


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1267/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.10.2024	<p>The implementation petition of Mr. Amjid Saleem submitted today by Mr. Bashir Khan Wazir Advocate. It is fixed for implementation report before Single Bench at Peshawar on 29.10.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Amjad Saleem v/s Secretary Health and other

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
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?	x	✓
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 numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
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 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/documentation as required in the above table have been fulfilled.

Name: Bashir Khan Wazir

Signature: [Signature]

Dated: 23-10-24

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BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition No. 1267/2024

In the matter of

Service Appeal No. 251/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17/10

Dated 24-10-24

Amjad Saleem Junior Clerk (BPS-11) DHo Office North
Waziristan, Miran Shah

.....Appellant

V E R S U S

1. Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services Government of Khyber Pakhtunkhwa, Directorate Health, Peshawar.
3. District Health Officer, District North Waziristan.

.....Respondents

APPLICATION FOR THE IMPLEMENTATION
OF THE JUDGMENT AND ORDER DATED
16.09.2024 IN THE CAPTIONED SERVICE
APPEAL OF THIS HON'BLE TRIBUNAL.

Respectfully Sheweth:

1. That the above noted Service Appeal was pending adjudication before this Hon'ble Tribunal and was decided / disposed off vide Judgment and order dated 16.09.2024.
2. That the said Service Appeal was filed against the continuous acts and omissions of the respondents, as time and again the appellant was penalized on different pretext, through political and on the manipulation of a gang of persons, involved in the continuous torture of the appellant, just to deprive the appellant from his lawful rights. Initially the appellant was terminated through malafide and for ulterior motives and thereafter was reinstated through office order dated 23.02.2022, in the light

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of that reinstatement, the appellant had performed his duty for about 22 months and meanwhile he was transferred to the disposal of Director General Health Services, which was issued by the respondent No 2 and the same was challenged by the appellant, consequently the respondents were aggressive and his earlier order was ridiculously withdrawn, on the flimsy ground, which was once again challenged before the Service Tribunal in the instant Appeal. The Appeal was heard in preliminary hearing and reply was sought from the respondents, the respondents during the pendency of Appeal of the appellant, while withdrawn the impugned order dated 11.10.2023 and the same order was submitted by the appellant before this Hon'ble Tribunal. **(Copy of the Order is attached as annexure A)**

3. That vide order sheet dated 01.08.2024 when the case was taken up and the respondents were asked about their reply, the appellant submitted the above mentioned withdrawal order and the office representative of the respondents sought time for the verification of the same which was granted to the respondents and next date was fixed as 21.08.2024. subsequently on the next date the respondents did not submit verification of the order and sought further time with request that the process was verification of the said letter is underway and some time may be granted to be concluded the same and to provide before this Hon'ble Tribunal. **(Copy of the Order sheet dated 21.08.2024 is attached as annexure B)**
4. That after issuance of order dated 04.07.2024, the appellant requested to the DHO concerned for release of his salaries, the DHO sent the said letter to the concerned quarter for verification, in response of that the concerned office of the Secretary Health has duly verified the same. **(Copy of the letter is attached as annexure C)**

5. That on dated 16.09.2024, when the case was taken up and the respondents were asked about the said verification, the representative of the respondents produced copy of the letter dated 15.07.2024, addressed to the concerned authority for verification. In response to that letter the concerned authority verified that the notification dated 04.07.2024 as genuine / original, in view of the above the appeal was disposed of, as the grievance of the appellant was redressed. **(Copy of the Appeal and order dated 16.09.2024 is attached as annexure D)**
6. That consequently in the light of the Judgment of this Hon'ble Tribunal, the appellant submitted an application and order before the competent authority for further implementation, which was properly processed by the concerned quarter and forwarded for onward implementation. **(Copies of the application and letter are attached as annexure E)**
7. That the Judgment and Order of this Hon'ble tribunal was duly communicated to the Respondents by the Appellant and submitted an Application for implementation of the Order of this Hon'ble Tribunal. Thereafter the Appellant is continuously approaching the Respondents for the implementation of the Judgment and Order dated 16.09.2024, however they are reluctant to implement the same.
8. That the Respondents are legally bound to implement the judgment of this Hon'ble Tribunal dated 16.09.2024 in its true letter and spirit without any further delay, which has already been delayed due to the malafide intention of the Respondents.
9. That the valuable rights of the Petitioner are involved in the instant case and the Respondents are violating the legal and fundamental rights of

the Petitioner by not considering the case of the Petitioner for reinstatement.

- 10. That other grounds will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.


On acceptance of this Application, the Order and Judgment dated 16.09.2024 of this Hon'ble Tribunal may Kindly be implemented in its true letter and spirit. And the Respondents may graciously be directed to consider the case of the Petitioner for reinstatement in the light of relevant law and Rules.



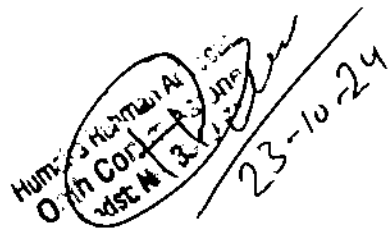
Appellant / Applicant

Through

Dated: 23.10.2024



**BASHIR KHAN WAZIR
Advocate, High Court
Peshawar**



High Court of Peshawar
23-10-24

BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition No. _____/2024

In the matter of

Service Appeal No. 251/2024

Amjad Saleem.....Appellant

VERSUS

Secretary Health & others..... Respondents

AFFIDAVIT

I, **AMJAD SALEEM JUNIOR CLERK (BPS-11)**
DHo Office North Waziristan, Miran Shah, 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

Muzaffar
Oath Commission
Encl. No/ 33/2-24
23-10-24



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH(E-V)/2-2/2023/ Amjad Saleem
Dated Peshawar the 11th October, 2023

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To

The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar

Subject: **PROCEEDINGS AGAINST MR. AMJAD SALEEM, EX-JUNIOR CLERK NORTH WAZIRISTAN**

Dear Sir,

I am directed to refer to the above captioned subject and to state that Mr. Amjad Saleem ~~being no more Civil Servant~~ who had been terminated by the then District Health Officer, North Waziristan and later on re-instated him-self on the fake signature of Dr. Niaz Muhammad, Ex-Director General Health Services, Khyber Pakhtunkhwa, thus he was found to be involved in his own re-Instatement order through fake signature.

2. I am, therefore directed to convey that FIR may be registered against Mr. Amjad Saleem to arrest him on account of fraudulent acts of omission & commission under relevant section of law that why he has made fake signature of Ex-DGHS on his own re-Instatement order.

3. I am, further directed to convey that Mr. Amjad Saleem may also be directed to immediately deposit all the salaries/ other benefits withdrawn on the basis of fake/ bogus re-Instatement order dated 23.02.2022. Moreover, details of all concerned dealing hands of the litigation wing of your office alongwith DHO office North Waziristan during the said tenure pertaining to the case of Mr. Amjad Saleem, may be furnished, who did not pursue and miss-manage the service appeal No. 7858/ 2021, so as to proceed them under formal Inquiry.

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

In light of the above directions of the Competent Authority (Secretary Health), implementations, may be conveyed in letter & spirit, please.

Yours faithfully,


Section Officer (E-V)

Endst. No. & Date Even

Copies to the:-

- Deputy Secretary (Litigation), Health Department.
- PS to Secretary Health, Khyber Pakhtunkhwa.

|
Section Officer (E-V)

ATTESTED
Bashir Khan Khazir B/C ID-2053
High Court Peshawar

"B" 8

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



Service Appeal No 251 /2024

Amjad Saleem Junior Clerk (BPS-11),
DHO Office, North Waziristan, Miran Shah.

.....Appellant

VERSUS

1. Secretary Health, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services Government of Khyber Pakhtunkhwa, Directorate Health, Peshawar.
3. District Health Officer, District North Waziristan.

.....Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 11.10.2023;
WHEREBY THE RESPONDENT NO 2 DISOWNED THE
REINSTATMENT ORDER OF THE APPELLANT VIDE
DATED: 23.02.2022, AND THE RESTORED/KEPT
INTACT THE TERMINATION ORDER DATED:
02.08.2021, AND AGAINST THE DEPARTMENTAL
APPEAL FILED BY THE APPELLANT WAS NOT DECIDED
WITHIN STATUTORY PERIOD OF 90 DAYS.**

Prayer in Appeal:

On acceptance of this Appeal, the impugned Order/letter dated 11.10.2023, may kindly be set aside, and he appellant may kindly be re-instated into the service, with all back benefits.

Any other relief if deems fit may also be granted in favour of the appellant.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.

That briefly stated the fact relevant for the purpose of this petition are that, Appellant being disable person by birth and he was appointed on district cadre post by the respondent no. 3 as he being the competent authority in the office of respondent no 3 on the post

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

23-10-24

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of Junior Clerk BPS.11 in the year of 2017, since then the Appellant was performing his duty with full devotion.

3. That after appointment, the Appellant took over the charge against the above mentioned Sanctioned Post, the Appellant was being competent for the said post he was performing his duty with great zeal & zest and with full devotion with no complaint whatsoever, but he time and again penalized by the respondents through various means and he has been illegally transferred from one place to other.
4. That when the Appellant was performing his duty with the satisfactory results of the respondents, meanwhile the respondents issued the transfer order, vide which he was transferred from district North Waziristan to District Chitral Lower, inspite of the fact that the appellant was appointed on district cadre post, if at all any transfer of the appellant was necessary, his transfer could be done within the District rather than outside the district.
5. That the Appellant filed a Writ Petition No. 390-B/2021 against the above mentioned unlawful and illegal transfer order, in which on dated 06.05.2021 interim relief was granted and the transfer order was suspended. **(Copy of heading page of Writ Petition and Interim Order are attached as annexure A)**
6. That after receiving the order of the Hon'ble Peshawar High Court Bannu Bench, the Respondent No 1 Issued office Order dated 17.06.2021, whereby the transfer order of the Appellant kept held in abeyance. **(Copy of the Order dated 17.06.2021 is attached as annexure B)**
7. That the Appellant submitted an Application to the Respondent No 1 for grant of leave on dated 02.08.2021 which was stood regretted and simultaneously another Order on dated 02.08.2021 was issued, in which he has denied from the earlier order of the Respondent No 1 and further he has suggested / interpreted the meaning of "Held in Abeyance" in term of that the Appellant is not the employee of the Respondents and he is the on the disposal of district DHO Chitral Lower. **(Copy of the Application and Order dated 02.08.2021 are attached as annexure C)**
8. That one Dr Muhammad Israr ul Haq has filed a Service Appeal No 7129/2021 against the then DHO Dr Hafeez Ullah, who was transferred and posted as DHO North Waziristan before the Hon'ble Tribunal, whereby the transfer / posting of the Respondent No 3 (The Then DHO) was suspended on dated 05.08.2021. **(Copy of the Service Appeal and Order dated 05.08.2021 is attached as annexure D)**
9. That on the very next day when the DHO (Dr Hafeez Ullah) got the knowledge of order of the Hon'ble Service Tribunal, he while issued order on dated 06.08.2021, by mentioning office orders of the Chief Secretary KPK, vide which the appointment orders in the tenure of

ATTESTED

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Chitral
Service Tribunal
Peshawar

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Dr Hameed Ullah and Dr Israr Ul Haq were declared to be cancelled.
(Copy of the Order dated 06.08.2021 is attached as annexure E)

10. That on the same date i.e 06.08.2021 the DHO concerned was informed by someone that the Appellant was also present with the Ex-DHO Dr. Israr ul Haq in the premises of Service Tribunal, he revengefully issued the termination order of the Appellant and the Appellant astonishingly got information regarding the said order dated 03.08.2021, whereby the Appellant was terminated/removed from service, which was issued in back date by the then DHO mentioned above, while leveled allegations against the Appellant from which the personnel grudges as well as incompetency of the then DHO was clearly depicted. (Copy of the Order dated 03.08.2021 is attached as annexure F)
11. That the Appellant did not receive the said order from the office of Respondent No 3 directly, however the same order was received from fake Facebook ID which was working for the then DHO namely Hafeez Ullah, thereafter the Appellant submitted departmental Appeal to the Respondent No 2 and also to the respondent No 1, but inspite of the completion of statutory period no order whatsoever was passed, the Appellant submitted Service Appeal No. 7858/2021 against the termination Order, which was later on withdrew on the reason that the respondents No 1 & 2 while decided the departmental Appeal of the Appellant, recommended reinstatement of the Appellant after being issued personal hearing opportunity and when the Appellant submitted all the factual position, the termination Order dated 03.08.2021 was cancelled and the Appellant was reinstated with all back benefits. (Copy of the Departmental Appeal, personal hearing letter, note Sheet of the respondents, Service Appeal and Order are attached as annexure G)
12. That when the appellant was re-instated into service the proper entrees were recorded in the service book, and in this respect the entrees regarding release of salary was mentioned in service. It is pertinent to mention here that the same was duly signed by the district account officer, Miran Shah, District North Waziristan.
(Copy of the Service book is attached as annexure H)
13. That the Appellant assumed the charge of his post and continue his duty with great zeal and zest, meanwhile the Appellant was transferred / posted at the Disposal of the Director General Health Services, without any plausible reasons on dated 14.06.2023, just to torture and humiliate the Appellant for ulterior motives. (Copy of the Transfer Order is attached as annexure I)
14. That the Appellant impugned the same order before the Hon'ble Peshawar High Court Peshawar in WP No. 2654/2023, whereby the Hon'ble Peshawar High Court suspended the illegal transfer order of the Appellant and the same Writ Petition is still pending before

ATTESTED

M. K. KHAN
Member
Service Tribunal
Peshawar

the Hon'ble Peshawar High Court Peshawar. (Copy of the Writ Petition and Interim Order are attached as annexure J)

15. That inspite of the above mentioned facts and position, It has been cleared from the act and omissions of the respondents that they had repeatedly tortured the Appellant through different manners and even it is very much established that the Appellant had time and again transferred and the same transfer Orders had been withdrawn and even he was terminated without fulfillment of any codal formalities and it was established from the note sheets mentioned above on the basis of which the competent authority issued recommendation for reinstatement of the Appellant and consequently termination order of the Appellant was withdrawn, the respondents once again without having any reason rather to torture the Appellant, issued the impugned letter dated 11.10.2023, according to which the appellant has been considered as terminated and recommended the Appellant to be punished with flimsy grounds, just to harass, humiliate and torture the Appellant once again. (Copy of the Impugned letter dated 11.10.2023 is attached as annexure K)
16. That the Appellant astonishingly got Information regarding the impugned order dated 03.08.2021, whereby the Appellant was terminated/removed from service, which was issued in-back date by the Respondent No 1, while leveled allegations against the Appellant from which the personnel grudges as well as incompetency of the Respondent No 1 is clearly shown. (Copy of the Order dated 03.08.2021 is attached as annexure L)
17. That after receiving the impugned letter, the appellant approached to the Hon'ble Peshawar High Court Peshawar in WP No. 4642/2023. The Hon'ble Peshawar High Court Peshawar of the view that the appellant being Civil Servant is required to approach the proper forum and the writ petition was withdrawn by the appellant with the permission to approach proper forum. (Copy of Writ Petition and Order dated 24.10.2023 are attached as annexure M)
18. That thereafter the appellant in the light of order of Hon'ble Peshawar High Court Peshawar, filed a Departmental Appeal on dated 25.10.2023 to the competent authority, which has been properly diarized, but after lapse of mandatory period no order was passed by the competent authority. (Copy of the Departmental Appeal is attached as annexure N)
19. That feeling aggrieved from the act of Respondents, having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds Inter-alla:-

GROUND:-

- A) That the appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and

ATTESTED

ORDER
Member Tribunal
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fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.

- B) That the appellant is well qualified person and having the experience of this post, the respondents with the connivance of each other issued the above mentioned Impugned order which is void ab initio.
- C) That as per the policy guide lines it is obligatory upon the competent authority to issue the termination order in such manners provided under the rules and policy according to which the Appellant has been terminated/removed just to facilitate the incompetent person and due to personnel grudges, which is illegal, unlawful without lawful authority.
- D) That amazingly it is on record that the appellant was earlier in the year 2017 when terminated from service, he while approached to the Hon'ble Peshawar High Court Peshawar in Writ Petition, which was allowed and the appellant was conditionally reinstated, subject to the outcome of CPLA No. 645-P/2018, which was also dismissed by the Hon'ble Supreme Court of Pakistan on dated 01.06.2022 and the same order was received to the respondents and after corresponded to each other the order was implemented as final instead of conditional, In this respect the respondent No 2 while issued different letters for implementation and lastly vide order dated 22.07.2022, the earlier conditional order has been converted into final order, due to the final decision of the Hon'ble Supreme Court of Pakistan. In spite of these facts, the respondents once again issued the impugned letter by referring the reinstatement order as bogus and fake. (Copies of the letters are attached as annexure O)
- E) That the fundamental right of the Appellant has blatantly violated by the Respondents and the Appellant have been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- F) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective post the competent authority is not allowed to terminate / removed the employee with malafide intention or for ulterior motives, while in the issuance of termination order of the petitioner, the respondents neither only violated the prescribed rules and regulations but also harassed the Petitioner which can easily be gathered from the face of order and on the Departmental appeal of petitioner, when the respondents thoroughly examined the material facts the termination order of the petitioner was withdrew and the petitioner was reinstated, therefore the service appeal was also withdrawn by the petitioner when his grievances was redressed by the competent authority after issuance of opportunity of personal hearing, now the respondents once again penalizing the petitioner

ATTESTED

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on the garb of the impugned order, which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, and the letter dated 11.10.2023 is liable to be cancelled.

- G) That the then DHO namely Dr Hafeez Ullah was issued the termination order of the petitioner in back date on the garb of facilitation of the Ex-DHO Dr Israr ul Haq, who had impugned the transfer order of the DHO Dr Hafeez and it was reported to him that the Ex-DHO Dr Israr ul Haq has got the Injunction order from the Hon'ble Service Tribunal and even after receiving information regarding the Interim relief, he while issued the termination order of the Petitioner in back date, which is evident from the Para No 5 of the termination order. The said DHO one day before issued another order, by stating that petitioner has already been transferred to Chitral, therefore the office of respondent No 4 has no concern to retain his services, inspite of the fact that the same order was suspended by the Hon'ble Peshawar High Court Bannu Bench. **(Copy of the Order dated 02.08.2023 is attached as annexure P)**
- H) That despite of the above mentioned circumstances and available record, it is cleared that the respondents time and again issued various orders against the petitioner and subsequently all of them had been withdrawn and the termination order was also withdrawn by the Competent Authority after submitting statement by the petitioner before the fact finding committee and after conducting of inquiry, when the respondents came to the conclusion that the above mentioned termination order was issued without fulfillment of any codal formalities, the same has been withdrawn and the petitioner was reinstated with all back benefits, thereafter the petitioner was once again transferred from the office of respondent No 4 to the office of respondent No 3 from that it has been clarified that he has been reinstated by the competent authority, now the respondent No 2 once again issued the impugned letter against the petitioner with flimsy and concocted grounds, just to harass and humiliate the petitioner, which is liable to be set aside.
- I) That it is well settled Law and consistent view of the August Superior Courts that whenever any major punishment the procedure provided under the E&D rules 2011 must be followed and without proper inquiry no order in respect of Civil Servant is sustainable in the eyes of law.
- J) That the respondent No.2 violated the fundamental rights of the Petitioner enshrined under the article 4 and 10 of the constitutional of Pakistan that when the ordinary procedure for giving major punishment had been specified in the law or rules made thereunder such procedure must be respected and could not be varied, except for compelling reasons which should be recorded in writing and were judicially reviewable termination of civil servants by political figures which were capricious and were based on consideration not in the public interest were not legally sustainable, hence as per the above

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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mentioned circumstances the impugned order of the respondent No. 2 is illegal, unlawful, and unwarranted in the eyes of law and liable to be declared so.

- K) That the whole proceeding in shape of fact finding inquiry is evident from the surface of impugned order that neither the Petitioner was associated nor any forensic in respect of the reinstatement order has even been obtained and even the Petitioner was not allowed to call for personal hearing, rather he was intimated to send any statement through WhatsApp in respect of his reinstatement. The Petitioner as per the order of inquiry committee forwarded the same through WhatsApp and he was intimated by the inquiry officer on receiving of your stance the inquiry has been filed, but now the impugned fact finding inquiry and letter mentioned above have been issued for ulterior motives just to humiliate the petitioner, these acts of the respondents are illegal, unlawful and without lawful authority.
- L) That the Petitioner is well qualified person and having the experience of this post, the respondents with the connivance of each other issued the above mentioned impugned order which is void ab initio, because on one hand the respondents time and again endorsed the illegal transfer orders issued in past and the same had been cancelled and in spite of the fact that the instant post is lying under the purview of district cadre post and only the respondent no 4 is being competent to transfer posting of the subject post within the District, however the respondent no 2 acceded from his power issued the impugned transfer order, which is *corm non judice* in the eyes of law and liable to be set aside.
- M) That as per the policy guide lines it is obligatory upon the competent authority to issue the transfer posting orders in such manners provided under the rules and policy according to which the Petitioner has been transferred premature on the wish and whims of the political figures which is illegal unlawful without lawful authority.
- N) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective post the competent authority is not allowed to terminate / removed the employee with malafide intention or for ulterior motives, while in the present case the respondents neither only violated the prescribed rules and regulations but also harassed the Appellant which can easily be gathered from the face of order, which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- O) That the Respondent No 2 when received the shocking news in respect of his transfer suspension, he issued a number of illegal, unlawful and based on personal grudges orders, similarly the Appellant was supposed to a Helper of one Dr. Istar ul Haq who had filed service Appeal and impugned the transfer order of the

ATTESTED

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Respondent No 2 and issued the impugned order with almost 12 allegations without having any proof and nexus of the Appellant with allegations mentioned in the impugned Order.

- P) That it is well settled Law and consistent view of the August Superior Courts that whenever any major punishment the procedure provided under the E&D rules 2011 must be followed and without proper inquiry no order in respect of Civil Servant is sustainable in the eyes of law.
- Q) That no regular Inquiry in connection of allegations levelled against the Appellant has been conducted and even no show cause, charge Sheet or statement of allegations has ever been issued to the Appellant, furthermore the Respondent No 2 on one side issuing the order dated 02.03.2021, whereby the Appellant is being denied to be working under Respondent No 2 and on the other hand on next day the impugned order has been issued without observing any codal formalities and the same is suggesting to be issued in back date when he has received the Information regarding the suspension of his posting / transfer.
- R) That the respondent No.2 violated the fundamental rights of the Appellant enshrined under the article 4 and 10 of the constitutional of Pakistan that when the ordinary procedure for giving major punishment had been specified in the law or rules made thereunder such procedure must be respected and could not be varied, except for compelling reasons which should be recorded in writing and were judicially reviewable, termination of civil servants by political figures which were capricious and were based on consideration not in the public interest were not legally sustainable, hence as per the above mentioned circumstances the impugned order of the respondent No. 2 is illegal, unlawful, and unwarranted in the eyes of law and liable to be declared so.
- S) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.


PRAYER:-

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


Appellant

Through:


NOOR MUHAMMAD KHATTAK
Advocate, Supreme Court

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

Service Appeal No _____/2024

Amjad Saleem.....Appellant

VERSUS

Secretary Health & others.....Respondents

AFFIDAVIT

I, Amjad Saleem Junior Clerk (BPS-11), DHO Office North Waziristan, Miran Shah, 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

Certified to be true copy

**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar**

23-10-24

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. _____	(289)	Date _____	23-10-24
Name of Applicant _____	Mishin		
Number of Words/Pages _____	9-1		
Copying Fee _____	45/-		
Urgent/Ordinary _____	5/-		
Total _____	60/-		
Name & Sign of Copyist _____	Zeeshan		
Date of Completion of Copy _____	23-10-24		
Date of Delivery of Copy _____	23-10-24		

21.08.2024

1. Learned counsel for the appellant present. Mr. Arshad Azam, Assistant Advocate General alongwith Mr. Safiullah, Focal Person for the respondents present.

2. On previous order sheet dated 01st August, 2024 respondents were directed to submit verification of letter dated 04.07.2024. Today representative of the respondents requested that the case is still under process for verification of the said letter, therefore, time may be granted to submit verification report as well as reply/comments. Last opportunity is granted to the respondent to submit their reply/comments as well as verification of the said letter. Adjourned. To come up for reply/comments as well as verification report on 16.09.2024 before S.B.P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtukhwa
Service Tribunal
Peshawar
23-10-24

RECEIVED
K.P.S.T.
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

C 18

Dated 04th July, 2024

NOTIFICATION

NO.SOH (E-V)/2-2/2024: This Department's letter No. SOH(E-V)/2-2/2023/Amjad Saleem dated 11.10.2023 regarding Mr. Amjad Saleem, Junior Clerk attached to DHO office North Waziristan is hereby treated as withdrawn.

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Notification of even No. & dated:-

Copies forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. District Health Officer, North Waziristan.
4. District Accounts Officer, North Waziristan.
5. PS to Secretary Health Department Khyber Pakhtunkhwa.
6. Official concerned.

SECTION OFFICER (E-V)

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar
11C-09-2053

A"18"

OFFICE OF THE DISTRICT HEALTH OFFICER
TRIBAL DISTRICT AT MIRANSILAH

Tel: (0928) 300788 FAX: (0928) 311662

Email: agencyurgeonwa2018@gmail.com

No. 5410 /PF/DHO/MRN,

Dated 15/07/2024.

To,

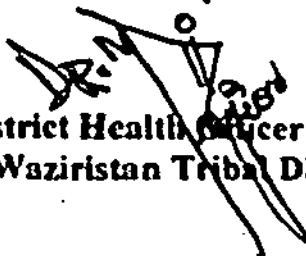
Section Officer General
Health Department Khyber Pakhtunkhwa

Subject: VERIFICATION OF NOTIFICATION REGARDING MR. AMJAD SALEEM JUNIOR CLERK

Memo:

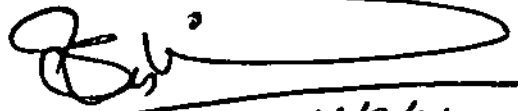
Enclosed please find herewith an application along with Notification bearing No. SOH (E-V)2-2/2024 dated 04 July 2024 submitted by Mr. Amjad Saleem Junior Clerk BPS-11, regarding his reinstatement in to government service. He is requesting for release of his salaries. The undersigned want to verify the above notification before release of salaries whether the notification bearing No. SOH (E-V)2-2/2024 dated 04 July 2024 issued by your good office is genuine or otherwise.

Your early response in this regards will be highly appreciated.


District Health Officer
North Waziristan Tribal District

Dear DHO Salu's;

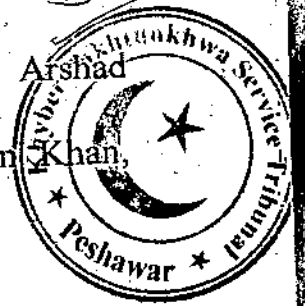
This Dymal: notification no. SOH (E-V)2-2/2024, dated 04-07-2024 is genuine / original.


16/8/24.

Section Officer (General) ✓
Govt of Khyber Pakhtunkhwa
Health Department

16.09.2024

1. Learned counsel for the petitioner present. Mr. Arshad Azam, Assistant Advocate General alongwith Mr. Saleem Khan, Section Officer (General) for the respondents present.



2. Representative of the respondents produced copy of letter dated 15.07.2024 addressed to Section Officer (General) for verification of the Notification dated 04.07.2024. In response to the letter dated 15.07.2024 the Section Officer (General) verified that the Notification dated 04.07.2024 as genuine/original.

3. In view of the above the appeal in hand is disposed of. Consign.

4. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal on this 16th day of September, 2024.

(Muhammad Akbar Khan)
Member (E)

Korranallah

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
23-10-24

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Application No. 284 Date 23-10-24
Name of Applicant Mohsin
Number of Words/Pages 8-P
Copying Fee 40/-
Urgent/Ordinary 5/-
Total 45/-
Name & Sign of Copyist Zeeshan
Date of Completion of Copy 23-10-24
Date of Delivery of Copy 23-10-24



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. SOG/HD/1-39/Gen. Correspondence/2024
Dated Peshawar, the 30th September, 2024

To

Director General, Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: **REQUEST FOR IMPLEMENTATION OF HONORABLE COURT
ORDER.**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of Service Tribunal judgment rendered dated 16.09.2024, in service appeal No. 251/2024 titled "Amjad Saleem, Junior Clerk (BS-11) at District Health Office, North Waziristan Miranshah" to dispose of the case as per judgment of the Service Tribunal, Peshawar.

It is, therefore, directed to request for implementation of the Hon'able court judgment in true letter & spirit and compliance report thereof be shared to this department.

Encl: (as above).

Yours faithfully,


(SALEEM ULLAH KHAN)
SECTION OFFICER (GENERAL)
(091-9210863)

Endst: No & date even:

Copy is forwarded to the:

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Secretary (Lit), Health Department, Khyber Pakhtunkhwa.
3. District Health Officer, North Waziristan, Miranshah.
4. PS to Secretary, Health Department, Khyber Pakhtunkhwa.

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

SECTION OFFICER (GENERAL)

Dairy No. 10065
Date 23/9/24
Health Department

To,
The Honorable Secretary Health,
Government of Khyber Pakhtunkhwa

Subject: REQUEST FOR IMPLEMENTATION OF HONORABLE COURT ORDER IN RESPECT OF MR. AMJAD SALEEM REGARDING RE-INSTATMENT IN TO GOVERNMENT SERVICE.

Dear Sir,

With great respect it is stated that the undersigned was filed service appeal in Honorable service tribunal Khyber Pakhtunkhwa Peshawar under Appeal No.251/2024 against the letter bearing endstt: No. SOH (E-V) /2-2/2023 /Amjad Saleem dated 11-10-2023. During pendency of the case the department (Secretary Health) issued Notification No. SOH (E-V) /2-2/2024 /Amjad Saleem dated 04-07-2024 and withdrawn letter No. SOH (E-V) /2-2/2023 /Amjad Saleem dated 11-10-2023 in favour of me. So the Notification No. SOH (E-V) /2-2/2024 /Amjad Saleem dated 04-07-2024 is submitted me through Counsel / Advocate in court to dispose the case, but representative from department was there in court and stated to the court that they will verified from the office. So handed over to representative of the respondents who sought time for verification of the same. On dated 16-09-2024 representative from respondents produced copy of letter dated 17-07-2024 addressed to section officer General which is verified by the respondents and stated to the court that Notification No. SOH (E-V) /2-2/2024 /Amjad Saleem dated 04-07-2024 is genuine / original.

Therefore it is requested in your kind honor to implement the court order please.

Dated 20-09-2024

As per court order

Thanks

[Signature]
20/9/2024

Mr. Amjad Saleem
Junior Clerk DHO Office
Miranshah

[Signature]
30/9/24

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar
09-2053

WAKALAT NAMA

22

IN THE COURT OF Service Tribunal Peshawar.

Amjad Saleem

Appellant(s)/Petitioner(s)

VERSUS

Secretary Health and

other

Respondent(s)

I/We _____ do hereby appoint
Mr. Bashir Khan Wazir Advocate, High Court, Peshawar in the above
mentioned case, to do all or any of the following acts, deeds and things.

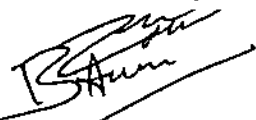
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

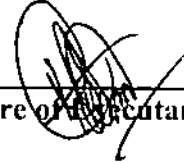
- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 23-10-2024

Attested & Accepted by



Bashir Khan Wazir
Advocate,
High Court, Peshawar
BC#:09-2053
0333-9732415


Signature of Applicant

BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition No. 1267/2024

In the matter of

Service Appeal No. 251/2024

Amjad Saleem.....Appellant

V E R S U S

Secretary Health & others..... Respondents

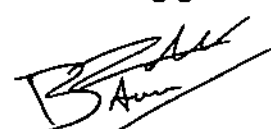
I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application for implementation		1-4
2.	Affidavit		5
3.	Copy of the Order	A	6-7
4.	Copy of the Order sheet dated 21.08.2024	B	8-17
5.	Copy of the letter	C	18
6.	Copy of the Appeal and order dated 16.09.2024	D	19
7.	Copies of the application and letter	E	20-21
8.	Wakalat Nama		22


Appellant / Applicant

Through

Dated: 23.10.2024


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar