

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

IMPLEMENTATION PETITIN NO.1262

IN

Service Appeal No. 1763/2024

AG copy
Revised
Assistant Advocate General
Khyber Pakhtunkhwa
Services Tribunal Peshawar
24/10/2024

Dr. Shoukat Ali -----

Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa and others -----

Respondent

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S. Aziz Khan

Section officer (Lit-II)
Govt: of Khyber Pakhtunkhwa
Health Department

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

IMPLEMENTATION PETITION NO. 1263/2024

IN

SERVICE APPEAL NO. 1763-P/2024

Dr. Shaukat Ali Appellant

Versus

Govt. of Khyber Pakhtunkhwa..... Respondents

REPLY TO THE APPLICATION FOR IMPLEMENTATION ON BEHALF OF THE
RESPONDENTS

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

- I. That the Petitioner has got no cause of action or locus standi to file the instant Petition.
- II. That the Petitioner has deliberately concealed the material facts from the Honorable Tribunal, hence, liable to be dismissed.
- III. That the Petitioner has filed the instant Petition just to pressurize the replying respondents with mala fides intentions.
- IV. That the Petitioner has filed the instant petition on mala-fide motives.
- V. That the Petition is not maintainable in its present form.
- VI. That the Petitioner has not come to this Honorable Court with clean hands.

FACTS:-

- 1. Correct to the extent of filing service appeal against the impugned transfer notification dated 16.05.2024 however, it is worth mentioning that before filing the instant service appeal the appellant have already filed a writ petition No. 2268-P/2024 wherein he prayed for restoring back the petitioner at his previous place of posting as DGHS. However, the Hon'ble Court vide judgment dated 15.05.2024 disposed off his W.P without restoring him to the post of DGHS (Annex-A). He filed a CPLA No. 2231/2024 against the above mentioned judgment wherein he requested for re-instatement to the position and the post he held at the time of the suspension order was issued however, the Hon'ble

Court vide judgment dated 25.09.2024 (**Annex-B**) disposed off his CPLA being in fractious.

The petitioner in the meanwhile filed another WP No. 3835-P/2024 against his transfer notification dated 16.05.2024 which is still pending before the Hon'ble Peshawar High Court at argument stage.

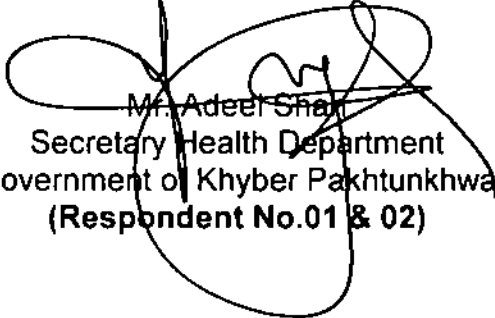
2. Pertains to record however, the Department didn't received any notice for the comments.
3. Incorrect the replying respondents have not violated any order of the Hon'ble Tribunal however, on receiving the notice of the case and copy of the service appeal the respondents without any delay prepared the desired parawise comments and after vetting from the office of the Advocate General, the same was submitted before the Hon'ble Court on the due date i.e 21.10.2024 vide receipt No. 16959 (**Annex-C**) and next date of hearing 05.11.2024 was given to the representative of the replying respondents.
4. Incorrect in fact the replying respondents as stated in Para-3 above have already submitted their parawise comments however, the petitioner by misrepresentation the real facts misguided the Hon'ble Tribunal however, the Hon'ble Tribunal conditionally suspended the operation of the impugned notification dated 16.05.2024 that if the same notification has not been acted upon earlier. It is worth mentioning that since his suspension from services vide notification dated 26.04.2024 services of the petitioner was suspended furthermore, the impugned notification dated 16.05.2024 was acted upon on 17.05.2024 when the respondent No. 04 i.e Dr. Muhammad Saleem assumed the charge as DGHS on 17.05.2024 (**Annex-D**). After assuming the charge the respondent No.04 is holding the post of DGHS till date and performing his duties as such. On his signature as DGHS parawise comments and replied to COCs in various service appeals, COC petitions and WP have been submitted before the Tribunal/Courts and issued various orders (**Annex-E**). It is further to clarify that it is evident from his prayers No.iii of the WP No.2268-P/2024 as well as the judgment of the apex court in CPLA 2231/224 dated 25.09.2024 wherein he prayed for re-instatement to the position and the post he held at the time of the suspension order that the transfer notification dated 16.05.2024 has already been implemented / acted upon therefore as per the order to this Hon'ble Tribunal dated 21.09.2024 the transfer notification dated 16.05.2024 is presumed to be intact.
5. Correct to the extent that on 22.10.2024 the petitioner without any order of the Competent Authority illegally occupied the office of the DGHS at the time when the respondent No.04 was engaged in a meeting at the office of the Chief Secretary Khyber Pakhtunkhwa who thereafter reported the matter to the respondents vide letter dated 22.10.2024 (**Annex-F**) therefore the respondent No. 02 clarified the status of the matter to respondent No. 04 vide letter dated 22.10.2024 (**Annex-G**). the petitioner being a Civil Servant bound to obey and follow the proper procedure for approaching the Competent Authority for

compliance of the Court order/ judgment however, the petitioner instead of adopting the proper procedure illegally occupied the office of the DGHS without any lawful authority which not only amount to misconduct but criminal act as well.

6. Incorrect already replied in the preceding paras.
7. No comments however the replying respondents also seek permission of the Hon'ble Tribunal to adduce other grounds during final hearing of the case.

PRAYER:

It is therefore most humbly prayed that the instant application of the petitioner may very graciously be dismissed with costs.


Mr. Adeel Shah
Secretary Health Department
Government of Khyber Pakhtunkhwa
(Respondent No.01 & 02)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

IMPLEMENTATION PETITION NO. 1263/2024

IN

SERVICE APPEAL NO. 1763-P/2024

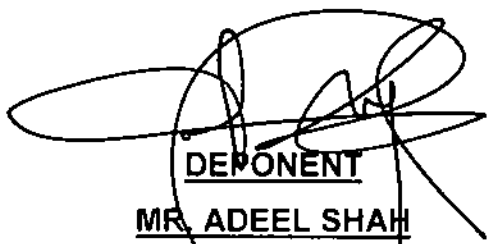
Dr. Shaukat Ali Appellant

Versus

Govt. of Khyber Pakhtunkhwa Respondents

Affidavit

I Mr. Adeel Shah, Secretary Health, Khyber Pakhtunkhwa is hereby, solemnly affirmed on oath that the contents of the reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondent neither has been pleased ex-parte nor their defense has been struck off/cost.



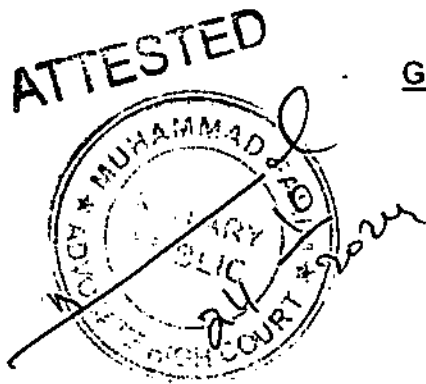
DEPONENT

MR. ADEEL SHAH

SECRETARY HEALTH

GOVERNMENT OF KHYBER

PAKHTUNKHWA

ATTESTED


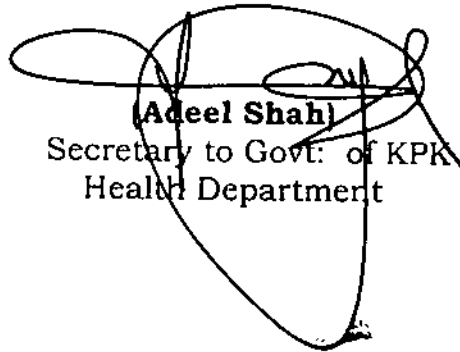
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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

AUTHORITY LETTER

Mr. Shah Baz Khan, Section Officer (Litigation-II), Health Department Civil Secretariat Peshawar is hereby authorized to attend/defend the court cases and file comments on behalf of Secretary to Government of Khyber Pakhtunkhwa Health Department before the Service Tribunal and lower Courts.


(Adeel Shah)
Secretary to Govt. of KPK
Health Department

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Annex-A

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.2268-P/2024 with IR

Dr. Shaukat Ali

Vs.

**Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar and others**



Date of hearing 15.05.2024

For Petitioner(s): M/s. Shumail Ahmad Butt,
Advocate and Barrister Waqar Ali Khan.

For Respondent(s): M/s. Shah Faisal Utmanikhel,
Advocate General, Khyber
Pakhtunkhwa and Muhammad
Bashar Naveed, AAG alongwith
Mr. Sadaqat Ullah, Additional
Secretary and Mr. Ziaullah,
Deputy Secretary (Litigation),
Health Department, Government
of Khyber Pakhtunkhwa,
Peshawar.

JUDGMENT

IJAZ ANWAR, J. This writ petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

"It is, therefore, very humbly prayed that on acceptance of this writ petition, this Hon'ble Court may very magnanimously hold, declare and order that:-

- i. The Notification No.SOH(E-V)/4-4/2024 dated 26th April, 2024 is patently illegal, absolutely unlawful, without lawful authority and thus of no legal effect and hence liable to be set aside and reversed.
- ii. The respondents shall at once withdraw/recall the impugned Notification No.SOH(E-V)/4-4/2024 dated 26th April, 2024.

*Attested
S. bag Khan*

Section Officer (Lit-II)
Health Department
Khyb. Pakhtunkhwa

ATTESTED
EXAMINER
Peshawar High Court

[Signature]
ATTSTED

iii. The respondents be directed to restore back the petitioner at his previous place of posting as Director General, Health Service, Khyber Pakhtunkhwa.

iv. Cost throughout.

v. Any other relief, not specifically prayed may also graciously be granted to the petitioner, if appears just, necessary and appropriate".

2. Learned counsel representing the petitioner argued that the impugned suspension Notification dated 26.04.2024 is result of extreme malafide, mainly aim to post out the petitioner from the post of Director General Health Services. He further contended that the Secretary Health, Government of Khyber Pakhtunkhwa is not the competent authority to suspend the petitioner or to initiate departmental inquiry against him. He referred to Rule 6 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and stated that it is only the Chief Secretary of the Province who can pass any such order.

3. Arguments heard and record perused.

4. Perusal of the record reveals that the petitioner was posted as Director General, Health Services, Khyber Pakhtunkhwa vide Notification dated 17.01.2023. Vide the impugned Notification dated 26.04.2024, the Secretary Health, Government of Khyber Pakhtunkhwa, has issued the suspension order of the petitioner. The worthy Advocate General, Khyber Pakhtunkhwa has produced the amended Rule 6 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989,

Attested
S. boy Khan

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

WP3835-2024 SHOUKAT ALI VS GOVT OF PG163

~~ATTESTED
EXAMINER
Peshawar High Court~~

[Signature]
ATTSTED

(8)

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according to which, where the Chief Minister or the Chief Secretary is the competent authority, the Administrative Secretary may suspend the Government servant and submit charge sheet and statement of allegations, forthwith to the competent authority for signature and initiation of disciplinary proceedings in accordance with these rules.

5. We have noted that the suspension Notification, though, finds reference to certain inquiry, however, as required under Rule 6 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, neither the petitioner is served with any Charge Sheet or statement of allegations nor any Inquiry Officer has been appointed so far. In any case, we are of the view that the suspension Notification, not being punishment, cannot be questioned before this Court in the constitutional jurisdiction. The record, placed on file relating to the reports on social media and newspapers, suggests that certain political figures are taking the credit of suspension of the petitioner in the instant case. We, in the given circumstances of the case, expect from the worthy Chief Secretary, Khyber Pakhtunkhwa, he will never let his officer down, if he is not involved in any irregularity or corrupt practices. The view of the superior Courts is clear on the point that the departmental proceedings should not be made a device to done away with the services of civil servant(s) or to post him/them out on such alleged administrative grounds.

2/21

*Attested
S. Faz Khan*

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

~~ATTESTED
EXAMINER
Peshawar High Court~~

[Signature]

ATTSTED

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6. In view of the above legal position and the fact that this Court has always shown restraint of interference in the internal matters of the Government, as such, we conclude that this writ petition against the order of suspension of the petitioner is not legally tenable. We are also mindful of the fact that recently a good number of writ petitions against similar suspension orders are filed and are pending and the main allegations are that in order to accommodate favorites of political figures, they have been suspended. We, therefore, refer this matter to the worthy Chief Secretary, Khyber Pakhtunkhwa to see as to whether any departmental proceedings have been initiated by the "COMPETENT AUTHORITY" in the instant matter and also to ensure that such suspension is not used as a tool to post out the petitioner from the post of Director General, Health Services, Khyber Pakhtunkhwa.

7. This writ petition is, thus, dismissed and disposed of with the above observations.

Announced
Dt:15.05.2024

[Signature]
Senior
Puisne Judge

[Signature]
Judge

Attested
S. K. Khan
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

(DB) Hon'ble Mr. Justice Ijaz Ahmad and Hon'ble Mr. Justice Shakir Ahmad

Muhammad Ali
Date of Presentation of Application: 12/7/2024
No of Pages: 12
Copying fee: 48/-
Total: 48/-
Date of Preparation: 13/7/2024
Date of Filing: 12/7/2024
محمد علی

DECLINED TO BE TRUE COPY
EXAMINER
Peshawar High Court Peshawar
Appointed Under Article 87 of
the Constitution of Pakistan Act 1973
12 JUL 2024

[Signature]
ATTSTED

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Annex-13

Annex 1

20

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench-IV
Mr. Justice Yahya Afridi
Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Shahid Waheed

C.P.L.A. 2231/2024
(Against the judgment dated 15.05.2024 passed by the Peshawar High Court, Peshawar in WP No 2268-P/2024)

Dr. Shaukat Ali ...Petitioner(s)
Versus

Government of Khyber Pakhtunkhwa, ...Respondent(s)
through Chief Secretary, Peshawar and others

For the Petitioner(s) : Mr. Shah Khawar, ASC
For the Respondent(s) : Syed Kosar Ali Shah, Addl. AG KP
Zia Ullah, DS Health
Date of Hearing : 25.09.2024

ORDER

Yahya Afridi, J: Through the instant petition, the petitioner has called in question the impugned judgment dated 15.05.2024 of the Peshawar High Court, Peshawar whereby the Writ Petition No.2268-P of 2024 filed by the petitioner was dismissed.

2. The learned counsel for the petitioner contends that the suspension order issued against the petitioner, without the initiation of a formal inquiry, as required by the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, is *void ab initio*. Consequently, the petitioner should be reinstated to the position and the post he held at the time the impugned suspension order was issued.



Attested
S. Bag Khan

Secretary
Government
Peshawar

Attested
S. Bag Khan

Attested
Ms. Hira Khalid
Court Associate
Supreme Court of Pakistan

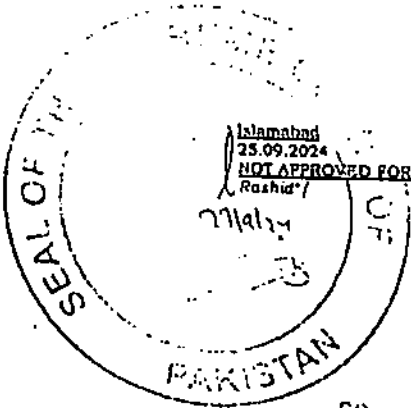
3. The learned Additional Advocate General, Khyber Pakhtunkhwa, produced a letter dated 24.09.2024 of the Government of Khyber Pakhtunkhwa, Health Department, wherein it was stated that the suspension of the petitioner in the present case was not extended.

4. In light of the above, we find that the grievance of the petitioner has been substantially addressed, rendering the matter infructuous. Accordingly, this petition is hereby disposed of in the aforementioned terms. However, the petitioner may, if so advised, pursue any other appropriate remedy available to him under the law.

Sd/-J
Sd/-J
Sd/-J

Certified to be true copy

[Signature]
Ms. Noor Khalid
Sr. Court Associate
Supreme Court of Pakistan



12885/16
27.9.24
GR No. _____
Date of _____
_____ 6-8-24
_____ 5-10-24
_____ 3-12-24
Date of _____ 30.9.24
Completed _____ 1-10-24
Received by _____ *[Signature]*

Attested
S. Baz Khan

Attested
S. Baz Khan
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

KHYBER PUKHTUNKHWA
SERVICE TRIBUNAL

Inst No: 16959
Reply/Comments

1763/2024
SHAUKAT ALI
VS
Health

Advocate: No Advocate
21/10/2024 11:55:24
Date of Hearing 5/11/2024
Reprint
21/10/2024 11:55:24
Hearing Date 5/11/2024
Peshawar

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Attested
S. B. Khan

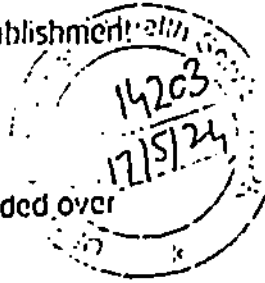
Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

(12)

Amma - C

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that I / We have on the forenoon / afternoon of this day respectively made over and relieved / assumed charged of this office of the DIRECTOR GENERAL HEALTH SERVICES (BS-20) / DIRECTORATE GENERAL HEALTH SERVICES, KHYBER PAKTUNKHWA, PESHAWAR vide Government of Khyber Pakhtunkhwa Establishment Department Notification No. SO(E-1)/E&AD/9-133/2024 dated 16.05.2024.



2. Particular of cash and important secret and confidential documents handed over are noted on the reverse.

Signature of relieved
Government Servant

Designation.....

Signature of receiving
Government Servant
Designation :

Station: Peshawar
Dated: 17.05.2024

Dr. Muhammad Saleem
Dr. Muhammad Saleem
Director General Health Services
Khyber Pakhtunkhwa, Peshawar

OFFICE OF THE DG HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR
No. 5957-59/E-1 Dated 20/5/2024

Copy of the above is forwarded to the:

- 1. A.G Khyber Pakhtunkhwa Peshawar.
- 2. Deputy Director (Account) DGHS, Office Peshawar.
- 3. Officer Concerned.

For information and necessary action.

Attested
S. Aziz Khan
Secretary
Health Department
Khyber Pakhtunkhwa

PKS
DIRECTOR (HRM)
DGHS, KP PESHAWAR
17/05/24

Annex-E

(14)

1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 2077 /2023

Mr. Hazir Muhammad, Laboratory Technician (BS-09)
DHQ Hospital, Batkhela, District Malakand.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, Malakand.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED DECISION TAKEN IN MEETING HELD ON 02.04.2019, INACTION OF THE RESPONDENTS BY NOT INCLUDING THE APPELLANT IN THE JOINT SENIORITY LIST FOR PROMOTION OF QUALIFIED TECHNICIANS I.E. PATHOLOGY TO THE POST OF CLINICAL TECHNOLOGIST (BPS-17) WITH REFERENCE TO THE DATE OF ACQUIRING QUALIFICATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINTY DAYS.

PRAYER:-

*Attested
S. Aziz Khan*

That on acceptance of the instant service appeal the impugned decision taken in the minutes of meeting held on 02.04.20219, whereby the subject of Hematology has not been included in the seniority list of qualified Technicians for the purpose of promotion to the post of Clinical Technologist (Pathology) (BPS-17) with reference to the date of acquiring of the relevant qualifications with all back benefits including seniority, be set aside and the respondents may please be directed to consider the qualification of the appellant i.e. Hematology (sub-branch of Pathology) as qualification for inclusion in the seniority list of qualified Technicians i.e.

(15)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 2077 OF 2023

Hazir Mohammad.....Appellant

Versus

Through Secretary Health & others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 TO 3

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellants have got neither cause of action nor did locus standi to file the instant appeal.
2. That the appellants have filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellants have filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellants have not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

A. Para A of the prayer is incorrect upto the extent of inaction of the Respondents. Detailed reply has been given in the Facts of the Comments.

B. Pertains to record.

C. Pertains to record.

*Attested
S. J. J. J.*

FACTS:

1. The Paramedics cadre was comprised of 57 specialties before the approved Service structure. However it is added that only the Pathology Technology was consist of mentioned three categories.
2. Correct. However only the listed Technologies were merged and re-nomenclatured as JCT Pathology.
3. Correct upto the extent of qualification of the Pathology cadre. Rest of the Para is misleading as the Paramedics staff was specified through their posts. According to the approved Service Rules, the Paramedical staff was bifurcated from Junior Clinical Technician upto Principal Technologist as per their post. Furthermore the post of the Junior Clinical Technician was re-nomenclatured as Clinical Technician through notification dated 10-05-2016 (Annex-A).
4. Incorrect and misleading, hence denied according to Service Rules dated 10/05/2016. Basic qualification for the post of Clinical Technologist is "Bachelor" degree from a recognized institution/university in the relevant field as per approved Service Rules. Furthermore Biochemistry and Microbiology are not included in 14-cadres of Paramedics. The aforesaid categories having their separate cadres, seniority list and line of promotion (Biochemist/Microbiologist).
5. Incorrect, has already been explained in preceding Para.
6. Correct. However it is added that the mentioned Rules were only meant for 14 Paramedics cadres and not for Microbiology & Biochemistry.
7. The decision taken in the 1st enquiry was reviewed on the application of Pathology Technician with observation that the Petitioners themselves were the members of 1st enquiry and it is a settled principal of law, that no man can be a judge in his own cause. After considering the observation of the technician the competent Authority Constituted another Committee who reviewed the decision of the 1st committee and by setting-a-side the prior decision and incorporate the decision taken by the 2nd committee (copy of minutes of the meeting of 1st and 2nd are attached as Annex-B & C).
8. Detailed reply has already been submitted in preceding paras.
9. Detailed reply has already been submitted in preceding paras.
10. Detailed reply has already been submitted in preceding paras.

attested
S. S. Sharma

- 11. Misleading, hence denied. Detailed reply has already been submitted in preceding paras. The Petitioners were inducted as Clinical Technicians and the names of the Petitioners are included in the relevant seniority list.
- 12. Wrong, incorrect and misleading, hence denied. According to the approved Service Rules, the Petitioners on the basis of said qualification cannot claim promotion to the post of Clinical Technologist. However, Petitioners are at the liberty to participate for the post of Biochemist and Microbiologist on their qualification as and when the post of Biochemist & Microbiologist is advertised.
- 13. According to Notification No. SOH-III/10-4/ dated 15/11/2007 and other relevant documents the Biologist and Microbiologist is a separated cadre and the method for appointment is also mentioned in the said notification. Furthermore the draft Service Rules Seniority list of Biochemist also made crystal clear, the plea of the respondents that the same are a separate cadre.
- 14. Incorrect and misleading. Detailed reply has already been submitted in preceding paras.
- 15. Misleading, hence denied. The rules /notification on 10-05-2016 was issued in supersession of all notifications issued in this behalf by the Health Department (Notification dated 10-05-2016 already annexed).
- 16. Wrong, incorrect misleading and concocted, hence denied. Detailed reply has already been submitted preceding paras.
- 17. Wrong, incorrect, misleading and concocted. The respondents always act in according with law and never can even think to violate the fundamental rights of favor to a specific group employee.

ON GROUNDS:

- a. Incorrect, as already explained in Para No. 13 and 15 of the Facts.
- b. Incorrect, as already explained in Para No. 17 of the Facts.
- c. Incorrect, as already explained in Para No. 13 & 15 of the Facts.
- d. Incorrect, as already explained in Para No. 13 & 15 of the facts.
- e. Incorrect, as already explained in Para No. 17 of the Facts.
- f. Incorrect, as already explained in Para No. 13 & 15 of the facts.
- g. Incorrect, as already explained in Para No. 13 & 15 of the facts.
- h. Incorrect, as already explained in Para No. 17 of the facts.
- i. Incorrect, as already explained in Para No. 7 of the facts.


*attested
S. Jayaraman*

- j. Incorrect, as already explained in preceding paras.
- k. Answering respondents also seek prior permission of this Honorable Court to adduce additional grounds at the time of arguments.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.

(Mr. Mehmood Aslam)
Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Respondent No. 01 & 02


(Dr. Muhammad Saleem)
Director General Health Services Khyber
Pakhtunkhwa Peshawar
Respondent No. 03

*Attest
S. Baz Khan*

19

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 2077/2023

Hazir Muhammad.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents.

Affidavit

I, Dr. Muhammad Saleem, Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

*Attested
S. Nazim*

[Signature]
Deponent


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**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name
Office # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Muhammad Yousaf Jamal Focal Person Litigation Section Directorate General Health Services Khyber Pakhtunkhwa is hereby authorized to attend/defend the court cases and file Parawise Comments / Reply on behalf of the undersigned before the Honorable Khyber Pakhtunkhwa Service Tribunal and its Camp Courts.


Director General Health Services
Khyber Pakhtunkhwa, Peshawar

*all used
5/2003*

(21)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

MISC. APPLICATION NO.

In re:

In Service Appeal No. 76 to 82 of 2023 titled Abidullah & 05 others
& Service Appeal No. 126 to 135 of 2023 titled Muhammad Usman & 09 others,

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department
2. Director General Health Services Khyber Pakhtunkhwa
3. District Health Officer Battagram

..... Applicants


Versus

Abidullah & 05 others, Muhammad Usman & 09 others Respondents

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*Attested
S. by Usman*


Director General Health Services
Khyber Pakhtunkhwa
Applicant No. 02

BEFORE THE HONORABLE MEMBER
SERVICE TRIBUNAL PESHAWAR

(22)

MISC. APPLICATION NO.

In re:

In Service Appeal No. 76 to 82 of 2023 titled Abidullah & 05 others & Service Appeal No. 126 to 135 of 2023 titled Muhammad Usman & 09 others.

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department
2. Director General Health Services Khyber Pakhtunkhwa
3. District Health Officer Battagram

Applicants

Versus

Abidullah & 05 others, Muhammad Usman & 09 others Respondents

APPLICATION FOR SUBMISSION OF DE-NOVO
INQUIRY REPORT AS ADDITIONAL DOCUMENT ON
BEHALF OF THE APPELLICANTS

RESPECTFULLY SHEWETH:

1. That the subject cases were pending adjudication before this Honorable Service Tribunal.
2. That the Judgment was announced by the Honorable Service Tribunal on 24/01/2024.
3. In the Judgment, the respondents were directed to set aside the impugned order and opportunity will be provided to the appellants to defend themselves as they were appointees of the process.
4. That the appellant who assumed their charge are reinstated into service for the purpose of inquiry.
5. That the respondents were directed to provide opportunity to defense & hearing to them.
6. That the respondents were directed to conclude inquiry within 60 days.
7. That the implementation report (De-novo inquiry) in the subject Service Appeals is submitted.

PRAYER:

In the light of the above, it is humbly prayed that implementation (inquiry report) may please be admitted / accepted on behalf of the Applicants.

*Attested
S. Aziz Khan*

[Signature]
Director General Health Services
Khyber Pakhtunkhwa

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

MISC. APPLICATION NO.

In re:

In Service Appeal No. 76 to 82 of 2023 titled Abidullah & 05 others
& Service Appeal No. 126 to 135 of 2023 titled Muhammad Usman &
09 others,

1. Secretary to Govt. of Khyber Pakhtunkhwa Health Department
2. Director General Health Services Khyber Pakhtunkhwa
3. District Health Officer Battagram

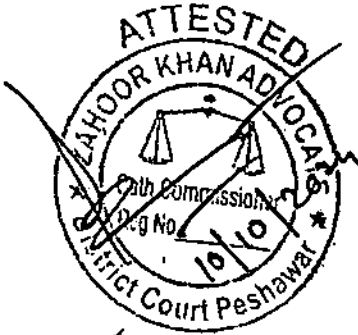
..... Applicants

Versus

Abidullah & 05 others, Muhammad Usman & 09 others Respondents

Affidavit

I, Dr. Muhammad Saleem Director General Health Services Khyber
Pakhtunkhwa, do hereby affirm and declare on oath that the contents of the instant
Application are true and correct and nothing has been concealed from this
Honorable Tribunal.



*Attested
S. Usman*

Dr. Muhammad Saleem
 Director General Health Services
 Khyber Pakhtunkhwa
 Respondent No. 02

[Signature]





**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name
Office # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Muhammad Yousaf Jamal Focal Person Litigation Section Directorate General Health Services Khyber Pakhtunkhwa is hereby authorized to file / submit parawise comments etc on behalf of the undersigned before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.


Director General Health Services
Khyber Pakhtunkhwa, Peshawar 

*Allsted
S. B. Khan*

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 1779-P/2024

Ameer Hamza Son of Javed Ahmad,
R/o House No.1687, Jhanda Bazar, Mohallah Dhona
Pati, Karimpura Peshawar.....Petitioner

V E R S U S

1. Govt. of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar
3. Director Administration, Directorate General Health Services, Khyber Pakhtunkhwa, Warsak Road, Peshawar
4. Grievance Committee through Chairman/Head Directorate General Health Services, Warsak Road, Khyber Pakhtunkhwa Peshawar
5. Director (litigation), Directorate General Health Service, Khyber Pakhtunkhwa, Warsak Road, Peshawar

..... Respondents

*Attested
S. J. Umar*

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

FILED TODAY

Deputy Registrar

01 APR 2024

①

(26)

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 1779-P/2024

Ameer Hamza..... Petitioner

Versus

Govt: of Khyber Pakhtunkhwa and others Respondents

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENT NO. 2

Respectfully Sheweth;

Preliminary objections

1. That the petitioner has got no locus standi to file the instant petition.
2. That the petitioner has not come to this Honorable Court with clean hands.
3. That the petitioner is estopped by her own conduct to file the instant petition.
4. That the petitioner has got no cause of action to file the instant petition.
5. That the petition is not maintainable in its present form.
6. That, the petitioner is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan, 1973.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Correct to the extent that a list under 100% quota of deceased / invalidated/incapacitated has been maintained by Respondent No. 2 in which the Petitioner is presently at S.No. 24 and will be appointed on his own.
(Waiting list is attached at Annex-A).
6. Pertains to record. However, the name of the Petitioner has been included in the waiting list in which he is at S. No. 24 and will be appointed on his own turn.
7. Pertains to record.
8. Pertains to record. However, the name of the Petitioner has been included in the waiting list in which he is at S. No. 24 and will be appointed on his own turn.
9. No comments being formal.

*Attest
J. Begum*

Incorrect, the Petitioner has been treated in accordance with law by including his name in the waiting list and will be appointed on his own turn.

- B. Incorrect, the act of the replying respondent is according to Correct to the extent that the names mentioned in the instant para have been appointed from the waiting list prepared upto Feb 2020. It is pertinent to mention here that the departmental selection committee was held on 13.02.2020 for appointment under deceased son's quota. Minutes of the meeting were prepared but the chairman of the committee did not sign the minutes due to which appointment orders were not issued. Resultantly, the affected candidates filed WP No. 5116-P/2020- Muhammad Noor ul Hadi and others in Peshawar High Court Peshawar and therefore the names mentioned in the instant para have been appointed from the waiting list prepared upto Feb. 2020, attached at Annex-B. However, the instant Petitioner has been included in the waiting list and will be appointed on his own turn.
- C. Incorrect as explained in the preceding paras.
- D. Incorrect, according to the rules and law, the name of the Petitioner has been included in the waiting list and he will be appointed according to his qualification subject to availability of vacant post.
- E. Incorrect as explained in the preceding para.
- F. Incorrect, as explained in Para-B above.
- G. Incorrect, as explained in the above paras.
- H. Incorrect and pertains to record.
- I. Incorrect, the act of the replying respondent is according to law, rules and laid down criteria.
- J. Incorrect, as explained in Para-A above.
- K. Incorrect, as explained in the above paras.
- L. No comments being formal.

PRAY

Keeping in view the above, it is most humbly prayed that the instant petition being devoid of merits and has no legal footings, may kindly be dismissed.

*Attested
S. M. Khan*

Daleem
Director General Health Services,
Khyber Pakhtunkhwa Peshawar

Respondent No. 2

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 4500 P/2023

1. Mr. Saif Ullah S/O Shah Jehan Address: Peshawar High Court, Lower Bar Room, Peshawar. Contact No. 0311-2581010

(Petitioner)

VERSUS

1. Secretary Health, Khyber Pakhtunkhwa, Peshawar
2. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar
3. Director, Expanded Programme on Immunization, Khyber Pakhtunkhwa, Peshawar

(Respondents)

FILED TODAY

Deputy Registrar

11 OCT 2023

*Attested
by Saif Ullah*

(1)

(29)

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

COC NO. 172-P/2024

IN

WP No. 4500-P/2023

Mr. Saifullah (Petitioner)

VERSUS

Mr. Mehmood Aslam, Secretary Health & others (Respondents)

REPLY TO COC ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

1. That the Petitioner has got no cause of action or locus standi to file the instant Petition.
2. That the Petitioner has deliberately concealed the material facts from the Honorable Peshawar High Court, Peshawar, hence, liable to be dismissed.
3. That the Petitioner has filed the instant COC Petition just to pressurize the respondents.
4. That the instant COC Petition is against the prevailing Law and Rules.
5. That the Petitioner has not come to this Honorable Court with clean hands.

ON FACTS:

1. Correct to the extent of Judgement dated 29.02.2024 in WP No. 4500-P/2023.
2. Incorrect. After receiving the judgement dated 29.02.2024, the replying respondents expedite the matter and a PC-I costed Rs. 44.78 Million through a Non-ADP Scheme (2023-24) was prepared in order to make payment of the outstanding salaries of the petitioner along with other 395 vaccinators till 30.06.2024 and forwarded to the P&D Department for placing before the pre-PDWP meeting which was placed before the forum on 19.04.2024. The Forum discussed the matter in detail and it was decided that the Health Department to incorporate the actual number of employees who were currently working by excluding those who are either dead or left the job due to some reason, providing revenue clearance from the Finance Department, ensuring uploading of the PC-I on PCFMIS, providing proper exit strategy of the project after 30.06.2024, providing certificates from all DHOs that the employees are working since July, 2022 till date and to move a summary for approval of Chief Minister, Khyber Pakhtunkhwa after clearance from the PDWP forum. (Annexure-A) The replying respondents obtained revenue clearances of the Finance Department vide letter dated 22.05.2024 (Annexure-B). After revenue clearance, the replying respondents prepared and submitted a revised PC-I (Annexure-C) to P&D Department as per decision dated 19.04.2024 of Pre-PDWP. As the matter of their salaries / arrears till 30.06.2024 is under process and after fulfilling the code formalities/process, the salaries/arrears will be paid accordingly.

GROUNDS:

- A. Incorrect. As discussed in para 03 of the facts that compliance of the judgement dated 29.02.2024 is under process, therefore, the allegation of non-compliance are baseless, hence denied.
- B. Incorrect. Already replied in para-A above.

attached to copy whom

(2)

- C. As per para-A above.
- D. Incorrect. The replying respondents even cannot think about the defiance of the verdict of this Hon'ble Court, the compliance of the judgement of this Hon'ble Court is in process as discussed in para 03 of the facts above.
- E. Correct to the extent of legal obligation, however, the replying respondents have always discharged their legal obligations within the parameters of law, rules and always obey direction of this Hon'ble Court.
- F. Incorrect. Already replied in para – E above.
- G. Incorrect. Already replied in para – D above.

PRAYER:

It is therefore humbly prayed that the instant petition may very graciously be dismissed with costs.

Project Director (EPI)
Health Department
(Respondent No. 03)

Director General Health Services Khyber
Pakhtunkhwa
(Respondent No. 02)

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
(Respondent No. 01)

*Attested
S- bog Khan*

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK
PESHAWAR

S.A.No. 1476 /2022

Zahir Shah son of Noor Muhammad
Ex-Primary Health Care Technologist (Multipurpose BPS-17)
Health Department, District Health Office, Charsadda
R/o General Abdul Razzaq Kili, Kala Shah,
Tehsil District Charsadda Appellant

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Govt. of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
- 3) Govt. of Khyber Pakhtunkhwa through Secretary Finance, Civil Secretariat, Peshawar.
- 4) Director General Health Services Khyber Pakhtunkhwa, Warsak Road, Peshawar Respondents

Appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Prayer:

On acceptance of this appeal, it is, therefore, earnestly prayed to allow this service appeal with directions to the official respondents to forthwith award proforma promotion to the appellant from the post of Clinical/ PHC Technologist PBS-17 to Senior Clinical Technologist PBS-18 with all consequential back benefits/ perks and pensionary benefits attached to the post of BPS-18 w.e.f. 15-4-2019.

*Attested
S. by Khan*

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1476 OF 2022

- 1. Govt. of KP Through Chief Secretary Health Civil Secretariat Peshawar
 - 2. Govt. of KP Through Secretary Health Civil Secretariat Peshawar
 - 3. Govt. of KP Through Secretary Finance Civil Secretariat Peshawar
 - 4. Director General Health Services KP Civil Secretariat Peshawar
-Appellants

Versus

Mr. Zahir ShahRespondent

APPLICATION FOR PERMISSION TO SUBMIT JOINT PARAWISE COMMENTS, REMIT THE PENALTY IMPOSED ON 18/04/2024

Respectfully Sheweth,

- 1. That the above cite case is pending in the Honorable Tribunal and is fixed for hearing on 24/07/2024.
- 2. That the appellants received the summon alongwith Service Appeal for submission of reply on 03/11/2022.
- 3. That the absence of the representative of the appellants was not intentional or will full but due to busy in some others routine cases in the Honorable Tribunal.
- 4. That no prejudice will be cost to the respondents if orders dated 18/04/2024 set aside rather it would afford an opportunity for the appellants to put forth their side of facts before this Honorable Tribunal, so, that this Honorable Tribunal may reach at the just and proper decision of the case.
- 5. That the present petition is well within limitation.

It is therefore humbly prayed that remit the penalty imposed on 18/04/2024 may kindly be set aside in the interest of justice.

*Attested
S. Iqbal Khan*

(Appellants through)

[Signature]
 (Dr. Muhammad Saleem)
 Director General Health Services
 Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1476 OF 2022

1. Govt. of KP Through Chief Secretary Health Civil Secretariat Peshawar
2. Govt. of KP Through Secretary Health Civil Secretariat Peshawar
3. Govt. of KP Through Secretary Finance Civil Secretariat Peshawar
4. Director General Health Services KP Civil Secretariat Peshawar

.....Appellants

Versus

Mr. Zahir ShahRespondent

APPLICATION FOR PERMISSION TO SUBMIT JOINT PARAWISE
COMMENTS, REMIT THE PENALTY IMPOSED ON 18/04/2024

Affidavit

I, Dr. Muhammad Saleem, Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the application on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

*attested
S. J. Khan*

Saleem
Deponent

34

33



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name
Office # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Muhammad Yousaf Jamal Focal Person Litigation Section
Directorate General Health Services Khyber Pakhtunkhwa is hereby
authorized to attend/defend the court cases and file Parawise Comments /
Reply on behalf of the undersigned before the Honorable Khyber
Pakhtunkhwa Service Tribunal and its Camp Courts.

**Director General Health Services
Khyber Pakhtunkhwa, Peshawar**

*Attest
S. Buzkhan*

BEFORE THE HONORABLE KHYBER PAKH Z TUNKHWA SERVICE
TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 1476 OF 2022

- 1. Govt. of KP Through Chief Secretary Health Civil Secretariat Peshawar
 - 2. Govt. of KP Through Secretary Health Civil Secretariat Peshawar
 - 3. Govt. of KP Through Secretary Finance Civil Secretariat Peshawar
 - 4. Director General Health Services KP Civil Secretariat Peshawar
-Appellants

Versus

Mr. Zahir Shah Respondent

APPLICATION FOR PERMISSION TO SUBMIT JOINT PARAWISE
COMMENTS, REMIT THE PENALTY IMPOSED ON 18/04/2024

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2	Affidavit		2
3	Authority letter		3

*Attestad
S. Hoz Khan*

[Signature]
Deponent



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR**

All Communication should be addressed to the Director General Health Services Khyber Pakhtunkhwa and not to any official by name.
DG Office PH No. 091-9210269 Fax No. 091-9210269, Exchange No. 091-9210230 email add: dghealthkpk2014@gmail.com

No. 1092-97/DGHS/

Dated: 22/10/2024

Most Immediate

To,

The Secretary to Govt: of Khyber Pakhtunkhwa
Health Department, Peshawar.

Subject. **Incident Report**

Kindly refer to the above noted subject.

The undersigned have been posted vide Notification NO. SO(E-1) E&AD/9-133/2024 dated 16-05-2024 by the competent authority (Chief Minister Khyber Pakhtunkhwa) as Director General Health Services (DGHS) and subsequently I assumed the charge of the office accordingly.

The incident happened today i.e. 22.10.2024 at 12:30 PM at my office, Directorate General Health Services, reported by my staff when I was in the meeting of polio task force eradication under the chairmanship of Chief Secretary along with Secretary Health & others members. Dr. Shukat Ali (ex-Director General Health Services) entered illegally, without any lawful authority and without notification of the Govt., (Competent authority) into my office and occupied the chair of Director General Health Services (DGHS) who is under report to the Directorate General Health Services by the Competent authority and also under inquiry in charges of irregularities, misconduct and corrupt practices. He pressurized the supporting staff with connivance of the additional Director Dr. Siraj and some private persons and illegally / forcefully signed charge assumption report.

This illegal act /attack, harassing of the staff and officers by the Ex-Director General Health Services at the office of the undersigned, tantamount to gross misconduct, inefficiency and unlawful act against the office of the Directorate General Health Services, an attach department of Health having rich legacy, class & history in the service delivery of health care system in the Province in specific and general in the country.

In view of the above, report is submitted for information with the request to initiate legal action under the relevant provision of the laws and Rules against Dr. Shukat Ali ex-DGHS in commission of offences as stated above.

(Dr. Muhammad Saleem)
Director General Health Services
Khyber Pakhtunkhwa

*attested
s-bog* Copy for information and further necessary action to the :

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
2. Commissioner Peshawar Division Peshawar

Section Officer (3) Deputy Commissioner Peshawar
Health Services 4:RS to advisor to Chief Minister for Health Khyber Pakhtunkhwa, Peshawar
Khyber Pakhtunkhwa 5:RS to Chief Secretary, Khyber Pakhtunkhwa Peshawar.

Saleem
Director General Health Services
Khyber Pakhtunkhwa

Director General Health Services
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH(E-V)4-4/2024
Dated: 22.10.2024

To,

Dr. Muhammad Saleem,
Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: INCIDENT REPORT

I am directed to refer to your letter No. 1092-97/DGHS, dated 22.10.2024 on the subject noted above and to clarify that the Hon'ble Service Tribunal vide order dated 21.10.2024 in service appeal No. 1763-P/2024 has suspended Notification No. SO (E.I)E&AD/9-133/2024, dated 16.05.2024, if the same has not been acted upon earlier. Since, the above referred Notification, dated 16.05.2024 has already been acted upon on 17.05.2024.

2. I am, therefore, further directed to convey that the above mentioned facts have already been mentioned in the reply / parawise comments submitted before the Hon'ble Tribunal.

Section Officer (E-V)

Copy forwarded to:

1. PS to Secretary Health, Khyber Pakhtunkhwa, Peshawar.
2. PA to Special Secretary (E&A), Health Department, Khyber Pakhtunkhwa, Peshawar.
3. PA to Additional Advocate General Service Tribunal, Khyber Pakhtunkhwa, Peshawar.

Section Officer (Lit-II)
Health Department
Khyber Pakhtunkhwa

Section Officer (E-V)