

1415/23

10<sup>th</sup> August, 2023

01. Counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. Advocate General for the official respondents present. Learned counsel for private respondent No. 3 present.

02. In the case under reference this Tribunal vide its order dated 24.07.2023 suspended the operation of the impugned order to the extent of appellant, with a condition that if it had not been already acted upon. It was clarified by learned counsel for the private respondent No. 3 that the order had already been acted upon on 24.03.2023 and produced the pay rolls of April, May, June and July which show that she started drawing her salary from Moulvi Ameer Shah Memorial Hospital, Peshawar. Despite the fact that the department was in the knowledge that the impugned order had already been acted upon and private respondent No. 3 had already taken the charge and started drawing her salary from that post, an office order dated 31.07.2023 was issued stating therein "In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar order dated 24.07.2023 in Service Appeal No. 1415/2023, the posting/transfer order of Mst. Nahced Begum D/O Fazle Raziq, Registered Nurse Officer (RNO) BS-16 from Moulvi Ameer Shah Memorial Hospital Peshawar to DIIQ Hospital Hangu contained in this Directorate Office order bearing endorsement No. 1737-45/E-II dated 22.03.2023 is hereby suspended with immediate effect till the final decision of her appeal by the Khyber Pakhtunkhwa Service Tribunal Peshawar.

03. It has been noted with great concern that the order of this Tribunal has been misinterpreted. This Tribunal had clearly stated in its order dated 24.07.2023 that the operation of the impugned order was to



be suspended if not already acted upon (emphasis added); in a situation where action had already been taken, there was no need of reverting that order. The department is, therefore, directed to be careful in future while interpreting the orders of this Tribunal. Copy of this order be forwarded to the Chief Secretary and Secretary Health, Government of Khyber Pakhtunkhwa.

04. In the light of above discussion, operation of order dated 31.07.2023 is suspended. To come up for arguments on 21.08.2023 before the D.B. Parcha Peshi given to the parties.



**(FAREEHA PAUL)**  
**Member(E)**



**(RASHIDA BANO)**  
**Member (J)**