

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

SERVICE APPEAL NO. 1415/2023

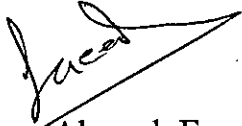
Naheed Begum.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

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Laeeq Ahmad, Focal Person (Litigation) office of DGHS, Khyber Pakhtunkhwa,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No.1415 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6916
Dated 07/08/23

Ms. Naheed Begum.....Appellant.

Versus

Government of Khyber Pakhtunkhwa & others.....Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got no cause of action or locus standi to file the instant appeal.
2. That the Appellant has deliberately concealed the material facts from the Honorable Tribunal, hence, liable to be dismissed.
3. That the Appellant has filed the instant appeal just to pressurize the respondents.
4. That the Appellant has filed the instant appeal on mala-fide motives.
5. That the appeal is not maintainable in its present form and also in the present circumstances of the case.
6. That the Appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is bad due to non-joinder of necessary and mis-joinder of Unnecessary parties.
8. That the appeal is badly time-barred.
9. That the Appellant has been estopped by his own conduct to file the appeal.

ON FACTS:-

1. Pertains to record.
2. Pertains to record.
3. Correct.
4. Incorrect, the ban on posting/transfer was imposed by the Election Commission of Pakistan on public officers, who are in BPS-17 and above while the appellant is in BPS-16.
5. Incorrect, the appellant herself submitted application for transfer from Molvi Ameer Shah Memorial Hospital Peshawar. Therefore, she was transferred vide order dated 22.03.2023 in the public interest. It is worth to mention that she spent more than 06 years at Molvi Ameer Shah Memorial Hospital Peshawar prior to her transfer order dated 22.03.2023 (Annex-A).
6. Pertains to record.
7. Incorrect, the Writ Petition of the appellant was dismissed by the Honorable Peshawar High Court, Peshawar, however expected to decide the Departmental Appeal of the appellant in accordance with the posting /transfer policy of the Provincial Government.
8. Incorrect, the appellant was already posted at the disposal of Medical Superintendent, Molvi Ameer Shah Memorial hospital Peshawar for further posting against any vacant post vide Office Order No. 2260-65/E-II dated: 18-04-2023 (Annex-B).
9. Incorrect. No vested right of the appellant has been violated by the replying respondents however, reply on the grounds is as under:

ON GROUNDS

- A. Incorrect, the appellant was transferred on her own request from Molvi Ameer Shah Memorial Hospital Peshawar in accordance with law, rules and principle of natural justice.
- B. Incorrect, the posting/transfer orders dated: 22-03-2023 (already attached with the appeal as annexure-C) was issued in accordance with law.
- C. As in preceding para.
- D. Incorrect, the order dated: 22-03-2023 has been issued in public interest on her own request.

1. Incorrect, the appellant has been treated in accordance with law and rules. The impugned order has been issued in accordance with Law and Rules the apex court has laid down following principles in a reported judgment 2017 SCMR 798:

- i. *It is within the competence of the authorities to transfer a civil servant from one place or post to another to meet the exigencies of service or administration; provided his terms and conditions of service are not adversely affected.*
- ii. *A Civil servant has no vested rights to claim posting or transfer to any particular place of his choice nor has any right to continue⁴ to hold a particular post at a particular place.*
- iii. *His transfer and posting is limited to the given tenure, or at the pleasure of the competent authorities.*
- iv. *Normally, he is not required to acquire any specialized skill or professional training in order to serve the new post or place.*
- v. *His seniority and progression of career in terms of promotion and other benefits of the services are not affected by the transfer and he remains pegged to his batch or group to which he was initially appointed after completing the required common and specialized trainings and after passing the required departmental examinations conducted by the FPSC.*
- vi. *He is posted and transferred routinely in the same grade or scale that he possesses in his service or group; unless the rule requires so or allows so.*

The appellant has been treated in accordance with the above dictum of the apex court. This honorable tribunal also dismissed service appeal No. 7035/2021 titled Dr. Ejaz Ahmad vs Govt of KPK dated 24-05-2022 on the basis of the above mentioned judgment.

E. Incorrect, no discrimination and violation of the order of Election Commission of Pakistan has been done.


F. Incorrect, the appellant is having domicile of District Charsadda and serving in district Peshawar since long.

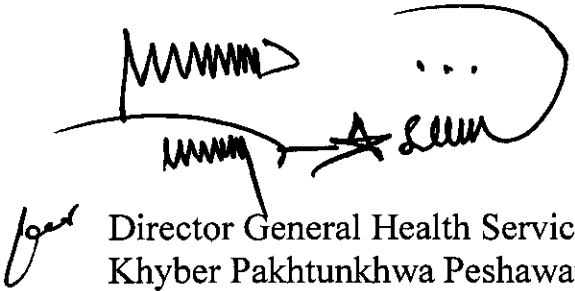
G. Incorrect, no violation of the posting / transfer policy has been done.

H. Answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of final arguments.

Prayer:

It is, therefore, humbly prayed that the instant appeal, being devoid of merit, may graciously be dismissed with costs.


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


Director General Health Services
Khyber Pakhtunkhwa Peshawar
Respondent No. 02

خدمت صواب ڈی. بی. بیلی صاف صیبر خواہ
صاف صافی 1 PC/3

6) مودیا گناراشی آئی جی کے مری سر جی مری
اور مولوی جی جی جی میں ڈیڑھ زیادہ ہے اور
بھارتیوں ڈیڑھ سے بیس ڈیڑھ ہے
آپ صاف سے مری درخواست ہے کہ جی کوئی
سری جگہ ٹرانسفر آئی جائے

آپ صاف کے ساتھ
ناقصہ
بم

تاریخ :- 27/12/2008

Handwritten signature and date

23/1/23

Attested
Handwritten signature



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

301

Ameer B

OFFICE ORDER.

Mrs. Naheed Begum D/O Fazle Raziq, Registered Nurse Officer (BPS-16) Moulvi Ameer Shah Memorial Hospital Peshawar under transfer to DHQ Hospital Hangu vide this Directorate office order bearing Endst. No. 1737-45/E.II, dated 22.03.2023, is hereby posted at the disposal of Medical Supdt. Moulvi Ameer Shah Memorial Hospital Peshawar for further posting against any vacant post in the interest of public service with immediate effect.

NB: - Arrival / departure report should be submitted to this Directorate.

Sd/-
DIRECTOR GENERAL HEALTH SERVICES, KP PESHAWAR.

No. 2260-65 /E.II, Dated Pesh. The 18 / 4 / 2023.

Copy forwarded to the:-

- 01. Medical Supdt. Moulvi Ameer Shah Memorial Hospital Peshawar.
- 02. Medical Supdt. DHQ Hospital, Hangu.
- 03. DAOs, concerned.
- 04. Director DHIS Cell, DGHS KP Peshawar.
- 05. RNO concerned.
- 06. DA-concerned, DGHS office Peshawar.

For information and necessary action.

ADDL: DIRECTOR (NURSING)
DIRECTORATE GENERAL HEALTH SERVICES, K.P PESHAWAR

As verbally directed by
the DGHS KP fair draft
is added for approval and
signature please

18/4/2023

DEPT. /

12/10/23

DGHS

18/4/23

Ameer

Attested

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

SERVICE APPEAL NO. 1415/2023

Naheed Begum.....Appellant

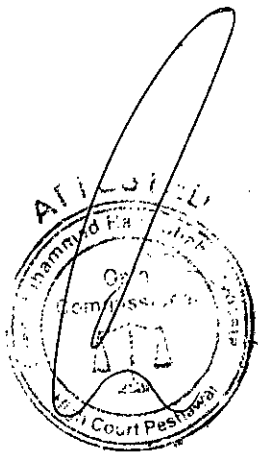
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Affidavit

I, Laeeq Ahmad, Focal Person (Litigation) office of the Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondent are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off / costs.

Laeeq Ahmad
Deponent



07 AUG 2023

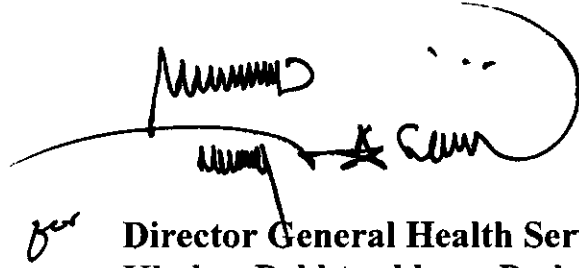


**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

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Office. # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Mr. Laeeq Ahmad Focal Person (Litigation) Directorate General Health Services, Khyber Pakhtunkhwa, is hereby authorized to submit parawise comments in case Service Appeal No. 1415/2023 titled Naheed Begum VS Govt. of Khyber Pakhtunkhwa & others on behalf of the undersigned.



**Director General Health Services
Khyber Pakhtunkhwa, Peshawar.**