w.e. from their first appointment vide order dated 10.04.2018. (Copy of order dated 10.04.2018 is attached as Annexure-A)
3. That the petitioners in the instant writ petition have prayed their regularization from the conversion of project to regular side w.e. from approval of SNE, while the other 6 officials (petitioners in the writ petition No.926-P/2015) were regularized by the respondent department from their date of appointment on the basis of judgment dated 06.12.2016, therefore the petitioners also want to their regularization from their first appointment and want to amend their prayer.

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Prayer

It is, therefore, most humbly prayed that on acceptance of this application, the prayer may be amended in the instant writ petition by directing the respondents to regularize the services of the petitioners w.e.from their date of appointment. Any other remedy which this august Court deems fit and appropriate that may also be awarded in favour of the petitioners.

N. S. Khan
PETITIONER

THROUGH:

Taimur Ali Khan
TAIMUR ALI KHAN
ADVOCATE HIGH COURT

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30 APR 2018



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PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge
<u>16/05/2018.</u>	<p><u>CM No. 797-P/2018 in WP No. 1378-P/2018</u></p> <p><u>Present:</u> Mr. Taimur Ali Khan, Advocate, for the applicants.</p> <p>-----</p> <p><u>WAQAR AHMAD SETHI, J.</u> This C.M. has been moved for amending the prayer in the Writ Petition by directing the respondents to regularize the services of petitioners w.e.f. their date of appointment, which is allowed.</p> <p>Syed Qaiser Ali Shah, AAG, present in Court, is directed to file fresh/amended comments to the Writ Petition before the next date as the main Writ Petition is already fixed for 29.05.2018.</p> <p style="text-align: right;"> Senior Puisne Judge</p> <p style="text-align: right;"> Judge</p>

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ-Petition No. _____ /2016

1. Mr. Naeem Ullah (Office Assistant)
Directorate of Health Services FATA. April 2007
2. Mr. Muhammad Niaz, (Senior Planning Officer)
Directorate of Health Services FATA. April 2010
3. Mr. Mustaqim Khan, (Planning Officer).
Directorate of Health Services FATA. April 2010
4. Mr. Ahsan Salim (Monitoring &
Communication Support Officer).
Directorate of Health Services FATA. April 2010
5. Mr. Om Parkash, (Office Assistant).
Directorate of Health Services FATA. August 2009
6. Mr. Jawad (Office Assistant).
Directorate of Health Services FATA. June 2016
7. Mr. Naseer Khan (Computer Operator).
Directorate of Health Services FATA. April 2011
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Directorate of Health Services FATA. May 2006
9. Mr. Muhammad Adil, (Naib Qasid).
Directorate of Health Services FATA. March 2012
10. Mr. Adhfaq Ahmad (Class-IV).
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11. Mr. Waqas Bhatti, (Sweeper).
Directorate of Health Services FATA. July 2011

PETITIONERS

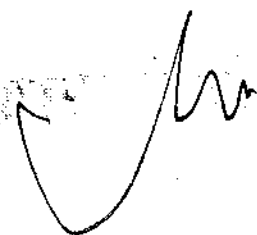
VERSUS

1. The Additional Chief Secretary (FATA) FATA Secretariat Warsak Road,
Peshawar.
2. The Secretary to the Government of Pakistan, SAFRON Division,
Pakistan Secretariat, Islamabad.

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CLERK
Peshawar High Court

27 DEC 2016



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PESHAWAR HIGH COURT, PESHAWAR

JUDICIAL DEPARTMENT

JUDGMENT SHEET

JUDGMENT

Writ Petition No.1378-P/2018



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Date of hearing:19.12.2018.....

Petitioner(s).... (Naeem Ullah and 10 others) by Mr. Taimoor Ali Khan, Advocate.

Respondent(s).... (The Additional Chief Secretary, FATA Secretariat, Warsak Road, Peshawar and 06 others) By Mr. Kamran Hayat Khan, AAG, for the official respondents and Arbab Saif Ul Kamal, AAG, for the Federation.

ABDUL SHAKOOR, J:- Through this single judgment, we intend to dispose of this petition alongwith connected Writ Petitions bearing No.2355-P/2018, titled "Muhammad Sajid Vs. The Federation of Pakistan and others" and No.2427-P/2018 titled, "Inam Ullah Vs. Government of Khyber Pakhtunkhwa and others" as all these petitions are having the same questions of law and facts.

2. In essence, all the petitioners of aforesaid petitions have prayed for regularization of their services.

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EXAMINER
Peshawar High Court

27 DEC 2018

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3. Facts leading to this petition are that the petitioners Naeem Ullah and others were appointed on different posts in the project of "Strengthening of Health Directorate FATA" and are still working therein. Later on, respondents have moved SNE for the creation of regular posts in which the petitioners' posts were also included but they have not regularized on the posts. In this regard, the petitioners have filed applications to the respondents but of no avail. Feeling aggrieved, filed the instant petition.

Writ Petition No.2355-P/2018

4. Petitioner namely Muhammad Sajid, was appointed as Store Keeper in Eye Care Service Program FATA on 14.05.2007 and was adjusted against the post of Computer Operator in ADP Scheme namely "Strengthening of Health Directorate FATA" vide order 30.01.2010. Later on, the respondents have moved SNE for the creation of regular posts in which the petitioner post was also included but he was not regularized on his post. In this regard,

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EXAMINER
Peshawar High Court
27 DEC 2018

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the petitioner has filed application to the respondents but of no avail. Feeling aggrieved, filed the instant petition.

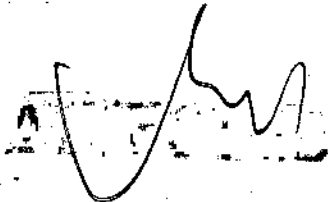
Writ Petition No.2427-P/2018

5. Petitioner namely Inam Ullah, was appointed on contract basis as Class-IV employee in the respondent-Department under the scheme of "Strengthening of Health" in the year 2009 and is working till filing of the instant petition. He further stated that his present post has already been brought on regular side by the respondent-Department vide letter No.SO.F-II/FA/SNE/Vol-II/251 dated 07.02.2016 but despite that he was not adjusted/regularized as such. In this regard, he made a written request to the respondent-Department but of no avail, hence, the present petition.

6. Comments have been called for from the respondents in all these cases which they furnished accordingly, wherein, they asserted that petitioners were appointed under the ADP schemes and as such, they are not entitled for regularization.

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EXAMINER
Peshawar High Court
27 DEC 2018



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7. At the very outset of the hearing, learned counsel appearing on behalf of petitioners submitted that this Court, in the case of similarly placed employees of the same project, wherein petitioners are employed, has already allowed their petition bearing No.926-P/2015 vide its judgment dated 07.12.2016. Wherein, it was held that petitioners of that writ petition shall be deemed to be in the service of project till its life or in case during this time if the project is converted into regular budget, all the petitioners would be deemed to be regular employees of Health Services FATA. The petitioners of the aforesaid petition bearing No.926-P/2015, after the conversion of the project on regular side of budget in which the present petitioners are employed, have been regularized. Thus, under the principle of equality that in similar circumstances alike is to be treated alike, petitioners deserve to be regularized like the petitioners of the aforesaid petition.

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EXAMINER
Peshawar High Court

27 DEC 2018

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8. Learned AAG appearing on behalf of the Provincial Government and learned DAG appearing on behalf of Federal Government could not controvert the aforesaid submissions of learned counsel of the petitioners rather frankly conceded the same as correct. In such situation, they were further asked as to whether there is any distinction/difference between the case of those employees whose services have been regularized and the case of present petitioners for the purpose of equal treatment, they could not draw any distinction between the case of present petitioners and of those employees in whose favor the aforesaid order was passed by this Court and subsequently, on the conversion of project on regular side of budget, their services were regularized, rather willy-nilly they did not deny the same. In such situation, this Court do not find any good reason to disagree with the earlier view of this Court which has been expressed in the aforesaid judgment, and as a

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EXAMINER
Peshawar High Court.
27 DEC 2018

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consequence whereof, the petitioners of that petition whose case is similar to the present petitioners, have been regularized.

9. The Apex Court in its celebrated judgment rendered in I.A. Sherwani case (1991 SCMR Page 1041), has already declared that in view of the provision of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, similarly placed persons are to be treated alike in similar situation. The relevant paragraph of aforesaid judgment relating to the scope of Article 25 of the Constitution of Pakistan is reproduced hereunder:

"Clause (1) of Article 25 of the Constitution of Pakistan (1973) enshrines the basic concept of religion of Islam. However, this is now known as the golden principle of modern Jurisprudence, which enjoins that all citizens are equal before law and are entitled to equal protection of law.

However, the above clause does not prohibit treatment of citizens by a State on the basis of a reasonable classification.

Following are the principles with regard to equal protection of law and reasonableness of classification:

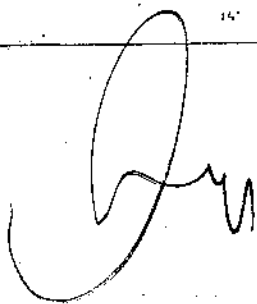
(i) that equal protection of law does not envisage that every citizens is to be treated alike in all circumstances, but it

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EXAMINER
Peshawar High Court

27 DEC 2018

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contemplates that persons similarly situated or similarly placed are to be treated alike;

(ii) that reasonable classification is permissible but it must be founded on reasonable distinction or reasonable basis;

(iii) that different laws can validly be enacted for different sexes, persons in different age groups, persons having different financial standings, and persons accused of heinous crimes;

(iv) that no standard of universal application to test reasonableness of a classification can be laid down as what may be reasonable classification in a particular set of circumstances may be unreasonable in the other set of circumstances;

(v) that a law applying to one person or one class of persons may be constitutionally valid if there is sufficient basis or reason for it, but a classification which is arbitrary and is not founded on any rational basis is no classification as to warrant its exclusion from the mischief of Article 26;

(vi) that equal protection of law means that all persons equally placed be treated alike both in privileges conferred and liabilities imposed;

(vii) that in order to make a classification reasonable, it should be based:

a. on an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out;

b. that the differentia must have rational nexus to the object sought to be achieved by such classification.

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ATTESTED

EXAMINER
Peshawar High Court

27 DEC 2018

ATTESTED

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Principle as to classification, are as under:

(a) A law may be constitutional even though it relates to a single individual if, on account of some special circumstances, or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself.

(b) there is always a presumption in favor of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles. The person, therefore, who pleads that Article 25, has been violated, must make out that not only has he been treated differently from others but he has been so treated from person similarly circumstanced without any reasonable basis and such differential treatment has been unjustifiably made. However, it is extremely hazardous to decide the question of the constitutional validity of a provision on the basis of the supposed existence of facts by raising a presumption. Presumptions are resorted to when the matter does not admit of direct proof or when there is some practical difficulty to produce evidence to prove a particular fact;

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(c) It must be presumed that the Legislature understands and correctly appreciate the needs of its own people, that its laws are directed to problems made manifest by experience, and that its discriminations are based on adequate grounds;

(d) The Legislature is free to recognize the degrees of harm and may confine its restriction to

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EXAMINER
Peshwar High Court.
27 DEC. 2015

ATTESTED

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those cases where the need is deemed to be the clearest;

(e) In order to sustain the presumption of constitutionality, the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation;

(f) while good faith and knowledge of the existing conditions on the part of the Legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the Court on which the classification may reasonably be regarded as based, the presumption of the constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation;

(g) A classification need not be scientifically perfect or logically complete;

(h) the validity of a rule has to be judged by assessing its overall effect and not by picking up exceptional cases. What the Court has to see is whether the classification made is a just one taking all aspects into consideration.

BEK

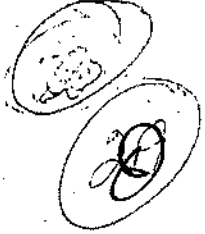
10. In the light of foregoing observation, this Court, by following the ratio of the apex Court in the aforesaid case and of earlier judgment of this Court dated

ATTESTED
EXAMINER
Peshawar High Court
27 DEC 2018

ATTESTED
[Signature]

23

07.12.2016 passed in Writ Petition No.826-P/2016, allow the instant petition alongwith the connected petitions bearing No.2355-P/2018 and No.2427-P/2018. Consequently, petitioners of this petition and of the connected petitions would be deemed to be regular employees of the Health Services FATA.



Announced
Dt:19.12.2018
Muzaffarabad Bench

[Signature]
CHIEF JUSTICE

JUDGE

SA.
(DB)
Hon'ble Mr. Justice Waqar Ahmad Seth, C.J.
Hon'ble Mr. Justice Abdul Shakoor

No. 20263
Date of Presentation of App. 24/12/18
No of Pages 1
Copying Fee _____
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EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 97 of
The Quran-Shariat Order 1964
27 DEC 2018

[Signature]



DIRECTORATE OF HEALTH SERVICES MERGED AREAS

MERGED AREAS SECRETARIAT, WARSAK ROAD, PESHAWAR

091-9210212 Tel 091-9212110 Fax

OFFICE ORDER:-

In pursuance to the judgement of Peshawar High Court, Peshawar in Writ Petition No. 1378-P/2018- Naeem Ullah and others Vs Secretary Health Khyber Pakhtunkhwa Dated 19-12-2018 along with the connected petition No.2427-P/2018, the competent authority (Secretary Health, Khyber Pakhtunkhwa) is pleased to regularize the services of the following staff appointed on contract/fixed pay basis under the scheme "Strengthening of Health Directorate FATA" from the date of their appointments by extending the status of civil servants:-

S#	Name	F/Name	Designation	BPS	D.O.A
1	Mr. Muhammad Ibraheem	Adam Khan	Driver	06	24-11-2006
2	Mr. Mohammad Adil	Noor Said	Naib Qasid	03	27-03-2012
3	Mr. Akhlaq Ahmad	Bakhtiar Ahmad	Naib Qasid	03	19-03-2005
4	Mr. Inam Ullah	Rehmat Sher	Naib Qasid	03	29-10-2009
5	Mr. Waqas Batti	Rashid	Sweeper	03	01-07-2011

Sd/---


SECRETARY HEALTH
Govt. of Khyber Pakhtunkhwa

No. 13323-32 /DHS/Merged Areas/Admn

Dated: 09/03/2019

Copy forwarded to:-

1. Secretary to the Government of Khyber Pakhtunkhwa Health Department.
2. Secretary to the Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to the Government of Khyber Pakhtunkhwa P&D Department.
4. Secretary Finance Merged Areas, Peshawar.
5. Director General Health Services, Khyber Pakhtunkhwa.
6. Accountant General Sub Office Peshawar.
7. AGPR, Sub Office Peshawar.
8. Registrar, Peshawar High Court, Peshawar.
9. Deputy Director (Admn) DHS Merged Areas.
10. Deputy Director (Dev) DHS Merged Areas.
11. Section Officer (General) Health Department, Khyber Pakhtunkhwa.
12. Section Officer (Lit-I), Health Department, Khyber Pakhtunkhwa.
13. Accountant DHS Merged Areas.
14. Record Keeper.
15. Officials concerned.


Director Health Services
Merged Areas, Peshawar

ATTACHED