

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 67/2018

Date of Institution ... 19.01.2018

Date of Decision ... 19.01.2022

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No. 2.
... (Appellant)

VERSUS

Khyber Pakhtunkhwa Health Department through Secretary Health Peshawar and others.
... (Respondents)

Uzma Syed,
Advocate

... For Appellant

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant was initially appointed as Charge Nurse vide order dated 16-05-1981. During the course of her service, the appellant was proceeded against on the charges of absence from duty and was ultimately removed from service vide order dated 10-01-2003. Feeling aggrieved, the appellant filed many appeals and the appellant was assured every time that her case would be considered sympathetically but with no fruitful result, hence the appellant filed the instant service appeal with prayers that keeping in view her long service, the penalty of removal from service may be converted into compulsory retirement with all back benefits.

02. Learned counsel for the appellant has contended that the impugned penalty has been imposed upon the appellant with malafide intention of the competent authority by adopting summary procedure without appreciation of the law, rules and regulations in the matter, therefore the impugned order is liable to be set aside; that the respondents while passing the impugned order did not apply judicious, fair and independent mind and imposed the impugned penalty upon the appellant, which resulted in miscarriage of justice; that no regular inquiry was conducted, which was mandatory under the prescribed law; that the principle of Audi Alturm Partum requires opportunity of fair inquiry and personal hearing before issuance of any adverse order against an employee; that the apex court repeatedly has held that violation of the principle would be deemed as violation of law and the said principle has to be deemed as integral part of every statute even if the same is not provided therein; that the impugned order having been passed without adhering to the said principle would be nullity in the eye of law, the same therefore, deserve to be set aside. Reliance was placed on 1994 SCMR 2232 and 2002 SCMR 1034; that the impugned order is a result of non-reading and misreading of record and the respondents passed the impugned order in hasty manner, which suffers from legal infirmities and are liable to be set aside; that the competent authority ignored the departmental appeal of the appellant, wherein the appellant had narrated the factual position in respect to the allegation leveled against her but the competent authority did not consider the departmental appeal and passed the impugned order; that no charge sheet/statement of allegation was served upon the appellant, which was mandatory under the law; that the appellant has never been involved in disciplinary case and having unblemished service record; that law governing the subject and precedential law as established by the superior courts of the land favors adjudication on merit and technicalities must be avoided in order to reach a just and fair conclusion; that the impugned order was passed without providing an opportunity of personal hearing which is also violation of principle of natural

justice, as the superior courts has laid down principle in the judgment reported as 1997 SCMR 1543 and 1999 PLC CS 818, therefore both the impugned order and appellate order are liable to be set aside; that the impugned order is void as the appellant was proceeded against under E&D Rules, 1973, whereas RSO 2000 was in field, hence no limitation runs against void order.

03. Learned Assistant Advocate General for the respondents has contended that the appellant was regular employee of the respondent department, however she absented herself from lawful duty with effect from 22-07-2002 without permission of competent authority; that absence notice was published in two leading newspapers and the appellant was asked to join duty but she failed to join her duty; that showcause notice was also served upon the appellant, but she did not respond to the show cause notice, therefore all the codal formalities were completed and she was removed from service; that departmental appeal of the appellant was also rejected being barred by time.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as Charge Nurse vide order dated 16-05-1981 and was removed from service vide order dated 10-01-2003 on the charges of absence from duty. Record would suggest that the appellant was otherwise punctual and dutiful but upon sickness of her brother she went to her native city Sialkot, where her brother died due to illness and she was traumatized due to the incident and after recovery from the incident, the appellant came back to resume her duty but to her utter dismay it was found that she has been removed from service vide order dated 10-01-2003, which would suggest that the appellant was proceeded against departmentally in absentia without affording her opportunity of defense. Besides the appellant was proceeded against under E & D Rules, 1973, whereas RSO 2000 was in field,

hence the impugned order is void, which also disposes of the question of limitation.


06. The appellant went from pillar to post for her re-instatement and to this effect, she had submitted numerous applications/appeals to respondents even to minister health and secretary health but since the appellant was from minority community having no one at her back and otherwise, she was a single lady without any family and her only brother also died of his illness. Placed on record is an inquiry report conducted against the appellant and the inquiry officer was quite sympathetic with the appellant and had categorized her miseries that she is all alone having no male member to support her financially, she is from minority community and her case need to be considered on humanitarian grounds and finally the inquiry officer recommended that instead of removing her from service, she may be retired from service keeping in view her long service, so that she may get all the benefits of pension, which would be sufficient for her financial support as well as she would be at liberty to join other service, but the competent authority removed her from service ignoring recommendations of the inquiry officer as well as turned deaf ear over the consideration on humanitarian grounds.

07. We are of the considered opinion that the appellant has rendered more than 22 years service, which must not go in waste. The appellant otherwise, was not treated in accordance with law and was treated discriminately. We are also mindful of the question of limitation but since the impugned order was passed under wrong law and is a void order, hence no limitation would run against void order. Reliance is placed on 2007 SCMR 834 and 2015 SCMR 795. It however was observed that the appellant continuously tried her best to submit appeals from time to time but nobody bothered to listen to her clamour. In the instant appeal, the appellant did not press her appeal on merits, but has sought indulgence of this Tribunal for conversion of extreme penalty of removal from service into

compulsory retirement from service, which does not commensurate with the nature of her misconduct in peculiar facts and circumstances of the case. It would be much useful to quote the verdict of the honorable supreme court in its judgment reported as 2015 SCMR 795, which have held "that courts of law were not supposed to perpetuate what was unjust and unfair by exploring explanation for an act which was prima facie against law and thus void--- courts should rather explore ways and means for undoing what was unfair and unjust--- even where the question of limitation, if at all created any impediment in the fair adjudication of the case, it had to be looked from such angle of vision." Same is the case of the appellant and we are expect^{ed} to act accordingly. Case of the appellant is otherwise strong on merit, but looking into her continued service for 22 years and without touching other merits of the case, the appellant otherwise deserve to be granted relief in term of conversion of her penalty as this tribunal has already granted such relief in numerous cases.

08. In view of the foregoing discussion, the impugned order dated 10-01-2003 is set aside and penalty of removal from service is converted into compulsory retirement from service with all ancillary benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
19.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER

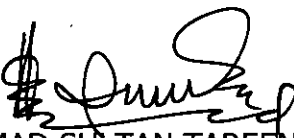
19.01.2022


Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the present service appeal is partially accepted and the appellant is reinstated in service for the purpose of De Novo inquiry with directions to the respondents to conduct de novo inquiry within 90 days strictly under law & rules. No orders as to costs. File be consigned to record room.

ANNOUNCED

19.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

11.08.2021

Appellant present through counsel.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Arguments heard. To come up for order on 16.09.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

16.09.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional A.G for respondents present.

Some points need further consideration. Therefore, case is adjourned. To come up for order on 11.11.2021 before D.B.


(Rozina Rehman)
Member (J)



Chairman

11.11.2021

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

In the case in hand, arguments had been advanced at length and case was fixed for orders but certain points were further discussed with the learned counsel for appellant and today, she made a request for adjournment in order to produce case law in her favor. Last chance is given. To come up for re-arguments in the light of submission of the learned counsel and order before Special D.B on 19.01.2022.

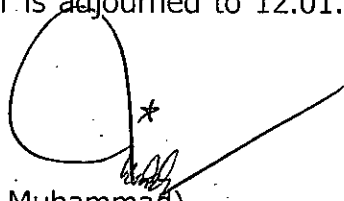

(Rozina Rehman)
Member (J)


Chairman

21.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 12.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

12.01.2021

Counsel for the appellant and Addl. AG for the respondents present.

Former states that in the impugned order dated 10.01.2003, the appellant was awarded major punishment of removal from service but with effect from 22.07.2002. She, therefore, requests for posting of instant matter after hearing ^{of} the proposition regarding retrospective penalty by a Larger Bench of this Tribunal Adjourned to 19.04.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

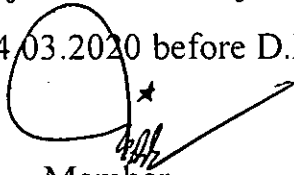
19.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 11.08.2021 for the same as before.


Reader

11.02.2020

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24.03.2020 before D.B.



Member



Member

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 08.06.2020 before D.B.



Reader

08.06.2020

Bench is incomplete as learned Member (J) is on leave, therefore, the case is adjourned. To come up for the same on 19.08.2020 before D.B.



Reader

19.08.2020

Due to summer vacations, the case is adjourned to 21.10.2020 for the same.



Reader

15.07.2019

None present on behalf of the appellant. Mr. Muhammad Jan, District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 06.09.2019 before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

06.09.2019

Miss Uzma Advocate submitted Waklat Nama on behalf of the appellant. Mr. Usman Ghani learned District Attorney for the respondents present. Being freshly engaged, learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 01.11.2019 before D.B.


(Ahmed Hassan)
Member


(M Hamid Mughal)
Member

01.11.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Hazrat Shah Superintendent for respondents No.1 & 2 present. Learned counsel for respondent No.3 present. Adjournment requested. Adjourn. To come up for arguments on 06.12.2019 before D.B.


Member


Member

6.12.19

*The Bench is complete therefore
case is adjourned to 11-2-2020*



14.02.2019

No one present on behalf of appellant. Jaffar Ali Assistant representative of respondents No.1 & 2 and Khan Said Superintendent for respondent No.3 present. Written reply already submitted on behalf of respondents No.1 & 2 while the reply of respondent No.3 is still awaited. Representative of the respondent No.3 seeks time to furnish written reply/comments. Granted by way of last chance. To come up for written reply/comments behalf of respondent No.3 on 02.04.2019 before S.B.


Member

02.04.2019

Counsel for the appellant present. Mr. Kabirullah, Addl: AG alongwith Mr. Khayal Muhammad, Legal Advisor for respondents present. Written reply on behalf of respondent no. 3 not submitted. Requested for adjournment. Another last opportunity granted. Case to come up for written reply of respondent no.3 on 02.05.2019 before S.B.


(Ahmad Hassan)
Member

02.05.2019

Appellant in person and Mr. Khan Said Litigation Officer for respondent No. 3 alongwith Mr. Usman Ghani, District Attorney for the respondents present.

The requisite reply received which is placed on record. To come up for arguments on 15.07.2019 before the D.B. The appellant may submit rejoinder within a fortnight, if so advised.

Chairman



30-10-18

Due to Retirement of Honorable
Chairman the Tribunal is non functional
Therefore the case is adjourned to come
up for the same on 14-12-2018

[Signature]
Reader

14.12.2018

Counsel for the appellant present. Mr. Amjid Ali, Assistant on behalf of respondents No. 1 & 2 alongwith Mr. Kabirullah Khattak, Additional AG and Mr. Javed Iqbal Gulbela, Legal Advisor for respondent No. 3 present. Written reply on behalf of respondents No. 1 and 2 already submitted, while Legal Advisor for respondent No. 3 requested for further time for filing of written reply. Last opportunity is granted. Adjourned. To come up for written reply/comments on behalf of respondent No. 3. on 23.01.2019 before S.B.

[Signature]
Muhammad Amin Khan Kundi
Member

23.01.2019

Clerk to counsel for the appellant present. Khan Said legal advisor representative of respondent No.3 present. Written reply not submitted on behalf of respondent No.3. Representative of respondent No.3 seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 14.02.2019 before S.B.

[Signature]
Member

10.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 04.07.2018.


Reader


04.07.2018

Clerk of the counsel for appellant and Mr. Sardar Shaukat Hayat, Addl: AG present. None present on behalf of respondents. Therefore, fresh notices be issued to the respondents to attend the court positively. Written reply not submitted. Requested for further adjournment. Adjourned. Last opportunity is granted.. To come up for written reply/comments on 20.08.2018 before S.B.


Member

20.08.2018


Counsel for the appellant and Mr. Kabirullah Khattak AAG, alongwith Mr. Jaffar Ali Deling Assistant for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Another last opportunity is granted. To come up for written reply/comments on 30.10.2018


(Muhammad Amin Kundi)
Member

05.03.2018 Clerk of the counsel for appellant and Assistant AG for respondent no. 3 also present. Written reply not submitted. Learned Assistant AG requested for further time adjournment. Request accepted. To come up for written reply/comments on 20.03.2018 before S.B.


Member

20.03.2018 Appellant absent. Clerk of the counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Addl: AG for respondent No: 3 present. Written reply not submitted. Learned Addl: AG requested for adjournment. Adjourned. To come up for written reply and comments on 03.04.2018 before S.B.


Member

03.04.2018 Appellant absent. Counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Additional AG present. Representative of the respondent department is absent. Therefore, notices be issued to the respondent department to attend the court positively. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on **10.04.2018** before S.B.


Member

19.01.2018

Learned counsel for the appellant present. Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that the appellant was serving in the hospital since long time and has unblemished service record. That one day on 10.01.2003, all of a sudden the appellant received a telephone call about the serious illness of her only brother, who was admitted in hospital at that time. That subsequently appellant rushed to Sialkot in emergency. That since the appellant belong to minority community therefore has no one in Peshawar to convey any message. That during the absence period she was in Sialkot. That the appellant dispatched leave application to the concerned authority but no reply was received to her. That after four months when she came back to the Peshawar for joining her duty it came to her knowledge that she was removed from service vide order dated 10.01.2003 on account of unauthorized absence from duty. That the appellant was removed from service in hasty manner and without going on the merits of the case. That no final show cause notice or charge sheet has been issued. That the appellant preferred department appeal on 05.03.2003, 11.02.2008, 2009 and 10.10.2017 which are yet un-responded.

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process fee within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 05.03.2018 before S.B.

Appellant Deposited
Security & Process Fee


(Gul Zehra Khan)
Member

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. _____

67/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/1/2018	<p>The appeal of Mst. Nasreen Sardar presented today by Shireen Imran Advocate, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;">REGISTRAR</p>
2-	19/10/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/10/18</u>.</p> <p style="text-align: right;">MEMBER</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 67 /2018

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

.....Appellant

VERSUS

1. Khyber Pakhtunkhwa Health Department through Sectary health Govt of KPK Peshawar.
2. Director General Health Government of Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent Lady Reading Hospital Peshawar

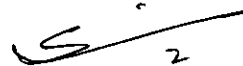
.....Respondents

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE
TRIBUNAL ACT - 1974**

INDEX OF DOCUMENTS

S #	DESCRIPTION	Annexure	DATE	PAGE
1.	Memo of Appeal alongwith Affidavit		12-01-2018	1-6
2.	Memo of Parties		12-01-2018	7
3.	Copy of impugned order	A	10-01-2003	8
4.	Copy of departmental appeals & receipts	B	10-10-2017 11-02-2008 08-11-2012	9-13
5.	Letter of department	C	28-07-2004	14
6.	Letter of department	D	18-09-2004	15
7.	Letter dated 24-09-2010	E	24-09-2010	16
8.	Cop of Salaries			17
9.	Application of condonation of delay and affidavit			18-19
10	Wakalat Nama			

Counsel



MRS. SHIREEN IMRAN
Advocate Supreme Court of Pakistan
Chamber No. 211, Shaheed-e-Millat
Block, District Courts, F-8 Markaz,
Islamabad.
Cell: 0334-5101718

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 67 /2018

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 63Appellant

VERSUS

Dated 19-1-2018

1. Khyber Pakhtoonkhwa Health Department through Sectary health Govt of KPK Peshawar.
2. Director General Health Government of Khyber Pakhtoonkhwa, Peshawar.
3. Medical Superintendent Lady Reading Hospital Peshawar

.....Respondents

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE
TRIBUNAL ACT - 1974**

Appeal against the impugned order dated 10-01-2003 (Annexed-A), whereby major penalty of removal from service was imposed upon the Appellant, whereas against departmental appeals dated 05-03-2003, 11-02-2008, 2009 and 10-10-2017 which are yet un-responded (Annexure-B), hence this appeal.

Filed to 19/1/18
19/1/18
Registrar

PRAYER IN APPEAL

It is very humbly and respectfully prayed that this Hon'ble Tribunal may kindly accept this appeal and set aside the impugned order dated 10-01-2003 and modified the order of removal into compulsory retirement with all back benefits. Any other relief which this Hon'ble Tribunal may deems just and proper be awarded to the appellant.

FACTS OF THE CASE

1. That the names and addresses of the parties have been correctly recorded above for the purpose of service of notice to them as and when it is so directed by this Hon'ble Tribunal.

2. That the appellant was serving and affiliated with the Respondents No. 2 Organization since long time as a Regular employee and having a 22 year service record. The appellant was performing his assignments diligently, dexterously and with all her abilities for the satisfaction of her superiors and with unblemished service record, which is evident from her spotless service record.
3. That suddenly she receive a telephone call about the serious illness of her alone brother who was admitted in hospital at that time and the family call me in emergency since the appellant belong to a minority community has no one in Peshawar to convey any message and rushed for Sialkot when the appellant reached their her brother was expired and the funeral arrangements were at the end the appellant received the shocked in the said situation and remained senseless for few days belatedly she was declared chronic depression patient.
4. That during the period when she was in Sialkot the appellant dispatch leave application to the concerned authority but no reply was received to her, that after four months when she back to the Peshawar for join her duty it has came into her knowledge that she was removed from service vide order dated 10-01-2003 on account of unauthorized absence from duty. No letter from the department was received by her because she was in a rental house in Peshawar and belongs to Sialkot.
5. That no final Show Cause Notice or charge sheet has been issued to the appellant and without going on the merits of the case the respondent department in a hasty manner issued the impugned order of removal from the service of the appellant.
6. That feeling aggrieved and dissatisfied by the above said order the appellant preferred so many departmental appeals for the sympathetic consideration of her matter and bonafidly busy before the department with hope that department will see her matter with care but all the departmental appeals are yet un-responded, the ingredients of the

departmental appeal may read as an part of this appeal of hence this appeal interalia on the following grounds;

GROUND OF APPEAL

- a. That the impugned penalty has been imposed upon the appellant with malafide intention of the competent authority by adopting a summary procedure without appreciation of the law, rules and regulation in the matter, therefore the impugned order is liable to be set aside.
- b. That the Respondents while passing impugned order dated and 10-01-2003 did not apply his judicious, fair and independent mind and imposed the impugned penalty on the appellant which resulted in miscarriage of justice.
- c. That no regular inquiry was conducted in this regard. Which was mandatory under the prescribed law in case of imposing the major penalty of dismissal upon someone, and it was held by the superior judiciary that no body can condemned unheard.
- d. That it has also been laid down by the superior judiciary that where order passed by Authorities is not in accordance with the dictum laid down by the Supreme Court, such order is in violation of mandate of the Constitution. Reliance is place on 2002 CLC, 1049, settled law that if a particular act was deemed to be done in a particular manner, same would done in such manner and not by any other manner or procedure. Reliance is place on 2002 PLC (CS) 843.
- e. That this honorable tribunal may appreciate that a principle of a Natural Justice i.e. Adui Alterm Partum requires opportunity of fair inquiry and personal hearing before issuance of any adverse order against an employee of any Organization. The Honourable Apex Court time and again has been pleased to hold that violation of the principle would be deemed as violation of law and the said Principle has to be

deemed as an integral part of every statute even if the same is not provided therein. The impugned order having been passed without adhering to the said principle would be nullity in the eyes of law, the same, therefore, deserves to be set aside. Reliance is placed on 1994 SCMR 2232, 2002 SCMR 1034.

- f. That not even a single allegation as alleged was proved against the appellant and the respondents decided the matter on the basis of conjecture and surmises which has nullity in the eyes of law.
- g. That the impugned order is a result of non-reading and misreading of record and the Respondents passed the impugned orders in hasty manner, which suffers with legal infirmities and are liable to be set-aside.
- h. That the Respondents while passing the impugned order fell into a grave error which is against the principal of natural justice.
- i. That the entire procedure has been adopted in briskly which has not foster end of justice on the contrary in has per prated a wrong and as such the appellant was not able to get proper efficacious remedy in his absence.
- j. The competent authority ignored the representation wherein the appellant narrated the factual position in respect to the alleged allegations, but the competent authority did not considered the departmental appeal and passed impugned order.
- k. That no charge Sheet and statement of allegation was issued to the appellant which was also mandatory under the law. That the appellant has never been involved in any disciplinary case and having unblemished service record.
- l. That law governing the subject and precedental law as established by the superior courts of the land favours adjudication on merits and

technicalities must always be eschewed and avoided in order to reach a just and fair conclusion.

m. That the impugned order passed by the competent authority, without providing an opportunity of personal hearing which is also violation of principle of natural justice, as this Honourable Court has laid down principles in a judgment reported as 1997 SCMR 1543 and 1999 PLC CS 818. Therefore both the impugned and appellate orders are liable to be set aside.

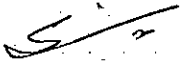
n.

PRAYER:

It is very humbly and respectfully prayed that this Hon'ble Tribunal may kindly accept this appeal and set aside the impugned order dated 10-01-2003 and modified the order of removal into compulsory retirement with all back benefits. Any other relief which this Hon'ble Tribunal may deems just and proper be awarded to the appellant.

Nagreen Bardoz
Appellant

Through Counsel


MRS. SHIREEN IMRAN
Advocate Supreme Court of Pakistan
Chamber No. 211, Shaheed-e-Millat
Block, District Courts, F-8 Markaz,
Islamabad.
Cell: 0334-5101718

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. ____/2018

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

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**APPEAL UNDER SECTION 4 OF THE KPK SERVICE
TRIBUNAL ACT - 1974**

AFFIDAVIT

I, Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2, do hereby solemnly affirm and declare that the contents of the captioned appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

DEPONENT Nasreen Sardar

MEMO OF THE PARTIES

7

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

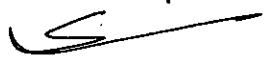
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Advocate Supreme Court of Pakistan
Chamber No. 211, Shaheed-e-Millat
Block, District Courts, F-8 Markaz,
Islamabad.
Cell: 0334-5101718

OFFICE ORDER.

Whereas the undersigned is competent authority for taking disciplinary action against Ms. Nasreen Sardar D/O Sardar Masih Charge Nurse on her willful absence from duty since 22/7/2002. Whereas on completion all codal formalities i.e. asking her on her home address to resume, notice through press and show cause notice.

Since inspite of all these she failed to resume, therefore she is removed from service with effect from 22/7/2002. (The date of her absence).

[Signature] 911

MEDICAL SUPERINTENDENT
GOVT. LRH PESHAWAR.

NO. 1008-12 /LRH

Dated. 10/1/2003.

Copy to :-

01. Director General Health Services, NWFP, Peshawar.
 02. Chief Nursing Superintendent, LRH, Peshawar.
 03. Chief Accounts Officer, LRH, Peshawar.
 04. F.I to Chief Executive, LRH, Peshawar.
 05. Charge Nurse concerned, LRH
- For information and n.action.

[Signature]
MEDICAL SUPERINTENDENT
GOVT. LRH PESHAWAR.

[Handwritten initials]

Ann-B
9

The Director General (LRH) Government of
Khyber Pakhtunkhwa (KPK),
Health Department, Peshawar.

Subject:- DEPARTMENTAL APEAL / REPRESENTATION FOR RE-
INSTATEMENT IN SERVICE ON HUMANITARIAN GROUNDS.

Sir,

Mostly humbly requested that I would like to submit following few lines for your kind and sympathetic consideration.

- 1) That the appellant joined service as Charge Nurse in LRH, Peshawar. She has rendered 22 years meritorious service in her credit. She has a good record of service.
- 2) That during whole span of her service the appellant was never issued with any warning, charge sheet or show cause notice. He was also never communicated with any adverse remarks in his ACRs which are generally good to very good. The work and conduct of the appellant was appreciated by his superiors and there was no complaint whatsoever against him from any quarter.
- 3) That unfortunately while performing duties she received a telephone message about the serious illness of her alone brother which stated as admitted in the Hospital and called me in emergency. Since I belong to minority community has no one in Peshawar for message etc so I rushed for Sialkot. When I reached there, my brother was expired and funeral arrangements were at the end. So she received shocked and remained senseless for a few days. As per doctors advices she was declared chronic depression patient.
- 4) That during this period all the correspondence issued to me was not received, because she almost living in rental house in NWFP, Peshawar and the Show Cause Notice dated 16.08.2002 which served under the name of Chief Executive there is mentioned only for imposing of one penalty of compulsory Retirement whereas in the order dated 10.01.2003 she was removed from service on the charge of absence from duty.
- 5) That the appellant rendered 22 years service and in the show cause compulsory retirement from service was recommended keeping in view of long service of appellant. She cannot be deprived of his legitimate right and the penalty of dismissal from service is liable to

10

convert in compulsory retirement. Being as such patient and having alone in this world it is not justice that who had spent 22 years service in the department should be dismiss. At least compulsory retirement may be granted so that she can able to survive and enable her for treatment. On certain allegations of absence from duty she was dismissed from service, without holding any inquiry in the matter.

- 6) That the initiation of disciplinary proceedings are void ab-initio and of no legal effect s in as much as they are based on erroneous assumptions of facts and also in conflict with instruction mentioned in the Show Cause..
- 7) That the respondents adopted the shorter procedure of dispensing with the regular inquiry in the matter as in the show cause notice it was specifically mentioned that the appellant is liable to compulsory retirement.
- 8) Because as such penalties and acts/omission mentioned in the show cause notice to that of mentioned in the office order as contradictories. Therefore, the same are not lawful order and illegal.
- 9) In spite of all these injustices made beyond the bas against the appellant by the Departmental. I have an appealed to the Secretary to Government of NWFP, Health Department Peshawar about my pitiable, but the appeal was rejected.
- 10) It is therefore, I request that the illegal and unlawful orders of respondents may be set aside allowing the appellant to avail her service and also the benefit of her 22 year long unblemished service. Appellant have been deprived of genuine means of earning livelihood, which is constitutional guaranteed right of every citizen due to malafide intent on the part of departmental authorities, which is legally unjustified. Reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan as reported in 1990 SCMR-999, which is reproduced below:

1990 SCMR - 999

"Malafide of law is involved where authority not competent has taken an action or the mandatory procedural requirements for taking the action or the jurisdictional requirements for it remain unsatisfied. Malafide in fact relates to those cases where personal bias, grudge or

11

vindictiveness is the prompting force for action ostensible In proper form and content”.

The major penalty of dismissal from service imposed upon the appellant is too harsh and does not commensurate with the lapse, if any on her part. Reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan as reported in 2006 SCMR-104, which is reproduced below:

2006 SCMR-104:

“Penalties in service law are to give choice to departmental authorities to determine the quantum of punishment in the light of nature of misconduct. Concerned authorities may in their discretion, award major or minor penalties but such power must not be exercised in an unjust and arbitrary manner.”

The appellant is facing extreme financial hardships each and every passing day having no other source of livelihood except this job which was performing the appellant.

In view of the foregoing submissions, it is therefore humbly requested that by accepting the instant appeal / representation, the impugned order dated 10.01.2003 may be set-aside by converting the harsh punishment into compulsory retirement with all consequential benefits and also in the interest of justice. The appellant may also be heard in person.

Nasreen Sardar

Miss Nasreen Sardar.
Charge Nurse BPS-16
C/o Mr. Zafar Sardar
Christian Town Sialkot No.2
Cell No. 0345-9324225

Dated:- _____/2017

0347-8993663

all

11-A

Sales Tax Invoice		Org. //	Dest.	
TCB	Acct / Coupon	Consignment Note No. 92003700031		
Call: 111-123-456 GST NO. 12-00-8808-002-73	Mode of Payment <input type="checkbox"/> Coupon <input type="checkbox"/> FOC <input type="checkbox"/> COD <input type="checkbox"/> Account <input type="checkbox"/> Cash	Insured <input type="checkbox"/> Yes <input type="checkbox"/> No	Dimension L(cm) W(cm) H(cm)	
From (Shipper)	To (Consignee) D. S. L.R. Govt of K.P.	Wt. (kgs)	Pcs.	
Phone	Phone	Service Type <input type="checkbox"/> Overnight <input type="checkbox"/> Holiday <input type="checkbox"/> Extra Sp. <input type="checkbox"/> Same Day <input type="checkbox"/> Second Day		
<small>I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment do not contain any letter. The execution of this consignment note is prima facie evidence of the conclusion of contract between shippers & TCB (PVT) LTD.</small> Shipper's Signature	E-mail	Service Charges		
	Description	Weight	Handling	
	PICKUP INFORMATION Courier Code Date / / Time		Other	GST
	TOTAL		Insurance Premium	TOTAL 180

AS PER P.O. ACT 1999, TCB WILL NOT CARRY LETTER POSTCARDS. Any suggested complaint about service may be mailed to PO Box # 2042, Karachi 75400.

Sales Tax Invoice		Org. //	Dest.	
TCB	Acct / Coupon	Consignment Note No. 92003700035		
Call: 111-123-456 GST NO. 12-00-8808-002-73	Mode of Payment <input type="checkbox"/> Coupon <input type="checkbox"/> FOC <input type="checkbox"/> COD <input type="checkbox"/> Account <input type="checkbox"/> Cash	Insured <input type="checkbox"/> Yes <input type="checkbox"/> No	Dimension L(cm) W(cm) H(cm)	
From (Shipper)	To (Consignee) MISS NYSVEEN Savada 40 M. Safar S	Wt. (kgs)	Pcs.	
Phone	Phone	Service Type <input type="checkbox"/> Overnight <input type="checkbox"/> Holiday <input type="checkbox"/> Extra Sp. <input type="checkbox"/> Same Day <input type="checkbox"/> Second Day		
<small>I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment do not contain any letter. The execution of this consignment note is prima facie evidence of the conclusion of contract between shippers & TCB (PVT) LTD.</small> Shipper's Signature	E-mail	Service Charges		
	Description	Weight	Handling	
	PICKUP INFORMATION Courier Code Date / / Time		Other	GST
	TOTAL		Insurance Premium	TOTAL 200

AS PER P.O. ACT 1999, TCB WILL NOT CARRY LETTER POSTCARDS. Any suggested complaint about service may be mailed to PO Box # 2042, Karachi 75400.

AK
de

خدمت جناب نزلت ماب و ڈیپٹی سیکریٹری صاحبہ
این ڈبلیو ایف پی (صوبہ سرحد)

12

مضمون: اپیل برائے بحالی ملازمت

جناب عالی!

موردانہ گزارش ہے کہ فدویہ لیڈی ریڈنگ ہسپتال میں بحیثیت جارج نرس ڈیوٹی پچھلے 22 سال سے سرانجام دے رہی تھی۔ کہ اس دوران فدویہ کے بھائی کو فالج کا ایک ہوا۔ اور ان کی دیکھ بھال کے لیے فدویہ کو اپنے بھائی کے گھر سیالکوٹ جانا پڑا۔ اور وہاں ان کی دیکھ بھال کی۔ اس دوران فدویہ بھی بیمار پڑ گئی اور کئی مرتبہ فدویہ نے اپنے ہسپتال کے متعلقہ حکام کو مزید چھٹی کے لیے عرضی بذریعہ ڈاک بھیجی جو کہ بقول ان کے کہ انھیں نہیں ملی اور چند دنوں میں ہی مجھے شوکانہ نولس جارجی کیا گیا۔ جو کہ مجھے اپنے گھر کے پتہ پر نہیں ملا اور نہ ہی مجھے کسی نے کسی قسم کی اطلاع دی، جب میں چار مہینے بعد واپس آئی تو مجھے بتایا گیا کہ آپ کو نوکری سے نکال دیا گیا ہے (بجوالہ آفس آرڈر نمبر 1008-12/LRH بتاریخ 10 جنوری 2003)۔

فدویہ نے (MMA) حکومت میں بہت منت سماجت کی لیکن نہ ہی وزیر صحت نے دھیان دیا اور نہ ہی افسر بالائے مجبور ہو کے میں گھر بیٹھ گئی۔ میرے چھوٹے چھوٹے بہن بھائی ہیں، جن کی دیکھ بھال کا ذمہ میرے سر پر ہے۔ اور ایک بھائی ابھی تک فالج کا مریض ہے۔ آپ صاحبان سے گزارش ہے کہ فدویہ کو دوبارہ نوکری پر بحال کرنے کا حکم صادر فرمادیں۔ فدویہ تمام عمر آپ کے لیے دعا گو رہے گی۔

ارض

Handwritten signature and name: *Resistant*

آپ کی تعبدار: مس نسیم سردار

سابقہ جارج نرس لیڈی ریڈنگ ہسپتال پشاور

المرقوم: 11/2/08

دستخط: Nasreen Sardar

Handwritten signature and name: *Minister*

Handwritten text: *pl examine and put up*

Handwritten signature and name: *Alex*

Handwritten signature and name: *H. Malik*

Handwritten signature and name: *f*

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Vertical text on the left margin: *Handwritten*

To

The Secretary to Govt of NWFP
Health Department Peshawar.

Subject
Dear Sir,

APPEAL FOR RE-INSTAT

I have the honour to state that I was working for the last 22 years as a Charge Nurse at LRH Peshawar, but the M.S LRH terminated me without any enquiry or code formalities, in this connection, I submit some facts, that are following:

- 9. I remained on duty and never absented during my 22 years service.
- 10. I received a telephonic message about the serious illness of my alone brother, which stated as admitted in the Hospital and called me in emergency.
- 11. Since I belong to a minority community has no one in Peshawar for message etc so I rushed for Sialkot. When I reached there my brother was expired and funeral arrangements were at the end. So I received shocked and remained senseless for days. As per doctors advices I were declared a chronic depression patient.
- 12. During this period all the correspondence issued to me was not received, because I almost living in rental houses in NWFP, Peshawar.
- 13. The Show Cause Notice bearing No 17847/LRH dated 16-8-2002 which served under the name of Chief Executive there is mentioned only for imposing of one penalty of compulsory Retirement (See Para 2 of the Show Cause Notice), whereas in the order bearing NO. 1008-12/LRH dated 10-01-2003 I was removed from services for the act of willful absence from duty.
- 14. Because as such penalties and acts/omission mentioned in the show cause notice to that of mentioned in the office order are contradictories. Therefore the same are not lawful order and illegal.
- 15. In spite of all these injustices made beyond the bar against me by the Department. I have an appealed to DGHS, NWFP Peshawar about my pitiable, but the appeal was rejected.
- 16. It is therefore, I request that the illegal and unlawful orders of Medical Supdt LRH Peshawar may be set aside allowing me to avail my service and also the benefit of my 23 years long unblemished service

YOURS OBEDEINTLY,
Nasreen Saradar
 (MISS NASREEN SARADAR)
 CHARGE NURSE
 C/O SAJJID GHANI
 HOUSE No. T-1124
 Sangum Street
 GUL BAHAR ROAD PESHAWAR

17847.0

Handwritten signature/initials

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

NO. COH.III/2-4/04-Vol:I

Dated Pesh: the 28-7-2004

Ant-C
(14)

To

The Director General,
Health Services, K. P. Peshawar.

SUBJECT:- APPEAL FOR RE-INSTATEMENT.

I am directed to refer to the subject noted above and to enclose herewith a copy of application in respect of Miss Nasreen Sardar, Ex Charge Nurse, Govt Lady ~~XXXX~~ Reading Hospital, Peshawar for views/comments please.

(MUHAMMAD TARIQ KHAN)
SENIOR PLANNING OFFICER, II

Endst No. and date a.a.

Copy forwarded to Miss Nasreen Sardar, Ex Charge Nurse, c/o Sardar's house No. 1-124, Jangra Street, Gul Baha

SENIOR PLANNING OFFICER, II.

JK
/

Amended
15

BETTER COPY

Government of NWFP
Health department
No.SOH III/2-4/004
DATED 18/09/2004

To

The Director General
Health Services NWFP Peshawar.

SUBJECT: APPEAL FOR REINSTATEMENT

Dear Sir,

I am directed to refer to your letter No.21 1110/2-2 dated 11.08.2004 on the subject noted above and to request that documentary proof as referred to in the Medical Superintendent Government Lady Reading Hospital, Peshawar letter No.5811/LRH. dated 05.03.2003 may please be sent to this department with specific recommendation, whether appeal of Miss. Nasreen Sardar Charge Nurse is maintainable or otherwise.

Yours Faithfully

(Usman Shah)
Section Officer-III

US
SH

A-x-D
15

GOVERNMENT OF NAWP
HEALTH DEPARTMENT

NO. SOLI 11/2-1/60/1
DATE: 18/07/2004

The Director General
Health Services NAWP

SUBJECT: APPEAL FOR REINSTATEMENT

Dear Sir

I am in receipt of your letter No. Z/110/4 dated 1.8.04 on the subject noted above and to request the documents, copies as referred to in the Medical Superintendent's letter dated 10.8.04 and your letter No. 5/10/4 dated 5/2/2004 may please be sent to this Department with specific recommendations whether appeal of Miss Nasreen Sultana Change No. 5/10/4 is admissible or not.

Yours faithfully

SECTION OFFICER

Handwritten initials or signature at the bottom right of the page.



PS to MINISTER
Tele: 051-9246027
Fax: 051-9246006

15767
30/9/2010
S-H

No. 1-8/2008-Min

A-F-10

Government of Pakistan
Ministry of Population Welfare
Islamabad, the 24th September, 2010

Subject: - Re-instatement in Service

Dear Sir,

I have been directed by Dr. Firdous Ashiq Avan, Federal Minister for Population Welfare to enclose herewith an application of Ms. Nasreen Sardar d/o Sardar Masih, Ex-Charge Nurse of Government Lady Reading Hospital, Peshawar on the above noted subject.

The Honourable Minister has desired that it will be appreciated if the request of Ms. Nasreen Sardar is considered sympathetically and she is re-instated in service as per rule/ policy.

With regards,

Yours sincerely,

(Riaz Hussain)

The Secretary,
Health Department,
Government of Khyber Pakhtoonkhwa,
Peshawar

o/c

etc

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2018

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

.....Appellant

VERSUS

1. Khyber Pakhtunkhwa Health Department through Sectary health Govt of KPK Peshawar.
2. Director General Health Government of Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent Lady Reading Hospital Peshawar

.....Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT - 1974

APPLICATION FOR CONDONATION OF DELAY

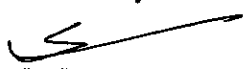
Respectfully Sheweth,

1. That the petitioners have filed the above titled appeal the contents of the said appeal may considered as an integral part of this application.
2. That the order is void abinitio and no limitation runs against a void order.
3. That the delay of the filing of the appeal is caused due to the petitioner was bonafidely busy before the respondent department.
4. That in a number of judgment it is held by the Honorable Apex Court that the matter should be decided on merits not on technicalities reliance is placed on PLC (CS) 2003/796.

In view of the above, it is most humbly prayed that the delay for filling of the appeal may kindly be condoned in the interest of justice and for a decision on merits.

.....Petitioner

Counsel


MRS. SHIREEN IMRAN
Advocate Supreme Court of Pakistan
Cell: 0334-5101718

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. ____/2018

Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2.

.....Appellant

VERSUS

1. Khyber Pakhtunkhwa Health Department through Sectary health Govt of KPK Peshawar.
2. Director General Health Government of Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent Lady Reading Hospital Peshawar

.....Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT - 1974

APPLICATION FOR CONDONATION OF DELAY

AFFIDAVIT

I, Mrs. Nasreen Sardar, Ex-Charge Nurse (BPS-16) Hayat Shaheed Teaching Hospital, Peshawar resident of C/O Mr. Zafar Sardar Christian Town, Sialkot No.2, do hereby solemnly affirm and declare that the contents of the captioned application are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

DEPONENT Nasreen Sardar

VAKALATNAMA

KPK Service Tribunal

IN THE COURT OF ISLAMABAD HIGH COURT ISLAMABAD Peshawar

Nasreen Sardar v. KPK Health Department etc

In matter of... Appeal vs of KPK STA
(Suit Titled)

On behalf of... appellant

I/We do hereby appoint, SHIREEN IMRAN ADVOCATE SUPREME COURT PAKISTAN, CC NO.

to be counsel in the above matter on my/our behalf to appear, plead, act, answer in the above court or any other court to which the business is transferred, and to sign and file petition, statement, accounts, exhibits, compromises, or other documents in connection with the said matter or in any matter arising here from, and also apply for and receive all documents or copies of documents and disposition etc, and to apply and issue summons or other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout, and to apply for and receive payment of any or all sums or submit for the above to arbitration and to employ any other legal practitioner authorizing him to exercise the powers and authorities hereby conferred on the advocate whenever he may think fit to do so.

And to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not as may be proper and expedient.

And I/We hereby agree/s to ratify and confirm all lawful acts done on my/our behalf under or by virtue of these presents or for the usual practice in such matter. Provided always that if the case may be dismissed in default, if it be proceeded ex parte the said counsel shall not be held responsible for the same and hereby agree to pay his full professional fees before the conclusion of the case. In case his full fee is not paid the counsel can withdraw his Vakalatnama from the above matter.

Accepted: Advocate [Signature]

Executant: Nasreen Gardar

(Signature/Thumb impression)

[Signature]

SHAH MUHAMMAD USMAN
ADVOCATE H C
0300-5866937

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 67 OF 2018

Nasreen Sardar.....Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa through Secretary, Health Department.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. Medical Superintendent Lady Reading Hospital, Peshawar.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Preliminary Objections:-

1. That the appellant has no cause of action/locus standi.
2. That the appellant has 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 the present form and also in the present circumstances of the issue.
5. That the appellant has filed the appeal in a non proper form and may be dismissed.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate the matter.

ON FACTS:

1. Correct.
2. The appellant was regular employee of the Health Department, however, she was absent from duty w.e.f. 22/07/2002 without grant of leave.
3. Incorrect, the appellant has been removed from service due to her will full absence after observing all codal formalities.
4. Incorrect, as replied above.
5. Incorrect, as in para-3 above.
6. The appellant was absent from duty since 22/07/2002, her absence notice were floated in two daily news papers for joining her duty but she failed to do so, after that Show Cause Notice was served upon her, therefore all codal formalities were completed after that she has been removed from service because her appeal was also time bared, hence regretted.

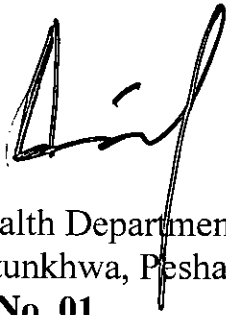
Grounds:

- a. Incorrect, as in para-3 above.
- b. Incorrect, as replied in Facts.
- c. Incorrect, the appellant was absent from duty and her absence was floated in the newspapers, but she failed to resume her duty, so there is no need for enquiry, because she was not present on duty and was absent without any information or permission of her superiors.

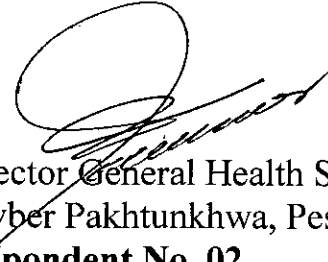
- d. Incorrect, as in para-c above.
- e. Incorrect, as in para-6 above.
- f. Incorrect, as in para-c above.
- g. Incorrect, as in para-c above.
- h. Incorrect, as in para-c above.
- i. Incorrect, as in para-6 above.
- j. The appellant had neither appeared to the competent authority in the light of Show Cause Notice, nor submitted written reply regarding her willful absence.
- k. As in para-6 above.
- l. Incorrect as in para-6 above.
- m. Incorrect as in para-j above.

Prayer:

Keeping in view of the above, it is prayed that the instant appeal may kindly be dismissed with cost.



Secretary, Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 01



Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 02
DD(N)

①

BEFORE THE HONORABLE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 67/2018

Miss Nasreen Sardar
VERSUS
KPK Health Department & others

Para Wise Comments on behalf of Respondent No. 3

Respectfully Sheweth: -

The respondent No. submits the followings comments which are as under:-

REPLY ON FACTS

1. Para No. 1 needs no comments.
2. Para No. 2 needs no comments.
3. Para No. 3 of the appeal is wrong and incorrect and the appellant has failed to submit any record in support of the Para.
4. Para No. 4 of the appeal is wrong and incorrect that no application has sent to the LRH. The appellant will fully & habitually absent from the LRH & to this effect the respondents initiated and appointed an inquiry officer who conducted an inquiry, on the bases of recommendations of inquiry officer the appellant was removed from the office. (Copy of the letter dated 14-03-2002 is Annexure—A and inquiry report is Annexure—B)

it is pertinent to mention that after the recommendations of the inquiry officers proper procedure of show cause notice till publication through news paper was adopted and therefore the appellant was properly & according to law removed from the service.

It is pertinent to mention that petitioner was removed from the service 10-01-2013 while the present appeal was filed in the year 2018. Which is hopelessly time barred.

It is further pertinent to mention that the departmental appeal of the appellant filed dated 05-03-2013. (Copy of the representation is Annexure—D while copy of the regretted order is D/1)

it is to be noted that present appeal after passing the regretted order dated 05-03-2003 is badly time barred.

5. Para No. 5 of the appeal is wrong and incorrect & all the codal formalities completed by the respondent but the appellant wilfully / intentionally not joined the proceeding however the contents of the Para No. 3 of the appeal is totally contradictory with the statement submitted by the appellant to LRH . Copy of which is attached Annexure—C.
6. Para NO. 6 of the appeal is wrong and incorrect and appellant is not come within the definition of aggrieved person. However law does not favour the indolence.

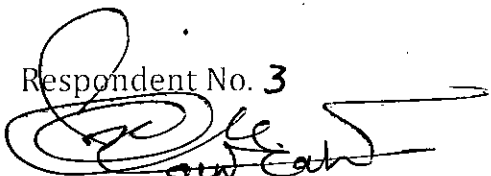
REPLY ON GROUNDS

- A. Para No. A of the grounds is wrong and incorrect however there is no provision exists in the law to give any benefit to the appellant.
- B. Para No. B is wrong and incorrect & the removal order passed in a fair & transparent manner after the completion of all the codal procedure.
- C. Para No. C of the grounds is wrong and incorrect and a regular inquiry has been conducted after the recommendations properly passed the removal order & the appellant cannot claim under the settled principle of law the ground of unheard.
- D. Para No. D is wrong and incorrect however the mentioned case law is not applicable on the instant appeal because the appellant approached / filed the departmental appeal and after the dismissal of departmental appeal the appellant till 2018 kept in mum.
- E. Para No. E of the grounds is wrong and incorrect detail reply has already been given in the Para No. C.
- F. Para No. F is wrong and incorrect.
- G. Para No. G is wrong and incorrect.
- H. Para No. H is wrong and incorrect.
- I. Para No. I is wrong and incorrect.
- J. Para No. J is wrong and incorrect and at the time of the representation proper opportunity was given to the appellant Para No. K is wrong and incorrect.
- K. Para No. L is wrong and incorrect.
- L. Para No. M is wrong and incorrect.

3

It is, therefore, most humbly prayed that appeal is hopelessly time barred and base on wrong facts therefore is liable to be dismissed.

through



Respondent No. 3

Standing Legal Counsel

Khalil Ullah Khalil

Advocate

Supreme Court.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In S.A # 67/2018

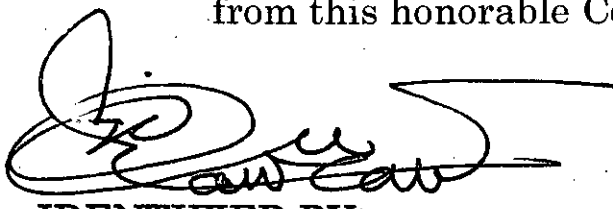
Mrs. Nasreen Sardar

Versus

Government of Khyber Pakhtunkhwa and Others

AFFIDAVIT

I, Khiyal Muhammad Mohmand, Legal Officer, Lady Reading Hospital Peshawar under the instruction of competent Authority MTI, Lady Reading Hospital, Peshawar, do hereby solemnly affirm and declare that the contents of the Instant Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

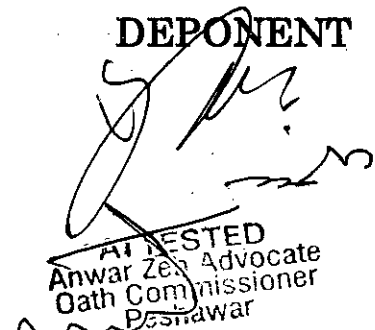


IDENTIFIED BY:

Khalil ullah khalil

Acs

DEPONENT



ATTESTED
Anwar Zeh Advocate
Oath Commissioner
Peshawar

2-5-19

11
④
GOV'T HOSPITAL PESHAWAR.

NO. _____/

Date 14/3 /2002

Ann - A

- To:
1. Miss.Nasreen Sardar
D/O Sardar Masih
C/O St.John High School Kohati Gate
Peshawar City.
 2. Miss.Nasreen Sardar
D/O Sardar Masih
C/O Mr.Joseph Daniel H.No.58-C
Ismail Textails Mills
Textail Colony Aman Ghar Nowshera

Subject:- ENQUIRY/ABSENT FROM DUTY.
Memo.

Please reference to office letter No.48.50/BB/2002 dated 7.5.2002.

Where in you were directed to appear before the office of undersigne on 11.3.2002 at 9-AM for recording your statement, but you failed to comply with the orders.

You are once again directed to attend the Office of the Enquiry Officer (Dr.Mussrat Khan) Blood Bank Officer Govt:LRH.Peshawar) for recording your statement, on 21.3.2002 at 9 AM positively.

Dr.Mussrat Khan
Blood Bank Officer
Govt:L.R.H.Peshawar
(Enquiry Officer)

No. 5166 /BB.

Copy forwarded to the Medical Superintendent Govt:LRH.Peshawar for information.

DR MUSSRAT KHAN
BLOOD BANK OFFICER
GOVT:L.R.H.PESHAWAR
(Enquiry Officer)



Attested

(Confidential) (5) Ann-B
19/4/2002

**OFFICE OF THE INCHARGE BLOOD BANK
GOVT. LADY READING HOSPITAL, PESHAWAR**

No. 70 /B.B/LRH
Dated 19/4/2002

To,

The Medical Superintendent
Govt. Lady Reading Hospital,
Peshawar

Subject:

ENQUIRY REPORT AGAINST CHARGE NURSE NASREEN SARDAR
ATTACHED TO LRH.

Sir,

Please refer to your office order No. 4344/LRH, dated 5.3.2002 wherein I (Dr. Mussarat Khan Khattak Blood Bank Officer LRH, Peshawar) was deputed as inquiry officer to enquire about the habitual absence of Nasreen Sardar Charge Nurse attached to Govt. LRH, Peshawar.

I have gone through the service record and service file of Charge Nurse Nasreen Sardar. I also recorded the statements of charge Nurse Nasreen Sardar, once on her first appearance before me and the other after serving statements of allegation upon her.

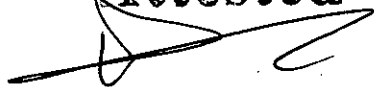
My findings from all the documents provided to me, are as under:-

1. She was appointed as Charge Nurse on 16.5.1981 vide DGHS NWFP endorsement No. 16108-16/E-II, dated 6.6.1981.
2. She was frequently and prematurely transferred from one station to another station most probably because of her problematic attitude.
3. She remained absent/ availed long leave/ leave without pay as can be seen from her service book Page No. 9, 15, 19, 23, 26 (leave account form) and also her service file.
4. She was once dismissed/ terminated from service while she was serving at Infectious Diseases Hospital Peshawar because she willfully absented herself from duties for about three years i.e. from 16.8.1994 to 27.2.1997 and then was reinstated. Page No 19 (details can be seen at DGHS NWFP office).
5. From the date of her arrival at Govt. LRH, Peshawar i.e. from 6.12.1999 till date, her absences are shown in Annexure A (attached).

7919
2014

Sabit/R
Gomment 21

Attested



- (6)
6. That every time, she remained absent willfully from duties, no body from administration office took serious notice of her acts and thus she was encouraged to continue with her habits.
 7. That she had been strictly warned twice during her stay at LRH that "not to avail any type of leave till 2000" and that "she should improve herself" but she could not improve her attitude.
 8. That every time she pleads herself guilty of willful absence and she is exonerated with honour or with very minor penalty.
 9. That she could not produce any thing solid in her defence.

DISCUSSION

It is very much evident from the perusal of the track record of Charge Nurse Nasreen Sardar that:-

She was transferred frequently and prematurely because of her problematic attitude i.e. being very irregular and irresponsible. She is so much careless that she remained absent from official duties for continuous three years i.e. 16.8.1994 to 27.8.1997. while serving at Children Hospital Peshawar without informing any competent authority and thus she was terminated from Government service as stated by her in her written statement and cross examination. From the perusal of her service record at LRH, Peshawar from December 1999, her service file is full of absentees reports from service/duties, explanations reports to DGHS NWFP and WARNINGS. All the absentee charges leveled against her are proved against her and she herself pleads guilty of the charges, every time.

So her retention in service by proposing a minor penalty is not the solution of the problem.

She should be awarded any of the major penalty as shown in the new ordinance 2000 and 2001.

Dismissal or removal from service should not be considered as she is not married and she has no male members in her family to support her financially.

Demotion or reduction to lower grade is not recommended as it would mean that she will not change her habits and would continue with her absentees.

The only solution and the justified major penalty would be to retire her prematurely / compulsorily, as ^{on one} ~~both~~ hand she would get all the benefits of pension and that would be sufficient for her financial support. Beside that she can join other service also any where in Pakistan.

Attested

7

CONCLUSION

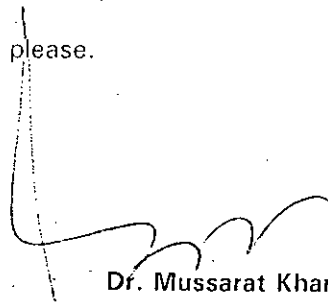
In my opinion, she should be served with a show cause notice showing there in the major penalty of compulsory/ premature retirement from service under "removal from service ordinance 2000-2001 amended" and she should be provided an opportunity of personal hearing.

If she has nothing solid to defend herself, then she should be compulsorily retired from Health Services by the Medical Superintendent/ Chief Executive LRH, Peshawar as he is the competent authority in such a case.

Submitted for further disposal please.

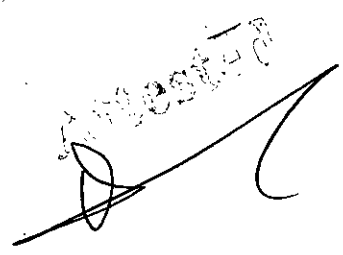
Enclosure.

- 1, Service file having
01- 76 pages.
- 2, Service book having
01- 28 Page



Dr. Mussarat Khan Khattak
Authorized Inquiry Officer
Blood Bank Officer
LRH, Peshawar

19/4/2022



8 - Ann-C
Removal
5
111

GOVERNMENT L.A.Y. HEALING HOSPITAL PESHAWAR.

OFFICE ORDER.

Whereas the undersigned is competent authority for taking disciplinary action against Mis. Nasreen Sardar D/O Sardar Hashi Charge Nurse on her willful absence from duty since 22/7/2002. Whereas on completion all legal formalities i.e. asking her on her home address to resume, notice through press and show cause notice.

Since inspite of all these she failed to resume, therefore she is removed from service with effect from 22/7/2002. (The date of her absence).

sd
MEDICAL SUPERINTENDENT
GOVT. LRH PESHAWAR.

NO. 1008-12 /LRH

Dated. 10 /1/2003.

Copy to :-

01. Director General Health Services, NWFP, Peshawar.
 02. Chief Nursing Superintendent, LRH, Peshawar.
 03. Chief Accounts Officer, LRH, Peshawar.
 04. P.A to Chief Executive, LRH, Peshawar.
 05. Charge Nurse concerned, LRH
- For information and n. action.

Adulwan
MEDICAL SUPERINTENDENT
GOVT. LRH PESHAWAR.

ZEWAR. SHAH/-

Attested
[Signature]

D. G. Meash
Duty No. 2917
Date: 28/01/03

The Director General Health
Services, NWFP, Peshawar

(9) *[Handwritten signature]*

Subject: APPEAL AGAINST THE REMOVAL ORDER FROM SERVICES
VIDE MEDICAL SUPDT GOVT, LRH PESHAWAR BEARING
NO. 1008-12/LRH DATED 10-01-03.

Respected Sir

With reference to the order of the authority as mentioned in the Subject
above, I submit as under:

1. Before the submitting facts, law and repercussion of the order, I submit the
circumstances and factual position.
 - a) I remained on duty and never absented which has already been submitted
before to MS LRH Peshawar
 - b) I received a telephonic message about the serious illness of my alone brother
which stated as admitted in the Hospital and called me in emergency.
 - c) Since I belong to a minority community has no one in Peshawar for message
etc so I rushed for Sialkot. When I reached there my brother was expired
and his death ceremony were at the end. So I received shocked and
remained senseless for days. As per doctors advices I was declared a chronic
depression patient. So in that period, all the postal dock and my message
received otherwise, were never shown me by my relatives only because of
such illness.
 - d) Occasionally with the assistance of my near relative I visited office for
personal hearing but because of my illness condition Medical supdt advised
me to come again but has never given me time and date for personal
hearing.
2. Show cause notice was received but I could not attend office in time as per explanation
given in 1 (c) but came subsequently when I received my health to some extent; but
MS advised me to come again as submitted in Para 1(d).
3. In the show cause notice bearing No 17847/LRH dated 16-8-2002 which served under
the name of Chief Executive there is mentioned only for imposing of one penalty of
compulsory Retirement as a result of acts/omission "An unwilling, unpunctual &
Careless worker" but in the order bearing No 1008-12/LRH dated 10-01-2003 I was
removed from service for the act of willful absence from duty. The said show cause
notice was not signed by Dr. Jamil Ahmad Khan Chief Executive. The removal from
service is not a part of the penalty mentioned in the said show cause notice. Similarly
willful absence was not mentioned the acts/omission in the said show cause notice.

[Handwritten signature]

10

As stated previously in the commission mentioned in the show cause notice to that of
in addition to the effect of the order are contradictory. Therefore the same are not lawful
order and illegal.

Therefore I request that the illegal and unlawful orders of Medical Super
LRH Peshawar may be set aside allowing me to avail my service and also the benefit of
my 23 years long unblemished service.

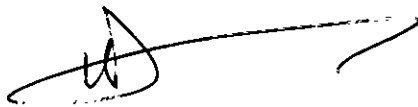
Yours

Yours Obediently

Nasreen

Miss Nasreen Saradar
Charge Nurse at LRH Peshawar

Dated 1/1/2003



9/A

BETTER COPY.

To, The Director General Health Services,
N.W.F.P, Peshawar.

Subject: APPLICATION AGAINST THE REMOVAL ORDER
FROM SERVICE VIDE MEDICAL SUPDT GOVT.LRH
PESHAWAR BEARING NO. 1008-12/LRH
dated.10.01.2003.

Respected Sir,

With reference to the order of the authority as mentioned in the subject above, submit as under;

1. Before the submitting facts, flaw and repercussion of the order, I submit the circumstances and factual position.
 - a) I remained on duty and never absented which has already been submitted before to MS L.R.H Peshawar.
 - b) I received a telephonic message about the serious illness of my alone brother which stated as admitted in the Hospital and called me in emergency.
 - c) Since I belong to a minority community has no one in Peshawar for message etc so I rushed for Sialkot .when I reached there my brother was expired and his death ceremony were at the end. So I received shocked and remained senseless for days .As per doctor advices I was declared a chronic depreition patient .so in that period , all the postal dak and any message received otherwise, were never shown me by my relatives only because of such illness.
 - d) Occasionally with the assistance of near relatives I visited office for personal hearing but because of my illness condition Medical supdt advised me to come again but has never given me time and date for personal hearing.

Attested

(19/A)

2. Show cause notice was received but I could not attend office in time as per explanation given in I(c) but came subsequently when I received my health to some extent, but M.S advised me to come again as submitted in Para I (d)
3. In the show cause notice bearing No.17847/LRH dated 16-08-2002 which served under the name Chief Executive there is mentioned only for imposing of one penalty of compulsory retirement as a result of acts/omission "An unwilling unpunctual & careless worker" but in order bearing No.1008-12/LRH dated 10-1-2003 I was removed from services for the act of willful absence from duty. The said show cause notice was not signed by Dr.jamil Ahmad Khan Chief Executive. The removal from service is not a part of the penalty mentioned in the said show cause notice. Similarly willful absence was not mentioned the acts /omission in the said show cause notice.

As such penalties and acts/omission mentioned in the show cause to that of mentioned in the office order are contradictories. Therefore, the same are not lawful order and illegal.

It is therefore requested that the illegal and unlawful order of Medical Superintendent LRH,Peshawar may be set aside allowing me to avail my services and also the benefit of my 23 year long unblemished service.

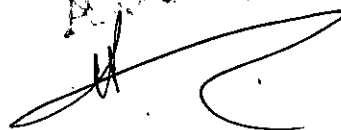
Thanks,

Your Obediently,

Miss Nasreen Sardar

Charge Nurse at LRH Peshawar.

Attested



GOVERNMENT LADY READING HOSPITAL PESHAWAR.

No. 5831 /LRH

Date: 5/10/2003

To:-

The Director General
Health Services NWFP,
Peshawar.

Subject:-

APPEAL AGAINST THE REMOVAL ORDER FROM SERVICES
VIA MEDICAL SUPDT:LRH, PESHAWAR BEARING NO.
1008-12/LRH DATED 10.01.2003.

Memo,

Reference your letter No.4047/E.II dated 28/2/03.

Charge nurse Miss. Nasreen Sarfar absented herself
from 22/07/2002. She was given show cause notice on her home
address having no response, a notice was inserted in press
which appeared in Daily Subah and Khyber Mail on 15/12/2002.
Receiving no reply she was removed from service on 10/01/2003.
Her present appeal is not maintainable being time barred.

Deel
Medical Superintendent.
Govt: Lady Reading Hospital,
Peshawar.

AMCS 24
ell



Post Office
in the case of
late also in
Kandahar

دو لونی رقم لکرنے کے بعد جب میں اپنے پاس
جو خیر خندانہ میں رہتی تھی تو صلہ ہوا کہ

میری بھابی جو مسابوٹ پنجاب میں رہتی ہے

سخت بیمار ہے اور از خود خطرناک حالت میں ہے۔ میں

برائے نئی کے عالم میں بھی دن رات کو مسابوٹ روانہ ہوئی

وہاں تک صلہ ہوا کہ اسے خطرناک حالت میں بہت ڈانٹ

کیا گیا ہے۔ اظہار کار دور سے دن بھاری کو تاب نہ لائے

خالق حقیقی سے جا ملی۔ اسے سگند کو جو رادھی

تھنہ دیکھیں اور سوگم تک نہ پائے۔ بھابی کو جوت کا سندر

میری دوسری بہن صدمے کی وجہ سے بے ہوش ہو گئی۔ یہاں

لے جانے پر صلہ ہوا کہ اسے عارضہ پیش ہوا ہے کیونکہ میرا

بھائی بھی بھی کجوت کے سلسلے میں مضمون لکرنے کیلئے

آنے والوں کیلئے گورنمنٹ ہاؤس اور میں جنوری میں گیا

جسٹس میں تیار داری کیلئے رہی۔ اگر وہ سے چند دن میں

تباہی لے کر غریب قریبی۔ یہ عشرہ کافی کرنے مقصد میں

یکے بوم جنوری کیلئے کیونکہ یہ صدمہ بہت بڑا صدمہ تھا۔

شہر میں نہ لکے میں کی ہوگی کی آدمی کے متعلق ہر فرد

سہی جاتی ہوں اور آئندہ کو اس میں کوئی کم خرچہ

ہوگا۔ اس کے بعد اگر وہ میری جنوری میں

LADY R...

سرکارِ ہندوستان کے دفتر

Nasreen Garden

سرکارِ ہندوستان
NCR 14

سرکارِ ہندوستان کے دفتر سے (NCR 14) کے لیے سرکاری نوٹ

کے بارے میں متعلق بنا یا۔ سرکاری نوٹ کی وفات 03-02-2002 کو ہوئی۔ اور لیشبا نے مجھے اس کے وفات

کے بارے میں بتایا۔ یہ 3/2002 کی رقم تھی۔ میں سرکاری سرکارِ ہندوستان سے سب لکھتے اور نہ ہوئی۔

کھانے کے وقت کے سرکار کے بعد سرکاری ہیں بیمار ہوئی۔ اس کے سن کے ٹیلیفون یا کئی راج کے ذریعے کسی سے کھی نہیں۔

سرکاری ہیں جس کا نام مشیم ہے۔ وہ مشن ہسپتال سب لکھتے میں داخل ہوئی۔ اور 7 یا 8 مارچ 2002 تک وہاں رہی۔

جو کہ میں دعائی طور پر سرکار کے ہیں۔ اس کے اپنے ہیں کے سرکاری راج کے بعد میں مجھے یہ خیال نہ آیا۔ کہ میں فون پر یا کسی راج کے الحلال ہوں۔ یا کھی لے لوں۔

میں 14/3/2002 کو یہاں ڈیوٹی آئی تھی۔

آپ کا ڈیوٹی آئی آپ کے لیے مجھے سرکاری ہیں لیشبا نے دیا تھا۔ لیکن جہاں میں نے تھا۔ کہ میں دعائی طور پر سرکار کے ہیں۔ مجھے خیال نہیں رہا۔ کہ میں نے بیان دیا کہ راج مانع۔

یہ سچ ہے۔ کہ میں کل سال سے جو سرکاری عادت ہے۔ کہ میں سرکار میں رہ جاؤں۔ اور میں معافی مانگ کر اپنی رپورٹ اپنے ورڈ میں کر لیتی ہوں۔ جو سرکاری کہا بہا ہے۔ کہ میں معافی مانگ نہیں میں

اور میں دعائی طور پر سرکار کے ہیں آپ سے معافی مانگتی ہوں کہ اس وقت مجھے معاف کر دینا اچھا ہے اس لیے اسے نہیں میں

Attested

بیماری اور ذیابیطس کا علاج فراہم کرنے کے لئے
اس کے علاوہ اس کے ساتھ ساتھ دیگر طبی
تعمیرات کی بھی ضرورت ہے۔ اور ان کی تکمیل کے لئے

xx

موجودہ سہولتوں کو دیکھ کر یہ بات سامنے آتی ہے۔

xx

اس لئے کہ اس کے لئے کوئی بھی ایسی سہولت

موجود نہیں ہے۔

صحیح ہے۔ کہ عوام 16/8/94 سے 27/8/96 تک صحتی

xx

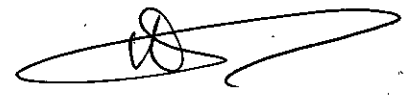
کی وجہ سے اس کے لئے کوئی بھی ایسی سہولت

موجود نہیں ہے۔

اور اس کے علاوہ اس کے لئے کوئی بھی ایسی

13/11/2002

Attested



(15)

I.S,
Lady Harding hospital,
Peshawar.

04/7

(Through proper channel.)

1/3/7 Subject: "Excuse to Explanation Letter"

Respected Sir,

It is stated that, in response to your letter No. 14030 Date 27/6/02, I want to explain my problem as my younger sister has heart disease = 140. I am the only elder to look after her, I took her to Lahore PIC hospital - There she stayed for one week I am also with here she needs me because I am only elder at home - No parents and elder brother and also due to being Nurse. There she was investigated and got treatment.

I am very poor - alone lady - No parents - All responsibility of home is sisters and brothers all depend on me.

Please do consider my application. I shall be very honest, regular to my duty. Next time I shall not repeat the same mistake again. With deep respect I am again apologize for my mistake.

Thanks

Attested

Yours obediently,
Staff nurse
Nasreen Saeed

Children A Ward
R.H. Peshawar

No. 460/CVS

Forwarded to the Medical superd with the

remarks that she remained absent wof 13 to 24.6.2002 and remained present for three days i.e 25-27.6.2002 and again absent on 28.6.2002 - 6.7.2002

should produce
discharge slip
support of explanation

Date: 1-7-02
04/7

211

is attached (16)

The C.N.S has stated that Miss Narsein Sardar C/nurse who was absent from her duty w.e from 20-1-2002 to 30-1-2002 and resumed her duty on 31-1-2002. her annual report and explanation of her absent period is forwarded for further n/a action

It is added that she is habitually absentee last warning has been given to her but after that she repeated the same twice. so some strict disciplinary action may please be taken against her.

If agreed may sanction the absent period leave with out pay or otherwise?

Submitted for order pls

Supdt
H
7/2

3
7/2/02

M/S

Strict disciplinary action may be initiated against her under ord. 2000/2001

08/2

C/E

yes
9/1

[Signature]

(17)

(Signature)

OFFICE OF THE CHIEF NURSING SUPERINTENDENT
GOVT:LADY READING HOSPITAL PESHAWAR.

NO. _____ /CNS Date 28/12/2001

To

Ms.Nasreen Sardar
Charge Nurse Nursary Ward LRH.

Subject:- LAST WARNING.
Memo.

Reference your reply of explanation dated 11.12.2001.
As you are a habitual absence. It is your permanent habit that you
produce Medical Certificat after remaining absent. Therefore, this is the
LAST WARNING to you. If you repeated this practice in future a strict
action will be taken against you under the Efficiency and Dicipline Rules
2000.

CHIEF NURSING SUPERINTENDENT
GOVT:LADY READING HOSPITAL
PESHAWAR.

NO. 5 /CNS

Copy forwarded to the Medical Superintendent
Govt:LRH.Peshawar for information .

(Handwritten notes)
2/11
2/11
C.M.A. - 3/11
M.A. - 04/11

(Signature)
CHIEF NURSING SUPERINTENDENT
GOVT:LADY READING HOSPITAL
PESHAWAR.

779
05/01/202

Attested
(Signature)

file it 3-

(18) OF IS. NAAREEN
(8) / 2002
Rajendra
GOVERNMENT LADY READING HOSPITAL PESHAWAR.

No. 7857 /LRH,

Dated 26 /04/2002.

To,

Miss. Naareen Sardar,
Charge Nurse Govt: L.R.H.
Peshawar.

Subject :- CHARGE SHEET.

Memo :-

In pursuance of report of inquiry officer in your case. I am to enclose a statement of illegation/charge sheet which should be replied within 15 days after the issuance of this letter, failing which it will be presumed that you have nothing in your defence and thus exparte action will be taken.

Mr
MEDICAL SUPERINTENDENT
GOVT: L.R.H. PESHAWAR.

No. _____ /LRH,

Copy forwarded to Chief Nursing Superintendent
Govt: L.R.H. Peshawar for information.

M-LEBAR/.

24.4.02.

sd
MEDICAL SUPERINTENDENT
GOVT: L.R.H. PESHAWAR.

Attested
[Signature]

PESHAWAR
GOVT. LADY READING HOSPITAL PESHAWAR.

(72) (19)

NO. _____ /BB/LRH
Date 07 /4/2002.

PMS (18/11/02)

DMS (Start)..... MISS Nasreen Sardar Charge Nurse
Govt: Lady Reading Hospital Peshawar.

Chief Account Officer.....
Through: Chief Nursing Superintendent LRH. Peshawar.

Subject:- HABITUAL ABSENTEE FOR DUTIES.
Memo.

I, Dr. Musarat Khan Blood Bank Officer Govt: L.R.H. Peshawar in the capacity of Enquiry Officer, hereby serve upon you the statement of illegation, " that you are habitually absenting yourself from duties during your stay at LRH. Peshawar according to the detail attached as Annexure (A).

You are directed to submit your written defence/statement within 07 days of the receipt of this statement of illegation and also state whether you ^{have} wish to be heard in person or otherwise.

- Attached are:-
1. Statement of absences
 2. statement illegation



DR. MUSARAT KHAN
BLOOD BANK OFFICER
GOVT: L.R.H. PESHAWAR.

NO. 69 /BB/LRH

Copy to the:-

1. Medical Superintendent Govt: LRH. Peshawar
2. Chief Nursing Supdt. Govt: LRH. Peshawar.

DR. MUSARAT KHAN
BLOOD BANK OFFICER
GOVT: L.R.H. PESHAWAR

Attested

(ANEX-A)

STATEMENT OF ABSENTEES AND HOW REGULARIZED OF MS. NASREEN SARDAR CHARGE NURSE

<u>DATE OF ABSENT</u>		<u>TOTAL DAYS</u>	<u>Leave without Pay.</u>	<u>ABSENCE REGULARIZED BY CONVERTING INTO.</u>		
<u>FROM</u>	<u>TO</u>			<u>Leave on Full pay</u>	<u>Leave on half pay</u>	<u>Medical Leave.</u>
26.12.1999	7.2.2000	42	05	-	-	37
26.4.2000	4.5.2000	09	09	-	-	
05.6.2000		01				
10, 13, 16.7.2000	-	03		-	-	03
21.7.2000	27.7.2000	07		-	-	07
14, 16, 17, 8.2000	-	03	-	-	-	-
11.10.2000	15.10.2000	05	-	-	-	-
22.11.2000	02-12-2000	12	12	-	-	-
25.01.2001	27.01.2001	03	-	-	-	-
27.12.2001	-	01	-	-	-	-
20.01.2002	31.01.2002	12	-	-	-	-
11.2.2002	21.3.2002	41	-	-	-	-

she had been WARNED Twice for the said each on 15.01.2001 and 28.12.2001.

Handwritten signature

Handwritten signature

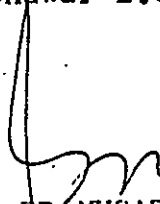
(21)

~~20~~

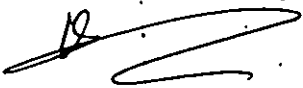
~~19~~

STATEMENTS OF ILLEGATION.

Habitually absent from duties during your duty
at Govt:Lady Reading Hospital Peshawar i.e. from December 1999.



DR. MUSARAT KHAN
BLOOD BANK OFFICER
GOVT:LADY READING HOSPITAL
PESHAWAR.



GOVT. LRH. PESHAWAR

(22)

(22)

OFFICE OF THE CHIEF NURSING SUPERINTENDENT
GOVT: LADY READING HOSPITAL PESHAWAR.

Chief Executive.....

Medical Supdt..... *[Signature]*

NO. 214 /CNS Date 09 /2002.

DMS (Admin).....

DMS (Talent).....

Chief Account Officer: The Medical Superintendent
Govt: Lady Reading Hospital
Peshawar.

Subject:- ABSENT REPORT OF MS. NASREEN SARDAR CHARGE NURSE.

Sir.

I have the honour to inform you that Ms. Nasreen Sardar Charge Nurse is again absent from her duty since 05-3-2002. The report is submitted for information.

G. Shahen
CHIEF NURSING SUPERINTENDENT
GOVT: LADY READING HOSPITAL
PESHAWAR.

B-111
9/3
ADMINISTRATOR
P. D. No. *4361*
D. D. *9/3/02*
GOVT. L. R. H. PESHAWAR

12/3/02
[Signature]

Attested
[Signature]

[Handwritten notes in Urdu]
12/3
[Signature]

~~24~~

24

آپ کی سرین سردار دختر سردار ساج چارنج بزنس کو بھرتی مسٹر جوزف ڈیوٹیل ہاؤس نمبر 58 سی ایس ایچ ٹیکسٹائل
ملز ٹیکسٹائل کالونی امان گڑھ نوشہرہ مطلع کیا جاتا ہے کہ آپ مورخہ 22 جولائی 2002ء سے اپنی ڈیوٹی سے غیر
حاضر ہیں۔ آپ کو آپ کے گھر کے پتے پر بذریعہ چشمی نمبر ایل آر ایچ 17847 مورخہ 15 اگست 2002ء کو مطلع کیا
گیا جس میں آپ کو ڈیوٹی پر آنے کی ہدایت کی گئی مگر آپ انکے باوجود نہیں آئیں۔ اب نوٹس ہذا کے ذریعے آپ کو اطلاع
دی جاتی ہے کہ اگر اسی اشاعت کے 15 دن کے اندر آپ اپنی ڈیوٹی پر حاضری دیں اور اپنی غیر حاضری کی وضاحت
کریں۔ بصورت دیگر آپ کو ملازمت سے برخاستہ کر دیا جائے گا۔

سرین سردار دختر سردار ساج چارنج بزنس کو بھرتی مسٹر جوزف ڈیوٹیل ہاؤس نمبر 58 سی ایس ایچ ٹیکسٹائل

INF(P)2327

روزنامہ جسیر میں شائع شدہ اگست 15 - 2002

30/12

30/12

Attested



(25)

GOVERNMENT LADY READING HOSPITAL PESHAWAR.

[Handwritten mark]

No. 12458 /LRH,

Dated 31 /05/2002.

To, The Chief Accounts Officer,
Govt: L.R.H. Peshawar.

Subject :- STOPPAGE OF SALARY.

Memo :- Kindly stop the salary of Miss. Nasreen Sardar
Charge Nurse till further order-

[Signature]
MEDICAL SUPERINTENDENT
GOVT: L.R.H. PESHAWAR.

N. 12459 /LRH,
Copy of the above is forwarded to Chief Nursing
Superintendent Govt: L.R.H. Peshawar for information.

[Signature]
MEDICAL SUPERINTENDENT
GOVT: L.R.H. PESHAWAR.

[Handwritten marks]
[Signature]
21/6/02

Attested

Attested

[Signature]

(112) (26)

OF THE MEDICAL SUPERINTENDENT
GOVERNMENT LADY READING HOSPITAL PESHAWAR

No. 17847/LRH.

Dated. Friday, August 16, 2002

To

Mrs. Nasreen Sardar
Charge Nurse
Govt: L.R.H. Peshawar.

SUB: SHOW CAUSE NOTICE.

I Dr. Jamil Ahmad Khan Chief Executive Govt. LRH. Peshawar as competent authority, under the North-West Frontier Province Removal from service (Special Powers) Ordinance, 2000, do hereby serve you, Mrs. Nasreen Sardar as follows:

- I)- That consequent upon the receipt of reply of charge sheet from you for which you were given opportunity. The office asked you to see the undersigned for personal hearing but did not care for it and failed to come for personal hearing and thus lost this opportunity
- II)- On going through your reply the material on record and other connected papers including your defence before the said Committee.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance

- a)- An unwilling, unpunctual and careless worker.
- 2)- As a result thereof, I as competent authority, have tentatively decided to impose upon you the penalty of Compulsory retirement from service under section 3 of the said Ordinance
- 3)- You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also initiate whether you desire to be heard in person.
- 4)- If no reply to this notice is reached within fifteen days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case a ex-parte action shall be taken against you.

J
Chief Executive
Government Lady Reading Hospital
Peshawar.
Dated 08/2002

No. 17848 L.R.H
Copy to:

Chief Nursing Superintendent, Lady Reading Hospital, Peshawar for information.

J
Chief Executive
Government Lady Reading Hospital
Peshawar.

Attested
[Signature]

(27)

DIRECTORATE, GENERAL HEALTH SERVICES,
N.W.F. PROVINCE PESHAWAR.

OFFICE ORDER

Sanction is hereby accorded to the grant of 365 days leave on half pay w.e. from 1.12.1999 in favour of Miss. Sumbal Firdous Charge Nurse as admissible to her under the Revised leave Rule, 1981.

Subsequently, the transfer order of Miss. Nagree Sardar Charge Nurse from Civil Hospital, Pabbi District Nowshera to Agency HQ: Hospital, Parachinar issued vide this Directorate General Health, NWFP office order bearing No.27225-29/E.II, dated 25.8.1999 is hereby cancelled and she is hereby posted in Lady Reading Hospital, Peshawar as substitute of above mentioned Charge Nurse.

Sd/- X X
DIRECTOR, GENERAL HEALTH
SERVICES, NWFP, PESHAWAR.

No **38324-27** /E.II, Dated Peshawar the **27/11/1999**.

Copy for information and necessary action to be:-

1. Administrator, Lady Reading Hospital, Peshawar with reference to his letter No.21605/ERH, dated 3.11.1999.
2. District Health Officer, Peshawar.
3. Medical Superintendent, Agency HQ: Hospital, Parachinar.
4. Medical Officer I/C Civil Hospital, Pabbi District Nowshera.

Deputy Director, (Admn.),
For Director General Health
Services, NWFP, Peshawar.

OFFICE OF THE CHIEF EXECUTIVE
GOVT. L.R.H. PESHAWAR.

No. 23/22 /LRH; Dt. 22/12/1999.

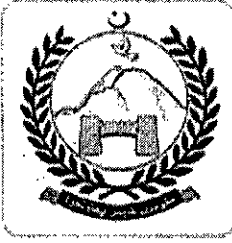
Copy to the:-

1. Senior Accounts Officer, LRH, Peshawar.
2. Chief Nursing Supdt. -do-
3. Miss. Sumbal Firdous, C/Nurse, -do-
4. P/I Nagree Sardar, -do- -do-

for information and reaction

Attested

CHIEF EXECUTIVE/ADMINISTRATOR
GOVT. L.R.H. PESHAWAR.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 627 /ST

Dated: 7-3- /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

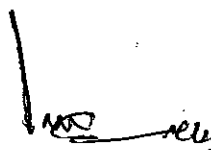
To

The Medical Superintendent, Lady Reading Hospital,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 67/2018, MST. NASREEN SARDAR.

I am directed to forward herewith a certified copy of Judgement dated 19.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR