

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

*C.M. No. 1329/2024*

**SERVICE APPEAL NO.182/ 2024**

S.M ASAD HALIMI.....appellant

**Versus**

Govt: of Khyber Pakhtunkhwa and others ..... Respondents

**INDEX**

S.NO.	Description of Documents	Annexures	Page
1	Setting aside application		01
2	Authority letter		02
3	Affidavit		03
4	Order sheet dated 28/06/2024	A	04

*S. Bag Khan*

**Section Officer (Lit-II)**

Government of Khyber Pakhtunkhwa,  
Health Department

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**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,**

**PESHAWAR**

**C. M. No. 1329/2024**  
**SERVICE APPEAL NO.182 OF 2024**

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 17564

Dated 04-11-24

1. Chief Minister through Principal Secretary to Chief Minister Khyber Pkahtunkhwa.
2. Chief Secretary, Khyber Pkahtunkhwa.
3. Secretary Establishment Department Khyber Pkahtunkhwa, Peshawar.
4. Secretary Health Department Khyber Pkahtunkhwa, Peshawar. Petitioner

**Versus**

Syed Muhammad Asad Halimi ..... Respondent

**PETITION ON BEHALF OF THE PETITIONERS / RESPONDENTS IN THE MAIN APPEAL FOR SETTING ASIDE THE ORDER DATED 28-06-2024 OF THE HONORABLE TRIBUNAL WHEREBY THE PETITIONERS / RESPONDENTS WERE PLACED EX-PARTE.**

**Khyber Pakhtunkhwa  
Service Tribunal**

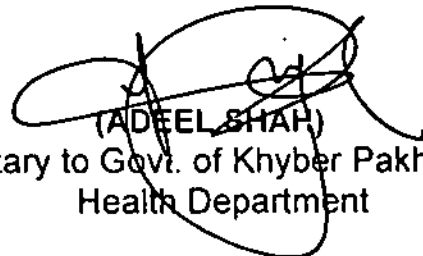
No. \_\_\_\_\_

Dated \_\_\_\_\_

**Respectfully Sheweth**

1. That the above titled Service Appeal is pending before the honorable Tribunal
2. That this honorable Tribunal was pleased to initiate ex-party proceeding against the applicant vide order dated 28-06-2024 (Copy of the order sheet dated 28-06-2024 is ( Annex-A).
3. That non appearance of the applicant/representative was neither intentional nor deliberate but due to wrong entry in the diary of the office.
4. That valuable rights of the applicant was involved in the instant case, therefore its is in the interest of the justice that the applicant may kindly be allowed to bring his version before this honorable tribunal after setting aside ex-parte proceedings, otherwise irreparable loss shall be suffered by the applicant.
5. That there is no ex-parte judgment but ex-parte proceedings have been initiated against the petitioners therefore the same may be set aside at any time by the honorable Service Tribunal in the interest of justice.
6. That it is a well settle principle of law that cases are to be decided on merits, rather than technicalities.

It is, therefore, humbly prayed that the ex-parte order/proceedings dated 28-06-2024 may kindly be set aside in the interest of justice and petitioners/respondents may kindly be provided an opportunity of submission of comments / defense in the interest of justice.



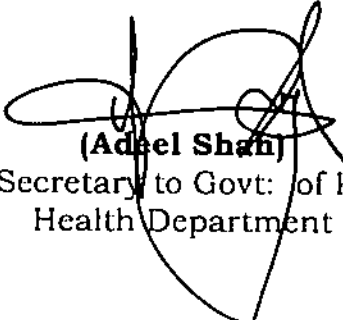
**(ADEEL SHAH)**  
Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department



**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.

  
**(Adael Shah)**  
Secretary to Govt: of KPK  
Health Department

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

**SERVICE APPEAL NO.182/2024**

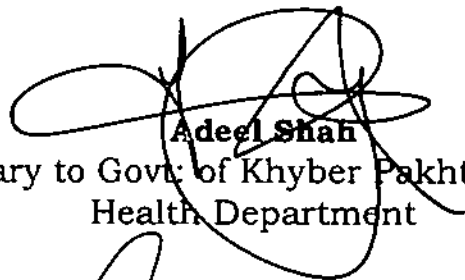
S.M Asad Halimi..... appellant

**V**ersus


Govt: of Khyber Pakhtunkhwa and others ..... Respondents

**Affidavit**

I Adeel Shah, Secretary to Govt of Khyber Pakhtunkhwa Health Department is hereby, solemnly affirmed on oath that the contents of the Parawise Comments in Service Appeal NO.182/2024 on behalf of respondents are true and correct to the best of my knowledge and belief as per information provided and nothing has been concealed from this Honorable Court.

  
**Adeel Shah**  
Secretary to Govt of Khyber Pakhtunkhwa,  
Health Department

Identified by

  
07/10/24

**Add: Advocate General,**  
Khyber Pakhtunkhwa,  
Service Tribunal.

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

**SERVICE APPEAL No. 182 /2024**

S.M ASAAD HALIMI Chief Drug Inspector (BS-19),  
Directorate General Drug Control & Pharmacy Services,  
Old Fata Secretariat Warsak road, Peshawar.

.....**APPELLANT**

**VERSUS**

- 1- The Chief Minister through Principal Secretary, Chief Minister Secretariat Khyber Pakhtunkhwa Peshawar.
- 2- The Chief Secretary, Khyber Pakhtunkhwa Peshawar.
- 3- The Secretary Establishment Khyber Pakhtunkhwa Peshawar.
- 4- The Secretary to Government of Khyber Pakhtunkhwa, Health Department, Khyber Pakhtunkhwa Peshawar.

.....**RESPONDENTS**

**APPEAL UNDER SECTION -4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 IN PURSUANCE OF THE JUDGMENT DATED 20-12-2023 RENDERED IN WP NO.3218-P/2023 AGAINST THE IMPUGNED AMENDED PROVISOS NOTIFIED VIDE DATED 07-12-2017 & 16-01-2023 RESPECTIVELY BY APPENDING THEM IN THE "EFFICIENCY & DISCIPLINE RULES, 2011" WHILE ISSUED IN SHEER VIOLATION OF THE VARIOUS SUPERIOR COURT'S JUDGMENTS & LAWS REFERRED IN THE PRAYERS OF THE INSTANT APPEAL, AND AGAINST NO ACTION TAKEN ON THE DIRECTIONS CONTAINED IN THE AFOREMENTIONED JUDGMENT EVEN AFTER THE EXPIRY OF ONE MONTH PERIOD AS STIPULATED BY HONORABLE PESHAWAR HIGH COURT PESHAWAR.**

**PRAYERS:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE FIRST IMPUGNED PROVISO DATED "07.12.2017" WHICH HAS BEEN FURHTER APPENDED/ADDED TO RULE "2" OF THE "EFFICIENCY & DISCIPLINE RULES, 2011" MAY VERY KINDLY BE SET ASIDE AS THE SAME IS CONSIDERABLY SERIOUS BECAUSE IT REFERS TO A CONSTRUCTION WHICH THROUGH & THROUGH IS IN VIOLATION OF SECTION "5" OF THE "CIVIL SERVANT ACT, 1973", AS WELL AS IS IN CONTRADICTION TO THE INTRA RULES i.e RULE "2", SUB RULE "1", CLAUSE (C) WITH RULE "2", SUB RULE "1", CLAUSE (F) SUB CLAUSE (i), & WITH RULE "5", SUB RULE "2" OF THE "EFFICIENCY & DISCIPLINE RULES, 2011", READ WITH RULE "4" OF THE "APPOINTMENT PROMOTION & TRANSFER RULES, 1989".

*Attested  
S. Qureshi  
Health Dept.  
Khyber Pakhtunkhwa*

20<sup>th</sup> May, 2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan,

District Attorney alongwith Mr. Safiullah, Focal Person and Mr. Yousaf Jamal, Assistant for the respondents present.

2. Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Granted. To come up for reply/comments on 28.06.2024 before S.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

\*Kamranullah\*

28<sup>th</sup> Jun, 2024 1. Junior to counsel for the appellant present. Mr. Umair Azam, Additional Advocate General present.

2. Written reply on behalf of the respondents has not been filed nor is there anybody present as representative, therefore, they are placed ex-parte. The appeal is admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security fee within 10 days. To come up for arguments on 30.09.2024 before D.B. P.P given to the learned counsel for the appellant.

(Kalim Arshad Khan)  
Chairman

Attested  
S. Baq Khan  
Section Officer (I) - II  
Health Department  
Khyber Pakhtunkhwa  
Adnan Shah, P.A.