

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 130/2024

Altaf Qadir S/o Haji Gull Bahadar Senior Clerk (BPS-14) DHQ Hospital
Charsadda.

..... Appellant

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 11774

Dated 18-03-2024

1. Chief Secretary of Khyber Pakhtunkhwa Peshawar.
2. Secretary Health Department Govt of Khyber Pakhtunkhwa Peshawar.
3. Deputy Director Accountants GGHS Office Peshawar.
4. Director General Health Services Khyber Pakhtunkhwa Peshawar.
5. Senior Admin Officer to Director General Health Services Khyber Pakhtunkhwa Peshawar.
6. Medical Superintendent DHQ Hospital Charsadda.
7. Ali Akbar S/o Afzal Khan (BPS-14) DHQ Hospital Charsadda.

..... Respondents

AMENDED APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE OFFICE ORDER DATED 05-10-2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM DHQ HOSPITAL CHARSADE TO DHQ HOSPITAL SHANGLA WHERE NO VACANT PART IS AVAILABLE FOR THE APPELLANT AND RESPONDENT NO 7 HAS BEEN TRANSFERRED IN PLACE OF APPELLANT TO DHQ CHARSADE FROM DHQ CHARSADE WHICH IS BEEN MALAFIDE AND AGAINST THE NON CONSIDERATION OF DEPARTMENTAL APPEAL DATED 06.10.2023 TILL DATE.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant is the law abiding citizen of Pakistan and having every right secured and guaranteed by the Constitution of Islamic Republic of Pakistan 1973. (Copy of CNIC is attached as Annexure-A).
- 2) That the appellant was serving in the respondents department as Officer of Senior Clerk BPS-14 DHQ Hospital Charsadda with the entire Zeal and devotion to

18-03-24

the satisfaction of the superiors. It is to be noted that senior clerk is a District Cadre Post.

- 3) That while serving in the same capacity the appellant as having convincing performance in above mentioned department the impugned order dated 05.10.2023 whereby he was transferred to DHQ Hospital Shangla is against the law and rules on the subject as the Senior Clerk is a District Cadre post and cannot be transferred to other district. (Copies of performing certificate and impugned transfer order is attached as Annexure-B&C).
- 4) That being aggrieved from the unlawful and illegal order, while the appellant filed his departmental appeal before the competent authority vide departmental appeal 06.10.2023, but the respondent turn deaf ears and till date after lapse of stipulated days the appeal is pending, which is another misconduct of respondents. (Copy of departmental appeal date 06.10.2023 is attached as Annexure-D).
- 5) That on 26.10.2023 the appellant has given arrival at DHQ Hospital Shangla whereby the Medical Superintendent DHQ Hospital Shangla stated, that there is no vacant post in DHQ Hospital Shangla, where the appellant has been transferred against the vacant post. (Copy of arrival report is attached as Annexure-E).
- 6) That the respondents bound under the posting/ transfer policy that the appeal on the order of posting/transfer will be decided within fifteen days, but the respondents are intentionally and malafidely not deciding the departmental appeal of the appellant.
- 7) That the appellant being aggrieved now approaches this Honourable Tribunal against the illegal posting/transfer order, inter alia on the following grounds.

GROUNDS

- A. That the appellant has not been treated in accordance with law and rules thus his right secured and guaranteed under the law and Constitution are badly violated.
- B. That the appellant while serving in the capacity of Senior Clerk BPS-14 at the DHQ Hospital Charsadda unlawfully/discriminatory transferred against the non-vacant post dated 05.10.2023 which clearly shown the malafide intention of the respondents.
- C. That being aggrieved from the lawful transfer/posting order, the appellant filed his departmental appeal dated 06.10.2023 before the competent authority but the respondent turn deaf ear, and till date the appeal is pending and even after lapse stipulated time.
- D. That according to the posting and transfer policy of the of the Provincial Government all the posting transfer shall be strictly in public interest and shall not be abused/misused to victimize me govt Servant, in case of present appellant, the order of posting/transfer was not issue in the mode and manner of the posting, in very rare and exceptional cases and according to public policy, such above mentioned cadre servant would be transfer out of district, and transfer policy in very large public interest, pertinent to mentioned here that all other transfer/posting initiated within district except the appellant only, which in the result of clearly

discrimination and malafide intention of the respondents.

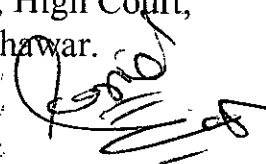
- E. That the impugned order was issued politically motivated as adjust their own blue eyed ones.
- F. That there is no complaint whatsoever against the appellant and performing his duty with great zeal and devotion.
- G. That in fact there exists no exigencies of service nor the order of transfer cannot be turned as in the public interest it is a result of adjustment of their blue eyed at the cost of appellant, this not tenable in the eyes of law, even on the arrival report of appellant, medical Superintendent of DHQ Hospital Shangla stated, that there is no vacant post available in DHQ Shangla, which was proposed Station, thus there is no other remedy except this appeal in hand.
- H. That the appellant seeks the permission of this Honourable Tribunal to rely the additional grounds at the time of hearing of the petition appeal.
- I. That the senior clerk is a District cadre post and cannot be transferred to any other district, so the transfer is against the relevant law and rules.

PRAYER

On acceptance of this service appeal the impugned order dated 05.10.2023 be set aside, appellant be allowed to served his place of post DHQ Hospital Charsadda in interest of justice.

Dated 18.03.2024

Appellant
Through
Farid Nisar
Advocate, High Court,
Peshawar.



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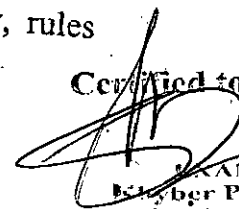
..... Respondents

APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE OFFICE ORDER DATED 05-10-2023
WHEREBY THE APPELLANT HAS BEEN
TRANSFERRED IN DISCRIMINATING OVER
LOOK THE CADRE AGAINST NOT VACANT
POST AND INTERIM SET UP GOVERNMENT,
AGAINST WHICH DEPARTMENTAL APPEAL
DATED 06.10.2023 PENDING, STILL NOT
RESPONDED WITHIN STIPULATED TIME
AND EVEN AFTER.

PRAYER IN APPEAL

(A) On acceptance of the this Service Appeal the appellant may please be allowed/posted at his place of posting to continue his duty accordingly by whereas the impugned order is passed in violative of law, rules

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

A-No. 134/2024
Altaf Qadir vs Govt

06.03.2024

Learned counsel for the appellant present and requested to submit amended memo of appeal. Granted. To come for amended appeal as well as preliminary hearing on 18.03.2024 before S.B. Parcha Peshi given learned counsel for the appellant.



Kamranullah

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
PESHAWAR

(Muhammad Akbar Khan)
Member (E)

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2 منجانب

الطاف قادر

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باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

بیلو پلانہ
ریسائنمنٹس
ایس ایس ایس

آن مقام میاں اور کلیلہ ڈیپنٹنڈ انٹرنیشنل ایس ایس ایس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ یہ
وکیل صاحب کو راضی نامہ کرنے کے تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے
اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے
سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔
کہ پیروی مذکور کریں۔ ایذا کالت نامہ لکھ دیا کہ سند ہے۔

الطاف قادر
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المرقوم

العب واه العب

نظام
میاں سعید
کے لئے منظور ہے۔