


FORM OF ORDER SHEET

Court of

Appeal No.

1269/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/06/2023	<p>The appeal of Mrs. Hurmat is presented today by Mr. Abdul Nasir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 09-06-2023.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE HONOURABLE CHARIMAN,
SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

C.M No. _____/2023

In
Service Appeal No. 1269/2023

Mrs. Hurmat, LHV, BHU, Qambar, Swat. . . . **APPELLANT**

VERSUS

The District Health Officer, Swat etc. **RESPONDENTS**

APPLICATION FOR EARLY HEARING
BEFORE THE PRINCIPLE SEAT TO THE
EXTENT OF INTERIM ORDER.

Respectfully Sheweth:

1. That the appellant of the above noted service appeal belongs to District Swat and jurisdiction of hearing of the instant appeal is before the Service Tribunal Camp Court, Swat.
2. That the appellant has been illegally transferred and the department on one and another aspect teasing her to left the parent duty station. So preliminary hearing to the extent of interim relief/ temporarily injunction before this principle seat is absolutely necessary.

It is, therefore, most humbly prayed that on acceptance of the instant application, the instant service appeal may kindly be heard (preliminary) to the extent of interim relief before this Principle Seat.


Applicant through Counsel

ABDUL NASIR
Advocates High Court
Cell: 0344-4557383

Dated: 05.06.2023.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Service Appeal # 1269 of 2023

Mrs. Hurmat, LHV, BHU Qambar, Swat.

(Appellant)

V E R S U S

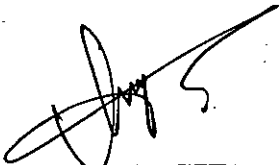
The District Health Officer Swat etc.

(Respondents)

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Appellant through Counsel


ABDUL NASIR
Advocate High Court
Cell No. 0344 455 7383

CHAMBER: Continental Plaza, Makanbagh, Mingora, Swat.

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Service Appeal # 1269 of 2023

Mrs. Hurmat, LHV, BHU Qambar, Swat.

(Appellant)

V E R S U S

- 1) The District Health Officer Swat.
- 2) Deputy Commissioner Swat.
- 3) The District Accounts Officer Swat.
- 4) Director General Health Services Khyber Pakhtunkhwa at Peshawar.
- 5) Ruqia, LHV, BHU Bishban Swat.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL WITH THE PRAYER THAT THIS HON'BLE TRIBUNAL MAY SET ASIDE THE TRANSFER ORDER NO. 6355-61 DATED 17.05.2023 AND ORDER BEARING NO. 6951-55 DATED 29.05.2023 PASSED BY RESPONDENT NO. 1 WHEREIN ON THE BASIS OF AN ENQUIRY REPORT (WITHOUT ASSOCIATION OF APPELLANT) THE APPELLANT HAS ILLEGALLY BEEN TRANSFERRED FROM BHU QAMBAR TO BHU BISHBAN

Respectfully Sheweth:

Brief facts leading to the present appeal are as under:

1. That initially the appellant was appointed as LHV (BPS-9) and later on after confirmation as PHC Tech (MCH) LHV under the kind control of respondent No. 1. (**Annexure A**)

2. That on That on 17-05-2023, the respondent No. 1 has illegally issued transfer order of the appellant from BHU Qambar to BHU Bisham on the basis of an enquiry report, to which the appellant has never been associated. (**Annexure B**)
3. That against the said order the appellant filed a Departmental Appeal on 22.05.2023. (**Annexure C**)
4. That on 29.05.2023, the *ibid* appeal of the appellant got dismissed. (**Annexure D**).
5. That feeling aggrieved from the impugned herein orders, the appellant having no other adequate remedy available except to approach this august Court for just, efficacious and effective relief, hence the instant appeal *inter alia* on the following amongst other grounds:

GROUND:

- i) That first of all, the appellant has not been associated to any kind of inquiry and secondly if it so happened, then, under section 4 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, there are either minor penalties or major penalties, which cannot carry any kind of transfer. Hence, while issuing the impugned orders, the respondent No. 1 has landed into the field of errors.

- ii) That no law of the land empowered the enquiry officer to recommend the transfer of a delinquent official rather has to recommend minor or major penalty. Hence, the impugned orders are not sustainable.

- iii) That transfer-order passed by the respondent No. 1 is against the spirits of merits and such orders of the respondent No. 1 are equal to defeating struggles for the elimination of poverty and wide class distinction in society, therefore, on this core too the said order of respondent No. 1 is liable to be declared null and void, illegal, without authority and against the norms of justice, hence, such action of the respondent No. 1 is nothing but the clourful exercise of powers and therefore needs correction. Moreso, it is crystal clear from the perusal of said order that it has not been claimed by respondent either that the transfer of the plaintiff is in the public interest or is necessitated by an exigency rather passed on the basis of recommendation of enquiry report, which was not the domain of an enquiry officer.

- iv) That the impugned order has been issued due to political influence and to prize the respondent No. 4.

- v) That if the Courts of law countenanced and approved such naked exercise of authority, it would make a mockery of law and travesty of justice. Besides, it would not give a message of hope to the honest and the scrupulous and might

tend to undermine their confidence, which is not in the interest of anybody in the long run. The employees are not to be made rolling stones.

- vi) That the orders impugned herein of respondents is against the endeavours of State machinery for establishing the State's writ of equality enshrined and safeguarded by the constitution and other rules applied thereto, therefore, liable to be declared null and void.
- vii) That the impugned herein orders are the result of political pressure and elite class interference because this is the first order of its kind, which has been issued on the recommendation of enquiry report, but the respondents in violation of the law, transferred the appellant, therefore, such order is totally against the natural justice and the respondents have done a great miscarriage of justice by siding the favoritism and nepotism therefore, it is necessary for this hon'ble Court to declare the said orders null and void.
- viii) That the respondents are duty bound to act in accordance with law rather they are acting in arbitrary and *malafide* manner and are not ready to withdraw the impugned herein orders.
- ix) That despite application of appellant under Right to Information Act, the respondents are not ready to provide copies of enquiry and enquiry report. Under Article 10-A of the Constitution, they are bound to disclose all the action taken against the

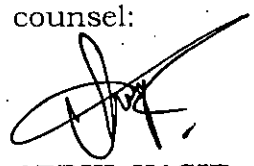
appellant, otherwise, it would be against the settled principle of right to fair trial. (**Annexure E**)

- x) That further grounds would be agitated during the course of arguments with the prior permission of this Hon'ble Court.

PRAYER:

It is, therefore, very humbly prayed that on acceptance of this Service Appeal the impugned transfer order No. 6355-61 dated 17.05.2023 passed by the respondent No. 1 and subsequent appeal dismissal order dated 29.05.2023 may kindly be set aside being based on *malafide*, political influence, against the law and rules, ineffective upon the rights of appellants, please.

Appellant through counsel:



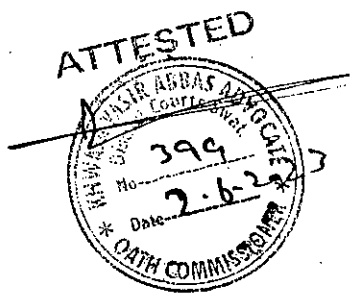
ABDUL NASIR
Advocate High Court

AFFIDAVIT:

I, Hurmat, Appellant, do hereby affirm that the contents of the instant service appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Deponent,

Hurmat
Hurmat



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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL**

Service Appeal # _____ of 2023

Mrs. Hurmat, LHV, BHU Qambar, Swat.

(Appellant)

V E R S U S

The District Health Officer Swat etc.

(Respondents)

**APPLICATION FOR TEMPORARY INJUNCTION TO THE
EFFECT THAT OPERATION OF THE IMPUGNED
TRANSFER ORDER BEARING ENDST No. 6355-61 DATED
17.05.2023 PASSED BY RESPONDENT No. 1 MAY KINDLY BE
STAYED/SUSPENDED TILL DISPOSAL OF THE APPEAL**

Respectfully Sheweth:

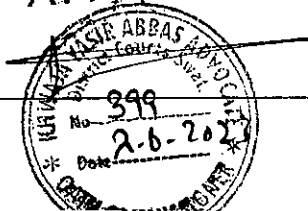
- 1) That the petitioner/appellant has filed a Service Appeal before this learned Court.
- 2) That the petitioner has strong *prima facie* case in her favour and is sanguine of its success.
- 3) That if the operation of the subject noted order is not stayed/suspended, then in that eventuality, the petitioner will suffer irreparable loss, which cannot be compensated later on by any other means.
- 4) That balance of convenience lies in favour of issuing of temporary injunction.

It is, therefore, humbly prayed that on acceptance of the instant application, temporary injunction may please be issued as per prayer mentioned in the subject of the instant application, please.

AFFIDAVIT

It is stated on oath that the contents of the above cited application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this august Court.

ATTESTED



Hurmat
Hurmat
Plaintiff

Petitioner through Counsel,

ABDUL NASIR
Advocate High Court

Amna A

7

PAKISTAN National Identity Card
ISLAMIC REPUBLIC OF PAKISTAN

Name
Hurmat

Husband Name
Riaz Uddin

Gender: F Country of Stay: Pakistan

Identity Number: 15602-5931801-2 Date of Birth: 01.01.1972

Date of Issue: 29.10.2020 Date of Expiry: 29.10.2030

Holder's Signature

15602-5931801-2

مجموعہ آئی ڈی کارڈ، علامہ امجد آباد، منگورہ، تحصیل پارونہ، ضلع سوات

مستندہ ایجنٹ ذاک خانہ دیوانی، اسم دیوانی، تحصیل کپل، ضلع سوات

101781122417
114-72-487731

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر تقریبی لیٹر بکس میں ڈال دیں

Attended
Advocate

8

OFFICE OF THE AGENCY SURGEON NORTH WAZIRISTAN MIRANSHAH

OFFICE ORDER

Consequent upon the arrival on 14th 5th 2001FN on her fresh appointment vide Director Health Services FATA Peshawar vide office order NO: 9015-17/FATA/M&E dated 30th 4th 2001, Miss Hurmat Begum Lady Health Visitor is hereby directed to report for duty to MCH Centre Shah Nawaz Kot Kabul Khel Tehsil Shewa with immediate effect in public interest.

N.B.: Complaine report should be submitted to this Office for record.

Sd/XXXXXXXXX
DR. CAP: R.D. ALAMGIR KHAN
AGENCY SURGEON
NORTH WAZIRISTAN MIRANSHAH

Copy to the:

1. Miss Hurmat Begum LHV
2. Accounts/Pay bill Clerk of this Office

For information and necessary action.

AGENCY SURGEON
NORTH WAZIRISTAN MIRANSHAH



AGENCY SURGEON
NORTH WAZIRISTAN MIRANSHAH

Amir B

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**OFFICE OF THE DISTRICT HEALTH OFFICER
GULKADA DISTRICT SWAT**

Phone No: 0946-9240139, Fax No: 0946-9240215
Email: edohswat@yahoo.com

No. /

Dated: 17/5/2023

OFFICE ORDER

As per recommendation of enquiry report the following posting /Adjustment is hereby ordered with immediate effect in the best interest of public services .

S/N	Name	Designation	From	To	Remakes
1	Mrs.Hurmat Bibi	PHC Tech (MCH) LHV	BHU:Qamber	BHU:Bishban	Vice S.No.2
2	Mrs.Ruqia	---do---	BHU:Bishban	BHU:Qamaber	Vice S.No.1

Arrival /departure reports should be submitted to this office accordingly .

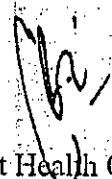
sd/

District Health Officer
District Swat at Gulkada.


NO 6355-61

Copy forwarded to the :

- 01- Medical Officer I/C BHU:Qamber swat
- 02- Medical Officer I/C BHU:Bisliban swat
- 03- DHIS Section of this office .
- 04- The above named official
- 05- Divisional Monitoring Office MKD Division swat.
- 06- Afzal Khan S/Assistant of this office
- 07- Account Section of this office .
for information.


District Health Officer
District Swat at Gulkada.

Rahman Ali18520223

Attested

Advocate

جمہوریہ خواتین اور بچوں کی تحریک
لوساطت خواتین کی تنظیم اور خواتین کی تنظیم

عنوان

ای میل کے ذریعہ اور اس کے سلسلہ میں منصفانہ احکامات

خدا تعالیٰ

موجودہ حالت کو دیکھ کر ہم نے گزارش کی تھی کہ میں نے 2011ء میں
ممبر سروس میں ڈکڑی انی لم ری ہوں۔ اور اپنی سادہ
مطابق اپنی ذمہ داریوں کو ادا کرنے سے ادا کر رہی ہوں۔ اور روز میرا کل
میں رہتا تھا۔ مگر خلیانہ کا دور عمل میں لائی جاتی رہی ہے۔ اور
میرا تبادلہ ہی ایچ او قمبر سے ہی ایچ او بیشنہ ذرا احکامات
بر 61-6355 کو رخ نہ 1713 عمل میں لائی گئی ہے۔ جو کہ
ہی ایچ او بیشنہ میرا جائے رہا ہے۔ میں نے درخواست دے اور اقتدار
رہا ہے۔ جو کہ میرے ذمہ ہے۔ اور میں نے اس سلسلہ میں درخواست
اور میں نے اس میں شامل ہو کر تبادلہ سائل کو ذمہ
دریشتانی اور مشکلات میں ڈالا ہے۔ لہذا آپ صاحبان سے درخواست
اور دعاؤں کا موقعہ دوں۔ مشکریہ

بیسریفہ

B Hu

Date - 29/5/23

Attested
Advocate



Amree D³ (11)

**OFFICE OF THE DISTRICT HEALTH OFFICER
GULKADA DISTRICT SWAT**

Phone No: 0946-9240139; Fax No: 0946-9240215

Email: edohswat@yahoo.com

NO /

Dated 29/5/2023

TO,

Mrs. Hurmat PHC Tech (MCH) LHV
BHU: Qamber swat under transfer to BHU: Bishban swat.

Subject:- APPEAL
Memo

Reference your application /Appeal dated 22/5/2023 received vide this office Dairy No.380 dated 24/5/2023.

In this connection it is to inform you that many complaints received from unit staff/ community to this office conducted an Inquiry against you and the Inquiry officer recommended to transfer you from BHU: Qambar to other health Facilities .

You are directed to report for duty to BHU: Bishban and submit arrival /Departure reports to this office positively

NO 6951-55

copy forwarded to the :-
01- Medical Officer I/C BHU: Bishban swat.
02- Medical Officer I/C BHU: Qambar swat.
03- Account Section of this office .
04- DHIS Section of this office.
05- Afzal Khan S/Asst: of this office
for information.

✓

District Health Officer
District Swat at Gulkada.

[Signature]
District Health Officer
District Swat at Gulkada.

Rahman Ali

Attest
[Signature]
Advocate

(12)

بکھنور جناب ڈسٹرکٹ ہیلتھ آفسر صاحب ضلع سوات



جناب جناب

درخواست برائے آئٹورنی Right to Information Act




موجودہ نذر رش ہے۔ کہ میں بحیثیت BHU-L.H.U آئٹورنی اپنی ڈیوٹی انجام دے رہی ہوں۔
مزید یہ کہ مجھے مہینوں میں آئٹورنی میرے خلاف ہوئی ہے اور ایجنسی میں وہ آئٹورنی کی بنیاد پر DHO آفس سے رپورٹ File مانگنا چاہتا
ہوں۔ تو مجھے دور دور پر رپورٹ مانگ جلد مل جائے گی۔ تو میں اپ لوگوں کی بہت شکر گزار ہوں۔
آپ سے احسان مہربانی کر کے مجھے وہ آئٹورنی کی رپورٹیں دے دیں۔ بڑے مہربانی ہوئی۔ شکر یہ

انور شہ

خدمت BHU.L.H.V آئٹورنی سوات

تاریخ 31-05-2023

Attested
Advocate

بار کونسل نمبر: <u>bc-17-7394</u>	 	بریل نمبر: <u>19839</u>
بار ایسوسی ایشن نمبر: <u>358</u>		
رابطہ نمبر: <u>0344-455-7383</u>	ڈسٹرکٹ بار ایسوسی ایشن سوات	
ای میل ایڈریس: <u>0302-8524193</u>		

بعدالت جناب: مسٹر جسٹس فیروز خان صاحب / مہاراجہ صاحب / مہاراجہ صاحب

مخانب: <u>ریپرائز</u>	دعویٰ اور خواست: <u>مسٹر جسٹس فیروز خان صاحب</u>
مخبریت	علت نمبر:
بنام	مورخہ:
ڈسٹرکٹ بار ایسوسی ایشن سوات	جرم:
	تھانہ:

بابت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

Abdul Nasir
Advocate High Court

آن مقام مسٹر جسٹس فیروز خان صاحب کیلئے مہاراجہ صاحب کو مقرر کر کے
 اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ
 کرنے و تقرر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری
 یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا۔ نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ
 مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا
 اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران
 مقدمہ جو خرچہ و ہرجانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی
 مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بخدم
 پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے،
 لہذا وکالت نامہ لکھ دیا کہ سندر ہے

مقام مہاراجہ صاحب کے لئے منظور ہے۔

Attested and accepted by


 ایڈووکیٹ دستخط: Abdul Nasir
 Advocate High Court

التقوم: 02-06-2023

مسٹر جسٹس فیروز خان صاحب
 (JHC) - ایپلینڈ
 # 0343-8995664