

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR, CAMP COURT AT SWAT**

Service Appeal No. 1368 of 2023

Noor ul Wahab.

... Appellant

VERSUS

Govt: of KP and others.

... Respondents

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RESPONDENT No. 4


Muhammad Ibrahim

Identified By:


ASGHAR ALI

ADVOCATE SUPREME COURT

Office: 3rd Floor, Continental Plaza, Makanbagh, Mingora, District Swat.

Cell: 0345-9452817

Dated: 03-09-2024

1

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
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**Khyber Pakhtunkhwa
Service Tribunal**

Written Reply on behalf of respondent No. 4

Diary No. 15546

Dated 09-09-24

Respectfully Sheweth:

Preliminary Objections:

1. Appeal is illegal, unlawful and not maintainable.
2. That the appeal is time barred.
3. That this Hon'ble tribunal has got no jurisdiction to adjudicate upon the lis.
4. That appellant is not qualified for the post for the reason that in the SNE of 2021-22, the persons to be appointed against the Sanitary Inspector are to be Primary Health Care Technician (Multi-Purpose, MP) while appellant is Clinical Technician (CT) Pharmacy, thus not eligible to be appointed against the post of Sanitary Inspector.
5. That no publication regarding post was given in newspaper.
6. That all the alleged process of notice, interview and selection are based on just paper work in the office without fulfilling the legal formalities under the law and policy.

7. That there are about 36 hospitals in District Shangal, wherein more than 200 persons including respondent No. 4 are eligible to apply for the post, however neither informed nor any intimation regarding the said post was given to anyone of them, thus the alleged process initiated for the adjustment / appointment against the post as well as the appointment and adjustment of the appellant against the said post are based in violation of the principle of natural justice as well as violation of the constitution of the Islamic Republic of Pakistan. Moreover, only 2 hospitals i.e. of Lilownai and Karora have illegally and unlawfully selected for the selection of suitable candidate for the post.
8. That amongst the persons allegedly called for interview, Sher ul Wahab (serial No. 3) is the brother and Zia ur Rehman (serial No. 2) is the cousin of the appellant.
9. That amongst the members of the alleged DPC, one Dr. Abdul Samad is the cousin of appellant. Thus, the entire process right from the beginning till the appointment / adjustment of the appellant is based on malafide and discrimination and could not be sustained in the eye of law.
10. That all the process of promotion is baseless and only a paper work, as it is evident from their adjustment order vide No. 1946-54 dated 13-04-2022 which is only adjustment and not proper promotion order (Copy is attached).
11. That respondent No. 4 is an eligible person for the post having the qualification of F.Sc, B.A, M.A and also diploma in Primary Health Care Technician, Multi-Purpose (MP).
12. That respondent No. 4 was appointed on 27th December, 2012 and thus having the requisite seniority for the post.
13. That the DHO has no authority / jurisdiction under the law, to order appointment above BPS-12, while the post of

Sanitary Inspector is BPS-14 pertaining which the only authority is with the Director General Health.

14. That the illegality and malafide intention of the respondent No. 3 could be inferred from the fact that the process for the appointment was initiated before obtaining any sanction from the competent authority i.e. Director General and after completion of the alleged illegal process order dated 13-04-2022 was issued and thereafter vide letter dated 19-04-2022 permission was sought from Director General Health, which was replied vide letter dated 07-07-2022.

15. That after adjustment of respondent No. 4 as Sanitary Inspector vide order dated 20-01-2023, the respondent No. 3 vide letter dated 30-01-2023, sought advice from Director General regarding the adjustment of respondent No. 4 against the post of Sanitary Inspector, which was replied by Director General vide letter dated 17-02-2023, respondent No. 3 was directed to relieve appellant from the post of Sanitary Inspector, where after vide letter dated 20-02-2023, the respondent No. 4 was directed by respondent No. 3 to continue his services as Sanitary Inspector while appellant was directed to perform his duty at Civil Dispensary Lilownai against their original post of CT, Pharmacy.

Factual Objections:

1. Para No. 1 is correct to the extent of residence of appellant, rest of the facts are denied.
2. Para No. 2 is incorrect, already replied in preliminary objections.
3. Para No. 3 is incorrect, already replied.
4. Para No. 4 is incorrect, already replied.
5. Para No. 5 is incorrect, already replied.
6. Para No. 6 is incorrect, already replied.

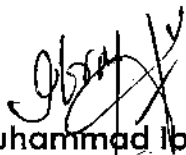
- 7. Para No. 7 is incorrect, already replied. Moreover, the appointment / adjustment / transfer of respondent No. 4 was lawful and issued by the competent authority.
- 8. Para No. 8 is incorrect, already replied.
- 9. Para No. 9 is incorrect. The departmental appeal as well as service appeals are time barred.
- 10. Para No. 10 is incorrect. Appellant has got no cause of action.

Objections on Grounds:

- A. Paras No. A to G of the grounds are illegal, unlawful and incorrect, detail reply has already been given in the preliminary as well as factual objections above.

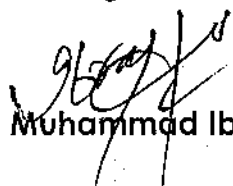
It is therefore, very humbly prayed that, the captioned appeal may please be dismissed with cost as well as special costs against petitioner.

Respondent No. 4

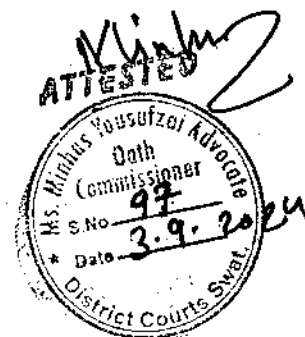

Muhammad Ibrahim.

Verification:

I, Muhammad Ibrahim S/o Mahiud din R/o Alpurai, District Shangla, do hereby solemnly affirm and declare on oath on this 02nd day of September, 2024, at Saidu Sharif, Swat, that the contents of the reply are correct and true to the best of my knowledge and belief.


Muhammad Ibrahim

Dated: 02-09-2024



**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
CAMP COURT AT SWAT**

Service Appeal- 1368 - of 2023

Noor ul Wahab.

... Appellant

VERSUS

Govt: of KP and others.

... Respondents

Application to the extent that respondents No. 1 to 3 may please be restrained from taking any adverse action or transferring or removing the respondent No. 4 from the post of Sanitary Inspector, till disposal of the captioned appeal.

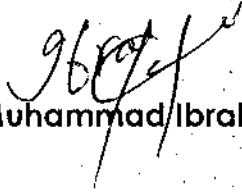
Respectfully Sheweth:

1. That the captioned appeal is pending adjudication before this Hon'ble tribunal, which is fixed for 03-09-2024.
2. That respondent No. 4 has got a good prima facie case in his favour and the balance of convenience is also in favour of appellant.
3. That appellant has been appointed by the competent authority being eligible candidate and is currently serving as Sanitary Inspector, however, if any adverse action has been taken against the appellant or the appellant has been removed or transferred from his services, then the appellant will likely suffer irreparable loss.
4. That grounds of the reply by respondent No. 4 may please be considered as integral part of this application.

It is therefore, very humbly prayed
that by acceptance of this application, the

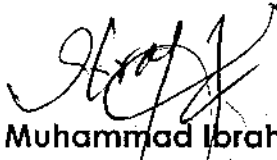
respondents No. 1 to 3, may please be restrained from taking any adverse action, transferring or removing the appellant from the post of Sanitary Inspector, till disposal of the captioned appeal.

Respondent No. 4


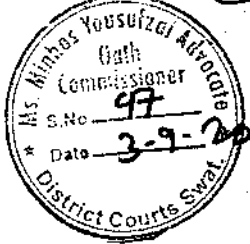

Muhammad Ibrahim

Affidavit:

I, Muhammad Ibrahim S/o Mahiud din R/o Alpurai, District Shangla, do hereby solemnly affirm and declare on oath, that the contents of the instant application are correct and true to the best of my knowledge and belief.


Muhammad Ibrahim

Dated: 02-09-2024


ATTESTED


7

Serial No. 1258

Roll No. 1307

N.-W.F.P. MEDICAL FACULTY PESHAWAR PAKISTAN

Diploma in Medical Technology



NATIONAL FRONTIERS PROVINCE PESHAWAR

SESSION 1996-1997

This is to certify that Mr. / Miss / Mrs. Muhammad Ibrahim Son Daughter of
 Mr. Muhammad Ibrahim of _____ Batch bearing Registration No.
MP/48/56/Pvt/B.T has passed the examination of Diploma in Medical Technology
 in the year 6-2007. He / She obtained 59 Marks out of _____
 He / She has been placed in 9 Grade.

Signature

Secretary
 Medical Faculty N.-W. F. P.
 Peshawar, Pakistan.

OFFICE OF THE
EXECUTIVE DISTRICT OFFICER HEALTH
DISTRICT SHANGLA AT ALPURAL.
Phone: 0996-85653-850823/0996-850824

Email: edohshangla@gmail.com

No. 3187-3204/EDO(H)

Dated: 27/12/2012

OFFICE ORDER:

Consequent upon the recommendations made by the District Section Committee (Health) District Shangla in its meeting held on 18-10-2012, the undersign the please the appoint the following candidates against the vacant post of junior primary health care Technician (Multi Purpose), BPS-09 (6200-380-17600) plus usual allowance as admissible as per amended contract policy with immediate effect with the terms and conditions noted below:-

S.NO	Name & F.Name & Address of the Candidates	Appointed on the Post	Remarks
1	Tahir Ali S/o Haji Akbar R/o District Shangla	JPHC Technician (Multi Purpose)	Posted at the office of the Executive District Officer Under the malaria & EPI Programme District Shangla
2	Hazrat Rehman S/o Inayat Ur Rehman R/o District Bunir	-----do-----	-----do-----
3	Arshad Habib S/o Khurshed Alam R/o District Shangla	-----do-----	-----do-----
4	Jawahir Ali S/o Wajid Ali R/o District Shangla	-----do-----	-----do-----
5	Faridoon Khan S/o Abdul Ghani R/o Kalpanai District Bunir	-----do-----	-----do-----
6	Riaz Ahmad S/o Sahib Zada R/o District Shangla	-----do-----	-----do-----
7	Muhammad S/o Hassan Ali R/o District Shangla	-----do-----	-----do-----
8	Bahadar Zaman S/o Fazal Qadir R/o District Shangla	-----do-----	-----do-----
9	Shamsul Arifin S/o Rahol Amin R/o District Shangla	-----do-----	-----do-----
10	Abdul Qadir S/o Abdul Shakur R/o District Shangla	-----do-----	-----do-----
11	Ghulam Rabani S/o Hajatman R/o District Shangla	-----do-----	-----do-----
12	Imrana w/d/o Noor ul Haq R/o District Shangla	-----do-----	-----do-----
13	Muhammad Ibrahim S/O Muhyud Din R/C Kuzkalay Alpural, District Shangla	-----do-----	-----do-----

Attested


TERMS & CONDITIONS:

1. This order is subject to the verification of the original documents from the issuing authority / production of equivalence certificate from the Khyber Pakhtunkhwa Medical Faculty Peshawar if applicable / Registration from the Khyber Pakhtunkhwa Medical Faculty Peshawar if applicable.
2. The appointment is purely on contract basis.
3. The probation period of appointment shall be two years.
4. The appointment of the above candidates as made as regular civil servants for the intents and purposes except for purpose of pension and gratuity, they shall be entitled to receive such amount contributed by him toward the contributory provident fund, along with contribution made by the government to their account in the said fund. In the prescribed manner, in lieu of pension and gratuity.
5. They will be governed by such rules and orders as may be issued by the government of Khyber Pakhtunkhwa from time to time to the category of government servants to which they belong.
6. The services of the above candidates will be liable to terminate at any time without being any reason assigned. In case of resignation without one month notice, two months pay and allowances, if any shall be forfeited to the government treasury.
7. The candidate should join their station of duty within in fifteen (15) days of the issue of their orders. The incharge Medical Officer concern should furnish certificate / charge reports to the effect that the candidate has joined the post within the stipulated period, failing which his appointment will be automatically treated as cancelled.
8. The appointment is subject to the production of health & age Certificate from the competent authority.
9. He will be not entitled for any TA/DA for medical examination at the time of joining first appointment.

Encls: No. & Date Even:

Copy forwarded to:

1. The Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. The District Coordination Officer District Shangla.
3. The District Accountants Officer District Shangla.
4. The Medical Superintendent DHQ Hospital Alpurai District Shangla.
5. the Establishment / Accounts Section of this office.
6. The above named official.

Attested



 EXECUTIVE DISTRICT OFFICE
 HEALTH DISTRICT SHANGLA

HEALTH

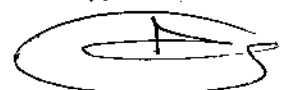
074105 EPI (EXPANDED PROGRAM OF IMMUNIZATION)

AMOUNT TO BE SPENT DURING THE
YEAR 2021-2022

FUNCTIONAL-CUM OBJECT CLASSIFICATION & PARTICULARS OF THE SCHEME	NUMBER OF POSTS	AMOUNT TO BE SPENT DURING THE YEAR 2021-2022		
		NON RECURRING	RECURRING	TOTAL
		Rs	Rs	Rs
07 HEALTH				
074 PUBLIC HEALTH SERVICES				
0741 PUBLIC HEALTH SERVICES				
074105 EPI (EXPANDED PROGRAM OF IMMUNIZATION)				
SH16153 THQ Shangla				
(01-2021) Creation of Post for THQ Shangla				
A01 TOTAL EMPLOYEES RELATED EXPENSES			3,144,000	3,144,000
A011 TOTAL PAY	5		703,000	703,000
A011-2 TOTAL PAY OF OTHER STAFF	5		703,000	703,000
A01151 Basic Pay Other Staff	5		703,000	703,000
// SP08 Sanitary Inspector (BPS-14) (MP)	1		182,000	182,000
J013 Junior Clerk (BPS-11)	1		151,000	151,000
D112 Driver (BPS-06)	2		255,000	255,000
N005 Naib Qasid (BPS-03)	1		115,000	115,000
A012 TOTAL ALLOWANCES			2,441,000	2,441,000
A012-1 REGULAR ALLOWANCES			2,441,000	2,441,000
A01202 House Rent Allowance			103,000	103,000
A01203 Conveyance Allowance			110,000	110,000
A01217 Medical Allowance			90,000	90,000
A0122M Adhoc Relief Allowance 2016			70,000	70,000
A0122Y Ad-hoc Relief Allowance 2017			70,000	70,000
A0123G Ad-hoc Relief Allowance-2018			70,000	70,000
A0123P Ad-hoc Relief Allowance 2019			1,928,000	1,928,000
Creation of Post for THQ Shangla			3,144,000	3,144,000
THQ Shangla			3,144,000	3,144,000

For the ensuing financial year, above posts have been agreed to be created on the demand of the department. Accordingly a sum of Rs. 3144000 /-(Recurring) will be required for the purpose during 2021-2022

Attested





OFFICE OF THE
DISTRICT HEALTH OFFICER DISTRICT
SHANGLA AT ALPURAI

☎- 0996- 850653

E-mail: edohshangla@gmail.com

☎- 0996- 850824

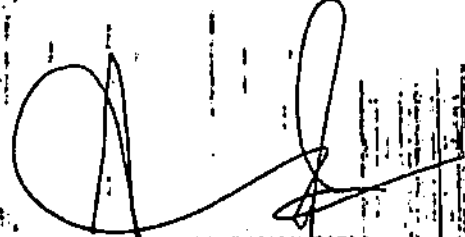
No. 1946-54 /DHO/SH/PF

Dated: 13 /04/2022

OFFICE ORDER:

Mr. Noor ul Wahab Clinical Technician (Pharmacy) BPS-12 attach to Civil Dispensary Lilownai District Shangla is hereby adjusted against the vacant post of Sanitary Inspector (BPS-14) in his own pay and scale and directed to perform duty at the office of the undersigned with immediate effect in the best public interest.

Arrival/Departure should be submitted for record.


DISTRICT HEALTH OFFICER
DISTRICT SHANGLA

Endst: No. & Date Even:

Copy forwarded to:

- 1- Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 2- Deputy Commissioner District Shangla.
- 3- In-charge Senior Medical Officer Civil Dispensary.
- 4- District Accounts Officer Shangla.
- 5- Divisional/District Monitoring Officer IMU Malakand-I.
- 6- Establishment & Accounts Section of this office.
- 7- HRMIS/DHIS Cell, DHO Office Shangla.
- 8- Above named official for compliance.
- 9- Personnel File.


DISTRICT HEALTH OFFICER
DISTRICT SHANGLA

Atkshew

