

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR


CHECK LIST

Case Title: _____

S#	CONTENTS	YES	NO
1	This Appeal has been presented by _____		<input checked="" type="checkbox"/>
2	Whether counsel / appellant/ respondent/ deponent have signed the requisite document?		
3	Whether appeal is within time?		
4	Whether the enactment under which the appeal is filed mentioned?		
5	Whether the enactment under which the appeal is filed is correct?		
6	Whether affidavit is appended?		
7	Whether affidavit is duly attested by competent oath commissioner?		
8	Whether Appeal / Annexures are properly paged?		
9	Whether Certificate regarding filing any earlier appeal on the subject, furnished?		
10	Whether annexures are legible?		
11	Whether annexures are attested?		
12	Whether copies of annexures are readable/ clear?		
13	Whether copy of appeal is delivered to AG/ DAG?		
14	Whether Power of Attorney of the Counsel engaged is attested and signed by Petitioner/ Appellant / Respondents?		
15	Whether number of referred cases given are correct?		
16	Whether appeal contains cutting / overwriting?		
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this Court?		
19	Whether requisite number of spare copies are attached?		
20	Whether complete spare copy is filed in separate file cover?		
21	Whether addresses of parties given are complete?		
22	Whether index filed?		
23	Whether index is correct?		
24	Whether security and process fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, Notice along with copy of Appeal and annexures has been sent to Respondents? On _____		
26	Whether copies of comments / reply / rejoinder submitted? On _____		
27	Whether copies of comments/ reply/ rejoinder provided to opposite party? On _____		

It is certified that formalities /documentations as required in the above table, have been fulfilled.

Name:- _____

Signature: 

Dated: - _____



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

Amended Service Appeal No. 1229 /2024

Uzair KhanAPPELLANT

VERSUS

Secretary Health and othersRESPONDENTS

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Through

uzair
Appellant

[Signature]
Ahmad Sultan Tareen
Advocate High Court

[Signature]
Mubassir Ali
Advocate High Court

Dated: 2210.2024



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

Amended Service Appeal No. 1229/2022

Uzair Khan S/o Gohar Ali R/o Dag, Kalay, Warsak Road Peshawar.

.....APPELLANT

VERSUS

1. Secretary, Government Khyber Pakhtunkhwa, Health Department, Civil Secretariat, Peshawar.
2. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Director Health services, Newly merged area, Warsak Road, Peshawar .
4. District Health Officer, District Khyber at Jamrud.
5. District Account Officer, Khyber at Jamrud.

.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 25-10-2019 AND OTHER
ORDER FOUND PASSED BY THE RESPONDENTS UPON
THE DEPARTMENTAL APPEAL FILED BY THE
APPELLANT.**

(AMENDED MEMORANDUM OF SERVICE APPEAL ALLOWED VIDE
ORDER DATED 24-09-2024)

Respectfully Sheweth:

The appellant having been allowed to amend the memorandum of appeal, seeks to submit the same as under:

1. That appellant is the permanent and bonafide resident of District Peshawar and has never ever violated any law of the land in his entire life.
2. That Respondents advertised multiple posts inviting applications for various posts of different categories. Appellant having the requisite qualification and fulfilling the terms of the advertisement applied for the subject post. He went through the selection process and successfully qualified and accordingly he was offered appointment against the post of Junior Clerk (BPS-11) at district Khyber. Subsequent to his appointment he was medically examined by the Authorized Medical Officer and was found fit. Eventually submitted his respective arrival report and started performing his duty. **(Copy of appointment order is already attached with original appeal as Annexure-A).**
3. That while discharging his duty against the subject post, all of sudden, Respondent No. 4 without showing any reason unlawfully stopped appellant's salary from September 2019 till now.
4. That appellant feeling dissatisfied of the impugned action, preferred an application for releasing his salaries on 04/06/2020 to the respondent but to no avail. It is pertinent to mention here that the salaries of the appellant have unlawfully been stopped by the respondents despite the fact that he has

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been performing his duty without any interruption. **(Copy of the application is already on record as Annexure-B)**

5. That appellant, being aggrieved of the acts and omissions of the respondents and impugned action filed Writ petition No.3066-P/2021 before the Hon'ble court, Peshawar. **(Copy of writ petitioner is Annexure-C with original appeal)**
6. That during the pendency of the Writ petition, the respondents submitted their comments in which they stated that vide order dated 25/10/2019, the appellant was terminated from the service showing him as incumbent of the post of Junior EPI Technician BPS-12 on which the appellant was never appointed. Rather he was appointed as Junior Clerk (BPS-11) vide order dated 10/01/2019 already annexure 'A' with the appeal and was drawing salary for the post of Junior Clerk since his appointment till his pay was wrongly stopped by the respondents may be treating the appellant as terminated from service on the basis of wrong order 25/10/2019. Though still entitled to hold the post of Junior Clerk and draw his salary against the said post, the appellant has been treated as terminated against the facts and law by an order totally void and ineffective. Thus, the appellant is reasonably aggrieved and entitled to get rid of the wrong order being used against him to disentitle him from his lawful incumbency of the post of Junior Clerk. **(Copies of the comments and said orders are Annexure 'D' & 'D/1' available with the original appeal and copies of Salary Slips are Annexure- "D-2")**.

(4)

7. That the Hon'ble Peshawar High Court, Peshawar disposed of the above mentioned Writ petition vide order dated 09/05/2022 with the direction to the appellant to approach the proper forum. **(Copy of said order is available as Annexure-E with original appeal)**
8. That the appellant as per direction of Hon'ble Peshawar filed a Departmental appeal/representation against the impugned order dated 25/10/2019, but the respondent barbarically refused to receive the same but the appellant just for the purpose to bring the law in motion against the respondents and left the departmental appeal upon the table of the competent authority, but till now no proceeding has taken place upon the said departmental appeal.
9. That the appellant having become victim of illegal and void order having no nexus with original post of Junior Clerk is impelled to invoke the jurisdiction of this Hon'ble Tribunal inter alia, on the grounds as follow;

GROUND:

- A. That respondents have not treated appellant in accordance with law, rules and policy and unlawfully stopped appellant's salaries of the post of junior Clerk in pursuance to a wrong order showing him terminated from service as Junior EPI Technician which is unconstitutional, unjust, unfair, and hence ineffective upon the rights of the appellant as civil servant holding the post of Junior clerk on the strengthen of appointment order still intact.

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- B. That the appellant was properly appointed as Junior clerk (BPS-11) in accordance with law on the recommendation of the properly constituted selection committee by the competent authority after observing all the codal formalities. The appointment order of appellant was acted upon, carried into effect and now valuable rights have accrued in favor of appellant, therefore, Appellant is performing his duty and by means of impugned action, Respondents have unlawfully stopped the salaries of appellant which is against the law.
- C. That the whole proceeding of the respondents in shape of show cause notice, explanation letter, so called inquiry and termination order dated 25/10/2019 was conducted in the absence of the appellant which is fake and fabricated documents having no legal footing, hence liable to be set aside being void ab initio. The respondents have got no lawful justification to stop appellant from service on the post of Junior clerk and to withhold his salary for which the appellant is entitled with back benefits.
- D. That it is a well settled legal principle of law that salary of an employee cannot be stopped even during the course of his suspension from service, whereas the salaries of appellant has illegally been stopped in spite of his performing uninterrupted duty, which amounts to forced labor, therefore. Respondents have violated Article-11 of the constitution of the Islamic republic of Pakistan 1973.
- E. That besides it is a settled law that if any irregularity in the process of selection is omitted by the competent authority then

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it is the competent authority who is to be held responsible and for that lapse the poor employers cannot be made to suffer. However in the case in hand no illegality was found against the competent authority.

- F. That the appellant time and again requested the respondents to release the appellant salaries but the respondents with malafide intention concealed fact that the other colleagues of the appellant which was appointed with the appellant his salaries was appointed with the appellant his salaries was released while the so-called inquiry was initiated against the appellant, hence liable to be set aside.
- G. That appellant has been serving the department to the best of his capabilities with unblemished service record. Therefore during his service no complaint whatsoever has been lodged against him.
- H. That the act of the respondents is just meant to accommodate their blue eyed nears and dears, hence needs interference of this Hon'ble Tribunal.
- I. That clear violation of section- 24 of the General clauses Act, 1897 has been made by not responding to the application of the appellant which is not sustainable in the eye of law, It is settled law that authorities having statutory powers must exercise the same in fair, just and reasonable manner, The impugned order of the respondents are unfair, unjust and therefore not maintainable.

(7)

- J. That appellant would like to offer some additional grounds during the course of arguments when the stance of the respondents is known to the appellant.

Prayer:

With forgoing facts and grounds, it is respectfully prayed that on the acceptance of this amended appeal, it may be held that the appellant was appointed as Junior Clerk (BPS-11) who having joined the duty was paid salaries for his service against the post of Junior clerk since January, 2019 until his illegal and erroneous stoppage of salary of the said post. Consequently, the appellant on the basis of his appointment order as Junior Clerk still intact is not liable to be stopped/restrained from rendering service against the post of Junior clerk and the respondents may be directed to release the salary of the appellant against the post of Junior clerk with payment of back benefit, the proceeding under E&D rules as relied upon by the respondents before the Hon'ble Peshawar High Court, Peshawar alleging the status of the appellant as Junior EPI Technician and consequent termination dated 25/10/2019 are wrong, illegal, erroneous, invented, summersault, forged, against the facts and law, void *ab intio*, ineffective against the appellant and are liable to be corrected.

Through

42917
Appellant


Ahmad Sultan Tareen
Advocate High Court

Dated: 22.10.2024

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

Service Appeal No. _____/2024

Uzair Khan

.....APPELLANT

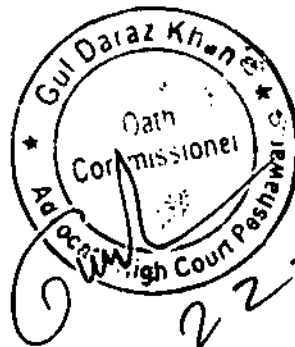
VERSUS

Secretary Health and others

.....RESPONDENTS

AFFIDAVIT

I on behalf of my client the above name appellant do hereby affirm that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief as per information conveyed to me by my client and nothing has been concealed from this Hon'ble Tribunal.



Uzair Khan
Deponent

(19)

Annex - D/2

S#:1 khyber
P Sec:001 Month:January 2019
KH0004 -Agency Surgeon,Khyber Agen
Min. Of Health
Pers #: 50468084 Buckle:
Name: UZAIR KHAN JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
11 Active Temporary
KH0004 -
PAYS AND ALLOWANCES:
0001-Basic Pay 8,515.00
1000-House Rent Allowance 1,255.00
1210-Convey Allowance 2005 1,935.00
1300-Medical Allowance 1,016.00
1528-Unattractive Area Allow 677.00
2211-Adhoc Relief All 2016 10% 755.00
2224-Adhoc Relief All 2017 10% 852.00
2247-Adhoc Relief All 2018 10% 852.00
Gross Pay and Allowances 15,857.00
DEDUCTIONS:
GPF Balance 1,290.00 Subrc: 1,290.00
3701-Benevolent Fund(Exchange) 180.00
3705-R. Ben & Death Comp(Exch) 406.00
Total Deductions 1,876.00
13,981.00
D.O.B LFP Quota: 4
04.12.1994 Payment through DDO.

~~ATTESTED~~

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S#:1 khyber

P Sec:001 Month:February 2019
KH0004 -Agency Surgeon,Khyber Agen
Min. Of Health

Pers #: 50468084 Buckle:
Name: UZAIR KHAN
JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
11 Active Temporary

NTN:
GPF #:
Old #:

KH0004 -

PAYS AND ALLOWANCES:

0001-Basic Pay	12,570.00
1000-House Rent Allowance	1,853.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,257.00
2247-Adhoc Relief All 2018 10%	1,257.00

Gross Pay and Allowances 23,407.00
DEDUCTIONS:

GPF Balance 2,580.00	Subrc:	1,290.00
3701-Benevolent Fund(Exchange)		180.00
3705-R. Ben & Death Comp(Exch)		600.00

Total Deductions 2,070.00
21,337.00

D.O.B 04.12.1994 LFP Quota: 4
00 Years 01 Months 019 Days Payment through DDO.

~~ATTESTED~~

(11)

S#:1
Pers #: 50468084 Buckle:
Name: UZAIR KHAN
 JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
 11 Active Temporary

P Sec:001 Month:March 2019
KH0004 -Agency Surgeon,Khyber Agen
 Min. Of Health
NTN:
GPF #:
Old #:

PAYS AND ALLOWANCES:		KH0004	-
0001-Basic Pay		12,570.00	
1000-House Rent Allowance		1,853.00	
1210-Convey Allowance 2005		2,856.00	
1300-Medical Allowance		1,500.00	
1528-Unattractive Area Allow		1,000.00	
2211-Adhoc Relief All 2016 10%		1,114.00	
2224-Adhoc Relief All 2017 10%		1,257.00	
2247-Adhoc Relief All 2018 10%		1,257.00	
Gross Pay and Allowances		23,407.00	
DEDUCTIONS:			
GPF Balance	3,870.00	Subrc:	1,290.00
3701-Benevolent Fund(Exchange)			180.00
3705-R. Ben & Death Comp(Exch)			600.00
Total Deductions			2,070.00
			21,337.00

D.O.B LFP Quota: 4
04.12.1994 Payment through DDO.
00 Years 02 Months 022 Days

~~ATTESTED~~

12

S#:1
khyber
Pers #: 50468084 Buckle:
Name: UZAIR KHAN
JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
11 Active Temporary

P Sec:001 Month:April 2019
KH0004 -Agency Surgeon,Khyber Agen
Min. Of Health
NTN:
GPF #:
Old #:

PAYS AND ALLOWANCES:	KH0004 -
0001-Basic Pay	12,570.00
1000-House Rent Allowance	1,853.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,257.00
2247-Adhoc Relief All 2018 10%	1,257.00

Gross Pay and Allowances 23,407.00

DEDUCTIONS:

GPF Balance 5,160.00	Subrc: 1,290.00
3701-Benevolent Fund(Exchange)	180.00
3705-R. Ben & Death Comp(Exch)	600.00

Total Deductions	2,070.00
	21,337.00

D.O.B	LFP Quota: 4
04.12.1994	Payment through DDO.
00 Years 03 Months 021 Days	

~~ATTESTED~~

13

khyber

S#:1

P Sec:001 Month:May 2019
KH0004 -Agency Surgeon,Khyber Agen
Min. Of Health

Pers #: 50468084 Buckle:
Name: UZAIR KHAN
JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
11 Active Temporary

NTN:
GPF #:
Old #:

KH0004 -

PAYS AND ALLOWANCES:

0001-Basic Pay	12,570.00
1000-House Rent Allowance	1,853.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,257.00
2247-Adhoc Relief All 2018 10%	1,257.00

Gross Pay and Allowances 23,407.00

DEDUCTIONS:

GPF Balance 6,450.00	Subrc: 1,290.00
4200-Professional Tax	100.00
3701-Benevolent Fund(Exchange)	180.00
3705-R. Ben & Death Comp(Exch)	600.00

Total Deductions 2,170.00

21,237.00

D.O.B 04.12.1994
00 Years 04 Months 022 Days

LFP Quota: 4
MCB BANK LIMITED Warsak Road Br. Pesh
1084007241002873

~~ATTESTED~~

14

khyber

S#:1

P Sec:001 Month:June 2019
KH0004 -Agency Surgeon,Khyber Agen
Min. Of Health

Pers #: 50468084 Buckle:
Name: UZAIR KHAN
JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free

NTN:
GPF #:
Old #:

11 Active Temporary

KH0004 -

PAYS AND ALLOWANCES:

0001-Basic Pay	12,570.00
1000-House Rent Allowance	1,853.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,257.00
2247-Adhoc Relief All 2018 10%	1,257.00

Gross Pay and Allowances 23,407.00

DEDUCTIONS:

GPF Balance 7,740.00	Subrc: 1,290.00
3701-Benevolent Fund(Exchange)	180.00
3705-R. Ben & Death Comp(Exch)	600.00

Total Deductions 2,070.00
21,337.00

D.O.B 04.12.1994
00 Years 05 Months 021 Days

LFP Quota: 4
MCB BANK LIMITED Warsak Road Br. Pesh
1084007241002873

~~TESTED~~

LS

S#:1 khyber

P Sec:001 Month:July 2019
KH0004 -Agency Surgeon, Khyber Agen
Min. Of Health

Pers #: 50468084 Buckle:
Name: UZAIR KHAN
JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
11 Active Temporary

NTN:
GPF #:
Old #:

KH0004 -

PAYS AND ALLOWANCES:

0001-Basic Pay	12,570.00
1000-House Rent Allowance	1,853.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,257.00
2247-Adhoc Relief All 2018 10%	1,257.00
2264-Adhoc Relief All 2019 10%	1,257.00
Gross Pay and Allowances	24,664.00

DEDUCTIONS:

GPF Balance 9,030.00	Subrc:	1,290.00
3701-Benevolent Fund(Exchange)		180.00
3705-R. Ben & Death Comp(Exch)		600.00

Total Deductions 2,070.00

22,594.00

D.O.B 04.12.1994 LFP Quota: 4
00 Years 06 Months 022 Days MCB BANK LIMITED Warsak Road Br. Pesh
1084007241002873

~~ATTESTED~~

16

S#:1 khyber
Pers #: 50468084 Buckle:
Name: UZAIR KHAN
JUNIOR CLERK
CNIC No.1730101559285
GPF Interest Free
11 Active Temporary

P Sec:001 Month:August 2019
KH6006 -DHO Health Khyber
DHO HEALTH KHYBER
NTN:
GPF #:
Old #:

PAYS AND ALLOWANCES: KH6006 -
0001-Basic Pay 12,570.00
1000-House Rent Allowance 1,853.00
1210-Convey Allowance 2005 2,856.00
1300-Medical Allowance 1,500.00
1528-Unattractive Area Allow 1,000.00
2211-Adhoc Relief All 2016 10% 1,114.00
2224-Adhoc Relief All 2017 10% 1,257.00
2247-Adhoc Relief All 2018 10% 1,257.00
2264-Adhoc Relief All 2019 10% 1,257.00
Gross Pay and Allowances 24,664.00

DEDUCTIONS:
GPF Balance 10,320.00 Subrc: 1,290.00
3501-Benevolent Fund 600.00
4004-R. Benefits & Death Comp: 1,052.00

Total Deductions 2,942.00
21,722.00

D.O.B 04.12.1994 LFP Quota: 4
00 Years 07 Months 022 Days MCB BANK LIMITED Warsak Road Br. Pesh
1084007241002873

~~ATTESTED~~

17

khyber

S#:1

P Sec:001 Month:September 2019

KH6006 -DHO Health Khyber

DHO HEALTH KHYBER

Pers #: 50468084 Buckle:

Name: UZAIR KHAN

NTN:

JUNIOR CLERK

GPF #:

CNIC No.1730101559285

Old #:

GPF Interest Free

11 Active Temporary

KH6006 -

PAYS AND ALLOWANCES:

0001-Basic Pay	12,570.00
1000-House Rent Allowance	1,853.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,257.00
2247-Adhoc Relief All 2018 10%	1,257.00
2264-Adhoc Relief All 2019 10%	1,257.00
Gross Pay and Allowances	24,664.00

DEDUCTIONS:

GPF Balance 11,610.00	Subrc:	1,290.00
3501-Benevolent Fund		600.00
4004-R. Benefits & Death Comp:		600.00

Total Deductions 2,490.00

22,174.00

D.O.B
04.12.1994
00 Years 08 Months 021 Days

LFP Quota: 4
MCB BANK LIMITED
1084007241002873

Warsak Road Br. Pesh

~~ATTESTED~~