


FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No. 1689/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/10/2024	<p>The appeal of Dr. Mahmood Jan resubmitted today by Mr. Rizwanullah Khan Advocate. It is fixed for preliminary hearing before Single Bench at D.I.Khan on 21.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

This is an appeal filed by Dr. Mahmood Jan today on 26.09.2024 against the order dated 05.06.2024 against which he preferred/made a departmental appeal on 01.07.2024 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to file fresh appeal after maturity of cause of action.

No. 830 /Inst./2024/KPST,

DI. 26/9 /2024.

*Rizwan Ullah Khan*  
ADDITIONAL REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Rizwan Ullah Khan Adv.  
High Court D.I.Khan.

*R/Submitted as*

*That appellant submitted his departmental appeal on 12/06/2024 which was received on 28/06/2024 by the department and issued diary no on 01/7/2024. The period of 90 days are counted from the date of submission of appeal dated 12/6/2024. If 90 days are counted from the date of receiving dated 28/6/2024 then period of 90 days are lapsed because month of July & August are consisting of 31 days. Hence my appeal is mature and according to the law.*

*your humble petitioner*

*Ullah*  
26/9/2024

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

In Service Appeal No. 1689 /2024

**Dr. Mahmood Jan**  
**(Appellant)**

**VERSUS**

**GOVT of KPK etc**  
**(Respondents)**

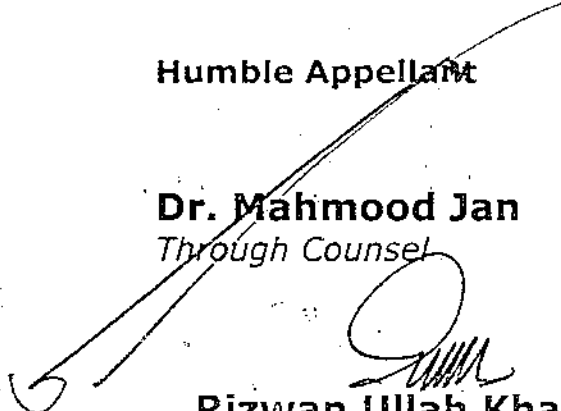
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**Humble Appellant**

Dated: 26/09/2024

**Dr. Mahmood Jan**  
*Through Counsel*

  
**Rizwan Ullah Khan**  
Advocate High Court

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

Service Appeal No. 1689 /2024

**Dr. Mahmood Jan**, Ex-District Health Officer Dera Ismail Khan, presently Posted as OSD Directorate General Health Services Khyber Pakhtunkhwa Peshawar. (BPS-20)

**(Appellant)**

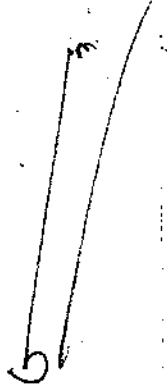
**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary Health Services Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Health Services Department, Khyber Pakhtunkhwa, Peshawar.
4. Dr. Said Muhammad, presently serving as District Health Officer Dera Ismail Khan. (BPS-19)

..... **(RESPONDENTS)**



**APPEAL UNDER SECTION 4 OF THE KPK SERVICES**  
**TRIBUNAL ACT, 1974 AGAINST THE POLITICAL BASED**  
**POSTING TRANSFER NOTIFICATION#SOH(E-V)/2-**  
**2/2024 DATED 05/06/2024 VIDE WHICH THE**  
**APPELLANT IS TRANSFERRED FROM DHO DERA ISMAIL**  
**KHAN TO DIRECTORATE GENERAL OF HEALTH SERVICE**  
**KPK PESHAWAR.**



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**PRAYER**

On acceptance of this service appeal the impugned transfer Notification#SOH(E-V)/2-2/2024 dated 05/06/2024 may kindly be set aside. Similarly any other order, if issued by the respondents upon the departmental appeal of appellant may also be set aside.

Any other relief deemed appropriate in the given circumstances may also be granted to the appellant in the large interest of justice.

**Note:** Addresses given above shall suffice the object of service. All necessary and proper parties have been arrayed in the panel of respondents.

**Respectfully Sheweth;**

The appellant humbly submits as under;

1. That appellant was serving the Health Services Department Khyber Pakhtunkhwa as District Health Officer Dera Ismail Khan and always performed his duties with zeal, zest and to the entire satisfaction of her superior and did not leave any stone unturned towards his high ups. In this respect service record of appellant is very much evident.
2. That appellant was transferred from Principal Medical Officer (BPS-19) at CD Yarik Dera Ismail Khan to DHO Dera Ismail Khan vide notification No. 7395-99 dated 22/04/2022 and appellant performed his duties as DHO Dera Ismail Khan with full satisfaction of his superiors. Copy of the office order dated 22/04/2022 is annexed as **Annexure-A**.
3. That the respondents transferred the appellant from District Health Officer Dera Ismail Khan to OSD Directorate General of Health Services KPK Peshawar vide impugned transfer Notification#SOH(E-V)/2-2/2024 dated 05/06/2024

without any lawful justification and on political basis. Copy of the impugned order dated 05/06/2024 is annexed as **Annexure-B.**

4. That appellant preferred a departmental appeal/representation duly forwarded to the respondent#2 on 12/06/2024 which was received by the respondent vide dairy No. 2438-P dated 01/07/2024, which is still pending for decision. Although 90 days has been lapsed but the departmental appeal is not been decided as yet, which also shows mala-fide on the part of respondents. Copy of the departmental appeal is annexed as **Annexure-C.**
5. That feeling aggrieved by the impugned transfer order dated 05/06/2024, the appellant does not have any other efficacious remedy but to invoke the appellate jurisdiction of this Honourable Tribunal, by way of instant appeal, on inter alia the following grounds:-

**GROUND:-**

- A. That the impugned transfer notification dated 05/06/2024 is pre-mature, illegal, against service laws and policy, hence, liable to be cancelled.
- B. That the impugned transfer notification is based on political influence, hence, not sustainable in the eyes of law as well as service policy.
- C. That as per policy the posting tenure is minimum three years but in the instant case the appellant is transferred only after two years which clearly reveals that the appellant is politically victimized.
- D. That the appellant diligently served in far-flung areas of the province, he has undoubtedly proven her dedication and competence.

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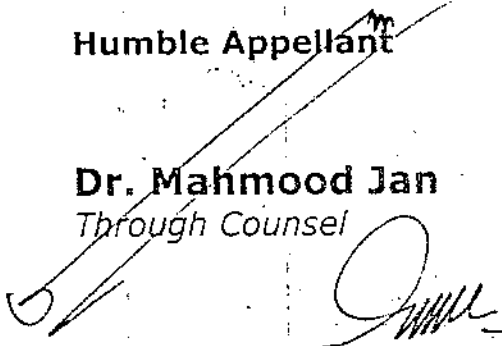
- E. That appellant requests the reconsideration of the impugned transfer order and the cancellation of the same. It is not my intention to undermine the importance of equitable distribution of resources and personnel, but rather to highlight the unique circumstances that may jeopardize his safety and effectiveness in this particular posting.
- F. That the impugned transfer notification dated 05/06/2024 is against law and facts. Moreover, the impugned transfer order has been issued just after two years of previous transfer which is pre-mature and on the basis of political influence, hence, on this sole ground, the impugned transfer order is liable to be set aside.
- G. That Counsel for the appellant may please be allowed to raise additional grounds during the course of arguments.

**It is therefore respectfully prayed that the instant appeal may please be accepted as prayed for in the headnote and contents of appeal.**

Dated: 26/09/2024

Humble Appellant

**Dr. Mahmood Jan**  
Through Counsel

  
**Rizwan Ullah Khan**  
Advocate High Court

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

In service Appeal No. \_\_\_\_\_/2024

**Dr. Mahmood Jan**  
**(Appellant)**

**VERSUS**

**GOVT of KPK etc**  
**(Respondents)**

**CERTIFICATE**

Certified that appellant have not filed an appeal regarding the subject controversy, earlier in this august Court.

Dated 26/09/2024

Appellant

**NOTE:**

Appeal with annexure along-with required sets thereof are being presented in separate file covers.

Dated 26/09/2024

Appellant's counsel



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In Service Appeal No. \_\_\_\_\_/2024

**Dr. Mahmood Jan  
(Appellant)**

**VERSUS**

**GOVT of KPK etc  
(Respondents)**

**AFFIDAVIT**

I, **Dr. Mahmood Jan**, the appellant herein, do hereby solemnly affirm on oath:-

1. That the accompanying appeal has been drafted by counsel following my instructions;
2. That all parawise contents of the appeal are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Court, nor anything contained therein is based on exaggeration or distortion of facts.

Dated 26/09/2024

**Deponent**

Identified By:-



**Rizwan Ullah Khan  
Advocate High Court**

*Attested by*  
**Commissioner  
Bar & LKha**



26/9/2024

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

CM No. \_\_\_\_\_/2024

In Service Appeal No. \_\_\_\_\_/2024

**Dr. Mahmood Jan      VERSUS      Govt. of KPK etc**

**APPLICATION FOR INTERIM RELIEF BY SUSPENDING THE**  
**OPERATION                      OF                      IMPUGNED                      TRANSFER**  
**NOTIFICATION#SOH(E-V)/2-2/2024                      DATED**  
**05/06/2024 TILL FINAL DECISION OF THE INSTANT**  
**SERVICE APPEAL.**

**Respectfully Sheweth,**

1. That the above titled service appeal is being filed before this Honourable Tribunal and the instant application may kindly be considered as part of it.
2. That the appellant has prima facie case and balance of convenience is also tilts in favour of the appellant.
3. That the respondents are intending to transfer the appellant to OSD Directorate General KPK Peshawar on political victimization and if the operation of impugned transfer order is not suspended then the appellant will face irreparable loss and instant appeal will become futile.
4. That this honourable tribunal has got vast and ample powers to entertain the application in hand.

**It is, therefore, humbly requested that in view of the above submissions, the interim relief may kindly be issued in favour of appellant till the final decision of the instant service appeal.**

**Humble Appellant**

Dated: 26/09/2024

**Dr. Mahmood Jan**  
*Through Counsel*

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(2)

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

In Service Appeal No. \_\_\_\_\_/2024

**Dr. Mahmood Jan**  
**(Appellant)**

**VERSUS**

**Govt. of KPK etc**  
**(Respondents)**

**AFFIDAVIT**

I, **Dr. Mahmood Jan**, the appellant herein, do hereby solemnly affirm on oath:-

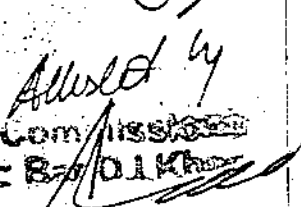
1. That the accompanying CM petition has been drafted by counsel following my instructions;
2. That all parawise contents of the CM petition are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Court, nor anything contained therein is based on exaggeration or distortion of facts.

Dated 26/09/2024

**Deponent**

Identified By:-

  
**Rizwan Ullah Khan**  
Advocate High Court

  
Identified by  
Rizwan Ullah Khan  
Advocate High Court

AND (9)

OFFICE OF THE DISTRICT HEALTH OFFICER

DERA ISMAIL KHAN

Phone# 0966-933199

Email: [dhodikhan@yahoo.com](mailto:dhodikhan@yahoo.com)

No. 7395-99 /PF

Dated: 22/04/2022

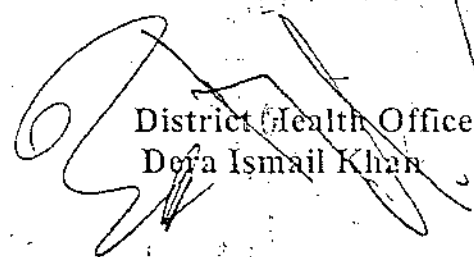
To

The Director General Health Services  
Khyber Pakhtunkhawa Peshawar

Subject: Charge Report of Departure

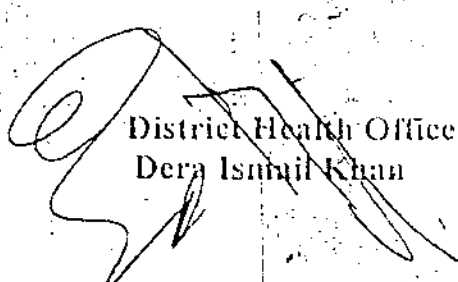
Reference Government of Khyber Pakhtunkhawa Health Department  
Notification No: SOH (E-V) 2-2/2022 dated: 12/04/2022. (Promoted as Chief Medical  
Officer BS-20)

I have the honor to submit herewith charge report (Departure Report) in  
respect of Dr. Mehmood Jan has relinquished the charge as Principal Medical Officer (BS-  
19) at CD Yarik under DHO DIKhan on 22/04/2022 (A.N) for information and further  
necessary action please.

  
District Health Officer  
Dera Ismail Khan

Cc: -

1. Director General Health Services Khyber Pakhtunkhawa Peshawar
2. District Accounts Officer DIKhan.
3. Incharge CD Yarik.
4. Doctor Concerned.
5. Accounts Clerk of this Office.

  
District Health Officer  
Dera Ismail Khan

# CERTIFICATE OF TRANSFER OF CHARGE.

1. Certified that we have on the fore/afternoon of this day respectively made over and received charge of the Principal Medical Officer (BS-19) at CD Yarik vide Government of Khyber Pakhtunkhawa Health Department Notification No: SOH (E-V)2-2/2022 dated: 12/04/2022. (Promoted as Chief Medical Officer BS-20)
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse: -

Signature of relieved  
 Government Servant Dr. Mehmood Jan  
 Designation: PMO (BS-19)

Station: CD Yarik

Signature of relieving  
 Government Servant: \_\_\_\_\_  
 Designation: \_\_\_\_\_



Dated: 22/04/2022 (F.N)



GOVT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT



ANN B

Dated Peshawar the 5<sup>th</sup> June 2024

NOTIFICATION

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NO.SOH(E-V)/2-2/2024 The following posting/ transfer of doctors are hereby ordered with immediate effect, in the best public interest:-

SNo	Employee Name	From	To/Disposal	Remarks
1	DR. MAHMOOD JAN BHITANI, General Cadre (BS -20) 1210109911709	District Health Officer (BPS-20), District Health Office DI Khan	Report to Directorate General Health Services, Khyber Pakhtunkhwa	---
2	DR. SAID MUHAMMAD, General Cadre (BS -19) 1210315022827	Principal Medical Officer (BPS-19), RHC Kojai, DI Khan	District Health Officer (BPS-20), District Health Office DI Khan in OPS	Vice S.No.01

SECRETARY HEALTH  
KHYBER PAKHTUNKHWA

No. 5030-40 /Notification 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 Director (HRM), DGHS Office, Peshawar.
4. District Health Officer(s), concerned.
5. District Account Officer(s), concerned.
6. Deputy Director (IT), Health Department, Khyber Pakhtunkhwa.
7. PS to Secretary Health Department, Khyber Pakhtunkhwa.
8. PS to Special Secretary (E&A) Health Department, Khyber Pakhtunkhwa.
9. Doctor(s) concerned.
10. Master file.

SECTION OFFICER (E-V)

*[Handwritten Signature]*



H E A L T H K P

17175768725

Received by day on 28/06/2024

24383  
07.07.2024

ANX 2

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**BEFORE THE HONOURABLE CHIEF SECRETARY**  
**KHYBER PAKHTUNKHWA PESHAWAR**

Secy. Health

1/7

Deputy Secretary  
to Chief Secretary  
Khyber Pakhtunkhwa Peshawar

**APPEAL / REPRESENTATION AGAINST NOTIFICATION**  
**DATED 05-06-2024 IN WHICH APPELLANT WAS**  
**TRANSFERRED FROM THE POST OF DHO DIKHAN &**  
**POSTED AS OSD AT DIRECTOR GENERAL HEALTH**  
**OFFICE AND PERSON JUNIOR TO HIM WAS POSTED AS**  
**DHO DIKHAN ON OPS IN PLACE OF APPELLANT.**

Respectfully Sheweth:

1. That appellant being BPS-20 officer was posted as DHO DIKHAN and removed and posted as OSD without completing normal tenure vide notification dated: 05-06-2024 and one Dr Said Muhammad BPS 19 was posted as DHO DIKHAN on OPS.
2. That the officer cannot be made OSD according to Judgements of Honorable Courts.
3. That my date of birth is 08-09-1965 and my remaining service period is approximately 1 year.
4. That Dr Said Muhammad was posted as DHO DIKHAN on OPS which is clearcut violation of rules because posting on OPS is not allowed as per law.
5. That according to judgements of Honorable High Court, Service Tribunal as well as Supreme Court and Section (4) of posting/transfer policy 2009, the proper person should be posted on proper post.

*[Signature]*

It is therefore humbly requested that in light of about facts, the notification dated: 05-06-2024 may be cancelled and the posting of appellant as DHO DIKHAN may be stored and obliged.

Dated: 12/6/2024

Your Obediently

Dr. Mahmood Jan BPS-20  
DHO DIKHAN  
Presently posted as OSD  
At Directorate of Health  
Mob # 0334-3347800

03451562171

Advocate D.I. Khan

RIZWAN KHAN

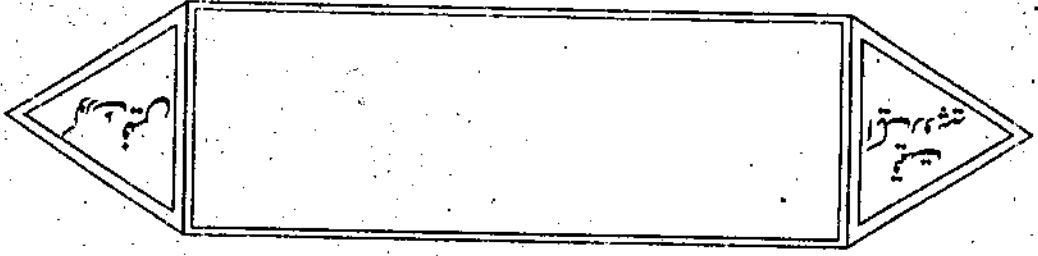
Agreement

Accepted  
S.E.C

بسم الله الرحمن الرحيم  
 هذا الاتفاق الموقع بين السيد ريزوان خان  
 من جهة واحدة وبين السيد د. ا. ا. خان  
 من جهة الاخرى في تاريخ 26 من شهر  
 ربيع الثاني سنة 1435 هـ الموافق  
 2014 م. يحدد شروط العمل  
 التي سيقوم بها السيد ريزوان خان  
 كخبير قانوني في قضايا  
 الملكية الفكرية والعلامات  
 التجارية والبراءات  
 اختراع في حق السيد  
 د. ا. ا. خان. ويتضمن  
 الاتفاق تحديد مدة العمل  
 والرسوم المترتبة على  
 الخدمات التي سيقدمها  
 السيد ريزوان خان. كما  
 يحدد الاتفاق شروط  
 السرية والاحتراف  
 المهني الذي يجب ان يلتزم  
 به السيد ريزوان خان  
 في اثناء عمله. ويصدق  
 هذا الاتفاق على نسختين  
 احدهما بيد السيد ريزوان  
 خان والاخرى بيد السيد  
 د. ا. ا. خان.

Dr. A. A. Khan / Advocate  
 Rizwan Khan / Adv

Behera and Associates  
 Chartered Accountants  
 12/350, Market  
 03451562171  
 13/1



والتاريخ

(13/1)