

BEFORE THE KHYBER PUKHTUNKHAWA SERVICE
TRIBUNAL PESHAWAR

Appeal.No.1415/2023

Mst. Naheed Begum.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through
Secretary Health and others.....Respondents

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Dated: 03.08.0223

Respondent No-3
Through


Waseem ud Din Khattak
Advocate Supreme Court

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BEFORE THE KHYBER PUKHTUNKHAWA SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6829
Dated 23/08/23

Appeal.No.1415/2023

Mst. Naheed Begum.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through
Secretary Health and others.....Respondents

REPLY FOR AND ON BEHALF OF
RESPONDENT NO.3

Preliminary Objections:-

1. That the instant Appeal is incompetent and wholly misconceived, liable to dismissal. As there is no violation of any rules, hence the Petitioner has no cause of action to file the present Appeal.
2. That posting and transfer being prerogative of employer no vested right is created or given in favour of a civil servant, who claim that he/ she should be posted at one particular post, it is the prerogative of an employer to post a particular person to a particular post where the employer deemed appropriate. (1999 SCMR 2482, 1994 PLC (CS) 737, 1994 PLC (CS) 99, 186, 1992 PLC (CS) 1363 and 1999 SCMR 1293)
3. That it is not necessary that in a transfer order, detail must be given to justify that, it was made in the interest of public at large. Transfer orders which are passed in the discretion of competent authority cannot be challenged in routine on flimsy grounds. (2000 SCMR 141)
4. That it is not necessary to complete 03 years for posting on a particular post and more especially when the post is not a tenure post. (MLR 1998 TD (Service) 39 & 2004 PLC (CS) 705)
5. That to hold a particular post is not the prerogative or choice of an employee; therefore, the appeal is incompetent and not maintainable.
6. That the Appellant has not come to this Hon'ble Tribunal with clean hands and has no locus standi to file the present Appeal.

REPLY ON GROUNDS

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7. That the Appellant has concealed material facts from this Hon'ble Tribunal, as appellant was transferred on her own request from Molvi Ameer Shah Memorial Hospital, Peshawar by the competent authority after taking necessary approval in the best public interest.
8. That the appellant served on post (from where she is transferred) for a period of more than 06 years. (Copy of letter dated 24.04.2017 is attached as Annex "PC/1")

REPLY ON FACTS:

1. Para-1 of the appeal needs no reply.
2. Para-2 of the appeal needs no reply.
3. Para-3 of the Appeal is correct.
4. Para-4 of the Appeal is correct. However, it is, submitted that the Ban was imposed by the Election Commission of Pakistan on the transfer/ posting of Public Officers who are in BPS-17 & above and not for BPS-1 to BPS-16. (Copy of letter dated 28.02.2023 is attached as Annex "PC/2")
5. Para-5 of the Appeal is incorrect as laid, hence denied. In response, it is submitted that appellant herself moved an application on 27.12.2022 to D.G Health Khyber Pakhtunkhwa for her transfer from Molvi Ameer Shah Memorial Hospital, Peshawar on the ground of her illness and rush of work at Molvi Ameer Shah Memorial Hospital, Peshawar and request of appellant was properly forwarded by concerned authority, the competent authority transferred the appellant from Molvi Ameer Shah Memorial Hospital, Peshawar to DHQ Hospital, Hangu in the best public interest. It is pertinent to mention here that the answering respondent has already resumed her charge at Molvi Ameer Shah Memorial Hospital, Peshawar. (Copy of application, letter & Charge assumption report are attached as Annex "PC/3 & PC/4")
6. Para-6 of the Appeal needs no reply as the same does not pertain to the answering respondent.
7. Para-7 of the Appeal needs no reply as the same does not pertain to the answering respondent.
8. Para-8 of the Appeal needs no reply as the same does not pertain to the answering respondent.
9. Para-9 of the appeal needs no reply.

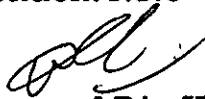
REPLY ON GROUNDS

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- A. Ground-A of the Appeal is incorrect hence denied. In response, it is submitted that appellant was transfer on her on request also from Molvi Ameer Shah Memorial Hospital, Peshawar to DHQ Hospital, Hangu by the competent authority after proper approval in the best public interest. Detail reply has been given in the preceding paras.
- B. Ground-B of the Appeal is incorrect hence denied. In response, it is, submitted that posting/ transfer order dated 22.03.2023 was issued in accordance with law.
- C. Ground-C of the Appeal is incorrect, hence denied. Detail reply has been given in the preceding paras.
- D. Ground-D of the Appeal is incorrect, as laid, hence denied. In response, it is, submitted that appellant was treated with in accordance with law and there is no violation of rules/ law on the respondents. It is, further submitted that the answering respondent was transferred to Molvi Ameer Shah Memorial Hospital, Peshawar keeping in view of her past service history and experience on the relevant post, furthermore, the answering respondent had also performed her duty at Molvi Ameer Shah Memorial Hospital, Peshawar prior to the present posting.
- E. Ground-E of the Appeal is incorrect, hence denied. Detailed reply is given above.
- F. Ground-F of the Appeal is incorrect, hence denied. Detailed reply is given in Para-4 above.
- G. In reply to Ground-G, it is, submitted that transfer/ posting is the prerogative of the Govt. and the employees have no right to question the posting orders which were made in accordance with law in the best public interest.
- H. Ground-H of the appeal is incorrect hence denied. A ground not taken in the appeal cannot be agitated later.

It is, therefore, prayed that the appeal may graciously be dismissed with costs.

Dated: 03.08.2023

Respondent No.3
Through 
Waseem ud Din Khattak
Advocate Supreme Court

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

In Re

SA No.1415/2023

Mst. Naheed BegumPetitioner

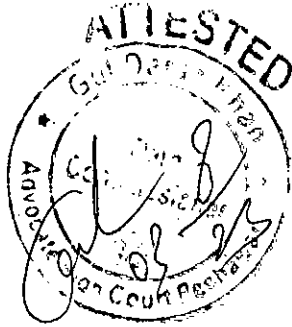
Versus

Govt. of Khyber Pakhtunkhwa through
Secretary Health and othersRespondents

AFFIDAVIT

I, Farhat Gul W/o Ali Rehmat (Appellant), do hereby affirm and declare on oath that the contents of accompanying the Reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Court.

Deponent



PC/1



**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.
E-Mail Address: dg@ghs.gov.pk
Office Phone: 091-9210200
Fax Number: 091-9210187, 9210188
Fax #: 091-9210210

OFFICE ORDER

On her relieving from HMC, Peshawar, Mat. Naheed Begum, D/O Fazle Raziq, Charge Nurse BPS-16 is hereby posted at Moulvi Ameer Shah Memorial Hospital Peshawar against the vacant post cause vacant due to willful absence of Mst. Uzma Gul D/O Bashir Ahmad Charge Nurse (BPS-16), in the interest of public service with immediate effect.

NB: - Arrival reports should please be submitted to this Directorate for record.

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

No. 4119-23 /E.II, Dated Pesh: the 24/4 /2017.

Copy forwarded to the:-

01. Hospital Director, HMC / MTI Peshawar w/r to his letter No. 135/62 /HMC/HR-II, dated 06.02.2017.
02. Medical Supdt. Moulvi Ameer Shah Memorial Hospital Peshawar
03. Accountant General, Khyber Pakhtunkhwa Peshawar.
04. Charge Nurse concerned.
05. DA-concerned, DGHS KPK Peshawar.

For information and necessary action.

[Signature]
ASSISTANT DIRECTOR (NURSING)
DGHS KPK PESHAWAR.

of the type
clearing vacancy
EXWT
[Signature]
27/4/17

24/4

No. F.10(1)/2023-Elec-II
ELECTION COMMISSION OF PAKISTAN

⑤ PC/2



To,

The Provincial Election Commissioner,
Khyber Pakhtunkhwa.
Peshawar.

Subject: NOC FOR TRANSFER/POSTING.

Dear Sir,

Reference to your letter No. F.3 (1)/2023-Els(PEC) Vol-IV(9) dated 23rd February, 2023 on the subject cited above and to state that the Hon'ble Commission has decided vide letter No F. 10(1)/2023-Elec-II dated 28th February, 2023 that the transfer/posting up to BPS-16 may be done by the Care taker Government of Khyber Pakhtunkhwa, as per the law. The relevant department/persons be informed to approach the appropriate forum, please.

Yours sincerely,

Rizwana Latif
o/c
(Rizwana Latif)
Assistant Director (Elec-II)

ATTESTED

Attested

OFFICE ORDER

In pursuance of Khyber Pakhtunkhwa Service Tribunal Order dated: 24-07-2023 in Service Appeal No. 1415/2023 the posting transfer of 1st Naheed Begum D/O Fazole Raziq, Registered Nurse Officer (RNO), BS-15 from Mohi Ameer Shah Memorial Hospital Peshawar to DHQ Hospital Hangu, Peshawar Directorate Office Order bearing endorsement No. 173745/E.II dated 22/7/2023 hereby suspended with immediate effect till the final decision of the concerned Khyber Pakhtunkhwa Service Tribunal Peshawar.

NB: - Arrival report should please be submitted to the concerned

records

Sd/-
DIRECTOR GENERAL HEALTH
SERVICES, KP PESHAWAR


No. 4084-90

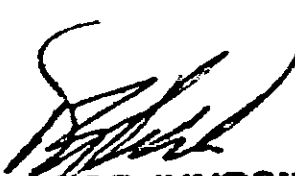
E.II. Dated Pesh. The 31/7/2023

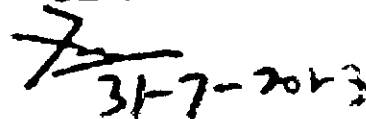
Copy forwarded to the:-

- 1 Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar
- 2 Medical Superintendent, Mohi Ameer Shah Memorial Hospital Peshawar
- 3 Medical Superintendent, DHQ Hospital, Hangu
- 4 Accountant General, Khyber Pakhtunkhwa Peshawar
- 5 District Account Officer, Hangu.
- 6 Assistant Director, (Litigation) DGHS Peshawar
- 7 Promotion Cell, DGHS, Khyber Pakhtunkhwa Peshawar
- 8 Registered Nurse Officer (RNO) BS-15 concerned.

For information and necessary action




ADDL: DIRECTOR (NURSING)
DIRECTORATE GENERAL HEALTH
SERVICES KP PESHAWAR


31-7-2023

خدمت صبا ڈی. بی. بی. کے ساتھ صبا کے خیر خواہوں

صبا علی، PC/3

6) مودیا گزراش کی جاتی ہے کہ میری سر جری ہوئی ہے اور مولوی جی ہسپتال میں ڈیوٹی زیادہ ہے اور بھارتیوں کی ڈیوٹی دینے میں بہت دشواری ہے۔
اب آپ صبا سے میری درخواست ہے کہ مجھے کوئی سر جری ٹرانسفر کی جائے۔

آپ صبا کے ساتھ ساتھ ناچیدہ بنیں۔
تاکہ

تاریخ: 27/12/2020

Attested

Submitted to D.S.

23/12/20

(7)

OFFICE OF THE
MEDICAL SUPERINTENDENT
MOULVI AMEER SHAH MEMORIAL HOSPITAL, PESHAWAR

No. 600 MS/Esstt Hospital Peshawar Dated 24 / 01 / 2023

To

The Director General Health Services
Khyber Pakhtunkhwa Peshawar

Subject: **REQUEST FOR TRANSFER**

R/Sir,

I have the honor to enclose herewith an application in (Original) in respect of Mst. Naheed Baegum, Charge Nurse (BS-16) attached to Moulvi Ameer Shah Memorial Hospital Peshawar, wherein she has requested for transfer from Moulvi Ameer Shah Memorial Hospital Peshawar forwarded for information and further necessary action, please.

Naheed Baegum

me

24/01/2023
Medical Superintendent
Moulvi Ameer Shah Memorial
Hospital, Peshawar

*Received
original copy
Loh Muhammad*

PC/4

DGHS/Arrival

8

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Mrs. Farhat Gul D/O Sifwat Baig, have this day before **noon** taken over charge as a Registered **Nurse Officer (BS-16)**, at **Moulvi Ameer Shah Memorial Hospital Peshawar**, vide Director General Health Services Khyber Pakhtukhwa Peshawar Office Order No. 1737-45/E.II, Dated Peshawar The 22/03/2023.

Signature of relieved
Govt. Servant _____

///

Station: **Peshawar**

Signature of
Govt. Servant
Receiving Charge _____



Dated: 24/03/2023

OFFICE OF THE MEDICAL SUPERINTENDENT
MOULVI AMEER SHAH MEMORIAL HOSPITAL PESHAWAR

No. 1802-15 /MASMH/Peshawar/PF dated: 10/04/2023
Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa with the reference to his Office Order No. 1737-45/E.II, Dated Peshawar The 22/03/2023.
3. Register Nurse Officer Concerned.
4. Account Section this office.

For information and necessary action, please.



Medical Superintendent
Moulvi Ameer Shah Memorial
Hospital Peshawar