


FORM OF ORDER SHEET

Court of _____

Appeal No. 1948/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/10/2024	<p>The appeal of Mr. Shamas Ur Rehman resubmitted today by Mr. Bashir Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 21.10.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Shams ur Rehman received today i.e on 04.10.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of appellant is incomplete be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 4 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.

No. 872 /Inst./2024/KPST,

Dt. 4/10 /2024.

Amatilloh
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Bashir Khan Wazir Adv.
High Court at Peshawar.

Respected Sir
objections Remoued and resubmitted
again

Bhi
Am

14/10/2024

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1948 /2024


Shams Ur Rehman..... Appellant
VERSUS
Govt of KPK & others..... Respondents

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Through


Appellant


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

1

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

Service Appeal No. 1948 /2024

Shams Ur Rehman S/o Bahadur Ghulam posting in the office of Director General Health Service Peshawar.

..... Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Health Khyber Pakhtunkhwa Peshawar.
3. Director General Health Khyber Pakhtunkhwa, Peshawar

..... Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR
INDUCTION / ABSORPTION FROM GENERAL CADRE INTO
MANAGEMENT CADRE PROVIDED UNDER THE AMENDED
HEALTH MANAGEMENT SERVICE RULES 2008, AMENDED
UPTO 2017, ACCORDING TO WHICH THE APPELLANT IS
ENTITLED TO BE INDUCTED IN THE MANAGEMENT
CADRE, BEING QUALIFIED AND HAVING ALL THE
REQUISITE ACADEMIC QUALIFICATIONS. THE
APPELLANT IN THE LIGHT OF JUDGMENT OF THE
PESHAWAR HIGH COURT IN WP NO. 3041/2021
SUBMITTED A DEPARTMENTAL APPEAL, BUT TILL DATE
NO EFFECTIVE ORDER HAS BEEN PASSED BY THE
RESPONDENTS.**

PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO ISSUE EFFECTIVE OFFICE ORDER IN FAVOUR OF THE APPELLANT AND TO INDUCT / ABSORB THE APPELLANT FROM GENERAL CADRE INTO MANAGEMENT CADRE POST IN THE LIGHT OF RULE 10 OF THE HEALTH MANAGEMENT SERVICE RULES 2008 AMENDED IN THE YEAR 2017.

Respectfully Sheweth:
BRIEF FACTS!

- 1) That Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is entitled for all the legal and fundamental rights guaranteed under the constitution and presently performing his duty as post Medical Officer, BPS-17.
- 2) That the Appellant after passing his MBBS joined house job and after gone through requisite criteria he has been

appointed as Post Medical Officer BPS-17 under the control of erstwhile FATA Directorate of Health Services and he remained on various positions on management cadre posts on different occasions. **(Copy of appointment order is attached as annexure "A")**

3) That before merger of FATA the Appellant was serving under the Directorate Health Services FATA and he was time again posted and transferred from the position of Medical Officer to the posts of management cadre. The government of KPK in exercise of the powers conferred by section 26 of the KPK Civil Servants Act 1973 made Management Servant rules 2008 and introduced the said rules, while given options to the Doctors who were having qualifications of MBBS and MPH Degree from recognized institutions and intended to get inductions in the management cadre and first time the Doctors were divided into two groups one is of Management Cadre and the other is General Cadre. **(Copy of the Rules and Degrees are attached as annexure "B")**

4) That guidelines provided under the said rules and in Part III conditions of service is provided according to which in rule 8 it has been specified that no member of service shall be allowed private practice, in lieu he shall be entitled to non practicing allowance. At such rate as may be prescribed by government, therefore the members of service have been completely debarred from private practice.

5) That the Appellant after acquiring of MBBS Degree he was selected as Medical Officer BPS 17, thereafter, posted on various positions and after few months he was assigned duties on the posts which are falling in the Management cadre and even rule 8 of the management rules 2008 had been applied, while restrained him from private practice and non private practice allowance is being allowed to him, which is evident from the salary slip of the Appellant, therefore, it is very much established from the transfer posting of Appellant that he is holding post of management cadre from the last five years. **(Copies of the posting transfers of the Appellant is attached as annexure "C")**

6) That it is pertinent to mention here that after promulgations of the above mentioned rules various officers who belonged to the General Cadre challenged the vires of the said rules in Khyber Pakhtunkhwa Service Tribunal through service appeal, while impugned section 10 of the said rules, which was allowed and the respondents were directed to allow the appellants if they wish to opt for induction in the Management Cadre and the said decision of the service appeal was maintained by the August Supreme Court. **(Copies of the Judgments are attached as annexure "D")**

- 7) That it is evident from the record that the Appellant is holding the post of Management Cadre for the last few years and he had sacrificed his medical line, while not opted for being obtaining of Degree of FCPS as he has been restrained from private practice, therefore, he had submitted various applications to the respondents for being proper induction of his service from General Cadre to Management Cadre with submission that he was holding the post of management cadre since long and having MPH Degree as well, similarly the provincial government has already been modified rule 10 of the Khyber Pakhtunkhwa Health Management Service Rules 2008, while published in gazette Notification on 29 May 2017, whereby the rule 10 sub rule (2) is being amended with regard to the Proviso "provided further that for a period of two years, from the date of issuance of this amending Notification, the officers of the General Cadre, who are in regular and continuous service and holding posts as such, shall be required to improve their qualification as per the Khyber Pakhtunkhwa Health Management Service Rules, 2008 to exercise the option under this rule", according to the said amendment a relaxation to the officers of the General cadre have been given. **(Copy of the amended rules are attached as annexure "E")**

- 8) That the Appellant completed his MPH course in august 2019, while the period given in the amended rule 10 of the Health management Service rules 2017 is May 2019, on the basis of which the Appellant right has been violated as he had been completed his MPH according to the Cushion period and the time frame given in the amended rules is being against the norms of justice and the Appellant inspite of the facts that he being obtained the requisite qualifications for induction into the Management Cadre has been deprived from his lawful and fundamental rights.

- 9) That as per the above mentioned criteria the Appellant is entitled to be properly placed and inducted in the management cadre, as he has waived of his right of private practice, which is evident from the above mentioned salary slip in which the Appellant has been entitled to be received non practice private allowance, the Appellant submitted his appeal before the competent authority with request to include his name in the member of services of Health Department in the light of aforesaid mentioned Judgment and amended rules, however neither the Re Respondents considered the request of the Appellant nor uptill now they have refused.

- 10) That since the promulgation of the Khyber Pakhtunkhwa, Health (Management) Service Rules 2008, in rule 10, one time exercise of permanent transfer from amongst the officers of

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General Cadre in equivalent basic pay scale, who are having qualification for the subject absorption was provided which was later on declared by the service tribunal ultra vires and the Respondents were directed to provide opportunity for the qualified candidates belongs to the General Cadre. The same judgment of the Khyber Pakhtunkhwa Service tribunal was upheld by the Supreme Court, however the Respondents once again violated the Judgment of Hon'ble Courts and made amendment in the Rules, from which the Appellant was also aggrieved.

- 11) That the petitioner during completion of his education i.e Master in public Health and submitted applications before the GD health FATA on 07.06.2017 and 08.08.2017, the Deputy Director Admin DG Health Services FATA Secretariat considered the petitioner for Management Cadre after completion of his Degree. Moreover at that time Fata Secretariat having its own DG Health and were not merged into KPK. **(Copies of Applications are attached as annexure E-I)**
- 12) That the petitioner being aggrieved, filed Writ Petition No 3940/2021, the Hon'ble Peshawar High Court while disposing of the Writ Petition of the appellant with direction to the respondents to consider the case of the appellant for induction into Management Cadre, further directions be issued to decide the matter within a period of one month. **(Copy of Writ Petition and Order dated 20.03.2024 is attached as annexure F)**
- 13) That thereafter the Appellant filed an Departmental Appeal before the respondents and submitted Writ Petition along with order dated 20.03.2024 and requests for inducted the appellant into management cadre, wherein a committee was constituted by the respondents for induction into management cadre of the appellant, but no other effective order has yet been passed in pursuance of the Departmental Appeal. **(Copy of Departmental Appeal and Minutes of the meeting are attached as annexure G)**
- 14) That the respondents without waiting and deciding the fate of decision of the PHC and departmental Appeal, now forwarded requisition to the Public Service Commission for onward advertisement of the posts vacant in the Management Cadre in order to deprive the appellant and his other colleagues from their lawful rights. **(Copy of the requisition is attached as annexure H)**
- 15) That the Appellant feeling extremely aggrieved, having no other adequate, alternate and efficacious remedy but to

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approach this Hon'ble Court for redressal of his grievance, inter alia on the following grounds:

GROUND:-

- A) That the impugned acts of Respondents are illegal, without lawful authority, result of nepotism, conceived in bad faith and malafide, hence requires to be declared so.
- B) That the Appellant since long performing his duty under the Respondents department on the post which are falls in the definition of Management Cadre, furthermore he has already acquired the requisite qualifications for absorption in the Management Cadre from General Cadre, similarly the Respondents treated the Appellant as like the incumbents of Member of Services Health Department, which is evident from the posting as well as the salary slip, whereby the Appellant has been allowed to get non private practice, this term is mentioned in Rule 8 of the Management Service Rules 2008.
- C) That the requisition forwarded to the public service commission, for onward advertisement of the post laying vacant in the Management Cadre is against the judgment and the Management Health Service Rules 2008 amended upto 2017, according to which the appellant and other similar placed candidates are being eligible to be inducted first into the management cadre and thereafter if the sanction positions if remain vacant, the same may be forwarded for acquisition to the public service commission.
- D) That after the promulgation of the Health Management Service Rules 2008, the incumbents of the Health Department has been divided into two categories, one is declared General Cadre and the other has been declared as Management Cadre, the work has been distribute amongst the two groups, the Management Cadre group has been specifically nominated for the administrative purposes for administrative work and the other has specifically been nominated for the practice as a Doctors.
- E) That after the publication of the above mentioned rules, the incumbent of the General Cadre had been challenge Rule 10 of the said Rules to be declared ultra vires and is against the fundamental rights of the candidates who were having the requisite qualifications but due to the specific baring clause as rule 10, they were unable to induct in the management cadre. The service tribunal rendered judgment, while declared the said Rule 10 being ultra vires against the constitution and is against the fundamental rights of the candidates and the same judgment was upheld by the August Supreme Court, the Service Tribunal specifically mentioned in Para 8 of their Judgment that Rule 10 of the said Rules does not provide any cushion period and denying chance to improve qualification for joining the management cadre to the candidates.
- F) That the decision in respect of regret is against the fundamental rights provided under the constitution of Islamic Republic of

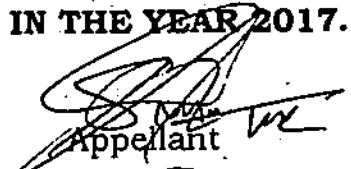
Pakistan and the Respondents violated the article 4,18 and 25 of the constitution of Islamic Republic of Pakistan.

- G) That Appellant is the only eligible candidate who's vested right can not be crucified. By doing so, Respondents No 1 and 2 have disregarded the express provisions constitution, guaranteeing of fundamental rights.
- H) That it is the fundamental and inalienable right of Appellant to be dealt with in accordance with law, and the Appellant has not been dealt with in accordance with law and has been extremely discriminated. As such, the impugned action of Respondents is liable to be declared so.
- I) That it is pertinent to mention here that the Rule 10 of the above mentioned rules have been declared being ultra vires and once the Hon'ble Tribunal has been directed the Respondents to modify the said rules for the purpose of to extend the benefit of the said rules to the other eligible candidates and therefore the same judgment was maintained by the August Supreme Court of Pakistan, the Govt of KPK amended rule 10 of the said rules after realizing that the said is being unconstitutional. Now after the proper amendment the same amendment is also being unconstitutional, against the fundamental rights
 - a. MP.h degree in the specific period, due to some unavoidable reasons, therefore the time frame specified in the amended rules is unjustifiable and liable to be declared illegal, accordingly the Appellant be allowed to opt induction in the management cadre.
- J) That other grounds will be raised at the time of arguments with prior permission of this Hon'ble Court.

PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO ISSUE EFFECTIVE OFFICE ORDER IN FAVOUR OF THE APPELLANT AND TO INDUCT / ABSORB THE APPELLANT FROM GENERAL CADRE INTO MANAGEMENT CADRE POST IN THE LIGHT OF RULE 10 OF THE HEALTH MANAGEMENT SERVICE RULES 2008 AMENDED IN THE YEAR 2017.

Through



Appellant



BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

7

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2024

Shams Ur Rehman..... Appellant

VERSUS

Govt of KPK & others..... Respondents

AFFIDAVIT

I, Shams Ur Rehman S/o Bahadur Ghulam R/o House No 432, Stree: No 11, Sector-4, Phase VII, Hayatabad, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2024

Shams Ur Rehman..... Appellant
VERSUS
Govt of KPK & others..... Respondents

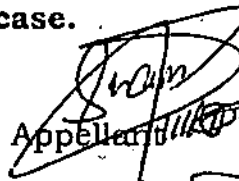
APPLICATION FOR SUSPENSION OF REQUISITION
TO THE PUBLIC SERVICE COMMISSION FOR
ONWARD ADVERTISEMENT OF THE POSTS
VACANT IN THE MANAGEMENT CADRE, TILL THE
FINAL DECISION OF THE SERVICE APPEAL.

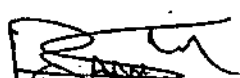
Respectfully Sheweth:

1. That the above noted Service Appeal is being filed before this hon'ble court, in which no date of hearing has yet been fixed.
2. That the Appellant has got a good prima facie case in their favour, and is sanguine about its success.
3. That the balance of convenience also lies in favour of the Appellant.
4. That if the requisition to the Public Service Commission for onward advertisement of the posts vacant in the Management Cadre is not suspended, the Appellant would suffer extreme irreparable loss.
5. That the facts and grounds of the Appeal may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the Impugned requisition to the Public Service Commission for onward advertisement of the posts vacant in the Management Cadre may kindly be suspended, till the final decision of the case.

Through


Appellant


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. ____/2024

Shams Ur Rehman..... Appellant
VERSUS
Govt of KPK & others..... Respondents

AFFIDAVIT

I, Shams Ur Rehman S/o Bahadur Ghulam R/o House No 432, Street No 11, Sector-4, Phase VII, Hayatabad, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

10

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

Service Appeal No. _____/2024

**Shams Ur Rehman..... Appellant
VERSUS
Govt of KPK & others..... Respondents**

ADDRESSES OF PARTIES

APPELLANT

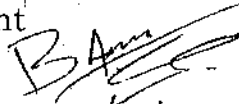
Shams Ur Rehman S/o Bahadur Ghulam posting in the office of Director General Health Service Peshawar.

RESPONDENTS

1. Govt of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Health Khyber Pakhtunkhwa Peshawar.
3. Director General Health Khyber Pakhtunkhwa, Peshawar

Through

Appellant


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

Ank A



**DIRECTORATE OF HEALTH SERVICES
FATA SECRETARIAT, WARSAK ROAD, PESHAWAR**

Ph: 091 9210212, Fax: 091 9212110, Email: dh@fata.gov.pk
No. 101-2/ADA/DHS/FATA/MO (Adhoc) Dated: 09/03/2017

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OFFICE ORDER

Consequent upon his appointment on Adhoc Basis for a period of one year vide Government of Khyber Pakhtunkhwa Health Department, Peshawar Notification No. SO(E)H-11/3-18/2016/552 (H1) dated 2nd March, 2017, the services of Dr. Shams ur Rehman/S/O Bahadur Ghulam, Medical Officer (BS-17) is hereby placed at the disposal of Agency Surgeon, NW Agency for further adjustment against the vacant post with effect from the date of his arrival in this Directorate i.e. 09-03-2017 in the interest of public service.

Sd/-

Secretary Social Sector Department.

No. 101-2/ADA/DHS/FATA/MO (Adhoc) 4628-35 Dated: 09/03/2017.

Copy to the:-

1. Secretary Health Department, Govt of Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. Additional Accountant General (PR-Sub Office) Peshawar.
4. Agency Surgeon, NW Agency.
5. Agency Accounts Officer, NW Agency.
6. PS to Additional Chief Secretary (FATA).
7. PS to Secretary SSD, FATA Secretariat.
8. Officer concerned.

For information and necessary action.

[Signature]
Director of Health Services, FATA

Received by
Dr. Shams-ur-Rehman
17301-464648-5
9th March 2017
0335-9522757

Att *[Signature]*

Scanned with CamScanner
Bashir Khan Wazir B:C 09-2052
ADVOCATE
High Court Peshawar

High Court Peshawar
 Bashir Khan Wazir BIC 09-2053
 ATTESTED
 ADVOCATE

Scanned with CamScanner

ATF

Court of Appeal, Peshawar
 Health Division
 Peshawar

Sr. No.	Name and Father Name of Doctor	Place of Posting
1.	Muhammad Iqbal / Muhammad Nisar	Attached to DHO Swabi
2.	Muhammad Humayun / Jamshed Khan	Attached to DHO Swabi
3.	Samreen Fatz / Dr. Farhan Rahman	Attached to DHO Swabi
4.	Azim Saeed / Dr. Syed Saeed Afzal	Attached to DHO Swabi
5.	Sadia Naz / Dr. Haidar Zaman	Attached to DHO Swabi
6.	Sulaiman Shah / Dr. Usman Shah	Attached to DHO Swabi
7.	Kanzal Rehena / Dr. Sher Adam Khan	Attached to DHO Swabi
8.	Jawaher Khan / Dr. Sher Adam Khan	Attached to DHO Swabi
9.	Hassan Qadir / Dr. Saqib	Attached to DHO Swabi
10.	Seema Iqbal / Dr. Muhammad Ikram Khan	Attached to DHO Swabi
11.	Sadat / Dr. Faqir Zado	Attached to DHO Swabi
12.	Safia Sumaiyeh / Dr. Anwer Niaz	Attached to DHO Swabi
13.	Muhammad Raheem / Dr. Hamdullah	Attached to DHO Swabi
14.	Zulaid Hassan / Dr. Subhan Ali	Attached to DHO Swabi
15.	Farooq Iqbal / Dr. Muhammad Iqbal	Attached to DHO Swabi
16.	Muhammad Yaseen / Dr. Faraz Hafeez	Attached to DHO Swabi
17.	Shameem Gul / Dr. Ishaq	Attached to DHO Swabi
18.	Amna Sultan / Dr. Sultan Bahadar	Attached to DHO Swabi

NOTIFICATION
 NO. GOVERNMENT/112017(2) In pursuance of clause (g) of sub-section 1 Section 10 of the Kyber Pakhtunkhwa (Regulation of Services) Act, 2017, (Kyber Pakhtunkhwa Act No. VII of 2017), the following Medical Officers BS-17, appointed on adhoc basis, shall stand regularized with immediate effect against the posts which they are holding at the time of commencement of the Act hold:

GOVERNMENT OF KYBER PAKHTUNKHWA
 HEALTH DEPARTMENT
 Dated Peshawar June 09, 2017



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52.	Azab Ahmad Khan S/o Sala Rahman	Attached to DHS FATA
53.	Wajid Noor S/o Muhammad Noor	Attached to DHS FATA
54.	Inshanullah S/o Shah Jahan	Attached to DHS FATA
55.	Abdul Wahab S/o Yar Afzal	Attached to DHS FATA
56.	Mian Anwar Rehman S/o Mian Beed Haid Jan	Attached to DHS FATA
57.	Ijaz Ahmad S/o Yaqoub Khan	Attached to DHS FATA
58.	Arshad Ali S/o Ziaat Khan	Attached to DHS FATA
59.	Anwar ul Haq S/o Khushal Khan	Attached to DHS FATA
60.	Echba Nosheen O/o Said Rehman	Attached to DHS FATA
61.	Hazrat Ali S/o Shahd Aman	Attached to DHS FATA
62.	Shams ul Rehman S/o Bahadar Ghulam	Attached to DHS FATA
63.	Sauqatullah S/o Yaqoub Khan	Attached to DHS FATA
64.	Adnan Rashid S/o Gul Rashid	Attached to DHS FATA
65.	Fahira Ullah Khan S/o Zar Khasi Khan	Attached to DHS FATA
66.	Kamran Khan Wazir S/o Din Kalam Khan	Attached to DHS FATA
67.	Najeeb Ullah Khan S/o Hazrat Khan	Attached to DHS FATA
68.	Hafiz Muhammad Fawad Shah S/o Feroz Shah	Attached to DHS FATA
69.	Abdullah S/o Amanullah	Attached to DHS FATA
70.	Nashad Ali S/o Muhammad Ayub Shah	Attached to DHS FATA
71.	Abdul Wahid S/o Sirajuddin	Attached to DHS FATA
72.	Muhammad Anus S/o Ahmad Noor	Attached to DHS FATA
73.	Muhammad Shoaib S/o Din Muhammad	Attached to DHS FATA
74.	Muhammad Alam S/o Hukam Shah	Attached to DHS FATA
75.	Muhammad Atam S/o Ghulam Jan	Attached to DHS FATA
76.	Nisar Hussain S/o Ghulam Jan	Attached to DHS FATA
77.	Shahid Khan S/o Badshah Khan	Attached to DHS FATA
78.	Muhammad Ikrom S/o Ghulam Muhammad	Attached to DHS FATA
79.	Shoaib Hussain S/o Hassan Shah	Attached to DHS FATA
80.	Muhammad Usman S/o Mir Asghar	Attached to DHS FATA
81.	Muhammad Idrees S/o Zahir Shah	Attached to DHS FATA
82.	All Asghar S/o Ali Murtaza	Attached to DHS FATA
83.	Shamim Ullah S/o Taza Khan	Attached to DHS FATA
84.	Israr Naik S/o Gul Imran	Attached to DHS FATA
85.	Nowshad Bilal D/o Amanullah	Attached to DHS FATA

6 June

ALT

6 June 2015
Secty. Office
Dist. of Kohat, Peshawar
Halla Department

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar

Note:

1. The inter-se seniority of the doctors will be determined and notified separately.
2. The above mentioned candidates will go on probation for initial period one year extendable upto another one year, if not terminated in writing as envisaged in Rule 15 on Appointment, Promotion and Transfer Rules, 1980.

SECRETARY HEALTH

Endt No of even and date.

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. All Commissioners in Khyber Pakhtunkhwa.
4. Director General, Health Services, Khyber Pakhtunkhwa.
5. PSC to Chief Secretary, Khyber Pakhtunkhwa.
6. All Deputy Commissioners in Khyber Pakhtunkhwa.
7. All District Health Officers in Khyber Pakhtunkhwa.
8. All District Accounts Officers in Khyber Pakhtunkhwa.
9. All Medical Superintendent in Khyber Pakhtunkhwa.
10. Manager Printing Press, Khyber Pakhtunkhwa.
11. PS to Secretary Health, Khyber Pakhtunkhwa.

(Signature)
 (Ibrahim Raza)
 Section Officer (E-II)
 Secty. of Khyber Pakhtunkhwa
 Health Department

05 June 2017

6 June 2017

*Att-
(Signature)*

Receiver

(Signature)
 ATTESTED
 Bashir Khan Wazir B/C 09-2053
 ADVOCATE
 High Court Peshawar

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. RIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 2nd NOVEMBER, 2016.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE N.W.F.P. HEALTH DEPARTMENT

NOTIFICATION

Dated: 11th December, 2008.

No. SOHEV/4 - 20 / 08: In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province is pleased to make the following rules, namely:

THE NORTH-WEST FRONTIER PROVINCE HEALTH (MANAGEMENT) SERVICE RULES, 2008.

PART - I GENERAL

1. Short title and commencement.—(1) These rules may be called the North-West Frontier Province Health (Management) Service Rules, 2008. (2)

They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say -

- (a) "appointing authority" in relation to a post, means the respective authority specified in para 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;
- (b) "Commission" means the North-West Frontier Province Public Service Commission;
- (c) "Cadre" means Health Management Cadre;
- (d) "Government" means the Government of the North-West Frontier Province;
- (e) "Governor" means the Governor of the North-West Frontier Province;
- (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
- (g) "Member of Service" means officer belonging to health management cadre as reflected in schedule I, II & III;
- (h) "PHSA" means Provincial Health Services Academy;

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ATTES-
Bashir Khan Wazir B/C 09-2053
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- (i) "Post" means a post specified in the Schedule-I of the rule and such other posts as may, from time to time, be determined by the Government;
- (j) "Schedule" means the schedule appended to these rules, and
- (k) "Service" means the North-West Frontier Province Health (Management) Service.

PART-II
RECRUITMENTS

3. Number and nature of posts.---The Service shall comprise the posts specified in the Schedule -I and such other posts as may be determined by Government from time to time.
4. Method of Appointment.---Method of appointment, qualifications and other conditions to applicable to a post in the Service shall be such as laid down in the column 3 to 5 of the Schedule - II.
5. Syllabus and examination for appointment by initial recruitment.---Syllabus and standard for competitive examination for appointment by initial recruitment to the post in BS-17 shall be, as laid down in Schedule-III.

PART-III
CONDITIONS OF SERVICE

6. Pre-Service Training & Departmental Examinations.--- (1) On appointment to a post borne on the service in BS-17, every officer so appointed shall complete six months mandatory training including attachment as specified in schedule - IV.
- (2) The training shall be followed by departmental examination to be conducted by Provincial Health Services Academy, which will be part of probation period
7. In-Service Training.---Selection for in-service trainings which are linked with promotion shall be done on seniority basis and those at verge of promotion shall be given priority.
8. Private Practice.--- (1) No Member of Service shall be allowed private practice, in lieu he shall be entitled to non-practicing allowance, at such rate as may be prescribed by Government.
- (2) In case of default, the Member shall be liable to disciplinary action under the law.
9. General rule.--- In all matters not expressly provided for in these rules, Members of Service shall be governed by such rules as have been or may hereafter be prescribed by Government from time to time.

Provided that in case of a dispute the Government shall have the final authority to decide the matter in any manner it deems fit.

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10. One time exercise. — (1) Notwithstanding anything contained in the provision of these rules, Government shall, as one-time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning & Management or equivalent Master's Degree / Diploma in Health management or allied disciplines and opt for absorption;

Provided that the option once exercised shall be final.

(2) Where the number of officers opting for absorption in Management Cadre is more than the available positions in respective grade, the selection under one time exercise shall be done on the basis of seniority-cum-merit only in the respective grade;

Provided that for determining the suitability of the officers, additional relevant qualifications, trainings/courses in the relevant field and managerial experience, as such, shall be taken into consideration.

11. Deletion of posts.—Posts reflected in the schedule-I shall stand deleted from any other service rules for the time being in force and such rules shall be deemed to have been amended to the above extent:

SECRETARY TO GOVERNMENT OF NWFP
HEALTH DEPARTMENT

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High Court Peshawar

SCHEDULE - I
(Management Cadre)

18

Members of Service in BPS-20:

S.No.	Nomenclature of post	Number of post
1	Director General Health Services, NWFP, Peshawar	01
2	Director (Admn) DGHIS NWFP Peshawar	01
3	Director Health Services DGHIS NWFP Peshawar	01
4	Medical Superintendent Govt. LRI/KTH/HMC Peshawar	03
5	Medical Superintendent DIIQ Hospitals Kohat, Bannu, DIKhan, Mardan, Swat, Abbottabad	06
6	Medical Superintendent, Mufli Mehmood Memorial Hospital DIKhan	01
7	Medical Superintendent, Khalifa Gul Nawaz Hospital Bannu	01
8	Medical Superintendent, Govt. City Hospital Kohat Road Peshawar	01
9	Medical Superintendent, Sarhad Hospital for Psychiatric Diseases Peshawar.	01
10	Medical Superintendent, Ayub Teaching Hospital Abbottabad	01
11	Executive District Officer (Health) Peshawar	01
12	Executive District Officer (Health) Swat	01
13	Executive District Officer (Health) Mardan	01
14	Executive District Officer (Health) Kohat	01
15	Director Provincial Health Services Academy, Peshawar	01
16	Principal Public Health School Hayatabad Peshawar	01
17	Principal Public Health School Abbottabad	01
18	MS Mardan Medical Complex	01
	TOTAL:	25

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SCHEDULE - I
(Management Cadre)

Members of Service in BPS-19:

S.No.	Nomenclature of post	Number of post
1.	Executive District Officers (Health) in NWFP	20
2.	DDHOs/Coordinators EDO(H) Offices in NWFP	31
3.	Medical Superintendent DHQ.Hospitals in NWFP	17
4.	Medical Superintendent Govt. ID Children Hospital Peshawar	01
5.	Medical Superintendent Police/Services Hospital Peshawar	01
6.	Medical Superintendent Mental & General Hospital Dadar Manshra	01
7.	Medical Superintendent, City Hospital Lakki Marwat	01
8.	DMS Women and Children Hospital DIKhan,	01
9.	DMS in DHQ. Hospital, Mardan, Swat, Nowshera, Haripur, Abbottabad and DIKhan	06
10.	District TB Control Officer, Peshawar, Mardan, Swabi, DIKhan, Haripur, Battagram, Manshra, Swat, Chitral, Upper-Dir.	10
11.	Deputy Administrator Mardan Medical Complex Mardan	01
12.	MS/incharge Civil/THQ.Hospital Tangi, Shabqaddar, Dargai, Pabbi, Matta, Darosh (Chitral), Rehana, Kulachi	08
13.	SMO I/C Women & Children Hospital Bannu	01
14.	Vice Principal Paramedical Institute, Abbottabad, DIKhan, Swat	03
15.	SMO (Health) Municipal Corporation Peshawar	01
16.	Deputy Directors in DGHS NWFP Peshawar	05
17.	DMS (Stores) Govt. LRH/KTH Peshawar	02
18.	Principal Postgraduate Paramedical Institute Peshawar	01
19.	Deputy Director (HRD) PHSA NWFP	01
20.	Deputy Director(Monitoring and Research) PHSA NWFP	01
21.	Deputy Director(Management) PHSA NWFP Peshawar	01
22.	Course Directors (PH/CDC and Management, Trg.& Development) PHSA NWFP	02
23.	DD HRD / Vice Principals DHDC Bannu, Chitral, Mardan, Abbottabad and Swat	05
24.	DMS, Khalifa Gul Nawaz Hospital Bannu	01
25.	DMS Ayub Teaching Hospital Abbottabad	01
26.	Director Health Services FATA Peshawar	01
27.	MS AHQ Hospital Parachinar, Ghallanai, Wana, Bajaur	04
	TOTAL:	128

Note: All Program Manager/Provincial Coordinators of Vertical Programs/ Projects & FATA Health positions would be filled from amongst Management Cadre.

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High Court Peshawar

SCHEDULE - I
(Management Cadre)

20

Members of Service in BPS-18:

S.No.	Nomenclature of post	Number of post
1.	Incharge Civil/THQ Hospital Ziarat Kaka Sahib Nowshera, Rustam, Lund Khawar Mardan, Topi Swabi, Kalu Khan Swabi, Shakar Darra (Kohat), Thali Hangu, Serai Naurang Lakki Marwat, Balakot Manshra and Thana Malakand Agency	10
2.	Senior Instructors DHDCs in NWFP (Abbottabad, Swat and DIKhan)	03
3.	Instructors in Public Health School, Hayatabad Peshawar and DIKhan	03
4.	Instructor Public Health School, Nishtarabad Peshawar	01
5.	Epidemiologist Govt. LRH and HMC Peshawar	02
6.	Course Director (MCH & Family Planning) PHSA NWFP	01
7.	Epidemiologist PHSA NWFP	01
8.	DMS Govt. Maternity Hospital Peshawar	01
9.	DMS (Admn) KTH Peshawar	01
10.	District TB Control Officer, Abbotabad, Kohistan, Nowshera, Charsadda, Malakand, Buner, Shangla, Lower Dir, Kohat, Hangu, Karak, Bannu, Lakki Marwat and Tank	14
11.	Deputy Director Admn./Deputy Director Dev.(02), Assistant Director EPI(02), DHS FATA	04
12.	Agency Surgeon Mohmand, Bajaur, Orakzai, Kurram, NW Agency, SW Agency, Khyber, FR Peshawar/ FR Kohat, FR DIKhan, FR Bannu,	10
13.	DMS(Admn), DMS(Stores) DMS (Dispensary) at Ayub Teaching Hospital Abbotabad	03
14.	Assistant Directors in Directorate General Health Services, NWFP, Peshawar	13
15.	ADHO FATA Health	4
	TOTAL:	71

Note: All Program /Project positions & FATA Health positions in BPS-18 would be filled from amongst Management Cadre.

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Bashir Khan Wazir B/C 09-2053
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High Court Peshawar

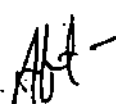
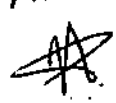
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SCHEDULE - I
(Management Cadre)

Members of Service in BPS-17:

S.No.	Nomenclature of post	Number of post
1.	Health Educator Directorate General Health Services, NWFP Peshawar	01
2.	Assistant Director (Homeo & Tibb) AD Personnel, AD Administration Directorate General Health Services, NWFP, Peshawar	04
3.	MO Trainer DHDC (02 each) in Mardan, Kohat, Bannu, DIKhan, Abbottabad, Swat and Chitral	14
4.	Instructors in PHSA, NWFP	03
5.	Evaluation Officer PHSA, NWFP	01
6.	Instructors Public Health School, Hayatabad Peshawar and Abbottabad	03
7.	Secretary Medical Faculty, NWFP Peshawar	01
8.	DMS Maintenance HMC Peshawar	01
9.	DMS Stores HMC Peshawar	01
10.	DMS Casualty, OPD and OTs HMC Peshawar	01
11.	Coordinator EDO(H) Offices in NWFP	71
	TOTAL:	101

Note: All Program /Project positions in BPS-17 & FATA Health positions would be filled from amongst Management Cadre.



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 Bashir Khan, Nazir BIC 09-2053
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SCHEDULE - II

S. No	Nomenclature of Post.	Qualification for appointment by initial recruitment	Age limit	Method of Appointment
1	2	3	4	5
1	Director General Health Services (DS-20)			By transfer, on the basis of selection on merit, from amongst the ten senior most Members of the Service in (BS-20). <i>Note:</i> Preference will be given to those having additional postgraduate relevant qualifications or specialized courses.
2	Members of Service (BS-20)			(a) By promotion, on the basis of selection on merit, from amongst the Members of Service in (BS-19) with 5 years service as such or 17 years service in (BS-17) and above; and (b) Four months advance in-service training in Management from a recognized institution or PHSA N/WFP.
4.	Members of Service (BS-18)	(a) MBBS/BDS or equivalent qualification, from any institute recognized by the PMDC; and (b) (i) Doctorate / M.Phil in Public Health or Health Administration or Health Management or equivalent qualification from any University recognized by the H.E.C or PMDC; or (ii) Master in Public Health/Health Administration/ Health Management, allied discipline or equivalent qualification from any University recognized by H.E.C or PMDC with 5 years experience in the relevant field.	30-40 years	(i) Eighty percent by promotion, on the basis of seniority cum-fitness, from amongst Members of the Service in BS-17 having at least five years service as such, with two months in service training in Management from a recognized institution or PHSA; and (ii) Twenty percent by initial recruitment
5.	Members of Service (BS-17)	(a) MBBS/BDS or equivalent medical qualification from any institute recognized by PMDC; and (b) Master in Public Health/Health Administration/ Health Management or equivalent qualification from any institute recognized by H.E.C or PMDC.	25-32 years	By initial recruitment.

Basir Khan
High Court Peshawar
ADVOCATE
BIC 06-2053
ATTORNEY

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SCHEDULE - III

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(HEALTH MANAGEMENT CADRE)**Syllabus and Standard for competitive exam for initial recruitment in BS-17**

1. The Examination shall include General Compulsory and Specialized Compulsory Subjects, and every candidate will take all the compulsory subjects.
2. A candidate shall answer the papers in English unless otherwise directed. However, the paper in Islamiyat may be answered in Urdu or English.
3. The total marks of General Compulsory Subjects are 350 while there should be two Specialized Compulsory Papers of 300 marks each covering 150 marks.
4. Psychological aptitude test 50 Marks
5. Viva Voce 200 Marks
6. The general compulsory and specialized compulsory subjects and maximum marks fixed for each subject shall be as shown in the statement below:

General Compulsory Subjects (350 Marks)

Serial No.	Subjects	Maximum Marks
1.	English	100
2.	English Essay	50
3.	General Knowledge / Everyday science	50
4.	Current affairs	50
5.	Pakistan affairs	50
6.	Islamiyat	50

Specialized Compulsory Subjects (400 Marks)

1. Health Planning and Management (Single Paper)	200
Topics: Planning, Planning Cycle, Strategic Planning, Management, Project Management, Hospital Administration, Financial / Stock Management, Human Resource Management, Total Quality Management, Leadership, Decision Making, Organization, Effective Organization and Culture, Organizational Behavior, Human Factor and Motivation, Social Responsibility and Ethics, Management and Society (External Environment), Management of Training and HRD, Communication, Management Information System, etc.	

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2. Epidemiology, Health System Research, Public Health and Disease Control (Single Paper)	100
Topics: Epidemiology, Research Methodology and Biostatistics, Health Systems, Surveillance and Disease Control, Monitoring & Evaluation, Infectious Diseases, Epidemiology and preventive methods, Reproductive Health, Occupational Health, Environmental Hazards and Sanitation, Nutrition with related disorders and prevention.	

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7. In case of non-Muslim, the paper of Pakistan Studies and Current Affairs will be each of 75 marks instead of Islamiyat.
8. No candidate will be called for Psychological Aptitude Test unless he has obtained 40% marks in individual subject with aggregate of 50%.
9. The passing marks in Psychological Aptitude Test are 40%. Those failed will not be called for the interview.
10. The passing marks for Viva Voce are 40%. The candidate failing in interview or remained absent will not be included in the merit.
11. The selection of selected candidates will be purely on merit as per Zonal Allocation Formula notified by the Establishment Department.
12. In case of a tie, the order of merit will be determined in accordance with the total number of combined marks achieved in Psychological Aptitude Test and interview. In case of tie in this case even, the decision will be on the basis of marks obtained in compulsory subjects. Even still if there is a tie, the order of merit will be on the basis of age.

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SCHEDULE IV

Induction training

Target Group:

The training is designed for newly recruited Medical Officers BS 17 in Health Management cadre.

Objective :

- o To equip the doctors with Official Procedures, Financial & Procurement Rules and Regulations, Rules of Business, and other government functions with a view to benefit them for working as Health Managers.
- o To develop their skill and knowledge in Planning, management and leadership.
- o To develop skill and Knowledge regarding routine office procedures and management

Training Schedule :

The training is divided into two portions:

- o Theory total duration 2 months
- o Practical total duration 4 months

Theory:

To be imparted in PHSA in collaboration with STI, Audits and accounts training institute, NIMS, IMSciences etc.

Topics:

- ¼ Relationship of Management with Behaviour
- ¼ Principles of Management and planning
- ¼ Leadership
- ¼ Communication and advocacy
- ¼ Motivation.
- ¼ Team building
- ¼ Project management
- ¼ Donor coordination
- ¼ Health policies
- ¼ Human resource management
- ¼ Public private partnership.
- ¼ Decentralization.
- ¼ Use of information.
- ¼ Role of Provincial and district government in context of Local Government Ordinance.
- ¼ Medical ethics
- ¼ Healthcare financing
- ¼ Disease surveillance
- ¼ Basics of Epidemiology and epidemic control
- ¼ Monitoring and supervision
- ¼ Primary health care
- ¼ Hospital management
- ¼ Waste disposal
- ¼ Quality Management
- ¼ Vertical programmes and their linkages with in the health system.
- ¼ Health system research

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- ¼ Rules of business
- ¼ Auditing & Accounting
- ¼ General Financial rules
- ¼ Estn code etc.

Practical Training (Attachment): Duration 4 months

During this period the under trainee health managers will be attached with different sections and institutions of DOH to gain supervised Practical experience which will help in developing the needed skills.

Break up of Practical Training is as follows :

- | | |
|---|---------|
| 1. Health Directorate including Vertical Programmes | 1 Month |
| 2. Health Secretariat | 1 Month |
| 3. EDO H Office | 1 Month |
| 4. Hospital | 1 Month |

The Time table and other details of the theory part as well as practical training will be developed by PHSA and to be approved by academic committee of PHSA and DOH.

Printed and published by the Manager,
Govt. Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

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Enrollment No. HC-10-040

Hamdard University

Upon passing the requisite examination
held in 2015
and nomination of the
Faculty of Health & Medical Sciences
Hamdard University
has conferred upon
Shams Ur Rehman

Son/Daughter of Bahadur Ghulam
the Degree of

Bachelor of Medicine & Bachelor of Surgery
Given under the Seal of Hamdard University
at Madinat-al-Hikmah, Karachi, Pakistan, on

this Eighth Day of September Two Thousand Fifteen

Chancellor
Chancellor

Registrar
Vice Chancellor

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Basir Khan W
High Court Peshawar
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ADVOCATE
BIC 09-20153

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Serial No.: 202463/20495



Reg. No.: 2018/KMU/IPHSS/MPH/SS/18

Session: Spring, 2018

KHYBER MEDICAL UNIVERSITY
PESHAWAR, PAKISTAN.

has conferred upon

SHAMS UR REHMAN s/o. BAHADUR GHULAM

of Institute of Public Health & Social Sciences, Peshawar

the degree of

MASTERS IN PUBLIC HEALTH

Given this twenty eighth day of October two thousand and twenty

Controllen of Examinations

Registrar

Vice Chancellor

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Bashir Khan Wazir BIC-09-2053
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High Court Peshawar

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GOVERNMENT OF PAKISTAN
MINISTRY OF PLANNING, DEVELOPMENT AND REFORM
PAKISTAN PLANNING AND MANAGEMENT INSTITUTE
ISLAMABAD

This is to certify that

Dr. Shams ur Rehman

has participated in the training course on

"Project Management (PC-I - PC-V)"

conducted by PPMI

from 16th April, 2018 to 20th April, 2018

MHR

Ali Noor

Dr. Muhammad Ali Noor
Director General
Pakistan Planning and Management Institute

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High Court Peshawar
BIC 03-2053

GOVERNMENT OF PAKISTAN
MINISTRY OF PLANNING, DEVELOPMENT AND REFORMS
PAKISTAN PLANNING AND MANAGEMENT INSTITUTE
ISLAMABAD



This is to certify that
Dr. Shams ur Rehman
has participated in the training course on
"PRIMAVERA (Project Management Software)"
conducted by PPMI
from 6th February, 2018 to 9th February, 2018

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Dr. Muhammad Ali Noor
Director General
Pakistan Planning and Management Institute

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Bashir Khan
ADVOCATE
High Court Peshawar
B/C 09/2053

Attesting Hospital,
Peshawar

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FATA Disaster Management Authority (FDMA)

This Certificate is awarded to

DR. SHAMSUR REHMAN

for successfully completing 5-day Training of Trainers (TOT) on

'Inclusive Community Based Disaster Risk Management (CBDRM)'

The training was conducted by FDMA and CARE International in Pakistan (CIP)

with the support of the Swiss Agency for Development and Cooperation (SDC)

23rd - 27th April, 2018



Siraj ul Haq
Director General FDMA

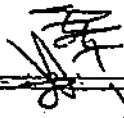


Ayesha Salma
Country Director CARE



Franziska Vogtli
Head Humanitarian Aid, SDC

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SIC 09-2053



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Swiss Agency for Development
and Cooperation SDC

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HEALTH SERVICES ACADEMY
Ministry of National Health Services, Regulations & Coordination
Government of Pakistan

DR. SHAMS-UR-REHMAN

Certificate awarded for participation in

HEALTH INSURANCE MANAGEMENT COURSE

Organised by:
Health Services Academy in collaboration with
Sehat Sahulat Program and GIZ Pakistan
2nd - 6th September 2019
Islamabad, Pakistan

Dr. Faizal Razaq
Chief Executive Officer
SSP

Dr. Imran Masood
Project Manager
GIZ SP-SHP

Dr. Assad Hafeez
Dean/Executive Director
Health Services Academy

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High Court of
Sindh
Beashtir-Khann
ADON/ALIE
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09.09.2019



DIRECTORATE OF HEALTH SERVICES
FATA SECRETARIAT, WARSAK ROAD, PESHAWAR

Ph: 091-9210212, Fax: 091-9212110

No. 101-2/ADA/DHS/FATA/ MO (Adhoc)/

Dated: 09/03/2017.

OFFICE ORDER

Consequent upon his appointment on Adhoc Basis for a period of one year vide Government of Khyber Pakhtunkhwa Health Department, Peshawar Notification No. SO(E)H/11/3-18/2016/552 (H1) dated 2nd March, 2017, the services of Dr. Shams ur Rehman S/O Bahadur Ghulam, Medical Officer (BS-17) is hereby placed at the disposal of Agency Surgeon, NW Agency for further adjustment against the vacant post with effect from the date of his arrival in this Directorate i.e. 09-03-2017 in the interest of public service.

Sd/-

Secretary Social Sector Department.

No. 101-2/ADA/DHS/FATA/MO (Adhoc)/

4628-35

Dated: 09/03/2017.

Copy to the:-

1. Secretary Health Department, Govt of Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. Additional Accountant General (PR-Sub Office) Peshawar.
4. Agency Surgeon, NW Agency.
5. Agency Accounts Officer, NW Agency.
6. PS to Additional Chief Secretary (FATA).
7. PS to Secretary SSD, FATA Secretariat.
8. Officer concerned.

For information and necessary action.

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Director Health Services, FATA

ATTESTED
Bashir Khan Wani
ADVOCATE
High Court Peshawar

DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR

PH # 091-9210212 FAX # 091-9212110

OFFICE ORDER

Dr. Shams ur Rehman Medical Officer (BS-17) attached to Agency Surgeon North Waziristan Agency, is hereby transferred and posted as Coordinator (BS-17) in HSRU FATA in the interest of public service with immediate effect.

--/--

Director Health Services,
FATA, Peshawar.

No/ 7185-90 /DHS/FATA/Admin

Dated 23 / 8 / 2017

Copy forwarded to the:-

- 1) Chief HSRU FATA.
- 2) Agency Surgeon North Waziristan Agency.
- 3) AGPR Sub Office Peshawar.
- 4) Agency Accounts Officer North Waziristan Agency.
- 5) Accountant DHS FATA.
- 6) Doctor concerned.

For information and further necessary action.

Director Health Services,
FATA, Peshawar.

ATTESTED
Bashir Khan Wazir BIC 09-2053
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High Court Peshawar

PUC at

page no 2007

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17-7-2017

- 2. Vide PUC, Dr. Shams ur Rehman Medical Officer (BS-17) attached to Agency Surgeon North Waziristan Agency has approached this Directorate for transfer from North Waziristan Agency to Khyber Agency or FATA Secretariat under spouse policy.
- 3. It is submitted that the above named officer was appointed on adhoc basis by Provincial Health Department on 2-3-2017 vide notification at page-13 and subsequently posted in North Waziristan Agency under the control of Agency Surgeon. He has requested for transfer from North Waziristan Agency to Khyber Agency or FATA Secretariat under spouse policy. At the moment there is no vacant post of Medical Officer in Khyber Agency.
- 4. Submitted for perusal and order, please.

[Signature]
 2.7.2017
 Superintendent (Estab. Section)
 DHS FATA

5. AD (Admn), DHS FATA

*As there is no post so K.P.
 at the moment.*

[Signature]
 20/7/17

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 Bashir Khan Wazir BIC 09-2053
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DIRECTORATE OF HEALTH SERVICES, FATA
FATA SEH TALUK, WAPDAK ROAD, PESHAWAR

OFFICE ORDER

In pursuance of court proceedings in Writ Petition No. 23359-60/2015-16, Bashir Khan and others VS Agency Surgeon FR Kohat and others, the competent authority is pleased to appoint the following officers to conduct a fact finding inquiry in the recruitment process of Technical Staff in the office of Agency Surgeon FR Kohat during the year 2014-15- till date.

- i. Dr. Shamis ur Rehman, Coordinator HSRU FATA.
- ii. Mr. Ehsan Saleem, M&E, Officer, HSRU FATA.

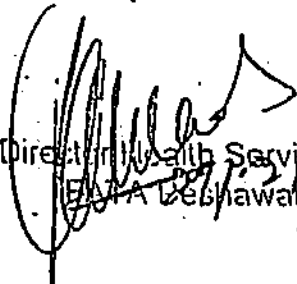
They are directed to submit report alongwith recommendations to this Directorate within a week of time before the next date of hearing in the court.

Sd/xxxxx
Director Health Services,
FATA Peshawar

No. 23359-60 /DHS/Admin/FATA Dated: 29 / 12 / 2017

Copy for information and necessary action to:

1. Agency Surgeon FR Kohat. He is directed to extent his full cooperation to the inquiry officers so as to complete the inquiry in time.
2. Officers concerned.


Director Health Services,
FATA Peshawar

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Bashir Khan Wazir, B/C 09-2052
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High Court Peshawar


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21-11-2017

17. Vide PUC, Dr. Shams ul Rehman Medical Officer (BS-17), attached to HSRU FATA - requesting for one month casual leave for his wedding w.e.f 15-11-2017 onwards.

18. It is submitted that the above named officer is regular employee of Provincial Health Department and presently working under the control of Chief HSRU FATA. He has requested for one month casual leave for his wedding w.e.f 15-11-2017 onwards. An officer / official is allowed 25 days casual leave in a calendar year and 15 days casual leave can be accorded at a time, at the discretion of competent authority.

19. Submitted for perusal and orders, please.


30.11.2017
Superintendent (Estab. Section)
DHS FATA

20. AD (Admn), DHS FATA

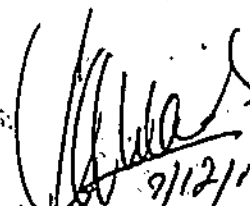
If the Authority approves then fifteen (15) days casual leave can be accorded, please.

21. DD (Admn)


01/12/17

22. DHS

As proposed.


01/12/17

23. DSA

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar

Page No 53

11-1-2018

- 25. In response to explanation at page-51, Dr. Shams ur Rehman Coordinator HSRU FATA has submitted his explanation, wherein he stated that his niece was in ICU of North West Hospital Peshawar and he has informed the Chief HSRU FATA on 3rd January and he has evidence of video, clinical record & payment slips.
- 26. It is submitted that the explanation was called from the above named Officer on account of absence from duty and the PUC in hand is reply of the same. The remarks recorded by Chief HSRU FATA on the body of the reply is "May be forgive this time"
- 27. Submitted for perusal and orders, please.

[Signature]
 11.1.2018
 Superintendent (Estab. Section)
 DHS FATA

28. AD (Admin), DHS FATA

The chief HSRU say, "May be forgiven this time with issuance of warning". Hence, warning may be issued, please.

30/01/18

29. DD (Admin) For Comments Please

- 30 CHSRU

ATTESYD
 Bashir Khan Wazir B/C 09-2353
 ADVOCATE
 High Court Peshawar

30
31

Puc at page No 69

39

09-07-2018

- 32. Vide PUC, Dr. Shams ur Rehman Medical Officer (05-17) attached to HSRU FATA has submitted arrival for further posting FATA Secretariat, on the grounds that HSRU has been deleted from FATA ADP.
- 33. It is submitted that the above named officer is regular employee of Provincial Health Department and has been working under the control of Chief HSRU FATA. After the deletion of HSRU from FATA ADP. Subsequently he has submitted arrival in this Directorate for further posting FATA Secretariat. The doctor concerned is domicile holder of North Waziristan Agency and a vacant post of Medical Officer available under the control of Agency Surgeon.
- 34. May be posted in North Waziristan Agency or otherwise.
- 35. Submitted for perusal and order, please.

[Signature]
10.6.2018
Superintendent (Estab. Section)
DHS FATA

36. AD (Admn), DHS FATA

Away

37. ~~D/A~~ may be posted in Swat against the vacant post at the disposal of Sp.

[Signature]
10/7/18

38. - DHS/FATA -> As discussed

39. - ~~D/A~~ As discussed post him in Swat against the vacant post.

[Signature]
11/7/18

40. ~~D/A~~
40. O/S.

[Signature]
10/7/18

[Signature]
10/7/18

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar

40



DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR

PH 0 091-9210212 FAX 0 091-9212110

OFFICE ORDER

Consequent upon the deletion of HSRU FATA from ADP 2018-1 arrival in this Directorate, the services of Dr. Shams ur Rohman Medical Officer (17), is hereby placed his services at the disposal of Agency Surgeon South Waziristan Agency for further posting against the vacant post Medical Officer (BS-17) in the interest of public service w.e.f his date of arrival i.e 01-07-2018.

--sd--

Director Health Services
FATA, Peshawar

No. 18960-63 /DHS/FATA/Admin

Dated 19/07/2018

Copy forwarded to the:-

1. Agency Surgeon South Waziristan Agency.
2. AGPR Sub Office Peshawar.
3. Agency Accounts Officer South Waziristan Agency.
4. Doctor concerned.

For information and further necessary action.

Handwritten initials/signature

Deputy Director (Admin),
DHS, FATA

Handwritten signature

18/7/18

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ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar

41

DIRECTORATE OF HEALTH SERVICES
TRIBAL DISTRICT SECRETARIAT WARSAK ROAD PESHAWAR
 PH # 091-9210212 FAX # 091-9212110

OFFICE ORDER

Dr. Shams ur Rehman Medical Officer (BS-17) attached to District Health Officer, Tribal District South Waziristan, is hereby nominated as Focal Person Routine EPI at Directorate of Health Services Tribal Districts, with immediate effect in the interest of public service.

However, he will draw his salary from the vacant post of Medical Officer (BS-17) at Tribal District South Waziristan.

Director Health Services,
 Tribal Districts, Peshawar.

No. 20744-66 /DHS/Admin

Dated 13 / 08 / 2018

Copy forwarded to the:-

- 1) District Health Officer Tribal District South Waziristan.
- 2) Assistant Director EPI Tribal Districts.
- 3) Doctor concerned.

For information and necessary action.

Deputy Director (Admin)
 DHS, Tribal Districts.

om

13/8/18

Att

Reviews

13/8/18

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ATTESSED
 Bashir Khan Wazir BIC 09-2053
 ADVOCATE
 High Court, Peshawar



DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR

PH # 091-9210212 FAX # 091-9212110

71
42

OFFICE ORDER

Consequent upon the deletion of HSRU FATA from ADP 2018-19 and arrival in this Directorate, the services of Dr. Shams ur Rohman Medical Officer (BS-17), is hereby placed his services at the disposal of Agency Surgeon South Waziristan Agency for further posting against the vacant post Medical Officer (BS-17) in the interest of public service w.e.f his date of arrival i.e 01-07-2018.

--sd--

Director Health Services,
FATA, Peshawar.

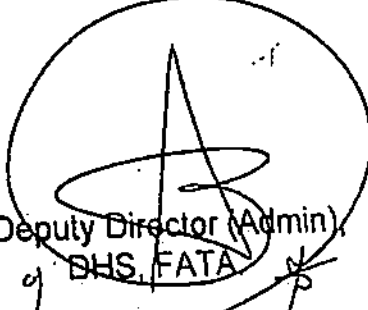
No. 18960-63 /DHS/FATA/Admin

Dated 19 / 07 / 2018

Copy forwarded to the:-

1. Agency Surgeon South Waziristan Agency.
2. AGPR Sub Office Peshawar.
3. Agency Accounts Officer South Waziristan Agency.
4. Doctor concerned.

For information and further necessary action.


Deputy Director (Admin),
DHS, FATA

18/7/18

ATTESTED
Bashir Khan
ADVOCATE
High Court Peshawar

U 11075

6.8.2019

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- 48. Vide PUC, Dr. Shams ul Rehman Medical Officer (BS-17) / Focal-Person Routine EPI has approached this Directorate for posting to Management Cadre post on the grounds that he is working from the last one year as Focal Person Routine EPI, worked as Coordinator Health Sector Reform Unit and gained knowledge of Public Health Administration.
- 49. It is submitted that the above named officer is regular employee of Provincial Health Department and working as Focal Person Routine EPI under the control of Deputy Director EPI Merged Areas. He was transferred from District Health Officer North Waziristan and posted as Coordinator HSRU Merged Areas vide order at page-27. The doctor concerned has requested posting to Management Cadre post on the grounds that he is working from the last one year as Focal Person Routine EPI, worked as Coordinator Health Sector Reform Unit and gained knowledge of Public Health Administration.
- 50. The doctor concerned is general cadre, however, his MPH degree is under process as evident from certificate attached with PUC. He has also worked on management posts i.e Coordinator HSRU and Focal Person Routine EPI.
- 51. Submitted for perusal and orders, please.

[Signature]
 Superintendent (Estab. Section)
 DHS

52. DD (Admin), DHS

*Discuss e' DTH
 to be attached with
 DD-EPI after his comments
 9/03/19*

*Put up case after completion of degree along with
 HEC recognition*

[Signature]

ATTESTED
 Bashir Khan
 ASSOCIATE
 High Court, Peshawar

Government of Khyber Pakhtunkhwa,
Health Department

Dated Peshawar the 29th July, 2020

NOTIFICATION

D.H.S. PESHAWAR
No. 2828
4-0-2

NO. SOH(113)/E-V/A-4/2020

The competent authority has been pleased to transfer Dr. Shams Ur Rehman, Medical Officer (US-17) attached to DHO Office North Waziristan and post him as District Health Officer Kurram (Lower) in his own pay & scale, in the best public interest and with immediate effect.

Secretary Health
Government of Khyber Pakhtunkhwa

Encls. Of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health Services, Merged Areas, Peshawar.
4. Deputy Commissioner, North Waziristan & Kurram (Lower).
5. District Health Officer, North Waziristan & Kurram (Lower).
6. DAO, North Waziristan & Kurram (Lower).
7. Deputy Director (IT), Health Department, with the direction to upload the notification on official website.
8. PS to Minister for Health Department, Khyber Pakhtunkhwa.
9. PS to Secretary Health Department, Khyber Pakhtunkhwa.
10. Doctor concerned.

Handwritten initials: DHA, AF

Signature
7/31/2020
(Muhammad Irfan Usmani)
Section Officer (E-V)

DIRECTORATE OF HEALTH SERVICES

MERGED AREA SECRETARIAT WARSAK ROAD PESHAWAR

Date: 05/08/2020

No. 1734752/DHS/Admin

Copy is forwarded to the:-

1. District Health Officer Kurram (Lower & Upper).
2. District Health Officer North Waziristan.
3. District Accounts Officer Kurram & North Waziristan.
4. PA to DHS Merged Areas.
5. Record Keeper DHS.
6. Doctor concerned.

For information and further necessary action.

Signature
Deputy Director (Admin)
DHS, Merged Areas, Peshawar

Handwritten initials: AH, AB

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ATTES
Bashir Khan Wizi
ADVOCATE
High Court Peshawar
5/09/2020

44

17/1/2019

2.8.2019

45

48. Vide PUC, Dr. Shams ur Rehman Medical Officer (BS-17) / Focal Person Routine EPI has approached this Directorate for posting to Management Cadre post on the grounds that he is working from the last one year as Focal Person Routine EPI, worked as Coordinator Health Sector Reform Unit and gained knowledge of Public Health Administration.

49. It is submitted that the above named officer is regular employee of Provincial Health Department and working as Focal Person Routine EPI under the control of Deputy Director EPI Merged Areas. He was transferred from District Health Officer North Waziristan and posted as Coordinator HSRU Merged Areas vide order at page-27. The doctor concerned has requested posting to Management Cadre post on the grounds that he is working from the last one year as Focal Person Routine EPI, worked as Coordinator Health Sector Reform Unit and gained knowledge of Public Health Administration.

50. The doctor concerned is general cadre, however, his MPH degree is under process as evident from certificate attached with PUC. He has also worked on management posts i.e Coordinator HSRU and Focal Person Routine EPI.

51. Submitted for perusal and orders, please.

[Signature]
Superintendent (Estab. Section)
DHS

52. DD (Admin), DHS

*Discuss with DHE
to be attached with
DD-EPI after his comments.
9/07/2019*

*Put up case after completion of degree along with
HEC recognition*

[Signature]

Att [Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated: Peshawar the 17th August, 2022

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NOTIFICATION

NO.SOH(E-V)/4-4/2022

The following posting/ transfer of doctors are hereby ordered with immediate effect and in the best public interest:-

S.NO.	NAME OF DOCTORS	FROM	TO
1.	Dr. Inayat Ur Rehman, Management Cadre (BS-18)	District Health Officer, South Waziristan	To be retained as District Health Officer, Wazir belt for South Waziristan against the newly bifurcated post
2.	Dr. Shams Ur Rehman, Medical Officer (BS-17)	Additional DHO North Waziristan	District Health Officer, Mehsud belt for South Waziristan against the newly bifurcated post

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. 3115-24 / Notification of even No. & dated:

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. District Health Officers, South Waziristan (Wazir belt & Mehsud belt) and North Waziristan.
4. District Accounts Officer, North Waziristan and South Waziristan.
5. PS to Minister for Health, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department Khyber Pakhtunkhwa.
7. Deputy Director (IT), Health Department, Peshawar.
8. Doctors concerned.
9. Personal files of concerned doctors.


SECTION OFFICER (E-V)

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT



Dated Peshawar the 13th August 2024

NOTIFICATION

NO.SOH(E-V)12-2/2024 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. SHAMS UR REHMAN, General Cadre (BS -17) 1730146946465	District Health Officer (BPS-18) in OPS. DHO, South Waziristan - Upper	District Health Officer (BPS-18), DHO, Upper Kurram in OPS	Against the vacant post
2	DR. MUHAMMAD TUFAIL, General Cadre (BS -17) 1220154946881	Medical Officer (BPS-17), attached to DHO, Tank	District Health Officer (BPS-18), DHO, South Waziristan - Upper in OPS	Vice S.No.1

SECRETARY HEALTH
KHYBER PAKHTUNKHWA

No. 6513-22 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.
3. District Health Officers of all the concerned districts.
4. Medical Superintendents of all the concerned hospitals.
5. District Accounts Officers of all the concerned Districts.
6. PS to Secretary Health Department Khyber Pakhtunkhwa.
7. Deputy Director (IT), Health Department, Peshawar.
8. All the concerned doctors.
9. PS to Special Secretary (E&A and B&D), Health Department.
10. Personal files of all the concerned doctors.

SECTION OFFICER (E-V)



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Page 1/1

ATTESTED
Bashir Khan Wajidi B/C 09-2053
ADVOCATE
High Court Peshawar

APR - D

257/2012

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 513/2010

Date of Institution .. 22.2.2010
Date of Decision .. 03.1.2012

Dr. Sher Muhammad S/O Shah Muhammad,
Provincial Manager, Aids Control Programme,
Peshawar.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Health Khyber Pakhtunkhwa, Peshawar.
 2. Secretary, Department, Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
 3. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
 4. Chairan. Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
 5. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
 6. Secretary Law Department, Government of Khyber Pakhtunkhwa, Peshawar.
 7. Secretary, Finance Department, Khyber Pakhtunkhwa, Peshawar.
 8. Dr. Ali Ahmad (SPS-19) Programme Manager, DHIS, Khyber Pakhtunkhwa, Peshawar and 22 others.
- (Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT R/W RELEVANT SERVICE RULES AGAINST THE IMPUGNED NOTIFICATION ISSUED BY RESPONDENT NO.1 U/S 26 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACT, 1973 WHEREBY NOTIFICATION DATED 11.12.2008 KNOWN AS KHYBER PAKHTUNKHWA HEALTH (MANAGEMENT) SERVICE RULES, 2008, VIDE WHICH SERVICE STRUTURE WAS CHANGED AND "MANAGEMENT CADRE" WAS INTRODUCED IN HEALTH DEPARTMENT.

MR. AMINUR RAHMAN,
Advocate

... For appellant.

MR. SHERAFGAN KHATTAK,
Addl. Government Pleader

... For official respondents.

MR. BILAL AHMAD KAKAIZAI,
Advocate.

... For respondents.

SYED MANZOOR ALI SHAH,
MR. KHALID HUSSAIN,

... MEMBER.
... MEMBER.

ATTESTED
Bashir Khan Wani BIC 02-2053
ADVOCATE
High Court Peshawar

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed by Dr. Sher Muhammad, appellant under Section 4 of the Khyber Pakhtunkhwa, Service Tribunal Act, 1974, against the notification 11.12.2008 known as Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 vide which service structure was changed and "Management Cadre" was introduced in the Health Department. It has been prayed that on acceptance of the appeal, the impugned notification may be declared as illegal, unlawful, void-abinitio and of no legal effect, being coram non-judice.

2. Brief facts of the case as averred in the memo of appeal are that the appellant being MBBS Graduate, entered into government service, Health Department, Government of Khyber Pakhtunkhwa in the year, 1985. Respondent No.1, in exercise of the powers conferred by Section 26 of the North West Frontier Province Civil Servants Act, 1973 vide notification dated 11.12.2008 made Rules known as Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, vide which Service Structure was changed and "Management Cadre" was introduced in Health Department. Feeling aggrieved, the appellant filed Writ Petition No. 2382/2009 before the Hon'ble Peshawar High Court, Peshawar which was disposed off in limine on 10.11.2009, with direction to the departmental authority, to decide the representations of the appellant pending before them within one month positively in accordance with the law. The respondents did not comply with the direction of the Hon'ble Peshawar High Court, Peshawar, therefore, the appellant filed contempt of court petition No. 10/2010, for implementation of order dated 10.11.2009, which was disposed off on 9.2.2010, with observation that the appellant could file appeal before the Service Tribunal after the expiry of ninety days, hence this appeal.

3. After admission of the appeal, notices were issued to the respondents. Respondents No. 1,2,3,5 and 7 have filed their joint written reply. Respondent No.4 was not a necessary party; hence his name was deleted from the list of respondents vide order dated 19.8.2010. Private respondents have filed written reply through their counsel and contested the appeal.

4. Arguments heard and record perused.

This learned AAG at the very outset pointed out that Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 have been formulated by the Governor of the province in exercise of powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, according to which the Governor or any

ATTESTED
Bashir Khan, Magistrate
High Court, Peshawar

persons authorized by him in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purpose of this Act i.e. Civil Servant Act, 1973; Section 2(b) which is a general statute i.e. rules can be framed for Civil Servants Act, 1973 and under it rules for any particular cadre cannot be made, delegatory legislation for Health Department can not be performed under this Section. Any rules for a particular cadre can be done only through Act of parliament and the Section 2(b) does not confer inherited power for further legislation for any specific cadre. He further argued that this Tribunal has no jurisdiction to entertain the present appeal as the validity of the notification/rules should have been challenged and that the present appeal is time-barred.

4. On the point of jurisdiction, the learned counsel for the appellant argued that through the impugned notification/rules, terms and conditions of service of the appellant have been affected, which can be challenged before this Tribunal, having vast power to confirm, set aside, vary or modified the order challenged before it. The Service Tribunal has vast jurisdiction to redress the grievances of the persons before it. The learned counsel for the appellant relied on PLD 2003-Supreme Court-724(d). Regarding limitation, the counsel for the appellant stated that the appellant had been diligently pursuing his remedy before the Hon'ble Peshawar High Court and the period spent before the wrong forum can be condoned by the Service Tribunal in view of the august Supreme Court judgment reported in 2004-SCMR-1419.

6. The learned counsel for the appellant stated that the appellant is mainly aggrieved from Rule 10 of Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, wherein it has been stated that notwithstanding anything contained in the provision of these Rules, Government shall, as one-time exercise, fill in posts in the Service described in Schedule-I by way of permanent transfer from amongst the Officers of General Cadre in equivalent basic pay scale who have the qualification of Master of Public Health or Postgraduate Diploma in Public Health or Postgraduate Diploma in Hospital Administration or Health Planning and Management or equivalent Master's Degree/Diploma in Health management or allied disciplines and opt for absorption. It shows that no chance/time period has been given to the appellant to improve his qualification required and has been confined to General Cadre and is to be carried out as one time exercise, whereby denying him chances of further promotion which is highly discriminatory. In this respect, he referred to Provincial Management Service Rules notified on 11.5.2007. In para-7 of the said rules the cushion period of seven years has been provided. The General Headquarters MS. Branch, Rawalpindi issued MS Branch Policy Compendium 2003, Amendment No.2/2010, wherein two

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AA-
 ATTESTED
 Bashir Khan Wazir
 Advocate
 High Court Peshawar

ATTESTED
 Bashir Khan Wazir BIC 09-2053
 ADVOCATE
 High Court Peshawar

years cushion period has been provided to enable max GDMOs to acquire LPG; the Med Directorate was directed to ensure that equal opportunity is afforded to all GDMOs to acquire LPG, and that modalities may also be evolved to get LPG, through evening programme/distant learning approved from PM&DC.

7. The learned counsel for private respondents argued that the government felt to achieve better results for which Administrative and Professional Cadres were separated and introduced "Management Cadre" & "General Cadre" through the Health (Management) Service Rules, 2008. Since the appellant basically belongs to General Cadre and had not acquired the requisite qualification for Management Cadre, therefore, his name has been brought on the strength of General Cadre. He further argued that on formation of Management Cadre, no financial loss occurred to the appellant nor his seniority has been disturbed. He requested that the appeal may be dismissed.

8. The Tribunal observes that Section 10 of the said rules does not provide any cushion period and denying chance to improve qualification for joining the management cadre to the appellants. The same be modified to the extent that two years cushion period be allowed to all those who wish to improve qualification as per Health (Management) Service Rules, and to join Management cadre if they succeeded in acquiring the requisite qualification as per the aforementioned Rules. This would however, not entitle the appellants and others not having requisite qualifications for posting in the Management Cadre posts but only provide them a cushion period and if they acquire the requisite qualification within 2 years from the date of the decision, they may opt and join Management Cadre without effecting their seniority/service.

9. With the above variation/modification in the impugned notification dated 11.12.2008, the present appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record.

10. This order will also dispose of the following connected appeals No. 514/2010, Dr. Gul Akbar, No. 515/2010, Dr. Wakeel Muhammad, No. 516/2010, Dr. Shaukat Ali, and No. 517/2010, Dr. Syed Mujahid Hussain, in the same manner.

ANNOUNCED
3.1.2012

self- Syed Manzoor Ali Shah, Member

self- Khalid Hussain, Member

ATTESTED
Bashir Khan
ADVOCATE
High Court Peshawar

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Gulzar Ahmed
Mr. Justice Umar Ata Bandial

C.As.No.320-324 of 2012
AND

C.As.No.126-P to 130-P of 2013
(On appeal against common judgment dated 03.01.2012
passed by the Khyber Pakhtunkhwa Service Tribunal,
Peshawar, in Appeals No.513-517 of 2010)

Dr. Muhammad Saleem & others.
Government of KPK through Secretary
Health Department, Peshawar and others.

(In C.As.No.320-324)
(In C.As.No.126-130-P)
Appellant (s)

VERSUS

Dr. Sher Muhammad & others.
Gul Akbar & others.
Dr. Wakil Muhammad & others.
Dr. Shaikat Ali & others.
Dr. Syed Mujahid Hussain & others.

(In C.As.No.320 & 126-P)
(In C.Ad.No.321 & 127-P)
(In C.As.No.322 & 120-P)
(In C.As.No.323 & 129-P)
(In C.As.No.324 & 130-P)
Respondent (s)

For the Appellant (s)
(In C.As.No.320-324) : Mr. Ijaz Anwar, ASC

For the Appellant (s)
(In C.As.No.126-130-P) & for Government
Respondents in C.As.No.320-324) : Mr. Waqar Ahmad Khan,
Addl. A.G.KPK

For Respondent No.1
(In C.As.No.320-324) : Mian Muhibullah Kakakhel, ASC

For Respondent No.1
(In C.As.No.126-130-P) : Mr. Isaac Ali Qazi, ASC

Date of Hearing : 03.11.2016

ORDER

GULZAR AHMED, J.— Civil Appeals No.320 to 324 of 2012 have been
filed by Dr. Muhammad Saleem & others while Civil Appeals No.126-P
to 130-P of 2013 have been filed by the Government of KPK against
one and single judgment dated 03.01.2012 of the Khyber
Pakhtunkhwa Service Tribunal, Peshawar. Learned ASC for the

ATTESTED

COURT ASSOCIATE
Supreme Court of Pakistan
Islamabad

ATTESTED
Bashir Khan Wani
ADVOCATE
High Court Peshawar

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appellants in Civil Appeals No.320 to 324 of 2012 has contended that if the judgment of the KPK Service Tribunal (Tribunal) is allowed to prevail, the appellants seniority is likely to be effected. On the other hand, learned Additional Advocate General, KPK appearing for the appellants in Civil Appeals No.126-P to 130-P of 2013 has contended that the Tribunal has exceeded its jurisdiction by enlarging the scope of Rule 10 of Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 (Rules) as it did not make provision for providing cushion period for acquiring requisite qualification within two years for joining management cadre. It was noted that the Civil Appeals filed by the Government of Khyber Pakhtunkhwa (C.A.No.126-P for 196 days while C.A.Nos.127-P to 130-P for 203 days) were time barred and in the applications for condonation of delay common ground has been taken that filing of the appeals against the impugned judgment was delayed due to process of rendering opinion by the committee constituted in law department. It is obvious that this ground for condonation of delay in filing of a petition or appeal before this Court has never been accepted and the learned Additional Advocate General, KPK himself was quite at pains to substantiate the ground of condonation of delay as pleaded in the application. The rule for condonation of delay is well established and there has to be sufficient ground with explanation of each day's delay. In the present case before us neither any sufficient ground is urged nor each day's delay has been explained. We are not persuaded to allow the applications for condonation of delay filed by the Government of KPK, therefore, all these applications are dismissed. Resultantly, Civil Appeals No.126-P to 130-P of 2013 are dismissed as time barred.

n

AKB

ATTESTED

Court Associate
Supreme Court of Pakistan

ATTESTED
 Bashir Khan Nazki BIC-09-2053
 ADVOCATE
 High Court Peshawar

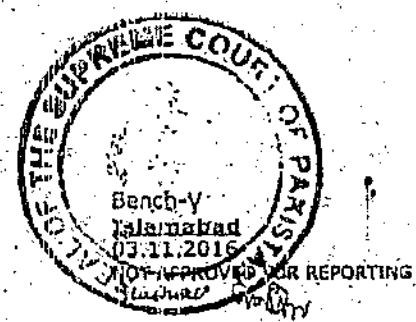
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2. As regard the submission of the learned ASC for the appellants in Civil Appeals No.320 to 324 of 2012 he was unable to explain before us as to how the seniority of the appellants will be effected by the impugned judgment of the Tribunal more so when the respondents claim before the Tribunal itself was not that of granting them seniority but that of allowing them to acquire qualification for opting in management cadre. If the respondents at all join Management Cadre, their seniority will be counted from the date of their joining in the Management Cadre and not from any earlier period which is also established principle that a person joining fresh cadre is relegated to the lowest position of that cadre. Thus, there seems to be hardly any reason muchless justifiable to interfere with the impugned judgment of the Tribunal more so on the ground urged by the learned ASC for the appellants. The Civil Appeals No.320 to 324 of 2012 are, therefore, dismissed.

Sd/- Gulzar Ahmed, J
 Sd/- Umar Ata Bandial, J

Certified to be True Copy

[Signature]
 Court Associate
 Supreme Court of Pakistan
 Islamabad



Att
[Signature]

ATTESTED
 Bashir Khan Wazir
 ADVOCATE
 High Court/Peshawar

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. III
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

RESHAWAR, MONDAY, 29th May, 2017.

GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

NOTIFICATION

Dated: 10th May, 2017.

NO.SOH(E-VI4-20/2017 In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that, in the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008, the following amendments shall be made, namely;

AMENDMENTS.

- In rule 10, in sub-rule (2), the full stop appearing at the end of the first proviso shall be replaced by colon and thereafter, the following second proviso shall be added, namely;

"Provided further that for a period of two years, from the date of issuance of this amending Notification, the officers of the General Cadre, who are in regular and continuous service and holding posts as such, shall be required to improve their qualification as per the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 to exercise the option under this rule".
- In Schedule III,-
 - at serial No.3, for the figures "350", "300" and "150", the figures "250", "200" and "100" shall respectively be substituted;
 - serial No.4, shall be deleted; and
 - under the heading "General Compulsory subject" (350 marks), in the table, for serial No.5 and 6, the following shall be substituted, namely;

5.	"Pakistan Affairs and Islamiyat".	100.
----	-----------------------------------	------
- In schedule-IV, in heading "Topics" for the existing entries, the following shall, respectively, be substituted, namely;

"Topics"

- Communication and advocacy In Health.
- Existing Health Policies;
- Health system in Pakistan and Its Challenges;
- DHIS Roles and responsibilities of Secretariat, Director General and DHOMS;
- Role of Government and district government's in context of Local Government Act;

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Reshawar

- Monitoring and supervision;
- Primary and Healthcare, Hospital Management, Waste disposal quality Management.
- Vertical programs and their linkages within the Health System.
- Rules of Business.
- Auditing and Accountant, General Financial Rules, ESTA Code etc, and
- The Khyber Pakhtunkhwa Civil Servant Act, 1973 "Fundamental rules and supplementary rules".

Sb

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

Printed and published by the Manager,
Govt. P.C. Dept., Khyber Pakhtunkhwa, Peshawar.

AKZ
★

HALF SHEET

TELETYPE

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar

E-I

To,

The Director Health Services
FATA.

57

Subject: - REQUEST FOR INCLUSION OF NAME IN MANAGEMENT
CADER (HEALTH, FATA/KHYBER PAKHTUNKHWA)

Respected Sir,

With reference to the subject quoted above, it is humbly stated in your kind honour that I, Dr. Shams ur Rehman, Medical Officer (BPS-17) is currently working in Health Sector Reform Unit (HSRU). Additionally, due to my immense interest towards public health, I am doing my Master in Public Health. Due to special interest on public health side, i was never attracted towards clinical studies, i.e. Post Graduation (FCPS, MCPS) after MBBS. In the same narrative, I have served as District Surveillance Officer in World Health Organization (WHO) at South Waziristan Agency.

Sir, due to my eagerness, enthusiasm and high spirits towards public health, it is requested that kindly include my name in Management Cader, so that I may make my career in public health side in future for services to deserved communities as well as for self inner satisfaction.

It is requested that kindly consider my request and oblige.

Thanking you in anticipation.

Dated: - 07/06/2017

P.Y. as per rules
DDA
07/06/2017

With Best Regards

Dr. Shams ur Rehman,
MO (BPS-17)
Health Sector Reform Unit
FATA Secretariat, Peshawar.

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar

To,

The Director Health Services
FATA.

58

Subject: - REQUEST FOR INCLUSION OF NAME IN MANAGEMENT
CADER (HEALTH, FATA/KHYBER PAKHTUNKHWA)

Respected Sir,

In continuation to the application by undersigned on Dated 07/06/2017, it is again stated in your kind honour that I, Dr. Shams ur Rehman, Medical Officer (BPS-17) is currently working in Health Sector Reform Unit (HSRU). Additionally, due to my immense interest towards public health, I am doing my Master in Public Health. Due to special interest on public health side, I was never attracted towards clinical studies, i.e. Post Graduation (FCPS, MCPS) after MBBS. In the same narrative, I have served as District Surveillance Officer in World Health Organization (WHO) at South Waziristan Agency.

Sir, due to my eagerness, enthusiasm and high spirits towards public health, it is requested that kindly include my name in Management Cader, so that I may make my career in public health side in future for services to deserved communities as well as for self inner satisfaction.

It is requested that kindly consider my request and oblige.

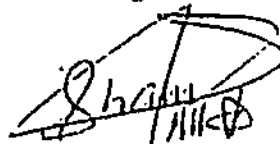
Thanking you in anticipation.

Dated: - 08/08/2017

His request may be considered after completion of MPH.

DDA
08/08/17

With Best Regards



Dr. Shams ur Rehman,
MO (BPS-17)
Health Sector Reform Unit
FATA Secretariat, Peshawar.

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No SOH(E-V)4-4/2022/ Requisition of Member of Service (BS-18)
Dated Peshawar the 09.08.2024

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To

The Director Recruitment,
Khyber Pakhtunkhwa Public Service Commission,
2-Fort Road Peshawar Cantt. Peshawar

Subject: REQUISITION OF THE MEMBER OF SERVICE BS-18 IN THE
HEALTH DEPARTMENT

Dar Sir,

I am directed to refer to this Department's letter dated 13.09.2022 and 31.05.2023 & your office letter dated 14.07.2023 on the above captioned subject and to enclose herewith the revised requisition proforma duly countersigned by the Secretary Health, Government of Khyber Pakhtunkhwa for requisition of 248-Member of Service (Management Cadre) doctors from Khyber Pakhtunkhwa Public Service Commission for further necessary action, please

SECTION OFFICER (E-V)

Encls. No. & Date Even
Copies to the:-

1. PS to Secretary Health Department, Khyber Pakhtunkhwa.

SECTION OFFICER (E-V)

ATTESTED
Bashir Khan Wazir, S.C. 09-2053
ADVOCATE
High Court Peshawar

KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION, PESHAWAR

REQUISITION FOR RECRUITMENT

60

REQUISITION FOR RECRUITMENT TO THE POST (B) OF MEMBER OF SERVICE (BPS-18)

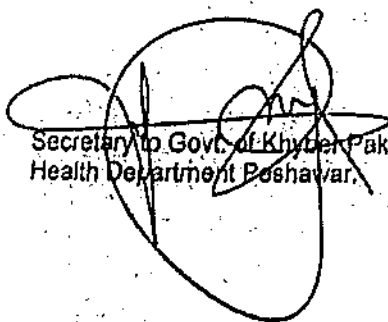
a	Designation and No. of post (s) requisitioned	240 MEMBER OF SERVICE
b	Nature of the post (s) Permanent-temporary-Contract	Permanent
c	Life of Post (s)	Permanent
d	Date(s) of occurrence of vacancy / vacancies	2010
e	Percentage of Promotion and Direct recruitment	By Initial recruitment 100%
f	No. of post (s) reserved for Disabled person against 2% quota as prescribed by the Government	NA
g	No. of post(s) reserved for Women Quota @ 10% quota as prescribed by the Government, if it is joint cadre for both sexes.	NA
h	No. of post(s) reserved for Minority Quota @ 6% quota as prescribed by the Government	NA
i	Zonal allocation of the Posts for General Bools (Zones and Merit are to be specified as per Notification No.SOS-III(S&GAD)3-3970, dated 03.02.1990	NA
a	Grade and Service	(BPS-18) MEMBER OF SERVICE
b	Service Rules governing recruitment (to be attached)	According to standing Rules (Copy attached)
c	If notified service are not available, indicate the suggested rules if any framed and copy be attached.	Verified Service Rules Attached
a	Pay Scale	BPS-18
b.	Any provision for higher initial pay for special qualification or experience.	NA
c.	Any special concession such as Rent free house, light, water, Prospects of promotion to higher time scale	As per policy of the Government
	Duties of the post	As Member of Service (BPS-18)
	When required to join	Immediately
	Place (s) where required to serve	Khyber Pakhtunkhwa


ATTESTED
 Bashir Khan Wani B/C 09-2053
 ADVOCATE
 High Court Peshawar

Qualifications		
a	Academic (if more than one prescribed, specify which is to be given more weight)	(i) MBBS/BD5 or equivalent Qualification, from any Institute recognized by the Pakistan Medical Council; And (ii) Doctorate/ M.Phil In Public Health or Health Administration or Health Management or equivalent qualification from any recognized University or Master in Public Health/Health Administration/ Health Management, allied discipline or equivalent qualification from any recognized University with two (2) years experience in the relevant field.
b.	In case of equivalent qualification is acceptable, specify that	As per Service Rules
c.	Training and experience	As per Service Rules
d.	Minimum academic qualification after which the prescribed experience in column 5 will count	As per Service Rules
e.	Any other qualification	N.A
6.	a. Minimum and maximum age limit	25-32 Years
	b. Sex	Both Genders Male/ Female
	c. Nationality and domicile	Pakistani (Khyber Pakhtunkhwa)
7.	Any other condition or qualification not covered above	N.A
8.	In case Government Servant (s) are eligible which conditions are relax able in their favour. Do they got any special concession?	N.A
9.	Was/were this/these posts are advertised? if so, give No. and year of PSC advertisement	Nil
10.	Name of appointment of the Departmental Officer recommended to assist the PSC in advisory capacity during the interview.	Will be intimated in due course of time.

I Certify that:-

1. The requisition is complete in all respects.
2. No other requisition has been placed on PSC for the requisitioned post(s).
3. Previous recommendations of PSC for similar post(s) have been implemented.
4. No adhoc contract appointee can claim regular absorption against the requisitioned post(s)
5. The vacancy/ vacancies fall to the share of initial recruitment quota as per ratio fixed in the service rules for promotion and initial recruitment quota.


Secretary to Govt. of Khyber Pakhtunkhwa
Health Department Peshawar.


DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar

06/05/21

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BEFORE THE HONOURABLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No _____ / 2021

Shams Ur Rehman S/o Bahadur Ghulam R/o House No 432, Street No 11, Sector-4, Phase VII, Hayatabad, Peshawar.

(Petitioner)

VERSUS

1. Govt of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Health Khyber Pakhtunkhwa Peshawar.
3. Director General Health Khyber Pakhtunkhwa, Peshawar.

(Respondents)

PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973

BRIEF FACTS!

- 1) That Petitioner is peaceful and law abiding citizen of Islamic Republic of Pakistan and is entitled for all the legal and fundamental rights guaranteed under the constitution and presently performing his duty as post Medical Officer, BPS-17.
- 2) That the Petitioner after passing his MBBS joined house job and after gone through requisite criteria he has been appointed as Post Medical Officer BPS-17 under the control of erstwhile FATA Directorate of Health Services and he remained on various positions on management cadre posts on different occasions. **(Copy of appointment order is attached as annexure "A")**
- 3) That before merger of FATA the Petitioner was serving under the Directorate Health Services FATA and he was time again posted and transferred from the position of Medical Officer to the posts of management cadre. The government of KPK in exercise of the powers conferred by section 26 of the KPK Civil Servants Act 1973 made Management Servant rules 2008 and introduced the said rules, while given options to the Doctors who were having qualifications of MBBS and MPH Degree from recognized institutions and intended

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EXAMINER
Peshawar High Court

(5)

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to get inductions in the management cadre and first time the Doctors were divided into two groups one is of Management Cadre and the other is General Cadre. **(Copy of the Rules and Degrees are attached as annexure "B")**

4) That guidelines provided under the said rules and in Part III conditions of service is provided according to which in rule 8 it has been specified that no member of service shall be allowed private practice, in lieu he shall be entitled to non practicing allowance. At such rate as may be prescribed by government, therefore the members of service have been completely debarred from private practice.

5) That the Petitioner after acquiring of MBBS Degree he was selected as Medical Officer BPS 17, thereafter, posted on various positions and after few months he was assigned duties on the posts which are falling in the Management cadre and even rule 8 of the management rules 2008 had been applied, while restrained him from private practice and non private practice allowance is being allowed to him, which is evident from the salary slip of the Petitioner, therefore, it is very much established from the transfer posting of Petitioner that he is holding post of management cadre from the last two years. **(Copies of the posting transfers of the Petitioner is attached as annexure "C")**

6) That it is pertinent to mention here that after promulgations of the above mentioned rules various officers who belonged to the General Cadre challenged the vires of the said rules in Khyber Pakhtunkhwa Service Tribunal through service appeal, while impugned section 10 of the said rules, which was allowed and the respondents were directed to allow the appellants if they wish to opt for induction in the Management Cadre and the said decision of the service appeal was maintained by the August Supreme Court. **(Copies of the Judgments are attached as annexure "D")**

7) That it is evident from the record that the Petitioner is holding the post of Management Cadre for the last few years and he had sacrificed his medical line, while not opted for being obtaining of Degree of FCPS as he has been restrained from

ATTESTED
EXAMINER
Peshawar High Court

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private practice, therefore, he had submitted various applications to the respondents for being proper induction of his service from General Cadre to Management Cadre with submission that he was holding the post of management cadre since long and having MPH Degree as well, similarly the provincial government has already been modified rule 10 of the Khyber Pakhtunkhwa Health Management Service Rules 2008, while published in gazette Notification on 29 May 2017, whereby the rule 10 sub rule (2) is being amended with regard to the Proviso "provided further that for a period of two years, from the date of issuance of this amending Notification, the officers of the General Cadre, who are in regular and continuous service and holding posts as such, shall be required to improve their qualification as per the Khyber Pakhtunkhwa Health Management Service Rules, 2008 to exercise the option under this rule", according to the said amendment a relaxation to the officers of the General cadre have been given. (Copy of the amended rules are attached as annexure "E")

8) That the Petitioner completed his MPH course in August 2019, while the period given in the amended rule 10 of the Health management Service rules 2017 is May 2019, on the basis of which the Petitioner right has been violated as he had been completed his MPH according to the Cushion period and the time frame given in the amended rules is being against the norms of justice and the Petitioner in spite of the facts that he being obtained the requisite qualifications for induction into the Management Cadre has been deprived from his lawful and fundamental rights.

9) That as per the above mentioned criteria the Petitioner is entitled to be properly placed and inducted in the management cadre, as he has waived of his right of private practice, which is evident from the above mentioned salary slip in which the Petitioner has been entitled to be received non practice private allowance, the Petitioner submitted his appeal before the competent authority with request to include his name in the member of services of Health Department in the light of aforesaid mentioned

ATTESTED
EXAMINER
Peshawar High Court

Judgment and amended rules, however neither the Respondents considered the request of the Petitioner nor uptill now they have refused.

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- 10) That since the promulgation of the Khyber Pakhtunkhwa, Health (Management) Service Rules 2008, in rule 10, one time exercise of permanent transfer from amongst the officers of General Cadre in equivalent basic pay scale, who are having qualification for the subject absorption was provided which was later on declare by the service tribunal ultra vires and the Respondents were directed to provide opportunity for the qualified candidates belongs to the General Cadre. The same judgment of the Khyber Pakhtunkhwa Service tribunal was upheld by the Supreme Court, however the Respondents once again violated the Judgment of Hon'ble Courts and made amendment in the Rules, from which the Petitioner was also aggrieved.
- 11) That the Petitioner feeling extremely aggrieved, having no other adequate, alternate and efficacious remedy but to approach this Hon'ble Court for redressal of his grievance, inter alia on the following grounds:

GROUND: -

- A) That the impugned acts of Respondents are illegal, without lawful authority, result of nepotism, conceived in bad faith and malafide, hence requires to be declared so.
- B) That the Petitioner since long performing his duty under the Respondents department on the post which are falls in the definition of Management Cadre, furthermore he has already acquired the requisite qualifications for absorption in the Management Cadre from General Cadre, similarly the Respondents treated the Petitioner as like the incumbents of Member of Services Health Department, which is evident from the posting as well as the salary slip, whereby the Petitioner has been allowed to get non private practice; this term is mentioned in Rule 8 of the Management Service Rules 2008.

ATTESTED
EXAMINER
Peshawar High Court

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- C) That after the promulgation of the Health Management Service Rules 2008, the incumbents of the Health Department has been divided into two categories, one is declared General Cadre and the other has been declared as Management Cadre, the work has been distribute amongst the two groups, the Management Cadre group has been specifically nominated for the administrative purposes for administrative work and the other has specifically been nominated for the practice as a Doctors.
- D) That after the publication of the above mentioned rules, the incumbent of the General Cadre had been challenge Rule 10 of the said Rules to be declared ultra vires and is against the fundamental rights of the candidates who were having the requisite qualifications but due to the specific baring clause as rule 10, they were unable to induct in the management cadre. The service tribunal rendered judgment, while declared the said Rule 10, being ultra vires against the constitution and is against the fundamental rights of the candidates and the same judgment was upheld by the August Supreme Court, the Service Tribunal specifically mentioned in Para 8 of their Judgment that Rule 10 of the said Rules does not provide any cushion period and denying chance to improve qualification for joining the management cadre to the candidates.
- E) That the decision in respect of regret is against the fundamental rights provided under the constitution of Islamic Republic of Pakistan and the Respondents violated the article 4,18 and 25 of the constitution of Islamic Republic of Pakistan.
- F) That Petitioner is the only eligible candidate who's vested right can not be crucified. By doing so, Respondents No 1 and 2 have disregarded the express provisions of constitution, guaranteeing fundamental rights.
- G) That it is the fundamental and inalienable right of Petitioner to be dealt with in accordance with law and the Petitioner has

ATTESTED
EXAMINER
Peshawar High Court

not been dealt with in accordance with law and has been extremely discriminated. As such, the impugned action of Respondents is liable to be declared so.

H) That it is pertinent to mention here that the Rule 10 of the above mentioned rules have been declared being ultra vires and once the Hon'ble Tribunal has been directed the Respondents to modify the said rules for the purpose of to extend the benefit of the said rules to the other eligible candidates and therefore the same judgment was maintained by the August Supreme Court of Pakistan, the Govt of KPK amended rule 10 of the said rules after realizing that the said is being unconstitutional. Now after the proper amendment the same amendment is also being unconstitutional, against the fundamental rights and utter violation of the article 4, 18, 25 of the Constitution, which is also liable to be declared illegal, unlawful and without lawful authority.

I) That the Petitioner having qualifications for the induction into the management cadre, as he had sacrificed his private practice being a doctor and he has opted to posted on the management cadre positions and accordingly the Respondents repeatedly posted the Petitioner on the post of management cadre, in this score alone the Petitioner being holding of the subject position is entitled to be properly induct in the Member of Service Group of Health Department.

J) That the time period specified in the amended Rule 10 is illegal, and unjustified, the Respondents cannot restrained any person from his lawful and legal rights, in fact the Petitioner is also entitled to be treated under the Judgment of service tribunal as well as the Apex Court, however the time period mentioned in the amended rules is unconstitutional as the Petitioner being obtained the improved qualification of MP.h having been completed in August 2019, however the time frame given in the amended rule 10 is May 2019, which could not be possible for the Petitioner to be completed his

ATTESTED
EXAMINER
Peshawar High Court

MP.h degree in the specific period, due to some unavoidable reasons, therefore the time frame specified in the amended rules is unjustifiable and liable to be declared illegal, accordingly the Petitioner be allowed to opt induction in the management cadre.

K) That other grounds will be raised at the time of arguments with prior permission of this Hon'ble Court.

PRAYER!

It is, therefore, respectfully prayed that on acceptance of this Constitutional Petition, Writs to the following effects may kindly be issued!

- (i) Declaring the acts and inaction of Respondents, whereby the Petitioner has been refused to induct / absorb in the in the Management Cadre inspite of the fact that the Petitioner having qualifications and entitle to join Management Cadre, are illegal, null and void, without lawful authority and ineffective upon the legal rights of the Petitioner.
- (ii) Declare that the Petitioner is entitled to be join / inducted in the Management Cadre on the reason of being qualified and holding the subject position of Management Cadre, but his name has not been properly inducted in the penal of employees of Management Cadre.
- (iii) The Rule 10 of the Health Management Service Rules 2008 and amended rule of 2017 published on 29th May 2017, whereby the time frame is provided for the employees of General Cadre who are in regular and in continue service of two years is illegal, unlawful, void ab initio and against the fundamental rights, unjustified and published in unjustified manner and to be declare so, accordingly the Petitioner being eligible and entitled having qualification to be inducted in the Management Cadre, the Respondents be directed to do so.

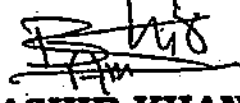
ATTESTED
EXAMINER
Peshawar High Court

Any other relief, deemed appropriate in the matter and being not specifically asked for may also be granted.

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INTERIM RELIEF!

By way of interim relief, the respondents be restrained to not remove / transfer the Petitioner from the post fall in the Management Cadre, which the Petitioner is holding according to his qualification, till the final disposal of the instant writ petition.

Petitioner
Through: 
(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 11.09.2021

CERTIFICATE!

No Writ Petition on the subject has been filed or is pending before this Honourable Court, prior to the present one

LAW BOOKS!

1. Constitution of Islamic Republic of Pakistan, 1973
2. Case law according to need.

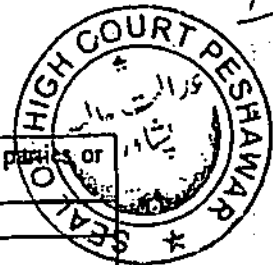

ADVOCATE

ATTESTED
EXAMINER
Peshawar High Court

PESHAWAR HIGH COURT PESHAWAR

Form "A"

Order Sheet



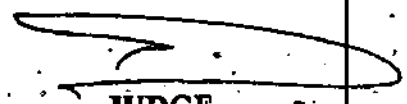
Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
2	3
20.03.2024	<p><u>Writ Petition No.3941-P/2021.</u></p> <p><u>Present:</u></p> <p>Mr. Bashir Khan Wazir, Advocate, for the petitioner.</p> <p>Mr. Ayub Zaman, AAG, for the official respondents.</p> <p>*****</p> <p><u>S. M. ATTIOUE SHAH, J.-</u> Petitioner, through the instant petition, seeks issuance of an appropriate writ directing the respondents to permanently transfer / absorb him from the General Cadre to Management Cadre in terms of amended Rule 10 of the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008.</p> <p>2. During the course of arguments, it is discovered that the petitioner has preferred representation / appeal before respondent No.2 / worthy Secretary Health, Khyber Pakhtunkhwa, Peshawar for his transfer / absorption from General Cadre to Management Cadre, which has not yet been decided. As such, we deem it appropriate to direct respondent No.2 / worthy Secretary Health, Khyber Pakhtunkhwa, Peshawar to decide the pending representation / appeal of the petitioner, through a speaking order within 30 working days positively, after providing him</p>

ATTESTED
EXAMINER
Peshawar High Court

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due opportunity of hearing. The instant writ petition is disposed of in the above terms.

Announced.
Dated: 20.03.2024.


JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
the Qanun-e-Shahadat Act 1984
03 OCT 2024

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Daily No. 10253
Date 26/6/24
Health Department

BT
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The Learned Secretary Health Services
Khyber Pakhtunkhwa, Peshawar

Subject: APPLICATION FOR IMPLEMENTATION OF ORDER DATED 20.03.2024 PASSED BY THE HON'BLE PESHAWAR HIGH COURT PESHAWAR IN WRIT PETITION NO. 3941/2021

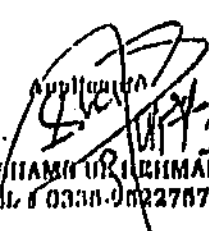
Respected Sir,

With due respect that the undersigned filed a WP NO. 3941-1/2021 "Dr Shams ur Rehman Vs Govt of KPK others" for induction from General Cadre to Management Cadre according to the amended Rules of 2010, vide Which The Hon'ble Peshawar High Court Peshawar while disposing of the Writ Petition of the Petitioner with direction to your good office to consider the case of the undersigned for induction into Management Cadre. The needful be done within a period of one month. (Copy of Order dated 20.03.2024 is attached herewith)

The undersigned was appointed in Health Department on the post of MO and now performing his duty as Regular Doctor in DPS-17. In 2008 Rules known as Khyber Pakhtunkhwa Health (Management) Service Rules 2008 were promulgated with one time option provided under Rule 10 of the Rules 10 to those doctors who were performing their duties in General Cadre have been given option to opt their choice to observe / induct in the Management Cadre, the same Rules while in questioned by the some of in-service doctors and challenged the vires of Rule 10, which was allowed and upheld by the Hon'ble Supreme Court, the Govt of KPK while amended, keeping in view the Judgment of the Hon'ble Service Tribunal extend benefits of the Rule 10 to those doctors of General Cadre who had the Degree M.Ph in Boudon 2017 to 2019.

The undersigned while coming under the purview of the said amendment submitted various applications which were forwarded for onward decision to the competent authority, but in vain. In spite of the fact that the undersigned since long has given option to the Competent authority for induction into Management Cadre and even the undersigned is performing his duty since long on the post of Management Cadre, but without any cogent reason the proper notification has not yet been issued. Now in the light of the Judgment 100, the applicant while submitting judgment to consider his willingness into management cadre and proper notification in this respect may be issued.

It is, therefore, requested that the order dated 20.03.2024 may kindly be implemented in letter and spirit and also in the light of the earlier Applications, the Services of the Petitioner may kindly be inducted from General Cadre into Management Cadre.


DR. SHAMS UR REHMAN
CENL: 0338-0022767

ATTESTED
Bashir Khan Wazir S/C 05-295.
ADVOCATE
High Court Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

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NO. SOH(E-V)/2-2/2024/ Management Cadre Induction
Dated Peshawar, the 09.08.2024

To

1. The Deputy Secretary (Establishment), Health Department;
2. The Deputy Secretary (Litigation), Health Department
3. The Director (HRM), Directorate General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: MEETING REGARDING DISCUSSION ON COURT CASE
(INDUCTION INTO MANAGEMENT CADRE)

In continuation of this Department letter of even No. dated 01.08.2024 on the subject noted and to state that a meeting regarding court case for induction of General Cadre doctors into Management Cadre (Case titled Dr. Muhammad Ali Shah & Shams Ur Rehman) is re-scheduled to be held on 12th August, 2024 (Monday) at 02:00 PM in the office of the Additional Secretary (E&A), Health Department, Govt. of Khyber Pakhtunkhwa.

I am, therefore directed to request you, that the above meeting may be attended on the date, time & venue, please.

SECTION OFFICER (E-V)

Ends: No. & Date Even

Copy forwarded for information to the:

1. PS to Secretary Health, Khyber Pakhtunkhwa.
2. PA to Additional Secretary (E&A) Health Department, to bring into notice of Additional Secretary (E&A), please.

SECTION OFFICER (E-V)

ATTESTED
Bashir Khan Wazir RIC 69-2051
ADVO. A.
High Court Pes.

قیمت
50 روپے

پشاور بار ایسوسی ایشن، خیبر پختونخوا

ایڈووکیٹ Bashir Khan 55558

بار کونسل ایسوسی ایشن نمبر: 09-2053

رابطہ نمبر: 0333 9732415



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بعدالت جناب: سر جسٹس ریٹائرمنٹ پی ٹی سی

مخاطب: ایڈووکیٹ	دعویٰ: سر جسٹس ریٹائرمنٹ
شخصی بنیاد حکومت	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

بابت تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے بشیر خان وزیر اعلیٰ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے، تقررات ثالث فیصلہ بر حلف دینے، جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل تکراری و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا ایجنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا ہند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 2/10/2024

Accepted

بشیر خان

المقام: پشاور

مقام پشاور کے لیے منظور ہے۔

Do. Shams ul Rehman