

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1762/2023

BEFORE: RASHIDA BANO --- MEMBER (J)
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Safia wife of Yar Mohammad R/o Galli Bagh Shahi Bagh, Tehsil &
District Mardan.....(*Appellant*)

VERSUS

1. Director General (Health) Khyber Pakhtunkhwa, Peshawar.
2. Director Health Officer, Mardan.
3. District Health Officer, Mardan.....(*Respondents*)

Present:-

JAVED ALI MOHMADZAI,
Advocate --- For Appellant

ASIF MASOOD ALI SHAH,
Deputy District Attorney --- For respondents

Date of Institution.....16.08.2023
Date of Hearing.....10.11.2023
Date of Decision..... 10.11.2023

JUDGMENT.

MUHAMMAD AKBAR KHAN, MEMBER(E):- The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

“That on acceptance of the instant appeal, the impugned order may kindly be set aside with respect of original place of posting of the appellant.”

02. Brief facts of the case are that the appellant was appointed as Dai (BPS-03) in the respondent department vide order dated 28.01.2008 against

the vacant post of CD Biglighar, Mardan; that on 11.04.2023 the respondent No. 3 issued the impugned order wherein the original place of posting of the appellant has been shown as BHU Kodinaka instead of CD Biglighar. Feeling aggrieved from the impugned order dated 11.04.2023 the appellant filed departmental appeal on 17.04.2023 which was not decided within the statutory period, hence preferred the instant service appeal on 16.08.2023.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Deputy District Attorney for the respondents and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the impugned order is illegal, based on malafide, hence needed to be corrected; that the impugned order is factually wrong and incorrect because the original place of posting of the appellant is Biglighar, Mardan; that if the impugned order is not corrected, then in long run, the appellant will face with great suffering and it will affect her service in future; that the appellant is a poor women and ihas school going children, hence daily going from Biglighar Mardan to Kodinaka is much difficult for her; that the impugned order has been merely passed to benefits the wife or Deputy Director Mardan on malafide basis.

05. Learned Deputy District Attorney on the other hand contended that the appellant was appointed as Dai on CD Biglighar initially but she is a Government Servant and transferable to any place in district on need basis, so the appellant was transferred to BHU Kodinaka and was directed to report for duties at her original place of posting through office order dated

01.02.2023; that the original place of posting of the appellant is BHU Kodinaka and the appellant is not obeying the orders and disobeying law and not performing her duties at her original place of posting.

06. Perusal of record reveals that the appellant was appointed as Dai (BPS-03) in CD Biglighar where she was performing her duty. On 11.04.2023 respondent No. 3 issued order in respect of officers/officials of Health Department in Mardan District who were serving on detailment basis other than their original station of duties. In the said impugned order the original station of duty of the appellant has been shown as BHU Kodinaka and repatriated to BHU Kodinaka from CD Biglighar which is shown as her present posting on detailment basis. Stance of the respondent is not correct and they failed to substantiate original posting of the appellant at BHU Kodinaka. Since repatriation of the appellant from CD Biglighar to BHU Kodinaka has been made on wrong assumption, therefore, we allow the instant appeal as prayed for and the impugned order dated 11.04.2023 to the extent of appellant at serial No. 8 of the said order is set aside. Costs shall follow the event. Consign.

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



(Rashida Bano)
Member (J)



(Muhammad Akbar Khan)
Member (E)

ORDER


10.11.2023

01. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment of today separately placed on file, consisting of (03) pages, we allow the instant appeal as prayed for and the impugned order dated 11.04.2023 to the extent of appellant at serial No. 8 of the said order is set aside. Costs shall follow the event. Consign.

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


(Rashida Bano)
Member (J)


(Muhammad Akbar Khan)
Member (E)