

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

SERVICE APPEAL NO. 7595/2021

Rahat-ul-Ain.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

Index

S. No.	Description	Annexure	Pages No.
1	Comments		1-3
2	Affidavit		4
3	Letter dated 10/09/2015	A	5
4	Judgment dated 08/10/2018 in Service Appeal No. 1373/2015 titled R\$ahat-ul-Ain	B	6-7

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TRIBUNAL, PESHAWAR**

SERVICE APPEAL NO. 7595/2021

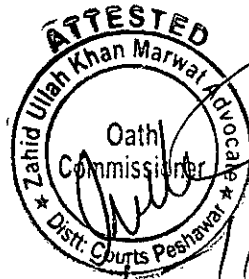
Rahat-ul-Ain.....Appellant

Versus

Government of Khyber Pakhtunkhwa & others Respondents.

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.



Laeeq
Deponent

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 7595 OF 2021

Rahat-ul-Ain.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 TO 03

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 appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. Correct, the appellant was serving in Govt. Naseerullah Khan Babar Memorial Hospital Peshawar.
2. Incorrect & misleading hence denied. The transfer order is crystal clear that the appellant was transferred in the interest of Public Service on the vacant post which proved from the letter / office order dated 10/09/2015 addressed to Director General Health Services Khyber Pakhtunkhwa from the DMS LRH (Annex-A).

The appellant filed Service Appeal No. 1373/2015 against her transfer in Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar which was withdrawn unconditionally (Annex-B).

3. Incorrect, as intimated by DMS, MTI, LRH Peshawar vide his letter, the appellant had not reported her arrival LRH Peshawar.
4. Correct to the extent that status quo was granted by the Khyber Pakhtunkhwa Service Tribunal Peshawar on 6.01.2016 but her transfer order was not cancelled as she has not produced duty performance certificate for the period from 17.08.2015 to 01.02.2018.
5. Incorrect, the transfer order of the appellant was withdrawn on 09.01.2018 & not on 09.01.2017 in the light of Service Tribunal order in COC.
6. Correct. The appellant withdrawn her appeal against the transfer order from the Honorable Tribunal vide order dated 08.10.2018.
7. Incorrect, the appellant was again relieved from Govt. Naseerullah Khan Babar Memorial Hospital Peshawar on administrative grounds, so she was transferred to Women & Children/LMH Kohat being her home District.
8. Incorrect, the appellant was asked through MS Women & Children/LMH Kohat to provide duty performance certificate from the concerned M/S for the period from 17.08.2015 to 12.01.2018 for releasing of her salaries of the said period which is not provided by the appellant up till date.

ON GROUNDS:

- a. Incorrect, the appellant was relieved from Govt. Naseerullah Khan Babar Memorial Hospital Peshawar on administrative grounds.
- b. The appellant was transferred from Govt. Naseerullah Khan Babar Memorial Hospital Peshawar to LRH Peshawar against the vacant post but she did not submit arrival report as stated by M/S LRH Peshawar, so her salary was not released.
- c. The appellant was transferred from Govt. Naseerullah Khan Babar Memorial Hospital Peshawar to LRH Peshawar against the vacant post but she did not submit arrival report as stated by M/S LRH Peshawar, so her salary was not released. She was transferred to Women & Children/LMH Kohat on administrative grounds.
- d. As in Para-a.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.

Shorheen Afendi
Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 01

[Signature]
Secretary to Govt of
Khyber Pakhtunkhwa Health Department
Respondent No. 02

[Signature]
Medical Superintendent
Govt Naseerullah Khan Babar Memorial
Hospital Kohat Road, Peshawar
Respondent No. 03

MEDICAL TEACHING INSTITUTION
LADY READING HOSPITAL PESHAWAR

No. 26113 /E-II,

Dated. 10/09/2015

To

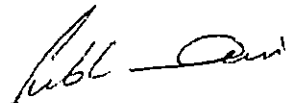
The Director General,
Health Services,
Khyber Pakhtunkhwa, Peshawar

Subject: OFFICE ORDER

Memo:

Reference your letter No. 5344-45/E-II, dated. 01.09.2015 on the subject cited above.

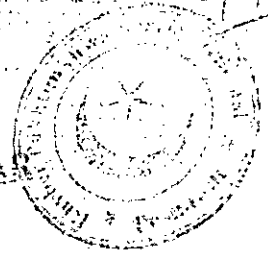
I am directed to inform you that Mst. Rahat Ul Ain D/O Gulzar Khan, Charge Nurse under transfer to this hospital vide your Office Order No. 5743-46/E-II, dated. 17.08.2015 has not yet reported her arrival for duty till date.


Dy: Medical Superintendent (Admn)
MTI/ Lady Reading Hospital, Peshawar

9/9/2015

6 B

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR



S.A No. 1373/2015

Staff Services
Tribunal
Entry No. 1133
dated 09-12-2015

Mst. Rshat-Ullah D/o Gulzar Khan,
Staff Nurse, Govt. Naseer Ullah Khan Babar
Memorial Hospital, Kohat Road, Peshawar. Appellant

Versus

1. Director General, Health Services,
KP, Peshawar.
2. Secretary, Govt. of KP,
Health Department, Peshawar. Respondents

⊕<=>⊕<=>⊕<=>⊕<=>⊕

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST OFFICE ORDER NO. 5143-46/E-II, DATED 17.08.2015 ISSUED ON 20.08.2015 OF R. NO. 1 WHEREBY APPELLANT WAS TRANSFERRED FROM GOVT. NASEER ULLAH KHAN BABAR, MEMORIAL HOSPITAL, KOHAT ROAD, PESHAWAR AND POSTED IN LRH, PESHAWAR AGAINST THE VACANT POST OF CHARGE NURSE FOR NO LEGAL REASON.

Mst. Rshat
D/o Gulzar
Khan
11/12/15

⊕<=>⊕<=>⊕<=>⊕<=>⊕

Respectfully Sheweth:

1. That appellant was initially appointed as Nurse in October 2008 and was posted at BHU Hospital KDA, Kohat. Thereafter, she was transferred to City Hospital, Laki Mahwal. Finally she was transferred from City Hospital Laki Mahwal to Govt. Naseer Ullah Khan Babar Memorial Hospital Kohat Road, Peshawar.

Mst. Rshat
D/o Gulzar
Khan
11/12/15

03.10.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondent present.

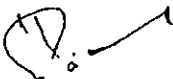
Learned counsel for the appellant submitted application for suspension/setting aside of order dated 28.09.2018 passed by respondent No.1 whereby the appellant has been relieved from the hospital (government Naseerullah Khan Babar memorial hospital Kohat road Peshawar).

Learned Deputy District Attorney stated that the present appeal No. 1373 of the year 2015 is against the transfer order dated 12.08.2015 but, was not timely argued on behalf of the appellant and consequently the same has now become infructuous due to the issuance of fresh order.

The present appeal is against the transfer order dated 12.08.2015 was filed on 09.12.2015 and could not be decided until yet due to frequent requests for adjournment on behalf of the appellant. As such the stance of the learned Deputy District Attorney that the fate of the present appeal, which is lingering on since 2015, should have been decided until yet, is found genuine.

In view of the above scenario and the prayer in the present service appeal, the application filed today by the learned counsel for the appellant is hereby regretted. Learned counsel for the appellant again requested for adjournment. Adjourn. To come up for arguments in the main appeal on 08.10.2018


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

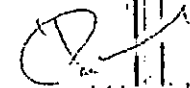
08.10.2018

Appeal No. 1373/2015
MST. Rahat ul Ain vs Govt



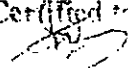
Learned counsel for appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for appellant referred to the fresh order as mentioned in the preceding order sheet and stated that in view thereof, he seeks withdrawal of the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.


(Hussam Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
08.10.2018

Certified to be true copy


Khadim Khan, Deputy
Service Tribunal,
Peshawar

25/3/21
Date of Presentation of Application _____
Number of Words 870
Copying Fee 10.00
Filing Fee _____
Total 10.00
Date of Completion of Copy _____
Date of Delivery of Copy 07/04/21