

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

**SERVICE APPEAL NO. 2034/2023**

Muhammad Qasim.....Appellant

**Versus**

Government of Khyber Pakhtunkhwa & others .....Respondents

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**Deponent**



**Director General Health Services  
Khyber Pakhtunkhwa, Peshawar**

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**  
**SERVICE APPEAL NO. 2034 OF 2023**

Muhammad Qasim.....Appellant  
 Govt. of Khyber pakhtunkhwa & others.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1 TO 03**

**Respectfully Sheweth:** that the respondents submit as under:-

**Preliminary Objections:-**

- I. That the appellant has got no cause of action or locus standi to file the instant appeal.
- II. That the appellant has filed the instant appeal just to pressurize the respondents.
- III. That the instant appeal is against the prevailing law & rules.
- IV. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
- V. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
- VI. That the appellant has not come to this Honorable Tribunal with clean hands.
- VII. That the appeal is barred by law and limitation.
- VIII. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
- IX. The matter has already been adjudicated by the Peshawar High Court in Writ Petition No. 2205-P/2019 wherein the Honorable Court vide judgment dated 17-02-2020 had already dismissed his Writ Petition on merits. **Copy of the judgment dated 17-12-2020 as Annexure-A.**
- X. That the appellant is not a civil servant, therefore, the Honorable Tribunal has no jurisdiction to adjudicate the matter.

**ON FACTS:**

- 1. Incorrect. The record reveals that no appointment order of the Appellant was issued by the replying respondents. The appointment order bearing No. 874-76, dated 05-02-2013 produced by the appellant is fake and has no legal effects.
  - a. The records reveal that the departmental selection committee was held on 26-07-2012, while the appointment order was issued on 05-02-2013 after expiry of validity of legal status of recommendation of the departmental selection committee i.e 06 months. It is clear that under the rule, after 06

months all the recommendations and selections of DSC become null & void.

- b. That the appointment letter which was provided by the appellant indicates issuance date 05-02-2013, being a National Holiday (The Kashmir Day) which is sufficient to prove the falseness of the appointment order.
  - c. That the advertisement published in the print media doesn't contain the vacancies of Clinical Technician (Pathology).
  - d. The appointment order produced by the appellant was sent to the then DHO vide letter No.2854/E.15, dated 14-06-2019 for verification of his signature. Dr.Habib Khan could not own his signature and totally denied. If the order was authentic then he (Dr. Habib khan the then DHO) should have released the pay of appellant during his tenure which was up to 19-02-2015 i.e about 02 years after the appointment order.
2. Incorrect. The source-I form for activation of his salary was not signed by the respondent No. 01 and is totally fake as the respondent No.01 (DHO Kohat) has assumed charge on 03-07-2017 whereas the source-I form was signed and admitted by the appellant in 11/2017 under the fake signature of DHO Kohat which doesn't match with the signature of sitting DHO.
- (Annex-3)**
3. Incorrect. He marked the attendance in attendance register of the health facility as a volunteer and the payment deposited on the signature of Medical Officer Incharge.
  4. Incorrect. Already replied in the preceding paras.
  5. Incorrect. Neither the appellant has submitted in written application for the release of his salaries nor appeared personally. The matter regarding nonpayment of salary for such a long period is highly arguable that how the appellant work without remuneration. Office record is totally silent regarding the protest of appellant, which clearly indicates that his appointment is totally based on fictitious papers. That's why, his WP was dismissed by the Honorable Peshawar High Court Peshawar vide judgment dated 17-12-2020.
  6. Incorrect. Already replied in the preceding paras.
  7. Incorrect. The appellant is not the employee of Health Department therefore no salaries were paid to him.

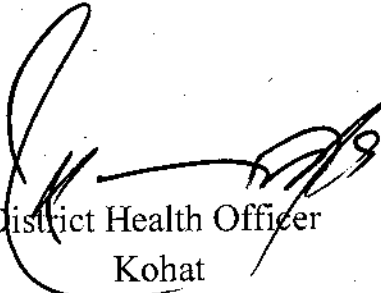
**GROUND.**


- A. Incorrect. The replying respondents acted as per law, rules & principles of natural justice, hence denied.
- B. Incorrect. Already replied in the preceding paras.
- C. Incorrect. Already replied in para 01 above.
- D. Incorrect. The appellant has not been appointed by the Respondent No. 01, therefore, he is not a Civil Servant, hence not entitled for salary.
- E. Incorrect. Already replied in the preceding paras.
- F. Incorrect. Already replied in the preceding paras.
- G. Incorrect. Already replied in the preceding paras.

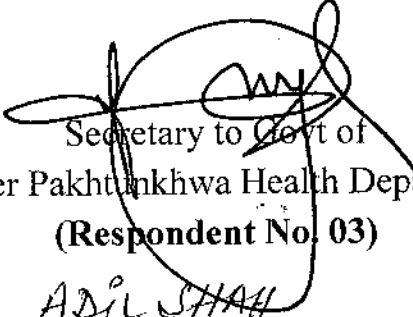
- H. Incorrect. Already replied in the preceding paras.
- I. Incorrect. Already replied in the preceding paras.
- J. Incorrect. Already replied in the preceding paras.
- K. The replying respondents also seek permission of the Honourable Tribunal to adduce other grounds during course of arguments.

**PRAYERS:**

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

  
 District Health Officer  
 Kohat  
 (Respondent No. 01)  
 DR. FARLE-MOLA

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

  
 Secretary to Govt of  
 Khyber Pakhtunkhwa Health Department  
 (Respondent No. 03)  
 ADIL SHAH

10/1

"In the light of above circumstances, it is respectfully prayed that on acceptance of instant writ petition the Hon'ble Court may direct the respondents to set aside all illegal acts which are not warranted by law and release all pending salaries which are not paid to petitioner till date from the date of writal i.e. 05.02.2013 with immediate effect with all back benefits, and the petitioner may not be harassed by respondents for filing the writ petition or treated with any other remedy in the larger interest of justice."

the following relief:-

of Islamic Republic of Pakistan, 1973, petitioner seeks instant petition filed under Article 199 of the Constitution MUHAMMAD NASIR MAJROOZ, J. Through the

JUDGMENT

Date of hearing: 17.12.2020  
Petitioner (by) — Mr. Muhammad Yasir Khawak, Advocate  
Respondents (by) Mr. Aftab Khan, AG, alongwith Mahabbat Jahl, Coordinator, PWS, JHO office Kohat

W.P.No. 2205-P/2019  
Mohammad Qasim  
Vs  
The Secretary Health, Khyber Pakhtunkhwa,  
Peshawar and others

JUDGMENT SHORT  
PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

Amex-A

copy of Judgment dated-17-12-2020 (4)

2. As per contents of the writ petition, petitioner was appointed as CT Pathology on 05.02.2013 in the District Health Department against the vacant post recommended by the Departmental Selection Committee. After submission of arrival report and completion of probation period, no salary has been paid to him till date. Against that, he approached the respondents for release of his salary but in vain; hence, the instant constitutional petition.

3. Respondents submitted their comments, wherein it is mentioned that appointment order of petitioner dated 05.02.2013 was issued on a public holiday after expiry of six months period provided for validity of recommendation by Departmental Selection Committee. Moreover, it reveals that how the petitioner could silent for non-payment from the year, 2013 till filing of the instant writ petition on 06.04.2019.

4. Learned counsel for the petitioner has also produced record pertaining to attendance of the petitioner in the Laboratory of Rural Health Centre, Chorhakhli.

*2/2/19*

5. We have heard arguments of learned counsel for the parties and perused the documents available on the file.

6. It is not discernable from the record that pursuant to appointment of petitioner, he continued to perform his duties for the reason that an official is legally bound to go through the medical test and other procedure before his appointment. No such record has been produced to signify that the petitioner was appointed according to the relevant rules and had undergone normal legal process as required. The Attendance Register produced before us appears to be his voluntarily effort to attend the Laboratory and unless he was validly appointed, he could not be considered as regularly appointed. It is rather surprising that he was regularly attending the office for the last six years, why he chose to remain silent for long period and did not agitate receipt of his salary before any forum. Nothing has been placed on file to reveal that he had knocked the doors of high-ups of the Health Department to agitate his grievance with

8-2-11

this writ petition appears an effort to legalize an illegality.

7. We are constrained to hold that the instant writ petition on the ground raised therein merits dismissal, thus the same is dismissed with no order as to costs.

*[Handwritten Signature]*  
JUDGE

*[Handwritten Signature]*  
JUDGE

**Announced**  
**17.12.2020**



Annex B

Annex-B

8

OFFICE OF THE DISTRICT HEALTH OFFICER KOHAT

NO 2054 / E-13

Dated 14/6/2019

To

Dr Habib Khan Khattak

Ex DHO Kohat

SUBJECT: Verification of Office Order

Memo,

Kindly refer to the subject cited above with the request to verify the attached office order bearing endorsement no 874-76, dated 5/2/2013, duly signed by your honour.

Please keep it as confidential.

An early response will highly be appreciated.

DISTRICT HEALTH OFFICER  
KOHAT

7/c

Attested  


*Handwritten signature and scribbles at the top right of the page.*

**PERSONNEL DATA - INFO TYPE 0003**

1. Name (Last, First, Middle Initial) \_\_\_\_\_  
 2. Date of Birth (MM/DD/YYYY) \_\_\_\_\_  
 3. Social Security Number (SSN) \_\_\_\_\_  
 4. Grade \_\_\_\_\_  
 5. Position \_\_\_\_\_  
 6. Reporting Office \_\_\_\_\_  
 7. Reporting Supervisor \_\_\_\_\_  
 8. Date of Last Promotion (MM/DD/YYYY) \_\_\_\_\_  
 9. Date of Last Transfer (MM/DD/YYYY) \_\_\_\_\_  
 10. Date of Last Reassignment (MM/DD/YYYY) \_\_\_\_\_

**PERSONNEL ACTIONS INFO TYPE 00**

1. Action Code \_\_\_\_\_  
 2. Effective Date (MM/DD/YYYY) \_\_\_\_\_  
 3. From Office \_\_\_\_\_  
 4. To Office \_\_\_\_\_  
 5. From Position \_\_\_\_\_  
 6. To Position \_\_\_\_\_  
 7. From Grade \_\_\_\_\_  
 8. To Grade \_\_\_\_\_  
 9. Action Description \_\_\_\_\_

**DDO CURR (Cost Center)**

1. DDO CURR \_\_\_\_\_  
 2. Cost Center \_\_\_\_\_  
 3. Date of Entry into Cost Center (MM/DD/YYYY) \_\_\_\_\_  
 4. Date of Last Change (MM/DD/YYYY) \_\_\_\_\_  
 5. Date of Last Review (MM/DD/YYYY) \_\_\_\_\_  
 6. Date of Last Audit (MM/DD/YYYY) \_\_\_\_\_  
 7. Date of Last Update (MM/DD/YYYY) \_\_\_\_\_  
 8. Date of Last Approval (MM/DD/YYYY) \_\_\_\_\_

**OFFICE OF THE** DHO K. S. K. S. **FOR THE MONTH OF** 1000/11/17

Employee Master File Creation Form  
 Form: PAY01  
 Service ID: \_\_\_\_\_  
 (Applicable for both P and S forms)

*Handwritten notes and scribbles in the middle section of the form.*

*Handwritten notes: "App No. 8378424" and "80095930".*

*Handwritten note: "Amex - A"*

28 C.O.  
 29 House no/Street  
 30 Postal Code  
 31 City  
 32 District  
 33 Province / Region  
 34 Contract No.  
 35 Company Housing  
 Yes  No

*Vill. Modarrah Bar Distt  
 Khat*

PERMANENT ADDRESS - INFO TYPE 0006  
 Permanent address  
 Permanent address is same as above  Permanent address is different from present address  
 36 C.O.  
 37 House no/Street  
 38 Postal Code  
 39 City  
 40 District  
 41 Province  
 42 Contract No.  
 43 Company Housing  
 Yes  No

BASIC PAY - INFO TYPE 0008  
 44 Pay Scale type: 217  
 45 EPS Year (Pay Scale Area): 11/12  
 46 Grade (Pay Scale Group): 717  
 47 Pay Scale Level: 2.1  
 48 Pays: 11/17, 6/2/13 to 31/10/17  


Wage Type	Description	Amount
	Pay	15240
	Pay	53739

49 LEAVES - INFO TYPE 2001  

Code	Description	Balance

Code	Description	Balance

BANK DETAIL - INFO TYPE 0009  
 50 Bank Branch (Bank Key)  
 51 Postal Code  
 52 Bank Account No.  
 53 Payment method  
 54 City

*Attestat*  


**GP FUND SUBSCRIPTION - INFO TYPE 0067**

61 Wage Type  62 GPF Subscription

**GP FUND - INFO TYPE 9202**

63 Interest Applied  Yes  No 64 GPF balance

65 GPF Bal date (DD/MM/YYYY)  66 Old GP Fund Account Number

**CREATE DATA SPECIFICATION - INFO TYPE**

67 Date appointed as Bareilly Officer (DD/MM/YYYY)  68 Suspension Date

69 Expiry of Assoc/Contract Date

**INTERNAL DATA - INFO TYPE 0032**

71 Previous Personnel Number (if any)  72 National Tax Number (TIN)  73 Leave without pay

74 Cash Center

**75 FAMILY INFORMATION - INFO TYPE 0021**

SR	Region	Last name	First Name	Not Ass	Gender	DOB	City of birth	Nationality	State of State	Emp Type	Other Nationality

Nov-17		Adjst: 6/2/2013 to 31/10/2017	
0001-Pay	15240	5802-Adj:Pay	53
1000-HRA	1307	5002-HRA	7
1210-Conveyance	2856	5011-Conveyance	117
1300-Medical Alc:	1500	5012-Medical	91
AR 2013	658	AR 2013	61
AR 2014	0	AR 2015	13
AR 2015	970	AR 2016	181
AR 2016	1274	AR 2017	64
AR 2017	1524	HPA	1051
HPA	10000	<b>Total:-</b>	<b>117991</b>
<b>DEDUCTION</b>			
GPF	1851		
R/Benefit & Death	600		
G/Ins:	600		

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

**SERVICE APPEAL NO. 2034/2023**

Muhammad Qasim.....Appellant

**Versus**

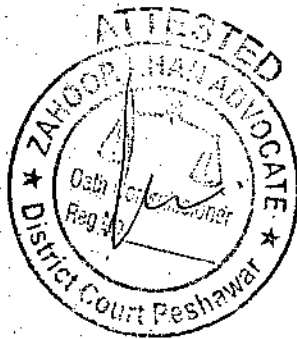
Government of Khyber Pakhtunkhwa & others ..... Respondents

**Affidavit**

I, Dr. Muhammad Saleem, Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off / costs.

**Deponent**

**Director General Health Services  
Khyber Pakhtunkhwa, Peshawar**





**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services  
Peshawar and not to any official by name  
Office # 091-9210269 Fax # 091-9210230*

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**AUTHORITY LETTER**

Muhammad Yousaf Jamal Focal Person Litigation Section Directorate General Health Services Khyber Pakhtunkhwa is hereby authorized to attend/defend the court cases and file Parawise Comments / Reply on behalf of the undersigned before the Honorable Khyber Pakhtunkhwa Service Tribunal and its Camp Courts.

**Director General Health Services  
Khyber Pakhtunkhwa, Peshawar**

*DR. MUHAMMAD SALEEM*