

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 825/2023

BEFORE: **MRS RASHIDA BANO** ... **MEMBER (J)**
MISS FAREEHA PAUL ... **MEMBER (E)**

Mst. Sumaira D/O Jamil Ahmad (RNO) BS-16 Category-C Hospital Shabqadar, District Charsadda, Khyber Pakhtunkhwa R/O Post Office Chowk Yadgar, House No. 1464, Mohallah Mukarrab Khan, Yakatoot, Peshawar. (*Appellant*)

Versus

1. Directorate General Health Service, Khyber Pakhtunkhwa Peshawar through its Director General.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. M.S Civil Hospital, Shabqadar.
4. Miss Shahnaz Begum D/O Shoukat Ali (RNO) BS-16 DHQ Hospital, Charsadda. (*Respondents*)

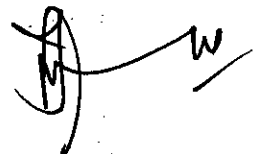
Mr. Faisal Nasir Khan,
Advocate ... For appellant

Mr. Fazal Shah Mohmand,
Addl. Advocate General ... For official respondents

Date of Institution..... 12.04.2023
Date of Hearing..... 08.08.2023
Date of Decision..... 08.08.2023

JUDGEMENT

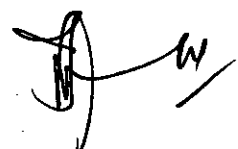
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 28.06.2022, whereby the appellant was transferred from Category-C Hospital Shabqadar to DHQ Hospital Charsadda. It has been prayed that on acceptance of the appeal, the impugned order might be set aside and appellant might be



transferred to District Peshawar alongwith any other remedy which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was posted as Registered Nurse Officer (RNO) at Category-C hospital Shabqadar. She, alongwith her family, was residing at Peshawar and therefore, an application to issue NOC for her transfer to Peshawar District was moved by the appellant on 10.05.2022 to the office of respondent No. 3. Private respondent No. 4 had requested respondent No. 1 for her transfer to Category-C Hospital Shabqadar. Respondent No. 3, without consent and knowledge of the appellant, approved her name for mutual transfer with respondent No. 4. Respondent No. 1 approved mutual transfer of appellant with private respondent No. 4 and issued office order dated 28.06.2022 but respondent No. 3 did not disclose the same to appellant. Respondent No. 1 vide letter dated 13.12.2022 issued directions for relieving appellant after 6 months of the impugned order. Respondent No. 3 kept all the proceedings secret and on 27.12.2022 issued relieving order of the appellant. Feeling aggrieved, the appellant filed an appeal in the office of respondent No. 1 on 05.01.2023, followed by another application on 18.01.2023, but it was not responded. Instead of resolving the issue of the appellant, her salary was attached by respondents during departmental appeal.

3. Respondents were put on notice who did not submit written replies/comments on the appeal and were placed ex-parte vide order

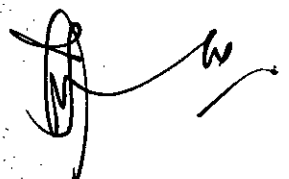


dated 27.07.2023. We heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant had requested for transfer to her home station but the respondents issued transfer order to a distant location with malafide intentions. He further argued that the order of mutual transfer was passed without taking consent of the appellant. He requested that the appeal might be accepted as prayed.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, referred to Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973 according to which a civil servant was liable to serve anywhere in the province.


6. Arguments and record presented before us reveals that the appellant is a Registered Nurse Officer (RNO), BS-16. While serving at Civil Hospital Shabqadar, she submitted an application dated 10.05.2022 to the Medical Superintendent of hospital for her transfer to Peshawar City on the ground that she was a permanent resident of Peshawar City and Shabqadar was far away from her residence. On that application, the M.S wrote the remarks "no objection on her transfer from Cat.-C Hospital Shabqadar" but record is silent whether the M.S forwarded her case to the District Health Officer or the Directorate of Health. Although the right of respondents to submit reply was struck of,



they produced another application dated 09.06.2022 of the appellant, addressed to the Director General Health Services, Khyber Pakhtunkhwa requesting him to transfer her from THQ Hospital Charsadda to a vacant post in DIIQ Hospital Alpuri, Shangla. When confronted why she made such request after her previous request of transferring her to Peshawar, the learned counsel for the appellant stated that the husband of the appellant runs a business and he wanted to go there in connection with that and that is why the appellant requested for her transfer to Shangla.

7. A letter of the Directorate General dated 28.02.2022 signed by Director (HRM) addressed to the M.S Type C Hospital Shabqadar, Charsadda available in record shows that one Mrs. Shahnaz Begum Charge Nurse, Private respondent No. 4, requested for her transfer to Shabqadar and through the letter the Director asked the M.S to intimate the name of a Charge Nurse having no objection and willing for transfer to DIIQ Hospital Charadda in place of Mrs.Shahnaz Begum. Then through an order dated 28.06.2022, the transfer of appellant and respondent No. 4 was ordered, that has been impugned before us. The grounds taken by the appellant before us are that the transfer order has been issued without asking her consent and that the DHQ Hospital, Charsadda is far away from her home in Peshawar.


8. The appellant is a civil servant and under Section 10 of Khyber Pakhtunkhwa Civil Servant Act 1973, she is bound to serve anywhere in the province where her competent authority posts her. Moreover no



civil servant can claim transfer/posting on a position of his/her choice. It is purely the discretion of the provincial government and the authority to whom the power is delegated to transfer a civil servant wherever his/her services are required, in the best public interest. The AAG further clarified that the appellant has already taken over the charge of the current post. He further added that she has been adjusted at the nearest station to her home, to facilitate her at the best, owing to the fact that no post is vacant within Peshawar on which she may be posted.

9. In the light of above discussion, the appeal in hand is dismissed. Costs shall follow the event. Consign.

10. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 8th day of August, 2023.*


(FAREEHA PAUL)
Member (I)

Fazle Subhan, P.S

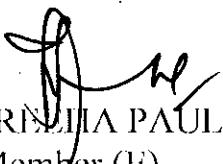

(RASHIDA BANO)
Member (J)


SA 825/2023

08th Aug. 2023 01. Mr. Faisal Nasir Khan, Advocate for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the official respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed. Costs shall follow the event. Consign. .

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 08th day of August, 2023.*


(FARIS JIA PAUL)
Member (I)


(RASHIDA BANO)
Member (J)

Fazal Subhan PS

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Shamir
10/06/22
N/S

23070
09/06/22

To

The Director General Health Services KPK

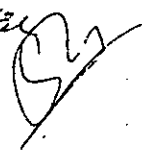
SUBJECT: Transfer my post to DHQ Hospital Alpuri (Shangla)

R/Sir

It is stated that currently I am posted as a Charge Nurse (BPS-16) in THQ Hospital Shabqadar (Charsadda) and I want to transfer my post to a vacant post in DHQ Hospital Alpuri (Shangla) kindly transfer my post to DHQ Hospital Apluri (Shangla)

I shall be very thankful to you for this act of kindness.

Sumera D/O Jamil Ahmad

Charge Nurse


Date: 09-06-2022



**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 t 091 - 9210269 Exchange ☎ 091 - 9210187, 091 - 9210196 Fax f 091 - 9210230

OFFICE ORDER.

The following posting/transfer of Charge Nurses BPS-16 are hereby ordered, in the interest of public Service with immediate effect:-

S.No.	Name of Charge Nurse	From	To	Remarks
01	Mrs. Shahnaz Begum D/O Shaukat Ali Charge Nurse BS-16	DHQ Hospital, Charsadda	Category-C Hospital Shabqadar (Charsadda)	Vice No.2
02	Mrs. Sumaira D/O Jamil Ahmad Charge Nurse BS-16	Category-C Hospital Shabqadar (Charsadda)	DHQ Hospital, Charsadda	Vice No.1

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

Sd/-
DIRECTOR GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR.

No. 3438-42 /E.II, Dated Pesh. The 28/06/2022.

Copy forwarded to the:-

01. Medical Superintendent, DHQ Hospital, Charsadda.
02. Medical Superintendent, Category-C Hospital Shabqadar (Charsadda).
03. District Accounts Officer, Charsadda.
04. DHIS Cell, DGHS KP Peshawar.
05. DA-concerned, DGHS K.P.K, Peshawar.

For information and necessary action.

ADDI: DIRECTOR GENERAL (HRM)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P PESHAWAR

23/6/2022

133 25
02/01/2023

To

03/12/23

The Director General,
Health Services KPK.

General Health Services,
Peshawar

Subject:

**CANCELLATION OF MUTUAL TRANSFER ORDER WHICH IS CONDUCTED
EVEN WITHOUT MY INFORMATION AND WHICH IS NOT SIGNED FROM
EITHER DG AND MS THEMSELVES.**

R/Sir/Madam,

It is stated that on date 28/12/22 reliving letter is issued with reference to DGHS letter No 6322-23/EII Dated 13/12/22 in that letter of DGHS a mutual transfer order is mentioned letter No 3438-42 /EII Dated 28/06/22.

But before 28/12/22 I have never received any transfer letter and they conducted all mutual transfer process without even my information much more my willingness.

That whole of mutual transfer process is conducted on reference of DGHS letter No 1278 /EII Dated 28/02/22 in that letter MS of THQ Hospital Shabqadar is clearly directed to intimate the name of charge Nurse BPS 16 who is willing to exchange the post with -Shehnaz begun D/O Shoukat Ali attached to DHQ hospital Charsadda.

But non of any administrative-staff-neither-MS of THQ hospital Shabqadar informed me or asked me before They sent the letter No 726/MS/SHB on Dated 24/03/22 To DGHS office.

Even in this letter it is stated that she is not willing to work in this hospital this letter NO 726/MS/SHB Dated 24/03/22 dose not say that charge Nurse Mrs. Sumera D/O Jamil Ahmad is willing for a mutual transfer.

My name is not given for mutual transfer to DHQ Chasadda. Yes I am not willing to continue my duty in THQ hospital Shabqadar that's why I applied for NOC letter for transfer from THQ hospital Shabqadar but it does not mean that I am willing to transfer to DHQ Charsadda mutually.

And MS office issued NOC later No 422/MS/SHB Dated 25/06/2020

DHO office Charsadda also issued NOC letter No 4405-6/DHO CHARsADDA Dated 01/07/2020. An other NOC letter No 888/MS/SHB Dated 10/05/22 is is issued from THQ hospital Shabqadar. Despite that NOC letters issued from MS office and DHO Charsadda office how could this mutual transfer process conducted. A serious miss understanding or miss management could be the cause of this whole process.

Therefore, I request you to take serious note of all this matter and cancel that mutual transfer order. No (3438 - 42/EII Dated: 28/06/22) and I have already applied for transfer my post from THQ Hospital Shabqadar, so kindly post me at one of vacant posts in local BHU or Hospital in side Peshawar city in my own district where me and my family is domiciled.

I shall be very thankful to you for this act of kindness.

Charge Nurse BPS 16
Sumera D/O Jamil Ahmad

Dated: 02-01-23