

To

The Worthy Deputy Registrar (Judicial),  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar,

Diary No. 12681

Dated 10-05-2024

Subject: APPLICATION FOR RECALLING OF THE ORDER DATED:  
21/03/2024 PASSED BY YOUR WORTHY OFFICE, UNDER WHICH  
THE MONTHLY SALARIES OF THE APPLICANT, ORDERED TO DE-  
ATTACH.

Respected Sir;

*The applicant most humbly submitted as under;*

1. That the Case Appeal No.5611/2021 titled "Dr. Tamanna Gul\*\*\*Vs\*\*\*Govt. of Khyber Pakhtunkhwa and others" is pending before Service Tribunal Peshawar, Khyber Pakhtunkhwa, in which the status of the applicant is marked as respondent No.3.
2. That since Honorable Service Tribunal, Peshawar passed No.1 , which became when late due to certain reasons, your worthy office passed the subject order dated: 21/03/2024 for attachment of the salaries of the applicant and such order is correspondence through Implementation Branch of your worthy office, and eventually the monthly salaries of the applicant attached.
3. That the correctments has actually been filed on Behalf of the applicant being respondent No.3, therefore, This application for recalling of the above subject order Please.
4. That the delay so accrued for filing of the comments was neither intentional nor deliberate but due to final subscribed of the comments, hence required to be condoned accordingly please.

*It is, therefore, most humbly requested that the Subject order may very graciously please be recalled being Ineffective, so order in this respect may also please be passed to convenient the draw of the monthly salaries of applicant / respondent No.3.*

Dated: 10/05/2024

  
Applicant / Respondent No. 3

Dr. Muhammad Shoaib  
DHO, Nowshera  
Cell No: 0348-5712208

16-05-24  
D. B  
Pesh

24.04.2024

Tammanna Gul

1. Husband of the appellant alongwith learned counsel present. Mr. Muhammad Jan, District Attorney Safi Ullah, Focal Person for the respondents present.

2. Representative of respondent submitted a copy of seniority list, working paper and notification dated 04.03.2022 which is placed on file. A copy of the same is handed over to learned counsel for the appellant. Adjourned. To come up for record and arguments on 25.04.2024 before D.B. P.P given to parties.

(Fareeha Paul)  
Member (E)

(Rashida Bano)  
Member (J)

Kaleemullah

25.04.2024

1. Husband of the appellant alongwith learned counsel present. Mr. Muhammad Jan, District Attorney Safi Ullah, Focal Person for the respondents present.

2. Arguments at certain length heard but during course of ~~arguments respondents were directed to produce personal file of the~~ appellant who produced the same. Perusal of which reveals that appellant was reappointed in the year 2007 after qualifying PSC exam of BPS-17. As it is new development, therefore, it will be in the interest of justice let it be put to learned counsel for the appellant to answer it. Representative of respondents is directed to submit copy of personal file of the appellant as well as of all others who were appointed in 2007 including seniority list and promotion order. Adjourned. To come up for arguments on 16.05.2024 before D.B. P.P given to parties.

(Fareeha Paul)  
Member (E)

(Rashida Bano)  
Member (J)

Kaleemullah

21.03.2024

Appellant present in person. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Dr. Muhammad Sohail, Director (Litigation) and Safiullah, Focal Person for the respondents present.

Respondents have not submitted the record as per previous order sheet. On the request of representative of the respondents another opportunity is granted to them to produce the same before the next date. The order of attachment of salaries of respondents No. 2 & 3 shall remain intact till further order. The Accountant General Khyber Pakhtunkhwa Peshawar and the District Accounts Officer Nowshera shall produce source of attachment of salaries of respondents No. 2 & 3. To come up for record and arguments on 24.04.2024 before the D.B. P.P given to the parties.

  
(Farzana Paul)  
Member(I)

  
(Rashida Bano)  
Member (J)

\*Fazle Subhan, P.S\*

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO.5611 OF 2021

Dr. Tamanna Gul.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Secretary Health and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 3

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has filed the instant appeal just to pressurize the respondents.
2. That the instant appeal is against the prevailing Law and Rules.
3. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
4. That the appellant has filed the 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.
6. That the appeal is barred by law and limitation.
7. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. That no final order has been challenged by the appellant in the instant service appeal hence the appeal is not maintainable under section 4 of the Khyber Pakhtunkhwa Service tribunal Act 1974 and the dictum laid down by Apex court in 2006 SCMR 1630.

ON FACTS:

1. Pertains to record.
2. Pertains to record. However, it is worth mentioning that for promotion of civil servant seniority, availability of posts and PERs are the essential elements under the rules. Even otherwise, if the appellant was feeling aggrieved from any of the promotion orders issued by the department, the same was challengeable before of court of law. However, the appellant remained silent for a long time and even did not challenge a single order which is sufficient to prove that the department acted in accordance with law and rules.
3. Pertains to record.
4. Incorrect. The seniority list of doctors is regularly issued for information of all doctors every year preferably in the month of January as per rules. In order to conceal her indolence, the appellant making false statements.
5. Incorrect the appellant failed to forward her ACR/PERs in time; therefore, she was not promoted in time. The fact is very much evident from the working papers (annexure A) that even her name was included in the working paper, however, her ACRs/PERs from 2007 to 2016 were missing which is sufficient to prove that the appellant was not eligible

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District Health Officer  
Nowshera

for promotion. However, the appellant has been considered and recommended for promotion in the PSB meeting held on 02/12/2021 after completion of the deficiency and on approval of the competent authority, a notification will be issued in this respect (PSB recommendation as Annex-B).

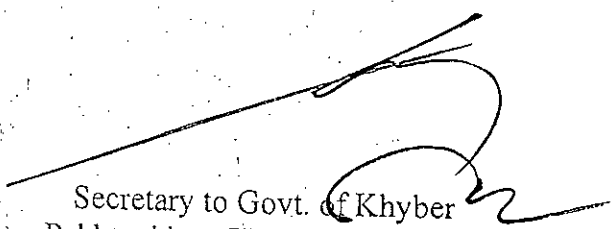
6. Incorrect. No request / application received from the appellant till date.
7. Incorrect. The appellant making lame excuse in order to cover her indolence. No such request has been made by the appellant even the appellant did not annex any such application with the appeal in support of her claim.
8. The case of the appellant has already been forwarded to the PSB and the PSB in its meeting held on 02/12/2021 recommended the appellant for promotion to BPS 18. The appellant will be promoted further on her own turn in accordance with the Khyber Pakhtunkhwa Promotion Policy 2009. It is worth mentioning that under section 7 of the Service Tribunal Act, the service tribunal may exercise its power to modify set-aside a final order, however, there is no such final order challenge in the instant appeal.

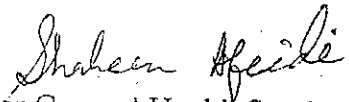

**ON GROUNDS:**

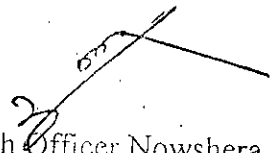
- A. Incorrect. Detail reply has been given in paras above. However, the appellant has been treated in accordance with law and rules.
- B. Incorrect, as explain in preceding paras of the facts.
- C. Incorrect, no violation of any rule has made by the replying respondents. The appellant herself failed to provide her PERs on time; hence, the appellant has been estopped by her own conduct to claim any such benefit.
- D. Pertains to record.
- E. Incorrect, as explained in paras ibid.
- F. Incorrect, the replying respondents acted as per Law / Rules, principles of natural justice.
- G. Incorrect. The appellant has not been promoted due to her own conduct by not providing ACRs, hence, she is not entitled for any antidation.

**PRAYER:**

It is, therefore, humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.

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

  
Director General Health Services  
Khyber Pakhtunkhwa  
 Respondent No. 2

  
District Health Officer Nowshera  
Respondent No. 3

**District Health Officer  
Nowshera**