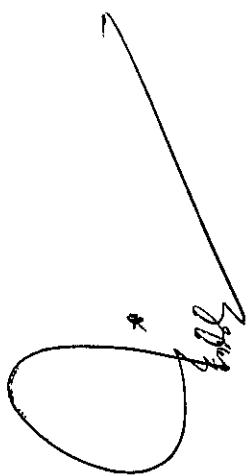


03.01.2023

Appellant alongwith her counsel Mr. Akhtar Ilyas, Advocate present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Irfan Anjum, Superintendent for official respondents No. 1 to 3 present. Private respondent No. 4 alongwith his counsel Mr. Noor Muhammad Khattak, Advocate present.

02. In pursuance of the interim relief granted to the appellant on 19.12.2022, learned counsel for the appellant submitted an application for implementation of the order dated 19.12.2022. Plea taken in the said application is that;



a) *"The appellant has never relinquished her charge nor the competent authority has relieved her. Even her salary is also active at Charsadda, meaning thereby, the impugned order has not been acted upon"*

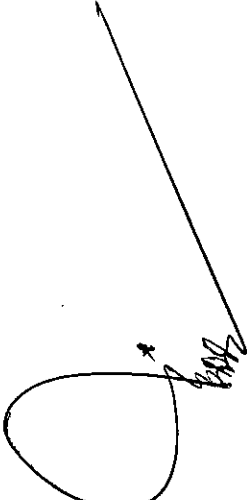
b) *"Respondent No. 4 has illegally occupied the post of the appellant despite the fact that the impugned order has been suspended by this Hon'ble Tribunal"*

03. On the other hand, learned counsel for private respondent No. 4 submitted CM application taking the grounds that;

a) *"If the impugned order dated 09.12.2022 is suspended, the private respondent No. 4 would suffer irreparable loss because the private respondent had taken the charge at PHE Sub Division Charsadda".*

b) *"private respondent No. 4 has already relinquished his previous charge on 12.12.2022 and assumed his charge on 14.12.2022 in response to the Notification dated 09.12.2022".* The same be also placed on file.

04. Learned Additional Advocate General assisted the court and apprised that the respondent department has sought advice from the law department regarding order sheet dated 19.12.2022 to the extent that "operation of impugned transfer Notification dated 19.12.2022 is suspended, if not already acted upon". He further stated at the Bar that the appellant had submitted departmental appeal against the impugned transfer/posting Notification dated 09.12.2022 to irrelevant authority which was regretted and this fact had not been brought in the notice^{of} this court on 19.12.2022.

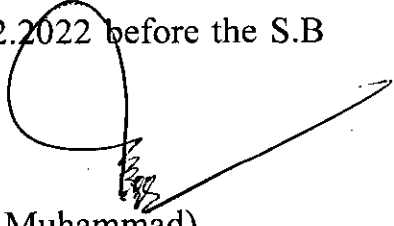


05. This Bench is of the considered opinion that the impugned posting transfer Notification has been issued only to the extent of the appellant and private respondent No. 4. It was therefore, incumbent upon both the civil servants to have properly handed over/taken over the charge of the post as they were functioning as DDO under GFR and Treasury Rules, against their respective position involving expenditure of public funds and closure of cash book. The procedure was therefore, blatantly ignored in the instant case. Moreover, it is further observed that on 19.12.2022 when restraining order was being issued by this Bench, impugned Notification had not been acted upon as was stated at the Bar by learned counsel for the appellant and the appellant herself.

06. All these intricacies emanating in the current scenario, are subject to judicial scrutiny when merits, facts and circumstances of the case would be discussed before the D.B.

07. In view of the above, notice for implementation of the order dated 19.12.2022 be issued to the respondents for submission of reply/comments.

Adjourned. To come up for reply/comments on main appeal as well as on application for implementation of order sheet dated 19.12.2022 before the S.B on 16.01.2023.



(Mian Muhammad)
Member (E)