

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 2293/2023**

Dr. Zeeshah Khan

Appellant

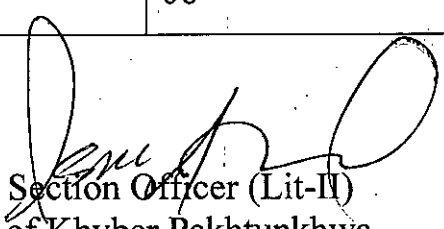
VERSUS

Govt. of Khyber Pakhtunkhwa Health Department & Others

Respondents

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Section Officer (Lit-II)  
Govt. of Khyber Pakhtunkhwa  
Health Department.

B.G.-24

swat

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 2293/2023**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12826

Dated 16-05-24

Dr. Zeeshan Khan DMS Category-D Hospital Madyan, District Swat .... **Appellant**

**Versus**

Govt. of Khyber Pakhtunkhwa through Secretary Health & others ..... **Respondents**

**PARAWISE REPLY ON BEHALF OF RESPONDENTS NO. 1 TO 4**

**Respectfully Sheweth:**

**Preliminary Objections:-**

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 Honorable Tribunal with clean hands.

**FACTS:-**

- i. Pertains to record. However "Annexure A" of the service appeal is not the appointment order of the appellant rather it is an order of women medical officer Dr. Salma Bibi who was appointed on Adhoc basis.
- ii. Pertains to record.
- iii. Pertains to record.
- iv. Correct to the extent that the appellant was promoted to BPS-18 and the recovery was made from his annual increments which has been drawn by the appellant in violation of law and rules as the Adhoc appointee is not entitled for increment or seniority for the period of his / her Adhoc appointment as per Notification No. SOIV(S&GAD)16-14(Policy), dated 20<sup>th</sup> October 1996.  
(Coy of the ESTA CODE page No. 135-136 as ANNEXURE-A)

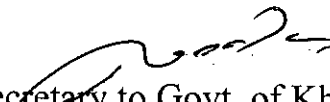
- v. Pertains to record.
- vi. Incorrect. No vested right of the appellant has been violated by the replying respondents hence; the appellant is not an aggrieved person. However, reply on the grounds is as under:

**GROUND:-**

- a. Incorrect. The appellant has been treated in accordance with law, rules and principles of natural justice hence denied.
- b. Incorrect. The appellant was not entitled for the increment however, he received the same therefore, the replying respondents are justified to recover the same as it is a settled principle of law that "one or more wrong cannot create a single right"
- c. Correct as already explained in para "b" above.
- d. Incorrect. Already replied in the preceding paras.

**Prayer:**

It is therefore most humbly prayed that the appeal of the appellant may very graciously be dismissed with heavy cost.


  
Secretary to Govt. of Khyber  
Pakhtunkhwa Health Department  
(Respondent No. 01)

(MEHMOOB ASLAM)

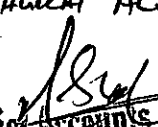
  
District health officer  
at Gulkada District Swat

(Respondent No. 03)  
District Health Officer  
Swat Distt. at Gulkada.

(DR SALEEM)

  
Director General Health Services  
Khyber Pakhtunkhwa  
(Respondent No. 02)

(SHUKAT ALI)

  
~~District Accounts Officer,~~  
SWAT.  
District Account officer  
at Saidu Sharif District

Swat  
(Respondent No. 04)

## 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 fulfill 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.

  
Section Officer (Lit-II)  
Health Department  
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-

*[Signature]*  
 Section Officer (Adm-IT)  
 Health Department  
 Khyber Pakhtunkhwa

(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

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Dr. Zeeshan

.....Appellant

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Govt. of Khyber Pakhtunkhwa Health Deptt: & Others

.....Respondents

**AFFIDAVIT**

I **Mehmood Aslam** Secretary to Govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm on oath that the contents of the joint parawise comments are true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Tribunal. *Furthermore the respondents ex-parte order was set aside on 8/5/2024 and the also that not any cost is imposed on them*

*[Signature]*  
Secretary Health,  
Govt. of Khyber pakhtunkhwa  
Peshawar.





**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

**AUTHORITY LETTER**

**Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.**

**(MAHMOOD ASLAM)**

Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department  
Secretary to Govt. of  
Khyber Pakhtunkhwa  
Health Department

*Attested*  
*[Signature]*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa