


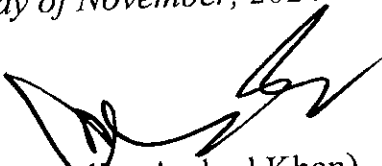
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.357/2022

Zuhaib

versus

Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-20 14 th November, 2024.	<p><u>Kalim Arshad Khan, Chairman</u></p> <p>Present:</p> <ol style="list-style-type: none">1. Mr. Noor Muhammad Khattak, Advocate, on behalf of appellant.2. Mr. Muhammad Jan, District Attorney, on behalf of respondents.3. Vide our detailed judgment of today, placed on file, instant service appeal is allowed and the respondents are directed to release his salaries from the date of his appointment and let him serve satisfactorily. Costs shall follow the event. Consign.4. <i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14th day of November, 2024</i> <p style="text-align: center;"> (Rashida Bano) Member (J)</p> <p style="text-align: center;"> (Kalim Arshad Khan) Chairman</p> <p><small>*Mutazem Shah*</small></p>

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal Nö.357/2022

Date of presentation of Appeal 09.03. 2022
Date of hearing 14.11.2024
Date of Decision 14.11.2024

Mr. Zuhaib, Chowkidar (BPS-03), Type-D Hospital, District Karak.

.....(*Appellant*)

Versus

1. **The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.**
2. **The District Health Officer, District Khyber.**
3. **The District Accounts Officer, District Khyber.**

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.


PRESENT

1. Mr. Noor Muhammad Khattak, Advocate, for the Appellant
2. Mr. Muhammad Jan, District Attorney, for respondents

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs. 100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	Rs. 100/-	Total	Rs. Nil

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 141th day of November, 2024.


Rashida Hanjo
Member (Judicial)


Rafim Arshad Khan
Chairman

order and medical fitness certificate were signed by a single authority, therefore, genuineness appointment is doubtful.

6. The appointment of appellant has not been denied by the respondents in their reply. When the appointment order is not denied, the contentions that his appointment was doubtful or both the documents (appointment and medical certificate) signed by the same authority do not carry weight. Even if the appointment order was illegal, so why the respondents were hesitating to proceed against the appellant departmentally. But if he has served, he has to be paid for his service.

7. In view of above, instant service appeal is allowed and the respondents are directed to release his salaries from the date of his appointment and let him serve satisfactorily. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 14th day of November, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah

of formalities, he was appointed as Chowkidar vide order dated 30.10.2019; that the appellant submitted his arrival report on 30.10.2019; that despite performing his duties, appellant was not paid his salaries by the respondents; that allegedly his service book was also maintained but salary was not given; that feeling aggrieved, appellant filed departmental appeal on 25.11.2021, but the same was not responded, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.
3. We have heard learned counsel for the appellant and learned District Attorney for respondents.
4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District controverted the same by supporting the impugned order(s).
5. Perusal of record shows that appellant was appointed vide order dated 30.10.2019 by the order of the then Agency Surgeon, Khyber District at Jamrud. However, salary was not given to him for the reason that he was illegally appointed. In the reply of respondents, they have urged that the appointment



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
 RASHIDA BANO ... **MEMBER (Judicial)**

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2. **The District Health Officer**, District Khyber.
3. **The District Accounts Officer**, District Khyber.

.....(*Respondents*)

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT W.E.F 01.11.2019 TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Brief facts of the case, as per averments of the appeal, are that the respondents had advertised the post of Chowkidar on 13.04.2019 in response of which, appellant applied on 15.04.2019; that after fulfillment