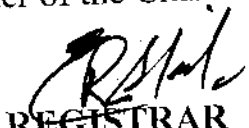


FORM OF ORDER SHEET

Court of _____

Appeal No. 1414/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06-Sep-24	<p>The appeal of Mr. DR TAQVEEM UL HAQ presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 13-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No 1414 / 2024

MR. DR. TAQVEEM UL HAQ V/S HEALTH DEPTT:

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Dated: -08-2024

THROUGH:

APPELLANT


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1414 /2024

Mr. Dr. Taqveem Ul Haq, District Specialist (Pathology) [BPS-18],
Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera,
Under Transfer as Senior Medical Officer {BPS-18},
Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
- 3- Mr. Dr. Mian Muhammad Naveed Senior Medical Officer (BPS-18) Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera under transfer as District Specialist (Pathology) (BPS-18) Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera

..... RESPONDENTS

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 17/05/2024 WHEREBY THE APPELLANT WAS TRANSFERRED FROM DISTRICT SPECIALIST (PATHOLOGY) [BPS-18] MIAN RASHID HUSSAIN MEMORIAL HOSPITAL PABBI DISTRICT NOWSHERA TO SENIOR MEDICAL OFFICER {BPS-18} MIAN RASHID HUSSAIN MEMORIAL HOSPITAL PABBI DISTRICT NOWSHERA AND TRANSFERRED/POSTED THE PRIVATE RESPONDENT AGAINST THE POST OF APPELLANT AND AGAINST THE INACTION OF THE APPELLATE AUTHORITY, BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF 90 DAYS.

Prayer:-

That on acceptance of the instant service appeal, the impugned notification dated 17/05/2024 may very kindly be set aside and the respondents may kindly be directed not to transfer the appellant from the post of District Specialist (Pathology) [BPS-18] Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera. Any other remedy which this august Tribunal deem fit may also be awarded in favour of the appellant.

R/SHEWETH:
ON FACTS:

- 1) That appellant is the employee of the respondent department and was initially appointed by the recommendation of KP Public Service Commission vide notification dated 31/01/2018 as District Specialist (Pathology) [BPS-18] at DHQ Nowshera. Copy of notification dated 31/01/2018 is attached as annexure.....**A**

- 2) That the private respondent has been recommended as District Specialist (Pathology) on Adhoc basis vide notification dated 31/07/2017 and posted as District Specialist at Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera and through office order dated 07/02/2018 the private respondent was adjusted as District Pathologist against the newly created post. Copies of notifications are attached as annexure.....**B&C**

- 3) That the private respondent while performing his duties as District Pathologist at Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera, the Medical Superintendent called explanations from him on the ground of absentia and further the M.S requested the respondent No. 2 to replace the current District Pathologist i.e. the private respondent with new one as the current Pathologist is not taking interest in his official duty and unavailable most of the times being member of the rapid response team. Copies of explanation letter and letters are attached as annexure.....**D&E**

- 4) That due to the lethargic approach of the private respondent, the competent authority vide notification dated 30/12/2021 transferred/posted the appellant as District Specialist (pathology) at Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera and since then the appellant is performing his duty quite efficiently and upto the entire satisfaction of his superiors. That vide notification dated 05/01/2022 the services of private respondent were placed at the disposal of M.S of the concerned Hospital for further posting. Copies of notifications are attached as annexure.....**F&G**

- 5) That the appellant while performing his duties without any complaint and with all zeal and zest the respondents issued the impugned notification dated 17/05/2024 whereby the appellant has been transferred from the post of District Pathologist (BPS-18) and posted against the wrong/cross cadre post of Senior

Medical Officer (BPS-18) and the private respondent has been posted vice appellant i.e. as District Pathologist (BPS-18). Copy of the impugned notification dated 17/05/2024 is attached as annexure.....**H**

- 6) That appellant feeling aggrieved from the impugned Notification dated 17/05/2024 preferred departmental appeal, but the same has not been responded till date. Copy of departmental appeal is attached as annexure.....**I**
- 7) That in light of above scenario the appellant having no other remedy, but to preferring the instant Service Appeal before this Honourable Tribunal inter alia on the following grounds:-

GROUND:

- A-** That the impugned notification dated 17/05/2024 is against the law, facts, norms of natural justice and material on the record, hence not tenable and liable to be set aside.
- B-** That the respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 04 & 25 of the Constitution of Islamic Republic of Pakistan 1973, which act is unjust, unfair and hence not sustainable in the eye of law.
- C-** That the impugned notification 17/05/2024 is violative of the Transfer/Posting Policy of Provincial Government therefore, not tenable and are liable to be set aside. Copy of the policy is attached as annexure **J**
- D-** That the impugned notification dated 17/05/2024 have not been passed in the public interest, nor exigencies of public service, therefore, not tenable and liable to be set aside.
- E-** That the impugned notification dated 17/05/2024 was not issued in public interest, but just to facilitate the blue-eyed person i.e. the private respondent.
- F-** That the impugned notification dated 17/05/2024 is against the prevailing laws and rules as the appellant has been posted against the cross/wrong cadre post.

- G- That cross cadre posting is also violative of the judgment of this august Tribunal passed in similar nature issue. Copy of the judgment is attached as annexure K
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal may kindly be accepted as prayed for.

Dated: -08-2024

[Signature]
APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

[Signature]
UMAR FAROOQ MOHMAND
& *[Signature]*
WALEED ADNAN
ADVOCATES HIGH COURT

AFFIDAVIT

I, Mr. Dr. Taqveem Ul Haq, PSHT, do hereby solemnly affirm and declare on oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.

[Signature]
DEPONENT

- 5 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL No _____ / 2024

MR. DR. TAQVEEM UL HAQ

V/S

HEALTH DEPTT:

APPLICATION FOR SUSPENSION OF OPERATION OF THE IMPUGNED NOTIFICATION DATED 17/05/2024 WHEREBY THE APPELLANT WAS TRANSFERRED FROM DISTRICT SPECIALIST (PATHOLOGY) [BPS-18] MIAN RASHID HUSSAIN MEMORIAL HOSPITAL PABBI DISTRICT NOWSHERA TO SENIOR MEDICAL OFFICER {BPS-18} MIAN RASHID HUSSAIN MEMORIAL HOSPITAL PABBI DISTRICT NOWSHERA TILL THE DISPOSAL OF THE MAIN APPEAL.

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned notification dated 17/05/2024 whereby the appellant was transferred from District Specialist (Pathology) [BPS-18] Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera to Senior Medical Officer {BPS-18} Mian Rashid Hussain Memorial Hospital Pabbi District Nowshera.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned notification dated 17/05/2024 in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of impugned notification dated 17/05/2024 may very kindly be suspended till the disposal of the above mentioned service appeal.

Dated: -08-2024


APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, Mr. Dr. Taqveen Ul Haq, do hereby solemnly affirm and declare on oath that the contents of this **application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.


DEPONENT



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

A
-6-

Dated Post: 11th January 2018

NOTIFICATION

No.SQH-1/(111)3-5/2017

Consequent upon their appointment as District Specialist (BS-18) through Public Service Commission Khyber Pakhtunkhwa on regular basis vide this department Notification of even No dated 3rd January 2018, the competent authority is pleased to post the following District Specialist (BS-18) in the hospitals noted against their names with immediate effect.

S.No.	Name of doctor	Present place of post	Posted at
District Specialist Radiology (BS-18)			
1	Dr. Ayesha Afridi D/O Raza Khan Afridi	Fresh	DHQH Charsadda
2	Dr. Samreen Malik D/O Malik Wasil Khan	Distt. Specialist Adhoc King Abdulah Teaching Hospital Manserha	King Abdullah Teaching Hospital Manserha
District Specialist Cardiology (BS-18)			
1.	Dr. Hafiz Muhammad Jamil Gul S/O Ismail	Distt. Specialist Adhoc Police and Services Hospital Peshawar	Police and Services Hospital Peshawar.
2.	Dr. Javaid ur Rehman S/O Mehmood ul Hassan	Distt. Specialist Adhoc DHQH Charsadda	DHQH Charsadda
3	Dr. Abdul Salar Khan S/O Mamoor Khan	Distt. Specialist Adhoc AHQH Landi Kotal Khyber Agency	AHQH Landikotal Khyber Agency
* District Specialist Pathology (BS-18)			
1.	Dr. Ammar Bini Saad S/O Qazi Saad	Distt. Specialist Adhoc DHQH Haripur	DHQH Haripur
2.	Dr. Tabbassum Imran D/O Hazrat Imran	Distt. Specialist Adhoc SGTH Swat	Saidu Group of Teaching Hospitals Swat
3.	Dr. Maria Kamran D/O Abdul Rasheed	Distt. Specialist Adhoc DHQH Nowshera	DHQH Nowshera
4	Dr. Salmullah S/O Hidayat Ullah	Adhoc Distt. Specialist Nawaz Sharif Kidney Hospital Swat	Nawaz Sharif Kidney Hospital Swat
5.	Dr. Waseem Khan S/O Fazal Chahoor	Distt. Specialist Adhoc Sheikh Zayed Hospital Swat	Sheikh Zayed Hospital Swat
6.	Dr. Muhammad Ali S/O Wazir Gul	Distt. Specialist Adhoc DHQH Baithehla	DHQH Baithehla
7.	Dr. Waheed Alam S/O Zahid Ullah	Distt. Specialist Adhoc DHQH Charsadda	DHQH Charsadda
8.	Dr. Shahid Hussain S/O Muhammad Farooq	Distt. Specialist Adhoc Nawaz Sharif Kidney Hospital Swat	Nawaz Sharif Kidney Hospital Swat
9.	Dr. Taqvim ul Haq S/O Fazal Subhan	Distt. Specialist Adhoc DHQH Nowshera	DHQH Nowshera
District Specialist General Surgery (BS-18)			
1	Dr. Muhammad Jawed Khan S/O Inayat Sltah	Distt. Specialist Adhoc DHQH Tumburgara	DHQH Tumburgara

Handwritten signature/initials

Handwritten signature and stamp: District Health Office Nowshera

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 30th January, 2018

NOTIFICATION

No SOH-I/HD/3-5/2017 Consequent upon their appointment as District Specialists (BS-18) on through Public Service Commission Khyber Pakhtunkhwa on regular basis vide this department notification of even no dated 8th January, 2018, the competent authority is pleased to post the following District Specialist (BS-18) in the hospitals noted against their names with immediate effect.

District Specialist Radiology (BS-18)

S. No	Name of Doctor	Present place of posting	Posted at
1.	Dr. Ayesha Afridi D/o Raza Khan Afridi	Fresh	DHQH Charsadda
2.	Dr. Samreen Malik D/o Malik Wasil Khan	Distt Specialist Adhoc King Abdullah Teaching Hospital Manshera	King Abdullah Teaching Hospital Manshera

District Specialist Cardiology (BS-18)

S. No	Name of Doctor	Present place of posting	Posted at
1.	Dr. Hafiz Muahmmad Jamil Gul S/o Ismail	Distt Specialist Adhoc Police & Services Hospital Peshawar	Police & Services Hospital Peshawar
2.	Dr. Javed Ur Rehamn S/o Mehmood Ul Hassan	Distt Specialist Adhoc DHQH Charsadda	DHQH Charsadda
3.	Dr. Abdul Salar Khan S/o Mamoor Khan	Distt Specialist Adhoc Landi Kotal Khyber Agency	AHQH Landi Kotal Khyber Agency

District Specialist Pathology (BS-18)

S. No	Name of Doctor	Present place of posting	Posted at
1.	Dr. Amar Bin Sad S/o Qazi Saad	Distt Specialist Adhoc Adhoc DHQH Haripur	DHQH Haripur
2.	Dr. Tabassum Imran D/o Hazrat Imran	Distt Specialist Adhoc SGTH Swat	Saidu Group of Teaching Hospital Swat
3.	Dr. Maria Kamran D/o Abdul Rashid	Distt Specialist Adhoc DHQH Nowshera	DHQH Nowshera
4.	Dr. Salim Ullah S/o Hidayat Ullah	Distt Specialist Adhoc Nawaz Sharif Kidney Hospital Swat	Nawaz Sharif Kidney Hospital Swat
5.	Dr. Waseem Khan S/o Fazal Ghafoor	Distt Specialist Adhoc Sheikh Zayed Hospital Swat	Sheikh Zayed Hospital Swat
6.	Dr. Muhammad Ali S/o Wazir Gul	Distt Specialist Adhoc DHQH Batkhela	DHQH Batkhela
7.	Dr. Waheed Alam S/o Zahir Ullah	Distt Specialist Adhoc DHQH Charsadda	DHQH Charsadda
8.	Dr. Shahid Hussain S/o Muhammad Farooq	Distt Specialist Adhoc Nawaz Sharif Kidney Hospital Swat	Nawaz Sharif Kidney Hospital Swat
9.	Dr. Taqveem Ul Haq S/o Fazal Subhan	Distt Specialist Adhoc DHQH Nowshera	DHQH Nowshera

District Specialist Surgical (BS-18)

S. No	Name of Doctor	Present place of posting	Posted at
1.	Dr. Muhammad Javed Khan S/o Inayat Shah	Distt Specialist Adhoc DHQH	



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

B

Dated Pesh: the 14th Feb; 2018

-7-

NOTIFICATION

No.SOH-I/HD/3-5/2017

In partial modification of this department notification of even No. dated 31st January 2018, Dr. Taqvim ul Haq Distt: Specialist Pathology (BS-18) due to non availability of vacant post at DHQH Nowshera is hereby posted against the newly created post of Distt: Specialist Pathology (BS-18) at Mian Rashid Hussain Shaheed Memorial Hospital Peshawar.

SECRETARY HEALTH

Endst No and date even

C.C

1. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
2. ✓ DHO Nowshera.
3. Medical Supdt DHQH Nowshera w/r to his letter No.6183 dated 6/2/2018.
4. Medical Supdt; Mian Rashid Hussain Shaheed Memorial Hospital Pabbi Nowshera.
5. Distt: Accounts Officer, Nowshera.
6. Doctor concerned.
7. Personal file of the doctor concerned.


(Haseem Khan)
Section Officer-I



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

HC
-8-

Dated Pesh: the 31st July 2017

NOTIFICATION

No. SOH-1/(HD)3-5/2015 Consequent upon their appointment as District Specialists (BS-18) on adhoc basis vide Notification of even No dated 4th July 2017, the Competent Authority is pleased to order the posting of the following District Specialists in the hospitals noted against their names with immediate effect:-

District Specialist Physician (BS-18)

S.No.	Name of doctor	Present place of posting	Domicile	Posted at
1	Dr. Muhammad Sajjad Ali Khan S/O Sardar Ali	KTH Peshawar	Swat	Civil Hospital Barikot Swat
2	Dr. Sadia Khursahid D/O Khurshid Ahmad	AMC Abbottabad	Abbottabad	Type 'D' Hospital Khanpur Haripur
District Specialist Pathology (BS-18)				
1.	Dr. Sajjad Ahmad S/O Attaulah	GMC DIKhan	DIKhan	At the disposal of DHO DIKhan for further posting.
2.	Dr. Mian Mohammad Naveed S/O Mian Sayed Karam	MO DHQH Nowshera	Nowshera	Mian Rashid Hussain Shaheed Memorial Hospital Pabbi.
District Specialist Anaesthesia (BS-18)				
1.	Dr. Hidayatullah S/O Dini Mohammad	Retired	DIKhan	DHQH Tank
2.	Dr. Khalid Iqbal S/O Abdul Ali	Retired	Mardan	Police and Services Hospital, Peshawar
District Specialist Gynaecology (BS-18)				
1.	Dr. Sadia Anwar D/O Ghulam Rabbani	Fresh	DIKhan	THQH Sarai Naurang Lakki Marwat
2.	Dr. Shabana Kokab D/O Fazal ur Rehman	DHQH Ha. jr	Abbottabad	DHQH Abbottabad
3.	Dr. Seema Gul D/O Fateh Khan	TMO PGMI	Peshawar	At the disposal of DHO Charsadda.
4.	Dr. Shabnam Jafri D/O Manzor Hussain	Fresh	Kurram Agency	At the disposal of Director Health Services FATA

They are directed to assume charge within 30 days after issuance of the notification failing which their appointment shall be treated as cancelled.

3338
25/07/2017

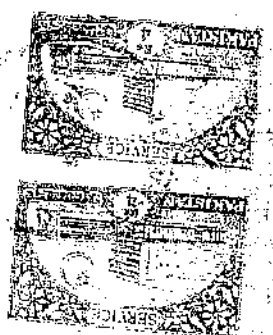
SECRETARY HEALTH

Ends No and date even

C.C

- Hospital Director HMC/LRH/KTH, Peshawar/ATH, Abbottabad, MMC, Mardan/DHQTH/MMMTH D.I.Khan/KGNTH, Bannu/NMC, Nowshera.
- Accountant General Khyber Pakhtunkhwa Peshawar.
- Director General, Health Services, Khyber Pakhtunkhwa.
- Chief Executive/Principal SGTH/SMC Swat/GKMC Swabi.
- Dean KMC/KCD, Peshawar, AMC, Abbottabad/GMC, D.I.Khan/BMC, Bannu/NMC, Nowshera.
- Director Health Services FATA, Peshawar.
- DHOs concerned.

Dispatcher
Khyber Pakhtunkhwa
Health Department



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 31st July, 2017

NOTIFICATION

No SOH-I/HD/3-5/2015 consequent upon their appointment as District Specialists (BS-18) on Adhoc basis vide notification of even no dated 4th July, 2017. The competent authority is pleased to order the posting of the following District Specialist in the hospitals noted against their names with immediate effect.

District Specialist Physician (BS-18)

S. No	Name of Doctor	Present place of posting	Domicile	Posted at
1.	Dr. Muhammad Sajid Ali Khan S/o Sardar Ali	KTH Peshawar	Swat	Civil Hospital Barikot Swat
2.	Dr. Sadia Khurshid D/o Khurshid Ahmad	AMC Abbottabad	Abbottabad	Type 'D' Hospital Khanpur Haripur

District Specialist Pathology (BS-18)

S. No	Name of Doctor	Present place of posting	Domicile	Posted at
1.	Dr. Muhammad Sajid Ahmad S/o Attaullah	GMC DI Khan	DI Khan	At the disposal of DHO DI Khan for further posting
2.	Dr. Mian Muhammad Naveed S/o Mian Sayed Karam	MO DHQH Nowshera	Nowshera	Mian Rashid Hussain Shaheed Memorial Hospital Pabbi

District Specialist Anaesthesia (BS-18)

S. No	Name of Doctor	Present place of posting	Domicile	Posted at
1.	Dr. Hidayat Ullah S/o Din Muhammad	Retired	DI Khan	DHQH Tank
2.	Dr. Khalid Iqbal S/o Abdul Ali	Retired	Madan	Police & Services Hospital, Peshawar

District Specialist Physician (BS-18)

S. No	Name of Doctor	Present place of posting	Domicile	Posted at
1.	Dr. Sadia Anwar D/o Ghulam Rabbani	Fresh	DI Khan	THQH Sari Naurang Lakki Marwat
2.	Dr. Shabana Kokab D/o Fazal Rehman	DHQH Haripur	Abbottabad	DHQH Abbottabad
3.	Dr. Seema Gul D/o Fateh Khan	TMO PGMI	Peshawar	At the disposal of DHQ Charsadda
4.	Dr. Shabnam Jafri D/o Mazhar Hussain	Fresh	Kuram Agency	At the disposal of Director Health Services FATA

They are directed to assume charge within 30 days after issuance of the notification failing which their appointment shall be treated as cancelled.

Secretary Health

Endst: No & date even

"D" -9-

**OFFICE OF THE MEDICAL SUPERINTENDENT
MIAN RASHID HUSSAIN SHAHEED MEMORIAL HOSPITAL
PABBI**

Email Address: mrhsmhp@yahoo.com

Phone No. 0923-528171

Fax No. 0923-527348

No. 1144-45 /MRHSMH/Pabbi Dated. 11 / 04 / 2022.

To,

Dr. Mian Muhammad Naveed


District Pathologist

Subject:- **EXPLANATION**
Memo,

As reported that you were absent from your arrival date i-e 05/01/2022 to till date without any information / prior permission of competent authority.

You are hereby directed to explain your position as to why disciplinary action should not be taken against you under the E&D rules.

Your Reply should be reached within 03 working days.


**Medical Superintendent
Mian Rashid Hussain Shaheed
Memorial Hospital Pabbi**

- Cc:-
1. Director General Health Services Peshawar.
 2. Record Section.



"E" -10-

OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

OFFICE ORDER

Dr. Mian Muhammad Naveed (District Pathologist) working under the control of undersigned at Mian Rashid Hussain Shaheed Memorial Hospital Pabbi drawing salary against the post of SMO BPS-18 is hereby adjusted against the newly created post of District Pathologist BPS-18 under Sub-Head NR-6195 on his original post in the interest of public with immediate effect.

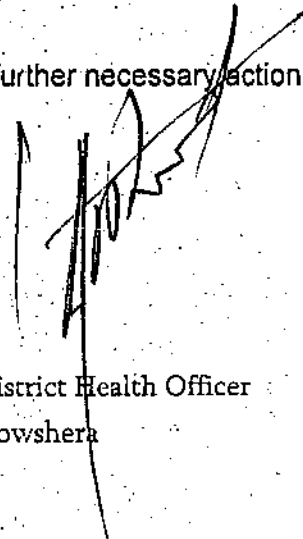
Sd _____
District Health Officer
Nowshera

Date: 07/02 /2018

1716-20
No. _____ / DHO NSR

Copy forwarded to the:

1. District Accounts Officer Nowshera.
2. Medical Superintendent MRHSH Pabbi, Nowshera.
3. Dr. concerned.
4. Accounts Section DHO Office Nowshera for information and further necessary action.
5. Personal File.


District Health Officer
Nowshera

11-



OFFICE OF THE MEDICAL SUPERINTENDENT

Mian Rashid Hussain Shaheed Memorial Hospital Pabbi (Nowshera)

Phone & Fax: 0923-528171

No. 1930 /MRHSM Hosp NSR

Date: 17/11/2021

(For Gentle reminder please)

To

The Honorable Secretary Health

Khyber Pakhtunkhwa Peshawar

Subject: Request for the replacement of current District Pathologist with new one

Respected sir,


Reference this officer letter

I have the honor to enclosed herewith this office previous letter No.1487/MRHSMH Pabbi Dated 02/10/2021 on the subject captioned above regarding replacement of District Pathologist Dr.Mian Naveed .

It is also to mention that Doctor concerned included his name in Rapid Response Team (RRT)-without prior permission of the undersigned.

This laboratory unit of this hospital is suffering due to pathologist absence since 14/09/2021.

In this connection It is once again requested to kindly depute/transfer new pathologist to this Hospital as the current Pathologist is unavailable.


Medical Superintendent
Mian Rashid Hussain Shaheed
Memorial Hospital Pabbi(NSR)

-12-

OFFICE OF THE MEDICAL SUPERINTENDENT

MIAN RASHID HUSSAIN SHAHEED MEMORIAL HOSPITAL PABBI

Email Address: mhsnhp@pabbi.gov.pk Phone No: 0923-528171 Fax No: 0923-527348

No. 1473 (MIRISMI) Pabbi Dated. 02 / 10 / 2021.

To,

The Secretary to Government,
Health department,
KP.

Subject:

REQUEST FOR THE REPLACEMENT OF
CURRENT DISTRICT PATHOLOGIST WITH
NEW ONE

Respected Sir,

District Pathologist posted at the hospital is not taking interest in accomplishing his responsibilities and is frequently found absent from his duty station. He was repeatedly asked to come on time and be punctual but he did not comply which in turn caused severe disturbance of the laboratory proceedings. He further went on to include himself in Rapid Response Team (RRT) without taking prior permission from the undersigned. (Office order copy attached) This action of his seems to be the last nail in the Coffin and now he has made himself completely irrelevant to the lab proceedings. This shows his level of interest in his actual job description which is taking care of the hospital laboratory. The undersigned therefore wants to draw your attention to this important issue and request you to please transfer a new district Pathologist for the smooth running of lab unit at Pabbi Hospital.

Mian Rashid Hussain Shaheed
Medical Superintendent
Mian Rashid Hussain Shaheed
Memorial Hospital Pabbi

11F"-13-



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 30th December, 2021

NOTIFICATION

SOH-I/HD/3-1283/2017: The Competent Authority is pleased to transfer Dr. Taqveemul Haq, District Specialist Pathologist (BS-18) from DHQ Hospital Nowshera and post him at Mian Rashid Hussain Shaheed Memorial Hospital Pabbi, Nowshera against the post of District Specialist Pathologist (BS-18), with immediate effect, in the best public interest.

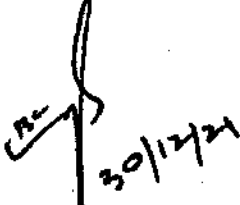
-SD-

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

Endst: of even No. & date:-

Copy forwarded to the :-

1. Director General Health Services, Khyber Pakhtunkhwa.
2. Medical Superintendent, Mian Rashid Hussain Shaheed Memorial Hospital, Pabbi Nowshera w/r to his letter 2020/MRHSM/Pabbi dated 26.11.2021.
3. Medical Superintendent DHQ Hospital, Nowshera.
4. District Accounts Officer, Nowshera.
5. Deputy Director (IT) to upload this Notification on official website.
6. PS to the Secretary Health Govt. of Khyber Pakhtunkhwa.
7. PS to the Special Secretary (E&A) Health Department Govt. of Khyber Pakhtunkhwa, Peshawar.
8. The Doctor concerned.
9. Master File.


Section Officer (Estab-I)

Section Officer (Medical)

5/11/22

The Doctor concerned.

Kakhuankwa, Peshawar.

S/o the Special Secretary (E&A) Health Department Govt. of Khyber

Pakistan, Peshawar.

to be sent to the Director of Health Services

Director, Accounts Officer, Nowshera.

Medical Superintendent, Mian Rashid Hussain Shahnai Memorial Hospital,

Kakhuankwa, Peshawar.

End of even No. & date.

Health Department

the
Muhammad
resident Mian
Department

5/11/22

Better Copy

Page No 14

GOVERNMENT OF KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

Dated Peshawar the 5th January, 2021

NOTIFICATION

SOH-I/HD/3-37/2017/Dr. Muhammad Naveed In continuation of this department's Notification vide No SOH-1/3-1283/2017 dated 30/12/2021, the competent authority is pleased to place the services of Dr. Mian Muhammad Naveed, District Pathologist (BS-18) at the disposal of Medical Superintendent Mian Rashid Hussain Shaheed Memorial Hospital, Pabbi for further posting/adjustment against the vacant post, in the best public interest.

Sd/-

Secretary to Govt: of Khyber Pakhtunkhwa
Health Department

Endst of even No & date:-

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

"H"



Dated Peshawar the 17th May 2024

NOTIFICATION

SOH-I/HD/7-53/2024: The Competent Authority is pleased to order adjustments of the following Doctors of Mian Rashid Hussain Memorial Hospital Pabbi Nowshera with immediate effect, in the public interest: -

-15-

SNo	Employee Name	From	To/Disposal
1	DR. MIAN MUHAMMAD NAVEED District Specialist (Pathology) (BS-18) 1730111042309	Senior Medical Officer (BPS-18), Mian Rashid Hussain Memorial Hospital Pabbi Nowshera	District Specialist (Pathology) (BPS-18), Mian Rashid Hussain Memorial Hospital Pabbi Nowshera
2	DR. TAQVEEM UL HAQ, District Specialist (Pathology) (BS-18) 1720122504085	District Specialist (Pathology) (BPS-18), Mian Rashid Hussain Memorial Hospital Pabbi Nowshera	Senior Medical Officer (BPS-18), Mian Rashid Hussain Memorial Hospital Pabbi Nowshera

SECRETARY HEALTH
KHYBER PAKHTUNKHWA

Endst: of even No. & dated:
Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Additional Director General (HRM), DGHS Office, Peshawar.
4. District Health Officer(s), concerned.
5. Medical Superintendent(s), concerned.
6. District Account Officer(s), concerned.
7. Deputy Director (IT), Health Department, Khyber Pakhtunkhwa.
8. PS to Secretary Health Department, Khyber Pakhtunkhwa.
9. PS to Special Secretary (E&A) Health Department, Khyber Pakhtunkhwa.
10. Doctor(s) concerned.
11. Master file.

(AZIM ULLAH)
SECTION OFFICER (E-I)



17153268651

Page 1/1

To

Chief Secretary
Khyber Pakhtunkhwa Peshawar

"I" "H" "16" "16"
27/05/2024
091-9210124
Ex-205

Subject: Request/ appeal for Cancellation of Transfer/ posting/ adjustment order

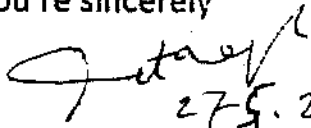
Hon'ble & Respected Sir,

With utmost humility I have the honor to state that recently I have been transferred and posted as Senior Medical Officer (SMO) vide Order/Notification No.SOH-1/HD/7-53/ 2024 dated 17 May 2024. I was transferred from my original/ designated post as District Pathologist and for the reasons unbeknownst to me or for any professional negligence/misconduct, I was transferred to SMO post, which is unjust and against the rules.

It is further stated that District Nowshera is my home district and me and my wife are also posted in the same hospital under the spouse policy of the department.

On the above reason cited, I officially lodge appeal and a request to your good office for reconsideration/ cancellation of the above cited order/ notification.

You're sincerely


27.5.24

Dr. Taqvim Ul Haq
District Pathologist BPS- 18
MRHSM Hospital Pabbi

Copy forward for information to :

1. PS to Health Minister Khyber Pakhtunkhwa
2. PS to Secretary Health Khyber Pakhtunkhwa

-16/A-

PS/C.S. Khayab ~~Dehkhayab~~
Diary No. 34 (w/obj-P)
Date 27-05-2024



- 17 -

J B

**GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)**

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants.
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained.

While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above from settled areas to FATA and vice-versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thanna) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- ix) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008 No. VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI (E&AD) 1-4/2003, dated 21-09-2004.

- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.
DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting-transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

.....

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

"K"

(B)

(A)

- 20 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. 16578/2020

Date of Institution ... 11.01.2021

Date of Decision ... 06.12.2021



Mr. Manzoor Ahmad; Drug Inspector (BPS-17) District Peshawar; under
Transfer to the post of Pharmacist (BPS-17) DHQ Hospital KDA Kohat.
..... (Appellant)

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa Peshawar and two other
..... (Respondents)

Present.

Mr. Noor Muhammad,
Advocate.

... For appellant.

Mr. Muhammad Adeel Butt,
Addl. Advocate General

... For respondents.

MR. AHMAD SULTAN TAREEN,
MR. SALAH-UD-DIN,

... CHAIRMAN
... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-By the appeal described
above in the heading and eight other appeals bearing No. 10301/2020,
10535/2020, 16579/2020, 16580/2020, 923/2021, 1559/2021,
4821/2021, 5187/2021, the appellants have invoked the jurisdiction of this

ATTESTED

Khyber
Service
Tribunal
Peshawar

-21- (10)

Tribunal to challenge their transfers from the post of Drug Inspectors/Drug Analyst to the post of Pharmacists with the prayer copied herein below:-

"On acceptance of this appeal the impugned Notification dated 06.10.2020 may very kindly be set aside to the extent of appellant and the respondents may kindly be directed not to transfer the appellant from the post of Drug Inspector (BPS-17), District Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant."

2. This single judgment shall stand to dispose of all the 09 appeals in one place as in all of them common questions of facts and law are involved.

3. The factual account as given by the appellant in Memo. of Appeal has been edited for the purpose of this judgment. The appellants in Appeals No. 16578/2020, 10301/2020, 10535/2020, 16579/2020, 16580/2020, 923/2021, 1559/2021, 4821/2021, 5187/2021, are holders of the post of Drug Inspector in pursuance to their appointment made on the said post in due process. Appellant in Appeal No. 16580/2020 is holder of the post of Drug Analyst. The respondent department transferred them from their respective posts held by them in the relevant cadre to the post of Pharmacist. They through their respective departmental appeals have challenged their transfer orders before the departmental appellate authority but they received no response of their departmental appeals. Consequently, they have preferred their service appeals respectively, as

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Khyber Pakhtunkhwa
Service Commission
Peshawar

enumerated herein above, for judicial review of the impugned transfer orders. The copies of the appointment orders of appellants, last transfer order within cadre and of impugned order followed by the copies of departmental appeals are available on record as annexed with their respective Memorandum of Appeals. The appellants have disputed the transfer as made vide impugned order on the ground that in terms of service rules for them, their appointment, promotion and transfer is governed by notification dated 09.04.2006 of the Government of Khyber Pakhtunkhwa Health Department quite differently from the Pharmacists. The copy of the said notification as annexed with the appeal is also available on file. The appellants amongst other grounds have urged that the impugned notification of their transfer is against law, facts, norms of natural justice and material on record and being not tenable is liable to be set aside to the extent of appellants and private respondents; and that the appellants were not treated by the respondents in accordance with law/rules on the subject in utter violation of Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

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4. On notice of appeal, the respondents turned up, joined the proceedings and contested the appeal by filing written replies stating therein that the appellants have got no cause of action or locus standi; that the appeals are against the prevailing law and rules and are not maintainable in present form. They with several factual and legal

ATTESTED
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 Khyber Pakhtunkhwa
 Services Commission

objections submitted that the appeals having been filed with malafide intentions are liable to be dismissed as the impugned transfer notification has been issued in accordance with Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973.

5. We have heard the arguments and perused the record.

6. The arguments of the parties revolve around their submission in writing made in Memorandum of appeal and written reply respectively and discussed herein above.

7. Learned counsel for the appellant has argued that the impugned notification dated 06/10/2020 is against the law, facts, norms of natural justice and materials on the record; that the appellant has not been treated by the respondents in accordance with law and rules on the subject and as such the respondents has violated Articles-4 and 25 of the Constitution of Pakistan; that the impugned notification dated 06/10/2020 has been issued by the respondent No. 2 in arbitrary and malafide manner; hence, not tenable and liable to be set aside; that the impugned notification dated 06/10/2020 is based on discrimination, favoritism and nepotism and is not tenable in the eyes of law; that the impugned notification dated 06/10/2020 has neither been in the best interest of the public service nor in exigencies of service; that through impugned notification, the appellants has been transferred against the wrong cadre/post; that

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-24- (13)

through impugned notification is violation of clause-I and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa.

8. Learned AAG on behalf of respondents rebutted the arguments advanced by learned counsel for the appellants and has argued that the appellants are employees of Health Departments selected through Public Service Commissions of Khyber Pakhtunkhwa but their performance is questionable on the basis of their monthly progress reports compiled on the basis of set indicators besides their facing inquiries; that the appellants have already completed their normal tenure of two years and it is the discretion of the competent authority to transfer a civil servant at anytime even outside of the province; that no terms and conditions of their service have been violated; that the impugned notification is based on law, Rules and principles of natural justice; that there is no malafide on the part of respondents towards the appellants; that the application are transferred in accordance with law in the public interest; that it is the fitness of things to post a right person at a right place to achieve good governance and to enhance public service delivery; that the appellants have been transferred within their cadre within the same directorate even if they have been transferred in ex-cadre, the same is also covered under the second proviso of Act; that the notification issued after observance of all relevant rules/policy.

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Secretary
Khyber Pakhtunkhwa
Peshawar

-25- (14)

9. For any reason but as matter of fact, the posts held by the appellants as Drug Inspector or Drug Analyst, as the case may be, were got vacated by transfer of the appellants and filled by posting of the individuals from the cadre of pharmacists. The appellants inconsequence of their transfer have been posted against non-cadre posts. The main defense of the respondents lies in their reply to para-4 of the memorandum of appeal. It has been stated vide para-4 of appeal that by the service rules dated 09/04/2006, the cadre of the appellants is completely different from that of service rule assigned for pharmacists.

The reply of the respondents to said para is copied below:

"The Service Rules does not carry any kind of assignment to a cadre but it specifies the method of recruitment and promotion prospects which is otherwise protected after the merging of cadre. Although transfer is not a punishment but to make such like people punctual, subservient to the public and to overcome the deficiency of efficient of hardworking officer to post right person on right place, the three cadres i.e. hospital pharmacist, drug inspector and analyst having same basic qualification as required for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so any drug inspector or an analyst at DTL (who are the cadre of the 04 to 05 persons) can be transferred making them liable to work in hospital under the close

Prasanna

ATTESTED
Kalyan P. ...
Service Tribunal
Punjab

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(18)

supervision of hospital administration and vice versa. Those who are transferred from hospital to work in the field as drug inspector are tremendously working, removing the bottlenecks and highlighting a lot of malpractices previously done by their predecessor who have been sacked from field duty. In other similar cases, the drug inspectors who are sacked are under probe at Provincial Inspection Team and other fora".

10. From the divergent pleadings of parties particularly discussed herein before, the main question wanting determination is, whether vice versa transfer of the holders of the post of Drug Inspector/Analyst and of Pharmacist is reasonably doable?

11. For answer to the formulated questions, prior determination of the legal status of the appellants and the respondents is necessary, as far as their functional duties are concerned. It is pertinent to observe that the Government of Khyber Pakhtunkhwa made the Khyber Pakhtunkhwa Drug Rules, 1982 in exercise of powers conferred by Section 44 of Drug Act, 1976. Rule-2 of ibid rules provides definitions of different words and phrases. The expression "Act" in the said rules means the Drug Act, 1976. Analyst means an Analyst appointed by the Government under the Act. Inspector means an Inspector appointed by the Government under the Act. Board means the Quality Control Board for the Khyber Pakhtunkhwa Province set up under Section 11 (of the Act). Pharmacy

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EXAMINER
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- 27 - (16)

means a shop, store or place where drugs are compounded or prepared on prescription. Part-II of ibid rules relates to appointment and functions of enforcement staff. Sub Rule-(1) of Rule-3 in Part-II of the said Rules provides that an Inspector and Analyst shall submit monthly returns in Form-1 & Form-2 respectively, to the Board and a Summary on the overall situation of quality control in the area under their respective jurisdiction and the board shall maintain such information in a manner as to monitor the quality of all the drugs sold and to keep watch on the performance of all manufacturers. Rule-4 provides qualifications etc of Inspector and Analyst. Accordingly, no person shall be appointed as Inspector unless he possess the degree in Pharmacy from University or other institutions recognized for this purpose by the Pharmacy Council of Pakistan and has at least one year experience in the manufacture, sell, testing or analysis of drugs or in Drug Control Administration or in hospital or pharmacy. Sub Rule-(2) of Rule-4 provides the qualification for appointment as Analyst which is similar to that of the Inspector except experience which in case of Analyst is 05 years. The same rules i.e. of 1982 provide for duties of Inspectors and Analysts. From the given statutory expositions relating to the position of Drug Inspector and Drug Analyst, we have no hesitation to hold that the posts of Drug Inspector/Drug Analyst are statutory positions with authority of appointment vested in the Provincial Government. The Government of

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Khyber Pakhtunkhwa vide notification dated 09/04/2006 bearing No. SOH-III/10-04/05 issued in pursuance to the provisions contained in sub rule-(2) of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, laid down the method of recruitment, qualification and other conditions of service applicable to the posts specified in column-2 of the appendix. The qualification of Inspector in the appendix is similar to that of qualification provided under Sub-Rule-(1) of Rule-4 of Khyber Pakhtunkhwa Drug Rule, 1982. According to method of recruitment prescribed in column-5 of the appendix, the appointment to the post of Drug Inspector is to be made by initial recruitment while to the post of Chief Drug Inspector and Divisional Drug Inspector by promotion. The respondents in their reply vide para-4 as reproduced herein above have asserted with vehemence that there cadres i.e. Hospital Pharmacist, Drug Inspector and Drug Analyst having same qualification for induction through Public Service Commission, were merged to obviate the stagnancy in the cadre. By doing so Drug Inspector of Analyst at DTL (who are the cadre of 04 to 5 persons) be transferred making them liable to work in hospital under the close supervision of hospital administration. Those who are transferred from hospital to work in the field as Drug Inspector are tremendously working, removing the bottlenecks and

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EXAMINER
Khyber Pakhtunkhwa
Government
Peshawar

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highlighting a lot of discrepancies done by their predecessors who have been sacked from field duty.

12. The reply of the respondents as discussed above revolves around the expediency of filling the Drug Regulatory posts by *inter se* transfer of the holders of the post of Drug Inspector/Drug Analyst and of Pharmacists by merger of their cadre to ensure the discipline and quality of performance purportedly for the public good. We are not supposed to doubt the intentions of the respondents for such expediency but at the same time, we have to see that such an expediency is in conformity to the law and rules on the subject. Article 240 of Constitution of Pakistan enshrines that subject to the Constitution, the appointments and conditions of service in the Service of Pakistan shall be determined by or under the Act of Parliament in case of the services of Federation and by or under the Act of Provincial Assembly in case of services of Province and posts in connection with affairs of the Province. In pursuance of this command of Constitution, the Provincial Service Laws i.e. the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rules made there-under are in place in general besides other Special Service laws for particular posts and services in connection with affairs of the Province. As already discussed above, the notification dated 09/04/2006 issued in pursuance to Sub Rule-(2) of Rule-3 of (APT) Rules, 1989 is there which laid down the method of recruitment, qualification and other conditions of service

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Baloch...vs...Province of Sindh (205 SCMR 456), it was held as follows:

"8. The quintessence of the paragraphs reproduced above is that the appointments made on deputation, by absorption or by transfer under the garb of exigencies of service in an outrageous disregard of merit impaired efficiency and paralyzed the good governance and that perpetuation of this phenomenon, even for a day more would further deteriorate the state of efficiency and good governance."

13. For what has gone above, all the appeals with their respective prayers are accepted as prayed for. Consequently, the impugned order is set aside and respondents are directed not to transfer the appellants from the post of Drug Inspector or Drug Analyst as the case may be. Parties are left to bear their own costs. File be consigned to record room after completion.

(Signature)
(SALAH-UD-DIN)
Member(J)

ANNOUNCED
06.12.2021

(Signature)
(AHMAD SULTAN TAREEN)
Chairman

Certified to be true copy

F. WINEER
Khyber...-htu...aws
Service Tribunal,
Peshawar

Date of presentation of Application 9/2/2022
5500

56

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(Signature)
Date of Delivery 9/2/2022

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No /2024

Dr. Tarveem ul Haq

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health dept

(RESPONDENT)
(DEFENDANT)

I/We/ Dr. Tarveem ul Haq

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2024

Tarveem
CLIENT

Noor Mohammad Khattak
ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

Waleed Adnan
WALEED ADNAN

Umar Farooq Mohmand
UMAR FAROOQ MOHMAND

Khanzad Gul
KHANZAD GUL

&

Abid Ali Shah
**ABID ALI SHAH
ADVOCATES**