

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

SERVICE APPEAL NO. 1269/2023

HurmatAppellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

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

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

Appeal No.1269/2023

Mrs. Hurmat, LHV, BHU Qambar, Swat.....Petitioner.

VERSUS

District Health officer and others.....Respondents.

PARA WISE COMMENTS ON BEHALF OF RESPONDENT

NO.1 & 4.

Respectfully Sheweth,

Preliminary Objections: -

1. That the appellant has got neither cause of action nor locus standi to file the instant appeal.
2. That the instant appeal is against the prevailing Law and Rules.
3. That the appeal is not maintainable in the present form and also in the present circumstance of the issue.
4. That the appellant has filed instant appeal with mala-fide intention hence liable to be dismissed.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the impugned order dated 17-05-2023 has been issued in accordance with section 10 of civil servant act 1973.

On Facts:

- I. That para No. 1 of the appeal is correct.
- II. That para No. 2 of the appeal is incorrect hence denied, because the appellant is transferred in due course of law by the respondent No.1.
- III. That para No.3 of the appeal pertains to record.
- IV. That para No.4 is correct to the extent of appeal of the appellant had been dismissed.
- V. That para No.5 of the appeal is incorrect, no vested right of the appellant has been violated by the replying respondents therefore, she is not an aggrieved person.

Grounds:


- i. Incorrect. the replying respondents acted as per law and rules the appellant has not been panelised rather she has been transferred which comes within terms and condition of her services. It is further to clarify that a civil servant may be transferred on administration grounds as well.
- ii. Already replied in para I of the grounds.
- iii. Incorrect. The replying respondents issued the transfer order dated 1-05-2023, in exigency of service and public interest hence, the para being concocted is denied. The impugned transfer 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 or 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 continue 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 competent authorities.*
 - iv. *Normally, he is not required to acquire any specialised scale or professional training in order to serve the new post or place.*
 - v. *His seniority and progression of carrier in terms of promotion and other benefits of the service 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 examination 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.*


- iv. As per para iii above
- v. As per para iii above
- vi. As per para i above

- vii. As per para i above
- viii. As per para i above
- ix. Incorrect. No such application has been received. Detail reply has been given in para i & iii of the grounds.
- x. No comments. The replying respondents also seek permission of this honourable tribunal to adduce other grounds during final hearing of the case.

Prayer:

It is therefore most humbly prayed that the appeal of the appellant is the result of misrepresentation, incorrect, against the law and rules, against the real facts and is liable to be dismissed with heavy cost. Any other relief which the court deem fit and just may also be graciously awarded to the respondent No.1 against the appellant, please.


**DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA
RESPONDENT NO. 4**


**DISTRICT HEALTH OFFICER
District Health Officer
SWAT
Dist: Swat at Gulkada
RESPONDENT NO. 1**

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29/08/2023

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

SERVICE APPEAL NO. 1269/2023

HurmatAppellant

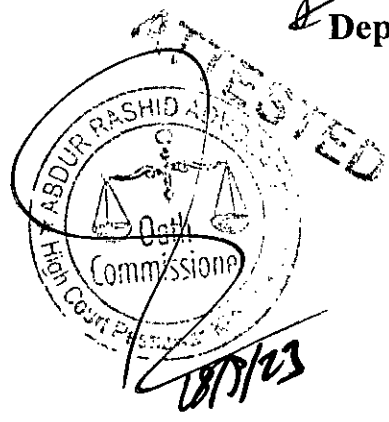
Versus

Government of Khyber Pakhtunkhwa & othersRespondents.

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
Deponent





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 # 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 Service Appeal No. 1269/2023 titled Ms. Hurmat VS Govt. of Khyber Pakhtunkhwa & others on behalf of the undersigned.

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