

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN** ...CHAIRMAN  
**MUHAMMAD AKBAR KHAN** ...MEMBER (Executive)

*Service Appeal No.5812/2021*

Date of Presentation of Appeal.....07.06.2021  
Date of Hearing.....30.01.2023  
Date of Decision.....31.01.2023

**Mst. Shamim Akhtar** D/O Abdul Qayyum W/O Idrees Ali Shah R/O Barikot, District Swat.

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Health, Civil Secretariat, Peshawar.
2. **Director General**, Health Services Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

.....(*Respondents*)

Present:

Mr. Tariq Kamal,  
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,  
Additional Advocate General.....For respondents

----  
**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 SEEKING DECLARATION TO THE EFFECT THAT NOTIFICATION DATED 11.02.2021 OF RESPONDENT NO.2 VIDE WHICH THE PETITIONER HAS BEEN TRANSFERRED IS ILLEGAL, VOID AB-INITIO AND BASED ON MALAFIDE.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Facts of the case as narrated in the memo and grounds of appeal are that the appellant is serving as Charge Nurse

(BPS-16) Category-D hospital Barikot Swat; that the appellant was transferred to DHQ Hospital Battagram vide Notification/Order dated 11.2.2021; that the order dated 11.02.2021 had been communicated to the appellant via District Health Officer, District Swat to the petitioner through Medical Officer Civil Hospital Barikot, Swat on 09.03.2021; that the appellant preferred departmental appeal on 22.03.2021 which was not responded within the statutory period of ninety days, and she then filed writ petition No. 2043-P/2021 in the Hon'ble Peshawar High Court, Peshawar, which was dismissed being infructuous but to save the limited period the Hon'ble Peshawar High Court converted the writ petition into appeal and sent to this Tribunal for its decision in accordance with law on 28.05.2021, which was received to this Tribunal on 07.06.2021.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

4. Learned counsel for the appellant submitted that the impugned transfer order was against the Khyber Pakhtunkhwa Posting and Transfer Policy, whereby a female employee should be facilitated to serve near to her house of residence.



5. On the other hand learned Assistant Advocate General refuted the arguments and prayed for the dismissal of the appeal.

6. The appellant was <sup>for the 1<sup>st</sup></sup> first time transferred vide the impugned Notification/Order dated 11.2.2021 to DHQ Hospital Battagram after spending more than twenty years at Swat. Even after the impugned order till date she remained for two years more at Swat under the garb of temporary injunction order. The normal tenure under the policy is two years which the appellant has already spent at Swat. We thus see no merits in this appeal. Therefore, while disposing of this appeal we will ask the respondents to consider the appellant for posting at nearby station because of her being a female employee. Costs shall follow the event. Consign.

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 31<sup>st</sup> day of January, 2023.*



**KALIM ARSHAD KHAN**

Chairman



**MUHAMMAD AKBAR KHAN**

Member (Executive)

**ORDER**

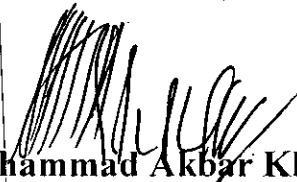
31<sup>st</sup> Jan, 2023 1. Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Asst. AG for the respondents present.

2. Vide our detailed judgment of today placed on file, we thus see no merits in this appeal. Therefore, while disposing of this appeal we will ask the respondents to consider the appellant for posting at nearby station because of her being a female employee. Costs shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of this Tribunal on this 31<sup>st</sup> day of January, 2023.*



**(Kalim Arshad Khan)**  
Chairman



**(Muhammad Akbar Khan)**  
Member (E)

30<sup>th</sup> Jan, 2023

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Arguments heard. To come up for order on 31.01.2023.before

D.B.



(Muhammad Akbar Khan)  
Member (E)



(Kalim Arshad Khan)  
Chairman


13.12.2022


Junior to counsel for the appellant present.

Muhammad Riaz Khan Painsdakhel learned Assistant Advocate General alongwith Muhammad Tufail S.O for the respondents present.

Former requested for adjournment on the ground that senior counsel is busy in Hon'ble Peshawar High Court, Peshawar. Last chance is given, failing which appeal would be decided on the available record without the arguments. To come for arguments on 09.01.2023 before D.B.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Mempber (J)

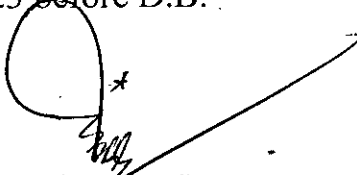
09.01.2023

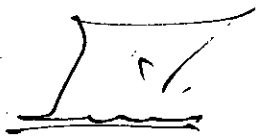
Mr. Shahab Khattak, Advocate for the appellant present.

Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has been newly engaged in the instant appeal and has not gone through the brief. Adjourned. To come up for arguments on 30.01.2023 before D.B.

SCANNED  
KPST  
Peshawar

  
(Mian Muhammad)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

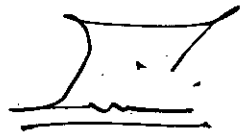
12-5-22

Proper DB not available the case is  
adjourned on 27-7-22

*Shah*  
Redden

27<sup>th</sup> July 2022 Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief of the instant appeal. Adjourned. To come up for arguments on 23.09.2022 before the D.B.



(Salah-Ud-Din)  
Member (J)

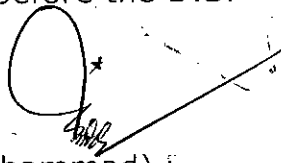


(Kalim Arshad Khan)  
Chairman

23.09.2022

Learned counsel for the appellant present. Syed Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Both the parties sought time for preparation for arguments. Adjourned. To come up for arguments on 13.12.2022 before the D.B.



(Mian Muhammad)  
Member (Executive)




(Salah-Ud-Din)  
Member (Judicial)

5812/2021

17.01.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

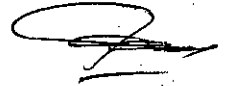
Former states that learned senior counsel was in attendance but later-on left the Tribunal due to indisposition. Last chance is given. To come up for arguments on 24.02.2022 before the D.B.

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

  
Chairman

24-2-22

*Due to retirement of worthy chairman,  
the case is adjourned to 30-3-22 for  
the same.*





30.03.2022

Husband of appellant on behalf of appellant present

Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Husband of appellant requested for adjournment on the ground that learned counsel for the appellant is indisposed. Adjourned. To come up for arguments before the D.B on 12.05.2022.

  
(Rozina Rehman)  
Member (J)

  
(Salah-Ud-Din)  
Member (J)



13.08.2021

Appellant present through counsel.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Usman J.C for respondents present.

Reply of the respondents is yet to be submitted and learned A.A.G seeks time for submission before next date in office. To come up for arguments on 18.11.2021 before D.B.



(Rozina Rehman)  
Member (J)

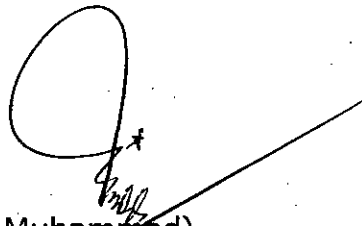


Chairman

18.11.2021

Husband of the appellant present. Mr. Asif Masood, Deputy District Attorney alongwith Mr. Jafar Ali, Assistant for respondents present.

Representative of the respondents submitted written reply/parawise comments which is placed on file. A copy of the same is handed over to the husband of the appellant. Adjourned. To come up for arguments on 14.12.2021 before the D.B.



(Mian Muhammad)  
Member(E)



(Salah-Ud-Din)  
Member(J)

14-12-21

*DB is on Tour case to come up?  
For the same on Dated. 17-1-22*

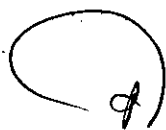
*Leader*

14.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional A.G for respondents present.

The respondents were required to submit the requisite comments within 10 days but they so far have not submitted the written reply/comments. An application was filed for suspension of the impugned order dated 11.02.2021 and notice of the application was also given to the respondents with direction to maintain status-quo till next subject to notice to the respondents. Today, learned counsel for appellant alongwith an application has furnished copy of office order dated 05.05.2021, whereby the appellant has been directed to immediately report for duty in D.H.Q Hospital Battagram, failing which, she will be proceeded under the rules. It has been stated at the bar that the appellant has not relinquished the charge of the post at Category-D Hospital Barikot, Swat. Copy of the order dated 05.05.2021 was endorsed to D.H.O Swat with the request to relieve the Charge Nurse concerned from duty at Category-D Hospital Barikot Swat and stop her salary with direction to her to report for duty at DH.Q Hospital Battagram. The said endorsement in the order of respondent No.2 supports the contention of counsel for the appellant that the appellant has so far not relinquished the charge of the post at Barikot Swat. With regard to peculiar position of the case, operation of impugned order is suspended till final disposal of this appeal if not earlier withdrawn. To come up on 13.08.2021 before D.B



(Rozina Rehman)  
Member (J)



Chairman

An application has been submitted by the appellant today for suspension of impugned order dated 11.02.2021. Let notice of the application be given to the respondents for the date already fixed. Status quo be maintained till next date, subject to notice to the respondents.

  
Chairman

**Service Appeal No. 5812/2021**

16.06.2021 Counsel for the appellant present. Preliminary arguments heard.

The appellant had approached the Hon'ble Peshawar High Court Peshawar through Writ Petition No. 2043-P/2021 and when the said Writ Petition came up for hearing before the said court, it was diverted to this Tribunal vide order dated 28.05.2021, after its conversion to Service Appeal. In compliance with the said order, Deputy Registrar (Judicial) of the Peshawar High Court Peshawar sent the file of the Writ Petition here vide his office letter No. 37063/1557/2021/WP-MN, dated 05.06.2021; and accordingly, the same was registered as Service Appeal No. 5812/2021. The appellant is directed to file the proper memorandum of appeal before the next date. However, the Writ Petition already treated as service appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 14.07.2021 before the D.B.

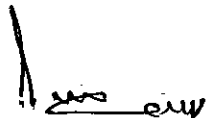

Appellant Deposited  
Security & Process Fee

16/6/21

~~Form-A~~  
**FORM OF ORDER SHEET**

Court of \_\_\_\_\_

Case No. 5812 /2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	07/06/2021	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court and the Hon'ble High Court vide its order dated 28.05.2021 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	09/06/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on 16/06/21</p> <p style="text-align: right;"> CHAIRMAN</p>



(L)

**The  
PESHAWAR HIGH COURT  
Peshawar**

Ph: No. 091-9210149-58



No. 37063/1557/2021/WP-MN

Dated. 05-June-2021

**From**

**Deputy Registrar (J),  
Peshawar High Court,  
Peshawar.**

**To**

The Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**Subject: Writ Petitions W.P 2043/2021 Title: Mst. Shamim Akhtar VS Govt of KP**

**Sir,**

I am directed to send herewith the titled case in original alongwith all annexures & copy of order passed by this Honble Court dated 28.05.2021, for compliance.

*Sf 7-6-21*  
**Deputy Registrar (J)**

**Encl: As above.**

(8)

**BEFORE PESHAWAR HIGH COURT, PESHAWAR**

**CHECK LIST**

Case Title: Mrs Shamim Akhtar vs Secretary Health & others

<u>S.#</u>	<u>Contents</u>	<u>Yes</u>	<u>No</u>
01	This petition has been presented by: <u>TARIQ KAMAL</u>	✓	
02	Whether Counsel / Petitioner / Respondent / Deponent have signed the requisite documents?	✓	
03	Whether the enactment under which the case/petition is filed mentioned?	✓	
04	Whether the enactment under which the case/petition is filed is correct?	✓	
05	Whether affidavit is appended?	✓	
06	Whether affidavit is duly attested by competent oath commissioner?	✓	
07	Whether petition/annexure are properly paged?	✓	
08	Whether annexures are certified?	✓	
09	Whether certificate regarding filing any earlier appeal/petition on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether Special Power of Attorney filed?	✓	
13	Whether Special Power of Attorney attested?	✓	
14	Whether copy of application is delivered to A.G/D.A.G?	✓	
15	Whether Appeal, Revision application is within time?	✓	
16	Whether value for the purpose of Court fee and jurisdiction given in the relevant column of the opening sheet is correct?	✓	
17	Whether Power of Attorney of the Counsel engaged is attested and signed by all petitioners/appellants/respondents?	✓	
18	Whether complete spare copy is filed in separate file cover?	✓	
19	Whether numbers of referred cases given/ are correct?	✓	
20	Whether petition being sent by post?	✓	
21	Whether appeal/petition contains cuttings/overwriting?	✓	
22	Whether appeal/revision/ writ petition is competent?	✓	
23	Whether list of books has been provided at the end of the petition?	✓	
24	Whether case relate to this Court?	✓	
25	Whether case relate to this Bench?	✓	

26	Whether petition drafted by a competent person?		✓	✓
27	Whether name of Jail in which appellant/petitioner/respondent is confined given?		✓	✓
28	Whether copies of annexures are readable/clear?		✓	✓
29	Whether Court Fee stamps affixed?		✓	✓
30	Whether Court Fee stamps annexed are sufficient?		✓	✓
31	Whether certified copies of impugned order/decrees sheets before District Judge have been filed?		✓	✓
32	Whether in view of Order 43 Rule 3 CPC/Rule 2(3) Chapter 4-J, Vol: V of High Court Rules & Orders, notice along with copy of appeal/petition and annexures has been sent to respondents?		✓	✓
33	Whether Judicial Officer whose orders are challenged mentioned at the bottom of the panel of respondents?		✓	✓
34	Whether index filed?		✓	✓
35	Whether index is correct?		✓	✓
36	Whether copies of comments/reply/rejoinder provided to opposite party?		✓	✓
37	Whether addresses of parties given are complete?		✓	✓
38	Whether addresses of parties are complete?		✓	✓
39	Whether list of L.Rs of petitioner filed?		✓	✓
40	Whether copy of list of L.Rs of respondents as filed before Courts below or, if not, a certificate to this effect attached?		✓	✓
41	Whether opening sheet filed?		✓	✓
42	Whether opening sheet is correct / complete?		✓	✓
43	Whether approved file cover used?		✓	✓
44	Whether separate application filed for each prayer?		✓	✓
45	Whether separate request has been made for interim relief in writ petition?		✓	✓
46	Whether security of Rs. 10,000/- deposited with review petition?		✓	✓
47	Whether review petition filed and certified by the Advocate who had argued the case resulting into order review of which is sought?		✓	✓
48	Whether purpose of the document filed explained?		✓	✓
49	Whether respondents sued by name in the CoC?		N.	IA

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: TARIQ KAMAL

Signature: Tariq

Dated: 3/5/2021



# URGENT FORM

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. \_\_\_\_\_/2021

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali Shah  
R/O Barikot District Swat

.....**Petitioner**

**VERSUS**

*Govt. of Khyber Pakhtunkhwa through Secretary Health, Civil  
Secretariat, Peshawar and others*

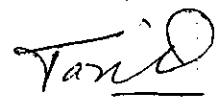
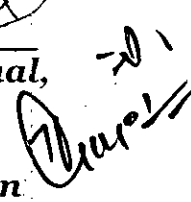
.....**Respondents**

1. Will you kindly treat the accompanying **Writ Petition** as urgent and in accordance with the provisions of Rules 9, Chapter 3-A, Rules orders of the High Court Lahore Volume V.
2. The Grounds of urgency are:

**“That the notification is going to be implemented in short time therefore if the case is not fixed at the earliest the writ petition will become infructuous, therefore, the case is one of urgent nature and may kindly be fixed at earliest in the best interest of justice.”**

Petitioner

Through

  
Tariq Kamal,  
&  
Ziyad Khan 

Dated 03/05/2021

Advocate, High Court

Cell#0346-9121150

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. 20431 /2021

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali Shah  
R/O Barikot District Swat

.....**Petitioner**

**VERSUS**

Govt of Khyber Pakhtunkhwa through Secretary Health, Civil  
Secretariat, Peshawar and others

.....**Respondents**

**INDEX**

S#	Description of Documents	Annex	Pages
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3.	Affidavit		6
4.	Addresses of parties		7
5.	<b>Copy of Notification dated 11.02.2021</b>	A	8
6.	<b>Copy of the letter dated 03.03.2021 with endorsement dated 09.03.2021</b>	B	9
7.	<b>Copy of the Departmental Appeal along with endorsement</b>	C&D	10-11
8.	Special Attorney		12-14
9.	Court Fee		15-16
10.	Wakalatnama & Notice to Respondents		17-18

*As far as*  
W.P Copy Received  
For A.G.

Petitioner

Through

*Tariq*  
Tariq Kamal,  
&  
*Ziyad Khan*  
Ziyad Khan

Advocate, High Court

Cell#0346-9121150

Dated 03/05/2021

*03/05/21*

*03/05/21*

**RE-FILED TODAY**  
Deputy Registrar  
05 MAY 2021

Scanned USB Received  
04 MAY 2021  
Signature

**FILED TODAY**  
Deputy Registrar  
04 MAY 2021

**IN THE PESHAWAR HIGH COURT, PESHAWAR  
OPENING SHEET FOR WRIT PETITION**

Date of Filing: 03/05/2021  
District Peshawar

Case Type: Writ Petition Nature of Original proceeding:

Category Code: 

5	0	7	1	1
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(Categories & Sub Categories are given at the back of the opening

Review/ contempt of Court in respect of

Writ 

Heabus Corpus	Prohibition	Mandamus	<input checked="" type="checkbox"/>	Quo Warranto	Certiorari
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 of:

If Certiorari

Forum	Date	Interlocutory Final Order

Case pertains

SB  
 DB

Petitioner Name	Mst Shamim Akhtar
Mobile No.	0345-6821153
Address	Barikot District Swat
CNIC No.	15602-0442794-3
Email Address	

Counsel for Petitioner (s)	Tariq Kamal Advocate High Court
Mobile	0301-5932818
Address	Flat No.101-102, GT Road Tarnab Farm Peshawar
Council CNIC	16102-7970384-9
Email Address	Tariqkamal1979@gmail.com

Respondents	Gout of Khyber Pakhtunkwa through Secretary Health and others
Address	Civil Secretariat, Peshawar & others

Original order/Action/Inaction Companioned of?

Prayer **Therefore, it is humbly submitted that On acceptance of the instant writ petition the notification dated 11.02.2021 may please be declared illegal, based on malafide illogical void ab-initio and against the basic norms of justice.**

Law/Rules/governing the original proceedings/action/inaction  
Constitution of Islamic republic of Pakistan  
Any other law book as per need

Signature

**FILED TODAY**  
Deputy Registrar  
04 MAY 2021

①

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

Appeal No. 5812/2021

W.P No. 20431<sup>D</sup> /2021

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali  
Shah R/O Barikot District Swat

.....**Petitioner**

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary Health,  
Civil Secretariat, Peshawar.
2. Director General, Health Services Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.

.....**Respondents**

**WRIT PETITION UNDER ARTICLE 199  
OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN, 1973,  
SEEKING DECLARATION TO THE  
EFFECT THAT NOTIFICATION DATED  
11.02.2021 OF RESPONDENT NO.02  
VIDE WHICH THE PETITIONER HAS  
BEEN TRANSFERRED IS ILLEGAL,  
VOID AB-INITIO AND BASED ON  
MALAFIDE.**

**RE-FILED TODAY**

**Deputy Registrar**

**05 MAY 2021**

**FILED TODAY**

**Deputy Registrar**

**04 MAY 2021**

**Prayer in Writ petition:-**

**On acceptance of the instant writ petition the notification dated 11.02.2021 may please be declared illegal, based on malafide illogical void ab-initio and against the basic norms of justice.**

**Respectfully Sheweth:**

**BRIEF FACTS:-**

1. That the petitioner is serving as Charge Nurse BPS-16 Category-D hospital Barikot Swat.
2. That the petitioner has been transferred to DHQ Hospital Battagram vide Notification/Order dated 11.02.2021. (Copy of Notification dated 11.02.2021 is attached as Annexure "A").
3. That the order dated 11.02.2021 has been communicated via District Health Officer District Swat to the petitioner through Medical Officer Civil Hospital Barikot Swat on dated: 09.03.2021. (Copy of the letter dated 03.03.2021 with endorsement dated 09.03.2021 is attached as Annexure "B").
4. That the petitioner preferred Departmental Appeal as provided under the law which has been duly endorsed vide endorsement dated 19.03.2021. (Copy of the

FILED TODAY  
Deputy Registrar  
04 MAY 2021

**Departmental Appeal along with endorsement is attached as Annexure "C" & "D").**

5. That having no other adequate remedy the constitutional jurisdiction of the Hon'ble Court is being invoked on the following grounds inter alia;

**GROUND:-**

- A. That the impugned notification is based on personal grudge and malafide of the respondent No.02.
- B. That husband of the petitioner is an active member of Pashtoon Tahaffuz Movement and to harass her husband the impugned transfer order has been issued which is against the fundamental rights guaranteed under the constitution of 1973.
- C. That the impugned transfer order is based on political intentions and same is not sustainable under the law as right of association and freedom of expression is available to all the citizens of Pakistan irrespective of their cast and creed.
- D. That the impugned transfer order is against the Khyber Pakhtunkhwa Posting and transfer policy as the petitioner is a house hold lady having 4 school going children and its against the societal norms to transfer a mother leaving behind the children in a stray.

FILED TODAY  
Deputy Registrar  
04 MAY 2021

- E. That the impugned notification has not been issued in public interest while the same is politically engineered so that to compel her husband for come into terms of the authorities concerned.
- F. That the impugned notification is violation of Article 4 and 25 of the Constitution of Pakistan 1973.
- G. That the impugned notification is against the rationalization policy of the provincial government specifically meant for Health Department and its employees.
- H. That the petitioner is a female and according to posting transfer policy the female employees must be facilitated to serve near to their house of residence (Parents/Husband) as for as possible but in the present case this aspect of the case has been totally ignored.
- I. That any other ground in respect of the instant writ petition will be raised at the time of arguments with the prior permission of this Hon'ble Court.

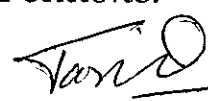
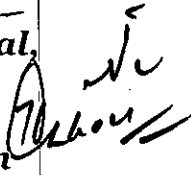
**Therefore, it is humbly submitted that on acceptance of the instant writ petition the notification dated 11.02.2021 may please be declared illegal and void ab initio.**

FILED TODAY  
Deputy Registrar  
04 MAY 2021

To grant any other relief to which petitioner is deemed fit in law, justice and equity.

**INTERIM RELIEF:-**

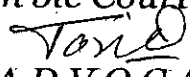
Graciously the operation of Notification dated 11.02.2021 may please be suspended till final disposal of the writ petition.

Petitioner  
Through   
Tariq Kamal,  
&  
Ziyad Khan   
Advocate, High Court  
Cell#0346-9121150

Dated 03/05/2021

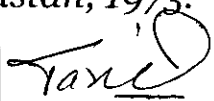
**CERTIFICATE:-**


Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter, thus the tilted Writ Petition may kindly be fixed before the Worthy D.B of this Hon'ble Court.

  
ADVOCATE

**LIST OF BOOKS**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law book as per need.

  
ADVOCATE

FILED TODAY  
  
Deputy Registrar  
04 MAY 2021



**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. 2043 P /2021

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali Shah  
R/O Barikot District Swat

.....**Petitioner**

**VERSUS**

Gout of Khyber Pakhtunkhwa through Secretary Health, Civil  
Secretariat, Peshawar and others

.....**Respondents**

**AFFIDAVIT**

I, Idris Ali Shah S/O Fazal Akbar Bacha R/O Barikot District  
Swat, (**Special Attorney for Petitioner**), do hereby  
solemnly affirm and declare on oath that the contents of the  
accompanying **Writ petition** are true and correct to the best  
of my knowledge and belief and nothing has been concealed  
from this Hon'ble Court.

Identified by

Tariq Kamal 31/5/2021  
**Tariq Kamal**  
Advocate High Court  
Peshawar

[Signature]  
**DEPONENT**  
CNIC#15602-0442794-3 ✓  
Cell#0345-6821153

**FILED TODAY**

**Deputy Registrar**

**04 MAY 2021**

No: <u>25838</u>
Certified that the above was verified on solemnly affirmation before me in office, this <u>04</u> day of <u>May</u> <u>2021</u> by <u>Idris Ali Shah</u> s/o <u>Fazal Akbar Bacha</u> <u>Swat</u> who was identified by <u>Tariq Kamal</u> Who is personally known to me:
<u>[Signature]</u> Oath Commissioner Peshawar <u>04/05/2021</u>

Nadra verified



# Online Service for verification of NADRA Identity Cards



Card Verification

Identity Card Number : 15602-0442794-3

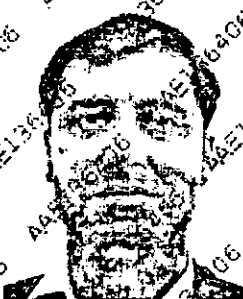

Verification Date : May 4, 2021

[Start New Verification](#)

## CNIC Verification

**Card Status:** Verified

Name	Idris Ali Shah
Citizen Number	15602-0442794-3
Father Name	Fazal Akbar Bacha
Gender	Male
Country of Stay	United Arab Emirates
Date of Birth	19-04-1977
Issue Date	10-04-2015
Date of Expiry	10-04-2025
Card Type	NICOP
Old NIC	11477472666
Present Address	Mohallah Miangan, Po Barikot Barikot, Tehsil Barikot, District Swat, Khyber-Pakhtunkhwa, 19240 Pakistan
Permanent Address	Mohallah Miangan, Po Barikot Barikot, Tehsil Barikot, District Swat, Khyber-Pakhtunkhwa, 19240 Pakistan

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. 2043/P /2021

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali Shah  
R/O Barikot District Swat

.....**Petitioner**

**VERSUS**

*Govt of Khyber Pakhtunkhwa through Secretary Health, Civil  
Secretariat, Peshawar and others*

.....**Respondents**

**ADDRESSES OF PARTIES**

**PETITIONER:-**

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali  
Shah R/O Barikot District Swat

**RESPONDENTS**

1. *Govt of Khyber Pakhtunkhwa through Secretary Health,  
Civil Secretariat, Peshawar.*
2. *Director General, Health Services Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.*

Petitioner

Through

*Tariq*

Tariq Kamal,

&

Ziyad Khan

*شاه*  
*Ziyad Khan*

Dated 03/05/2021

Advocate, High Court

Cell#0346-9121150

FILED TODAY

Deputy Registrar

04 MAY 2021

Annexure - A

8



DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR

All communications Should be Addressed to The Director General  
Health Services Peshawar and not to any official by name  
Office Ph: (091 - 9210269) Exchange: (091 - 9210187, 091 - 9210196) Fax: (091 - 9210230)

**OFFICE ORDER.**

Mrs. Shamim Akhter D/O Abdul Qayum, Charge Nurse  
BPS-16 Cat-D Hospital Barikot (Swat) is hereby transferred and  
posted in DHQ Hospital, Battagram against the vacant post, in the  
interest of public service with immediate effect.

**NB:** - Arrival/Departure report should please be submitted  
to this Directorate for records.

Sd/-  
DIRECTOR GENERAL HEALTH  
SERVICES, KP, PESHAWAR.

No. 649-55 /E.II, Dated Pesh. The 11/02/2021.

Copy forwarded to the:-

01. PS to Secretary to Govt. of Khyber Pakhtunkhwa Health Deptt: Peshawar.
02. Medical Superintendent, DHQ Hospital, Battagram
03. District Health Officer, Swat.
04. DAO, Battagram.
05. DAO, Swat.
06. Charge Nurse concerned.
07. DA-concerned, DGHS KPK Peshawar.

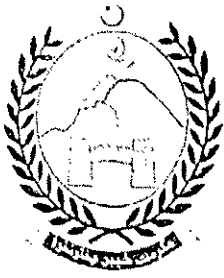
Attest  
copy  
[Signature]

For information and necessary action.

DIRECTOR GENERAL HEALTH  
SERVICES, KP, PESHAWAR.

7/4/21

[Handwritten signature and initials]



Annexure- B' (9)  
 DISTRICT HEALTH OFFICER  
 DISTRICT SWAT AT GULKADA.  
 Phone No. 0946-9240139,  
 Fax No. 0946-9240215

Email. [edohswat@yahoo.com](mailto:edohswat@yahoo.com)

No. 2667-71 /C.3/PF.

Dated 03/3 /2021.

Copy of Order No.649-55/E-II,Dated.11.2.2021 is forwarded to:-

- 1-District Account Officer District Swat.
- 2-Divisional Monitoring Officer District Swat.
- 3-Medical Officer Incharge Civil Hospital Barikot Swat.
- 4-Mrs;Shamim akhtar Charge Nurse BPS-16,attached to CH:Barikot Swat.
- 5-Account/DHS ,Section of this office.

For information and Necessary action .

*9/3/21  
 Recd  
 [Signature]*

*[Signature]*

DISTRICT HEALTH OFFICER  
 DISTRICT SWAT AT GULKADA

NO. \_\_\_\_\_ /PF/C.3

Copy of endorsement only forwarded to Director General Health Services Khyber Pakhtunkhwa Peshawar for information Please..

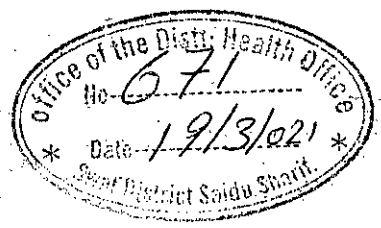
DISTRICT HEALTH OFFICER  
 DISTRICT SWAT AT GULKADA

*Handed over  
 to staff concern.*

SF

*9/3/2021  
 IIC mo  
 Barikot*

*Received  
 At 9:52 Am  
 Dated 9-3-21  
 [Signature]*



To

The Director General  
Health Services  
Khyber Pakhtunkhwa.

Subject: Appeal for Cancellation of Transfer Order

Dear Sir,

Respectfully it is stated that I have been performing my duties as Charge Nurse BPS-16 at category-D hospital Barikot Distt: Swat. I have been serving in Health Department for the last 23 years. Today on 9<sup>th</sup> of March 2021, I received an order of transfer with reference # 649-55/E-II DG health office dated 4<sup>th</sup> Feb 2021, from category-D hospital Barikot Swat to DHQ Hospital Battagram. Sir, I have the following submissions for your kind consideration:

*9/11/21  
P. copy  
w  
Open*

1. There hadn't been any complaint, allegation or inquiry against me.
2. I have been transferred to another district of Battagram, Hazara Division. The transfer order is against the policy and therefore liable to be set aside.
3. My transfer order comes under the domain of "Placement Committee" only according to the Government regulations.
4. I am a married health worker having four kids. They are all college and school going stages. They direly need my presence for my motherhood & emotional support at these stages.

Therefore, it is requested to your honour to review my appeal and my transfer order may kindly be immediately cancelled.

Yours sincerely,

*39*  
No. ~~671~~ 671  
Distt: Swat  
Barikot Swat  
Date: 19/3/2021

*forwarded to DHO, Swat for proper placement for cancellation.*  
**MEDICAL OFFICER  
CIVIL HOSPITAL  
BARIKOT SWAT**  
19/3/2021

*Shir*

**MRS. SHAMIM AKHTAR**  
D/O Abdul Qayum  
Charge Nurse BPS-16  
Category D Hospital  
Barikot Swat Distt:  
Dated: 9<sup>th</sup> March 2021

*E.F.  
Principals  
& do need full  
accordingly  
DHO*

Annexure - D (11)

DISTRICT HEALTH OFFICER  
SWAT AT GULKADA.  
Phone No. 0946-9240139,  
Fax No. 0946-9240215  
Email. [edohswat@yahoo.com](mailto:edohswat@yahoo.com)

NO. 4258 /-3/PF.

Dated. 22 /3/2021.

To

The Director General Health Services,  
Khyber Pakhtunkhwa Peshawar.

Subject:-  
R/Sir,

**APPEAL FOR CANCELLATION OF TRANSFER ORDER.**

I have the honour to enclose herewith an application in respect of Mrs; Shamim Akhtar Charge Nurse BPS-16, attached to Civil Hospital Barikot Swat, which is self-Explanatory .

Submitted for information and further necessary action Please.

Enclose-2.

DISTRICT HEALTH OFFICER,  
DISTRICT SWAT AT GULKADA

NO. \_\_\_\_\_ /PF/M.I.

Copy to Concerned Charge Nurse for information.

4/11/21  
P. copy  
7/11/21  
SF

DISTRICT HEALTH OFFICER,  
DISTRICT SWAT AT GULKADA

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. \_\_\_\_\_/2021

Mst Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali Shah  
R/O Barikot District Swat

.....**Petitioner**

**VERSUS**

*Govt of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar and others*

.....**Respondents**

**NOTICE**

To,

1. Govt of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
2. Director General, Health Services Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

**Subject: NOTICE FOR FILING WRIT PETITION**

Please take notice that petitioner is filing Writ Petition before the Peshawar High Court, Peshawar and you are hereby informed regarding the filing of the same.

**NOTE:** Petition alongwith annexures are attached

*giltshad  
P. court  
Quesi*

Petitioner  
Through *Tariq*

Tariq Kamal,

&

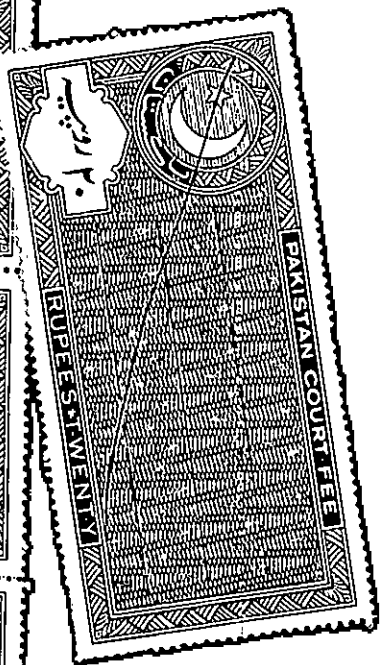
Ziyad Khan *Quesi*

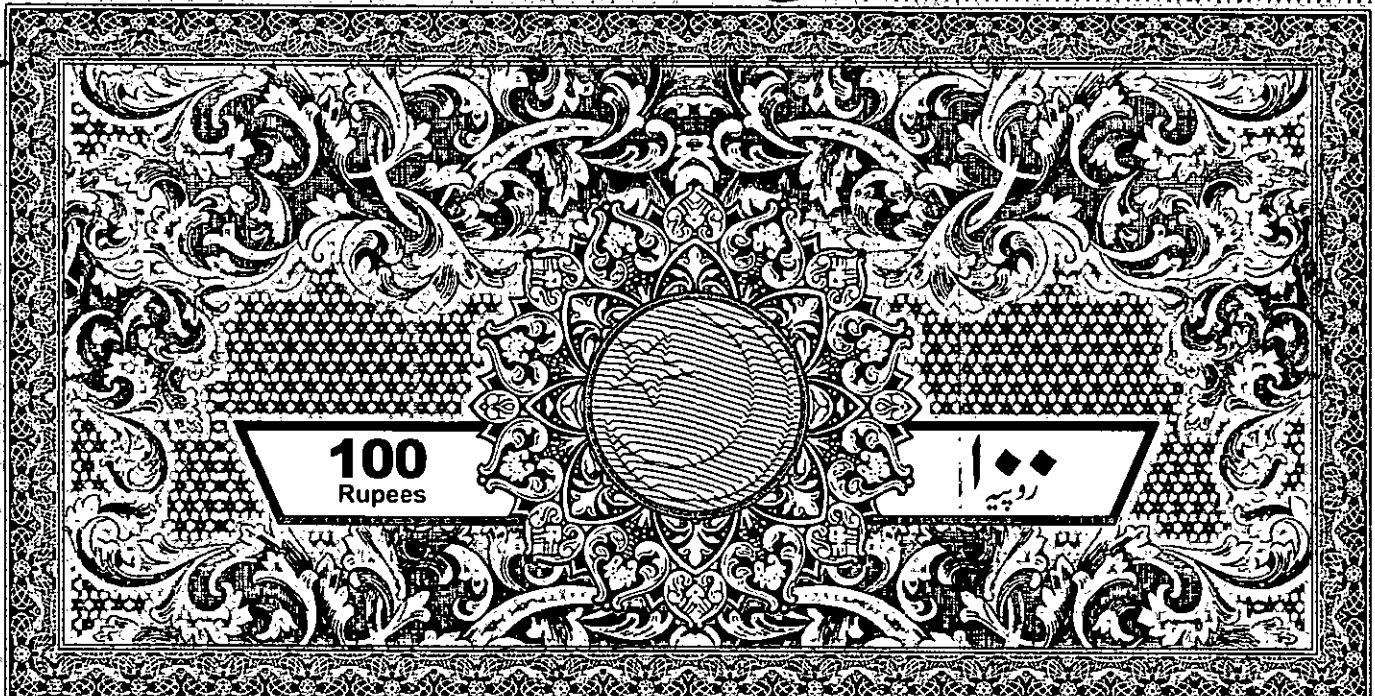
Advocate, High Court

Cell#0346-9121150

Dated 03/05/2021







**IN THE COURT OF HON'BLE PESHAWAR HIGH COURT, PESHAWAR  
CASE TITLE MST SHAMIM AKHTAR VS GOVERNMENT OF KPK THROUGH  
SECRETARY HEALTH & ANOTHER**


**SPECIAL POWER OF ATTORNEY FOR COURT CASE**

I, Mrs. Shamim Akhtar D/O Abdul Qayyum W/O Idris Ali Shah R/O Barikot District Swat, is constitute and appoint Mr. Idris Ali Shah S/O Fazal Akbar Bacha R/O Barikot District Swat, as Special Attorney and authorize him to file and appear on my behalf.

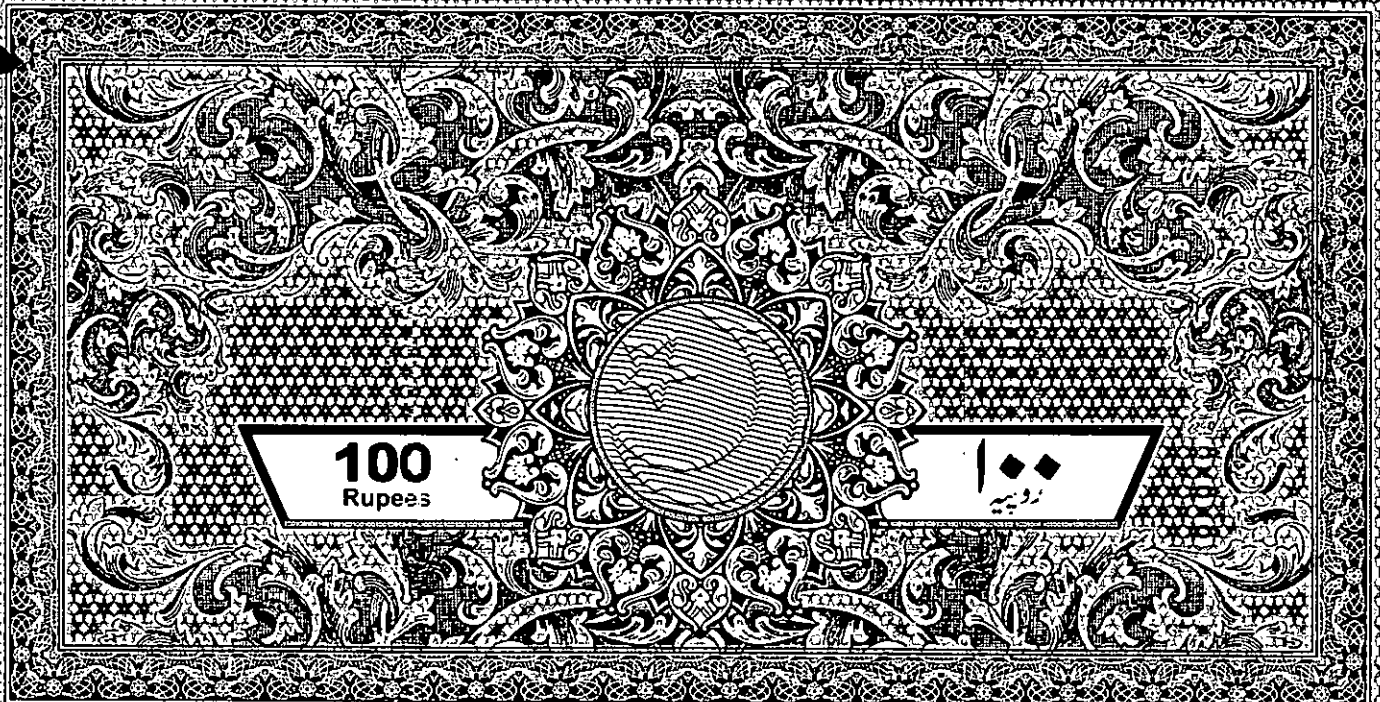
Mr. Idris Ali Shah S/O Fazal Akbar Bacha, is authorized/ empowered through this Special Power of Attorney to file petition, revision petition, appeal, review etc, upto Apex Court, to furnish affidavits, evidence record, Wakalatnama collect attested copies on my behalf, to sign written statement/ application, evidence, etc, if needed and to also engage lawyer/ counsel on my behalf.

Every action taken or ought to be taken in this respect of the aforesaid actions only shall be admitted to me and shall be deemed to have been performed by us. Furthermore he is not authorized to enter or execute any compromise on my behalf.

I have no objection to the acts performed by the said attorney on my behalf.

FILED   
Deputy Registrar

04 MAY 2021



**100**  
Rupees

۱۰۰  
روپے

Therefore, this Special Power of Attorney is signed and executed in favour of above mentioned person in presence of witnesses on this day of 03<sup>rd</sup> May 2021.

**EXECUTANT**

(1) Mrs. Shamim Akhtar  
W/O Idris Ali Shah  
CNIC No.15602-9318202-6

**ACCEPTED BY:**

Mr. Idris Ali Shah  
S/O Fazal Akbar Bacha  
CNIC No. 15602-0442794-3

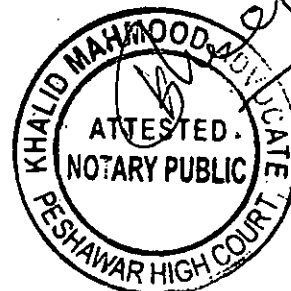
**Witness No.1**

Name:- Naveed Ali  
F/Name:- Hameed Ullah Khan  
CNIC#16102-0705632-9

**Witness No.2**

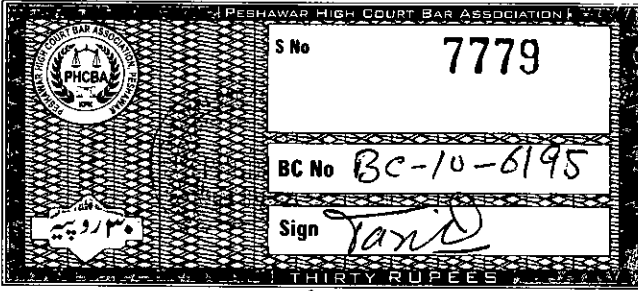
Name:- Sabz Ali  
F/Name:- Sahib Zar  
CNIC No.16101-7401030-5

**FILED TODAY**  
  
Deputy Registrar  
04 MAY 2021



# وکالت نامہ

## بعدالت پشاور ہائی کورٹ پشاور



مورخہ 3 مئی 2021  
مقدمہ Writ Petition  
دعویٰ  
جرم

مماقا شمیم اختر  
نام منجانب سائنر  
باعث تحرے آنکہ حکومت

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب وہی وکل کاروائی، متعلقہ  
آن مقام۔ لیسٹ اور۔ کیلئے زیر حوالہ لوسٹ پیسز / طاری کیل انڈیکس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا  
نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو  
گا نیز وکیل صاحب بصورت ڈگری برخالف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء  
تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی  
کاروائی یکطرفہ یا ڈگری یکطرفہ کینکلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب  
سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل  
موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا  
ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں  
تمام ساختہ پر داختم منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط نشان

FILED TODAY  
Deputy Registrar  
04 MAY 2021

انگشت ثبت کر دیا ہے تاکہ سند رہے۔

ذیاد خان و سزئی

لکھنؤ 411

2021

المرقوم 3 ماہ

ATU

وہ 11  
Attested Accepted  
بمقام لیسٹ اور  
cell 03469121150



وہ 11  
المرقوم 3 ماہ

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

C.M No. \_\_\_\_\_/2021

In

SA No.5812/2021

Mst Shamim Akhtar ..... **Appellant**

**V E R S U S**

Government of Khyber Pakhtunkhwa and others

..... **Respondents**

**APPLICATION FOR SUSPENSION OF ORDER**

**DATED 05.05.2021**

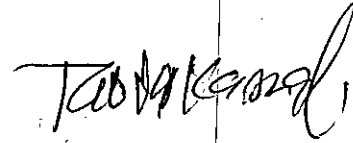
**Respectfully Sheweth:**

1. That the appeal titled above is pending before the Hon'ble Tribunal which is fixed for today.
2. That respondents in continuation to order dated 11.02.2021 has issued order dated 05.05.2021 is against the sprite of law and principles of public policy. (Copy annexed).
3. That the appellant/petitioner has good arguable case and sanguine about his success.
4. That balance of convenience is also in favour of the appellant/petitioner.
5. That grounds taken in the main appeal may please be considered as an integral part of the instant application.

It is, therefore, most humbly prayed that on acceptance of this application, the impugned notification dated 05.05.2021 may please be suspended till final disposal of the instant appeal.

Appellant/Petitioner

Through



**Tariq Kamal**



**Ziyad Khan Yousafzai**

Advocates, High Court

Peshawar

Cell#0301-5932818

Date: 14/07/2021

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

C.M No. \_\_\_\_\_/2021

In

SA No.5812/2021

Mst Shamim Akhtar ..... **Appellant**

**V E R S U S**

Government of Khyber Pakhtunkhwa and others

..... **Respondents**

**AFFIDAVIT**

I, Idris Ali Shah S/O Fazal Akbar Bacha R/O Barikot District Swat, **(Attorney for Appellant/Petitioner)** do hereby solemnly affirm and declare on Oath that contents of this **Application** are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Court.

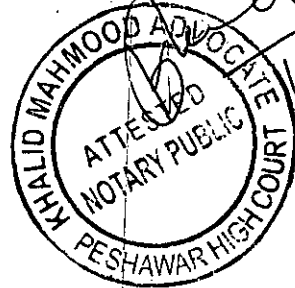
Identified by:

**DEPONENT**

CNIC NO. 15602-0442794-3

Cell No:0345-6821153

*Tariq* 14/7/2021  
**Tariq Kamal**  
Advocate High Court





**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

All communications Should be Addressed to The Director General  
Health Services Peshawar and not to any official by name

Office Ph : 091 - 9210269 Exchange : 091 - 9210187, 091 - 9210196 Fax : 091 - 9210230

**Registered**

No 1489-93/E.II, Dated Peshawar the 05 05 2021

To:-

01. Mrs. Shamim Akhtar D/O Abdul Qayyum  
Village Utror Tehsil Kalam District Swat.

02. Mrs. Shamim Akhtar D/O Abdul Qayyum  
Miangan Bari Kot Tehsil & District Swat.

03. Mrs. Shamim Akhtar D/O Abdul Qayyum  
Charge Nurse  
Category-D Hospital BariKot  
District Swat.

Subject: - **OFFICE ORDER.**

Memo:-

You have been transferred from Type-D Hospital Barikot (Distt: Swat) to DHQ Hospital, Battagram vide this Directorate office order bearing endst: No 649-55/E II dated 11.02.2021 but as intimated by M/S DHQ Hospital, Battagram you have not submitted arrival report in DHQ Hospital, Battagram up till now.

You are hereby directed to immediately report for duty in DHQ Hospital, Battagram failing which you will be proceeded under the rules.

DIRECTOR GENERAL HEALTH  
SERVICES, KP PESHAWAR

*[Handwritten signature]*  
30/4/21

C.C

01. District Health Officer, Swat with the request to relieve the Charge Nurse concerned from duty at Category-D Hospital Barikot (Swat) stop her salary and direct to report for duty at DHQ Hospital, Battagram immediately, under intimation to this Directorate.
02. Medical Superintendent, DHQ Hospital, Battagram, with reference to his letter No. 1679-81/Estb/Nurse dated 29.04.2021.



NY DR  
To - [unclear] Alch  
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[unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]  
[unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]  
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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 5812 OF 2021**

Ms. Shamim Akhtar.....Appellants

**Versus**

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

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1 & 2**

**Respectfully Sheweth:**

**Preliminary Objections:-**

1. That the Appellant has got neither cause of action nor did locus standi to file the instant Appeal.
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 its present form and also in the present circumstances of the issue.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to 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 upon the matter.
9. That the instant Appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

**ON FACTS:**

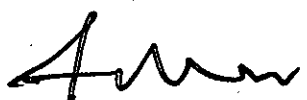
1. Correct. The appellant is serving this Department as Charge Nurse (BPS-16) in Type-D Hospital Barikot Swat since 01/03/2008.
2. Correct.
3. Pertains to record.
4. Pertains to record.
5. Correct.


**ON GROUNDS:**

- A. The transfer of the appellant is not based on personal grudge rather it is done in the public interest.
- B. Incorrect. The appellant has been transferred to DHQ Hospital Battagram due to shortage of Nurses in the hospital.
- C. Incorrect. The transfer order is based on public interest and not political intention.
- D. The transfer of the appellant is not against the posting transfer policy of the Govt.
- E. As in para-C above.
- F. The appellant has been transferred to DHQ Hospital Battagram due to shortage of nurses in the hospital and as such no violation of rules has been done.
- G. The appellant has been transferred in the public interest as per policy of the Govt.
- H. The appellant has already served in her home district for more than 20 years.
- I. That the respondents also seek prior permission of this Honorable Court to adduce additional grounds at the time of arguments.

**PRAYER:**

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

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

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

