

transferred. That she was transferred because she was found misbehaving with the patients and using abusive language all the times.

8. The appellant had already spent her normal tenure at the station from where she was transferred. Besides, the contentions of the respondents raised in the reply, as stated above, were not controverted by the appellant by filing rejoinder etc. True, that transfer could not be made as punishment but it is equally true that the contention of the respondents leveling allegations of misbehavior with the patients is indeed a ground of transfer in the public interest.

9. It is not the prerogative of the civil servant to remain at a station for over the years and posting & transfer is a part of service, therefore, the civil servant has to serve anywhere on the direction of the authority. Therefore, we find no merits in this appeal. It is accordingly dismissed. However, the respondents may consider further posting of the appellant in accordance with the posting transfer policy of the Government. Consign.

10. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 1st day of June, 2023.*



KALIM ARSHAD KHAN
Chairman



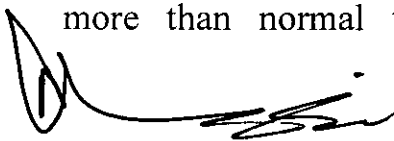
SALAH UD DIN
Member (Judicial)

and the impugned transfer order was nothing but to harass the appellant and to accommodate their blue eyed person. Lastly, he submitted that the impugned transfer order was violative of Clause-I, IV and XIII of the transfer/posting policy. Therefore, he requested for acceptance of the instant service appeal. Reliance was placed on 2012-PLC (CS) page 187.

5. As against that learned Additional Advocate General argued that the impugned order was not against the law and no violation of the rules had been made; that the appellant had been transferred in the public interest and her husband was not a Government servant. Further submitted that the appellant had been transferred to DHQ Hospital Karaka against a vacant post and no one had been given favor. Lastly, he submitted that the appellant had not been transferred on personal liking disliking rather transferred in the public interest, therefore, he requested for dismissal of the instant service appeal.

6. After spending a number of years at the King Abdullah Teaching Hospital, Mansehra, the appellant was transferred vide order dated 04.08.2021 and she filed appeal before the Tribunal on 13.09.2021. Since 14.09.2021 the operation of the impugned transfer order was suspended. The grounds taken in the appeal are that the appellant was a female ailing lady having minor daughter and her husband was abroad to earn his livelihood; that transfer could not be made as a punishment.

7. In reply, the respondents contended that the appellant had spent more than normal tenure at the station from where she was

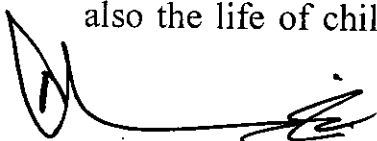


and her domicile was also of the same district. Her husband was out of country and was living with family in law. In the meanwhile, vide the impugned order dated 04.08.2021, she was transferred from King Abdullah Hospital, Mansehra to District Headquarter Hospital, Karak. The said order was communicated to the appellant on 24.08.2021. Feeling aggrieved, she filed departmental appeal which was not responded to, hence, the instant service appeal.

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

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

4. Learned counsel for appellant contended that the order dated 04.08.201 was against law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside; that the appellant was married and resident of District Mansehra, therefore, out of district transfer is against law, rules and policy. He argued that the impugned transfer order of the appellant was against the posting/transfer policy and was arbitrary. Learned counsel contended that the appellant was suffering from Hyperthyroid and the treatment of the same was continued. Further submitted that being away from children and family not only the mental health was affected but was also the life of children which is against the norms of natural justice



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Judicial)

Service Appeal No.7399/2021

Date of presentation of Appeal.....13.09.2021

Date of Hearing.....01.06.2023

Date of Decision.....01.06.2023

**Miss. Sumaira Bibi D/O Ghazi Khan Charge Nurse (BPS-16, Kind
Abdullah Teaching Hospital, Mansehra.**

.....*Appellant*

Versus

1. **The Secretary to Government, Health Department Khyber Pakhtunkhwa, Peshawar.**
2. **The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.**
3. **The Medical Superintendent, King Abdullah Teaching Hospital Mansehra.**

.....(*Respondents*)

Present:

Syed Noman Ali Bukhari,

Advocate.....For the appellant

Mr. Fazal Shah Mohmand,

Additional Advocate GeneralFor respondents.

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH CLAUSE XIV OF THE POSTING TRANSFER POLICY AGAINST THE IMPUGNED TRNASFER ORDER DATED 04.08.2021, COMMUNICATED TO THE APPELLANT THROUGH WHATSAPP ON 24.08.2021 AND ALSO AGAINST NOT DECIDING THE APPEAL OF THE APPELLANT WITHIN 15 DAYS AS PROVIDED UNDER CLAUSE XIV OF THE POSTING TRANSFER POLICY.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case are

that appellant was serving as Charge Nurse (BPS-16) in the King

Abdullah Hospital, Mansehra. She was resident of District Mansehra