

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7595/2021

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

Rahat-ul-Ain, Charge Nurse, Government Liaqat Memorial Hospital,
Kohat.

.... (Appellant)

VERSUS

1. Director General, Health Services, Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Health Department,
Peshawar.
3. Medical Superintendent, Government Naseerullah Khan Babar, Memorial
Hospital Kohat Road, Peshawar

.... (Respondents)

Mr. Arbab Saiful Kamal
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

... For respondents

Date of Institution.....24.09.2021
Date of Hearing.....18.12.2023
Date of Decision.....18.12.2023

JUDGMENT


RASHIDA BANO, MEMBER (J): The instant service appeal has been
instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act
1974 with the prayer copied as below:

**“It is therefore most humbly prayed that on acceptance of
the appeal, withheld salaries since 17.08.2015 till
01.02.2018 be released to appellant with all consequential
relief, with such other relief as may be deemed proper and
just in circumstances of the case.”**

2. Brief facts of the instant case are that appellant while serving in the Government Naseerullah Khan Baber Memorial Hospital Kohat Road, Peshawar, was transferred to Lady Reading Hospital Peshawar. Accordingly, she arrived there but there was no vacant seat in the LRH, therefore, reported back to Government Naseerullah Khan Baber Memorial Hospital, but her salary was stopped from 17.08.2015. That the appellant filed Service Appeal No.1373/2015 before the Tribunal, and this Tribunal vide order dated 05.01.2016 granted interim relief in her favor. Later on, when the order of the Tribunal was not implemented, she filed COC before the Tribunal. That in the meanwhile, the impugned transfer order dated 17.08.2015 was withdrawn by the respondents. Accordingly, the appellant also withdrew her service appeal but she was not given the salaries from 17.08.2015 to 01.02.2018. For the purpose, she filed departmental appeals but no response was made on behalf of the respondents, therefore, she filed the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

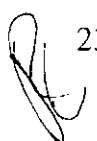
4. Learned counsel for the appellant argued that the appellant was not treated in accordance with law and rules on the subject. He further argued that due to ill will of the then MS of the Hospital, appellant was transferred on 17.08.2015 to Lady Reading Hospital but no such vacant post was available, yet since 17.08.2015, her monthly salary were stopped which act of the respondents is against the law. He further argued that despite requests for release of withheld salaries no heed was paid to her rather she was transferred



to Children and Women Hospital Kohat. He, therefore, requested that monthly salaries of the respondents might be released.

5. Conversely, learned District Attorney contended that the appellant has been treated in accordance with law and rules. He further contended that appellant was transferred from Government Naseer Ullah Khan Babar Memorial Hospital Peshawar to LRH Peshawar against the vacant post but she did not submit her arrival report as stated by MS LRH Peshawar, so her salary was stopped. He further contended that she was transfer to Women Children Hospital/LMH Kohat on administrative grounds being her home district.

6. Perusal of record reveals that appellant was serving in the Government Naseer Ullah Khan Babar Memorial Hospital Kohat Road, Peshawar as charge nurse when on 17.08.2015 during ban period she was transferred to LRH Peshawar by respondent No.3 despite knowing the fact that no vacancy was laying vacant in LRH. Appellant when reported her arrival at LRH Peshawar for performing of her duty, same was not accepted on the ground that no vacancy is available. Therefore, she returned back to Government Naseerullah Babar Memorial Hospital for performing her duties but her salaries were stopped since 17.08.2015. She filed service appeal bearing No.1373/2015 on 09.12.2015 in this tribunal for setting aside transfer order upon which on 05.01.2016 stay was granted to her as she at that time was performing her duties at Naseerullah Babar Memorial Hospital Peshawar. That after submitting COC by the appellant for compliance of stay order, transfer order dated 17.08.2015 was withdrawn vide order dated 09.01.2017 upon which appellant withdrew her service appeal from this tribunal. Appellant submitted departmental appeal to respondent for release of withheld salaries on 23.02.2021 but same was not responded.



7. Appellant was again transferred vide order dated 15/10/2018 to women and children hospital, Kohat where she reported for duty and was regularly performing her duties over there. Respondent in their written reply contended that appellant was asked to provide duty performance certificate of period from 17/08/2015 to 01/02/2018 but she failed to produce it therefore she is not entitled for salaries of this period. Appellant contended that she performed her duties at Naseerullah Babar Memorial Hospital, Peshawar due to non-availability of vacant post at LRH, her this stance of performing duties at LRH gets support from the order dated 09.01.2017 vide which her transfer/posting order to LRH dated 17.08.2015 was withdrawn because in it, it is mentioned that;

"The transfer order of Mst. Rahat-ul-Ain D/o Gulzar Khan, Charge Nurse (BPS-16) Government Naseerullah Babar Memorial Hospital, Peshawar to Leady Reading Hospital, Peshawar issued vide this Directorate office order dated 17.08.2015 is hereby withdraw".

8. Moreover, when order was withdrawn and not cancelled it means that she was performing her duties at Naseerullah Babar Memorial Hospital regularly without obtaining charge at any other place. Moreover if she was not performing her duties and was absent, then why departmental proceeding was not initiated against her by the respondent. Non initiation of departmental proceeding in such a situation, when Medical Superintendent of Naseerullah Babar Memorial Hospital was against her, means that she had performed her duties at Naseerullah Babar Memorial Hospital. It will not be out of place to mention here that stay was granted to appellant at the time when she was performing her duties at Naseerullah Babar Memorial Hospital Peshawar on 05.01.2016 by this tribunal which means that she will perform her duties at place where she was on 05.01.2016 i.e Naseerullah Babar Memorial Hospital

and order of transfer of the appellant was withdrawn on 09.01.2017. Despite performance of her duties, salaries of the appellant for that period were withheld, which is unjustified and shows arbitrariness of the respondent.

9. For what has been discussed above, we accept the appeal in hand as prayed for. Cost shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18th day of December, 2023.*



(FAREEHA PAUL)
Member (E)



(RASHIDA BANO)
Member (J)


ORDER


18.12.2023 1. Learned counsel for the appellant present: Mr. Mohammad Jan

learned District Attorney alongwith Mr. Laeeq Ahmad, Computer Operator for the respondents present.

2. Vide our detailed judgment of today placed on file, we accept the appeal in hand as prayed for. Cost shall follow the event. Consign.

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(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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Rahat-ul-Ain, Charge Nurse, Government Liaquat Memorial Hospital,
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.... (Appellant)

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2. Secretary, Government of Khyber Pakhtunkhwa, Health Department,
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3. Medical Superintendent, Government Naseerullah Khan Babar, Memorial
Hospital Kohat Road, Peshawar

.... (Respondents)

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... For appellant

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3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the appellant was not treated in accordance with law and rules on the subject. He further argued that due to ill will of the then MS of the Hospital, appellant was transferred on 17.08.2015 to Lady Reading Hospital but no such vacant post was available, yet since 17.08.2015, her monthly salary were stopped which act of the respondents is against the law. He further argued that despite requests for release of withheld salaries no heed was paid to her rather she was transferred



to Children and Women Hospital Kohat. He, therefore, requested that monthly salaries of the respondents might be released.

5. Conversely, learned District Attorney contended that the appellant has been treated in accordance with law and rules. He further contended that appellant was transferred from Government Naseer Ullah Khan Babar Memorial Hospital Peshawar to LRH Peshawar against the vacant post but she did not submit her arrival report as stated by MS LRH Peshawar, so her salary was stopped. He further contended that she was transfer to Women Children Hospital/LMH Kohat on administrative grounds being her home district.

6. Perusal of record reveals that appellant was serving in the Government Naseer Ullah Khan Babar Memorial Hospital Kohat Road, Peshawar as charge nurse when on 17.08.2015 during ban period she was transferred to LRH Peshawar by respondent No.3 despite knowing the fact that no vacancy was laying vacant in LRH. Appellant when reported her arrival at LRH Peshawar for performing of her duty, same was not accepted on the ground that no vacancy is available. Therefore, she returned back to Government Naseerullah Babar Memorial Hospital for performing her duties but her salaries were stopped since 17.08.2015. She filed service appeal bearing No.1373/2015 on 09.12.2015 in this tribunal for setting aside transfer order upon which on 05.01.2016 stay was granted to her as she at that time was performing her duties at Naseerullah Babar Memorial Hospital Peshawar. That after submitting COC by the appellant for compliance of stay order, transfer order dated 17.08.2015 was withdrawn vide order dated 09.01.2017 upon which appellant withdrew her service appeal from this tribunal. Appellant submitted departmental appeal to respondent for release of withheld salaries on 23.02.2021 but same was not responded.



7. Appellant was again transferred vide order dated 15/10/2018 to women and children hospital, Kohat where she reported for duty and was regularly performing her duties over there. Respondent in their written reply contended that appellant was asked to provide duty performance certificate of period from 17/08/2015 to 01/02/2018 but she failed to produce it therefore she is not entitled for salaries of this period. Appellant contended that she performed her duties at Naseerullah Babar Memorial Hospital, Peshawar due to non-availability of vacant post at LRH, her this stance of performing duties at LRH gets support from the order dated 09.01.2017 vide which her transfer/posting order to LRH dated 17.08.2015 was withdrawn because in it, it is mentioned that;

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8. Moreover, when order was withdrawn and not cancelled it means that she was performing her duties at Naseerullah Babar Memorial Hospital regularly without obtaining charge at any other place. Moreover if she was not performing her duties and was absent, then why departmental proceeding was not initiated against her by the respondent. Non initiation of departmental proceeding in such a situation, when Medical Superintendent of Naseerullah Babar Memorial Hospital was against her, means that she had performed her duties at Naseerullah Babar Memorial Hospital. It will not be out of place to mention here that stay was granted to appellant at the time when she was performing her duties at Naseerullah Babar Memorial Hospital Peshawar on 05.01.2016 by this tribunal which means that she will perform her duties at place where she was on 05.01.2016 i.e Naseerullah Babar Memorial Hospital



and order of transfer of the appellant was withdrawn on 09.01.2017. Despite performance of her duties, salaries of the appellant for that period were withheld, which is unjustified and shows arbitrariness of the respondent.

9. For what has been discussed above, we accept the appeal in hand as prayed for. Cost shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18th day of December, 2023.*


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

SCANNED
KPST
Peshawar


ORDER


18.12.2023 1. Learned counsel for the appellant present. Mr. Mohammad Jan

learned District Attorney along with Mr. Laeeq Ahmad, Computer Operator for the respondents present.

2. Vide our detailed judgment of today placed on file, we accept the appeal in hand as prayed for. Cost shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18th day of December, 2023.*


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

RECEIVED
PESHAWAR
18/12/2023

23rd August, 2023

1. Junior of learned counsel for the appellant present.
Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Junior of learned counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 18.12.2023 before the D.B. Parcha Peshi given to the parties.

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KFST
Peshawar

Nasim Amin*



(Salah-ud-Din)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

18.12.2023
Peshawar

07th March, 2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant submitted rejoinder and seeks time to argue the appeal on the next date. Adjourned. To come up for arguments on 30.05.2023 before the D.B. Parcha Peshi given to the parties.



(Salah-ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman

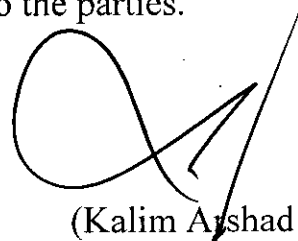
30th May, 2023

1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

2. Learned counsel for appellant requested for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 23.08.2023 before D.B. P.P given to the parties.



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

01.11.2022

Appellant present through counsel.

Muhammad Adeel Buti, learned Additional Advocate General alongwith Laeeq Ahmad Focal Person for respondents present.

Reply submitted. Cost of Rs.3000/- paid to the appellant receipt of which is placed on file. To come up for rejoinder, if any, and arguments on 15.12.2022 before D.B.



(Rozina Rehman)
Member (J)

15.12.2022

Due to general strike of the Bar, case is adjourned to 07.03.2023 before D.B. Office is directed to notify the next date on notice board as well as the website of the Tribunal.

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Peshawar



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)



05th July, 2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional AG for official respondents present.

Respondents have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments. Last chance is given for submission of written reply/comments. To come up for written reply/comments on 07.09.2022 before S.B.

**SCANNED
KPST
Peshawar**

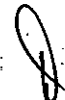


**(Kalim Arshad Khan)
Chairman**

07.09.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional AG for respondents present.

Despite last chance written reply/comments on behalf of respondent not submitted. Learned Additional AG seeks further time for submission of written reply. Another last chance was given subject to cost of Rs. 3000/-. To come up for written reply/comments on 01.11.2022 before S.B.



**(Fareeha Paul)
Member (I)**

20.12.2021

Appellant present through counsel:

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 07/03/2022 before S.B.

Appellant Deposited
Security & Process Fee

29/12

(Rozina Rehman)
Member (J)

7-3-2022

Due to retirement of the
Honorable chairman the case is
adjourned to come up for the
same as before on 24-5-2022
@
Reader

24.05.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Previous date was changed on the strength of Reader note, therefore notice be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments on 05.07.2022 before S.B.

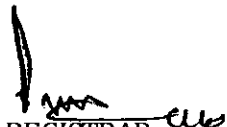

(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7595 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/10/2021	<p>The appeal of Mst. Rahat-ul-Ain resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>20/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mst. Rahat-ul-Amin Charge Nurse Govt. Liaqat Memorial Hospital Kohat received today i.e. on 24.09.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Memorandum of appeal is unsigned.
- 4- Appeal may be supported with by an affidavit duly attested by the Oath Commissioner.
- 5- Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.
- 6- Annexures of the appeal may be attested.
- 7- Wakalat nama in favour of appellant be placed on file.
- 8- Appeal may be annexed serial wise as mentioned in the memo of appeal.
- 9- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1905 /S.T,

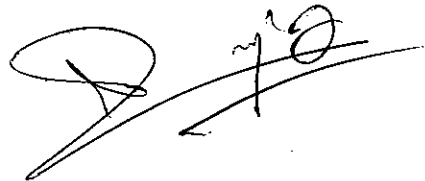
Dt. 24/09 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir,

Re-submitted after removing
objections.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Rahat-ul-Ain

v/s Health Defect cut

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Jaadullah Khan Marwat Adv.

Signature: [Signature]

Dated: 13-10-21

§

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. 7595 / 2021

Rahat-ul-Ain

versus

Secretary & Others.

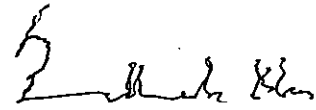
I N D E X

**SCANNED
KPST
Peshawar**

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Transfer to LRH dated 17-08-2015	"A"	5
3.	Appeal No. 1773/15 dated 09-12-15	"B"	6-8
4.	Order of status quo dated 05-01-16	"C"	9
5.	Withdrawal of Transfer Order dated 09-01-2017	"D"	10
6.	Withdrawal of Appeal dated 08-10-2018	"E"	11
7.	Transfer to Women & Children Hospital Kohat dated 15-10-2018	"F"	12
8.	Departmental Appeal / Reminder dated 23-02-2021 / 31-08-2021	"G"	13-15

Appellant

Through



Saadullah Khan Marwat
Advocate

21-A, Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0311-9266609

Dated: 13-09-2021

BEFORE KPK SERVICE TRIBUNAL PESHAWARS.A No. 7595 /2021Khyber Pakhtunkhwa
Service TribunalDiary No. 7633Dated 24/9/2021

Mst. Rahat-ul-Ain,

Charge Nurse,

Govt. Liaqat Memorial

Hospital, Kohat Appellant

VERSUS

1. Director General,
Health Services,
KP, Peshawar.
2. Secretary, Govt. of
KP, Health Department,
Peshawar.
3. Medical Superintendent,
Govt. Naseerullah Khan Babar,
Memorial Hospital Kohat Road,
Peshawar. Respondents

Filed to-day

Registrar

24/9/2021

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
1974 FOR PAYMENT OF MONTHLY SALARIES
WITHHELD SINCE 17-08-2015 TILL 01-02-2018:**

Respectfully Sheweth:

1. That at the time, appellant was serving the Hospital, Govt. Nasir Ullah Khan Baber, Memorial Hospital, Kohat Road Peshawar as Charge Nurse.

Re-submitted to-day
and filed.Registrar
24/10/21

2. That the then Medical Superintendent, namely Shoukat Jamal transferred appellant during ban period from Govt. Nasir Ullah Khan Baber, Memorial Hospital Peshawar to Govt. LRH Peshawar on 17-08-2015 for no legal reason but refused to surrender to his ill wishes, despite the fact that no vacancy was lying vacant there in the Lady Reading Hospital. (Copy as annex "A")
3. That appellant reported to LRH for duty but her arrival report returned to her having no such vacant post, so reported back for performance her official duties at Govt. Naseerullah Khan Babar Memorial Hospital, Kohat Road. Her monthly salary was stopped since 17-08-2015, yet current monthly salaries were released to her after 01-02-2018.
4. That on 09-12-2015, appellant filed S. A. No. 1373/15 before this hon'ble Service Tribunal for setting aside transfer order and then on 05-01-2016, stay was granted in her favor and was then performing her official duties in the Govt. Naseerullah Khan Baber Memorial Hospital Kohat Road. (Copies as annex "B" & "C")
5. That the then MS of the hospital was not implementing stay order, so appellant submitted COC for compliance of the said order and then transfer order dated 17-08-2015 was withdrawn by R. No. 01 successor of former MS on 09-01-2017, meaning thereby that appellant shall perform her duties in the said hospital at Kohat Road. (Copy as annex "D")
6. That on 08-10-2018, Appeal against transferred order was withdrawn from the Hon'ble Tribunal. (Copy as Annex "E")
7. That on 15-10-2018, R. No. 01 again transferred her to Women and Children hospital, Kohat. Appellant then reported for duty to Kohat Hospital. (Copy as annex "F")
8. That on 23-02-2021, appellant submitted departmental appeals before the authority for release of the withheld salaries, followed by reminder dated 31-08-2021 which met dead response till date. (Copy as annex "G")

Hence this appeals, inter alia, on the following grounds.

G R O U N D S:

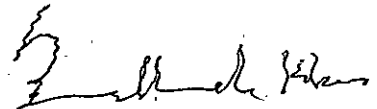
- a. That since the posting of appellant at Govt. Naseerullah Khan Babar Memorial Hospital Kohat Road, Peshawar served the Hospital to the best of her ability and with devotion.
- b. That due to ill will of the then MS of the said Hospital, appellant was transferred on 17-08-2015 to Lady Reading Hospital Peshawar but no such post was lying vacant their which fact was brought in to the knowledge of the respondents, yet since 17-08-2015, her monthly salaries were not released.
- c. That appellant requested respondents time and again verbally and in writing to release the withheld salaries but no heed was paid to her request, rather transferred to Children and Women Hospital Kohat.
- d. That holding monthly salaries of appellant since 17-08-2015 till 01-02-2018 was based on malafide of the respondents.

It is, therefore, most humbly prayed that on acceptance of the appeal, withheld salaries since 17-08-2015 till 01-02-2018 be released to appellant with all consequential relief, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

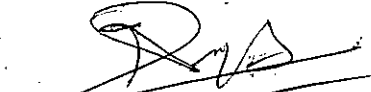
Through



Saadullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz

Advocates

Dated: 13-09-2021

AFFIDAVIT

I, Mst. Rahat-ul-Ain, Khan, Charge Nurse, Govt. Liaqat Memorial Hospital, Kohat, do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief

Mst. Rahat-ul-Ain Khan
14-10-21

DEPONENT



CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal for release of the monthly salaries but for transfer from one Hospital to other.

Khalid Mahmood

ADVOCATE

**DIRECTORATE
GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR.**

OFFICE ORDER.

Mrs. Rahat-Ul-Ain D/O Gulzar Khan, Charge Nurse BPS-16 Govt. Naseerullah Khan Babar Memorial Hospital, Kohat Road Peshawar is hereby transferred and posted in LRH Peshawar against the vacant post of Charge Nurse, in the interest of Public Service with immediate effect.

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

Sd/-

**DIRECTOR GENERAL HEALTH
SERVICES, KPK, PESHAWAR.**

Endst No. 43-46b/E.II,

Dated Pesh. The 17-08-2015.

Copy forwarded to the:-

1. Deputy Medical Superintendent (Admin) MTI LRH Peshawar.
2. Medical Supdt. Govt. Naseerullah Khan Babar Memorial Hospital, Kohat Road, Peshawar w/r to his Endst. No. 6007/GNKBMH, dated 25-07-2015.
3. AG Khyber Pakhtunkhwa Peshawar.
4. DA concerned DGHS office Peshawar.

For Information and necessary action.

Sd/-

**DEPUTY DIRECTOR (NURSING)
DIRECTORATE GENERAL HEALTH
SERVICES, KPK, PESHAWAR.**

ATTESTED



A

5

GOVERNMENT OF KHYBER PAKHTUNKHWA
PESHAWAR

**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.

E-mail Address: mg@ghs.gov.pk
Office Phone: 031-0210209
Fax: 031-0210107, 0210108

OFFICE ORDER

Mrs. Rahat-ul-Ain D/O Gulzar Khan, Charge Nurse BPS-16 Govt. Nasserullah Khan Babar Memorial Hospital, Kohat Road Peshawar is hereby transferred and posted in LRH Peshawar against the vacant post of Charge Nurse, in the interest of public service with immediate effect.

RE: - Arrival/Departure reports should please be submitted to this Directorate for records.

SA/
DIRECTOR GENERAL HEALTH SERVICES, K.P.K, PESHAWAR.

Dated Pesh. The 17/8 /2015.

Copy forwarded to the:-

- 01- Deputy Medical Superintendent (Admin) MII/ LRH Peshawar.
- 02- Medical Supdt. Govt. Nasserullah Khan Babar Memorial Hospital, Kohat Road Peshawar w/ to his Endst. No. 6707/GNKBMH, dated 25-07-2015.
- 03- AG Khyber Pakhtunkhwa Peshawar.
- 04- DA concerned DGHS office Peshawar.

For information and necessary action.

Minister Health completed phase

DEPUTY DIRECTOR (NURSING)
DIRECTORATE GENERAL HEALTH SERVICES, K.P.K PESHAWAR

Minister Labour & P.I.E.D
Khyber Pakhtunkhwa

7/13/15
relieve her

17/8

20/8

ATTESTED

Attested by



15/8/15 KP
Minister Health
Minister Labour & P.I.E.D
Minister Health
Minister Labour & P.I.E.D
Minister Health
Minister Labour & P.I.E.D

B

6

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 1373 /2015

Director General
Health Services
Dated: 14/3/15
09-12-2015

Mst. Rahat-ul-Ain 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.

Filed to date
9/12/15

⇄<=>⇄<=>⇄<=>⇄<=>⇄

Respectfully Sheweth:

ATTESTED

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, Lakki Marwat. Finally she was transferred from City Hospital Lakki Marwat to Govt. Naseer Ullah Khan Babar, Memorial Hospital, Kohat Road, Peshawar.

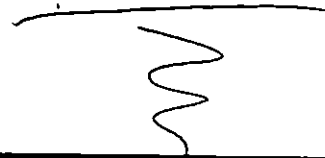
2. That beside the aforesaid transfer/posting, appellant remained as such for 2 years at Khyber Medical University, Peshawar.
3. That wherever appellant was posted, she performed her duty in the best interest of public and without any complaint.
4. That during service period, appellant completed 2 years course of BSc Nursing and also got admission in Master of Public Health (MPH).
5. That on 17.08.2015, appellant was transferred from Govt. Naseer Ullah Khan Babar, Memorial Hospital, Kohat Road, Peshawar to Lady Reading Hospital, Peshawar against the vacant post of Charge Nurse. The said order was endorsed on 20.08.2015. The post of appellant at Govt. Naseer Ullah Khan Babar, Memorial Hospital, Kohat Road, Peshawar is still lying vacant. (Copy as annex "A")
6. That on 18.08.2015, the Minister for Health Department imposed ban on transfers/postings.
7. That on 09.09.2015, appellant submitted representation before R. No. 2 which met dead response till date. (Copy as annex "B")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That since the year 2008, appellant performed duty at various Hospitals of the Province to the best of the ability and to the entire satisfaction of the superiors.
- b. That on 18.08.2015, ban was imposed on transfers/postings and in fact order of transfer of appellant was issued on 20.08.2015 as is evident from the same. By then, ban was imposed on posting and transfers.

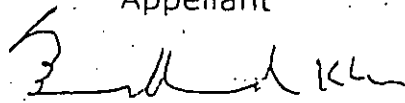
ATTESTED

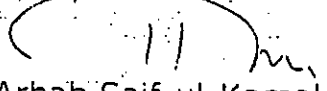


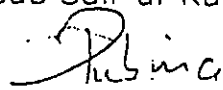
- c. That the impugned order was made due to the ill wishes of the Medical Officer of the Hospital and at his instance the impugned order issued by R. No. 1.
- d. That appellant is undergoing Master of Public Health (MPH) and has completed first semester successfully.
- e. That the impugned order is not in the interest of public service but was passed at the ill wishes and nefarious designs of Medical Superintendent of Govt. Naseer Ullah Khan Babar, Memorial Hospital, Kohat Road, Peshawar.
- f. That as per the verdict of the apex Court, illegal and malafide based orders should not be complied with by issuing courage.
- g. That the post of appellant is still lying vacant while her transfer was based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned order dated 17.08.2015 of the R. No. 1 be set aside and appellant be restored to his original position with all service benefits.


Appellant

Through 
Saadullah Khan Marwat


Arbab Saif-ul-Kamal

& 
Miss Rubina Naz
Advocates

Dated: 9.12.2015

ATTESTED



C 9 Better Copy 1

APPEAL NO. 1373/2015
MST. RAHAT UL AIN VS GOVT.

05-01-2016.

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Charge Nurse at Government Naseer Ullah Khan Babar Memorial Hospital, Kohat Road Peshawar when transferred malafidely to LRH Peshawar against the vacant post vide impugned order dated 17-08-2015 where-against she preferred departmental appeal on 09-09-2015 which was not responded and hence the instant service appeal on 09-12-2015.

That the transfer order is not in the public interest as it was made despite ban imposed by the government and due to reason that the appellant has lodged a complaint against the MS of the Hospital to Chief Minister Complaint Cell. That the appellant has not yet relieved the charge.

Points urged need consideration. Admit subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 10-02-2016 before S.D Notice of stay application be also issued for the date fixed Status quo be maintained.

Sd/-

Chairman

ATTESTED



Appeal No. 1373/2015
Mst. Rahat-ul-Ain vs Govt

05.01.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Charge Nurse at Government Naseer Ullah Khan Baber Memorial Hospital, Kohat Road, Peshawar when transferred mala fide to LRM Peshawar against the vacant post vide impugned order dated 17.3.2015 where against the preferred departmental appeal on 9.9.2015 which was not responded and hence the instant service appeal on 9.12.2015.

Appellant Deposited
Security & Process Fee

That the transfer order is not in the public interest as it was made despite ban imposed by the government and due to reason that the appellant has lodged a complaint against the MS of the Hospital to Chief Minister Complaint Cell. That the appellant has not yet relieved the charge.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 10.2.2016 before S.B. Notice of stay application be also issued for the date fixed. Status quo be maintained.

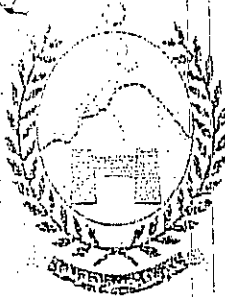
Chairman

10.02.2016

Counsel for the appellant, M/S Yar Gul, Senior Clerk and Muhammad Arshed, SO alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 21.3.2016 before S.B. Status-quo be maintained.

Chairman

ATTESTED



**DIRECTORATE
GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

OFFICE ORDER

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.

E-Mail Address: nwipdgghs@yahoo.com
Office Ph# 091-9210269
Exchange# 091-9210187, 9210196
Fax # 091-9210230

In the light of C.O.C Khyber Pakhtunkhwa Service Tribunal Peshawar, the transfer order of Mst. Rahat-ul-Ain D/O Gulzar Khan, Charge Nurse (BPS-16) Govt. Naseerullah Khan Babar Memorial Hospital Peshawar to LRH Peshawar issued vide this Directorate office order bearing Endst: No. 5143-46/E.II, dated 17.08.2015 is hereby withdrawn.


sd/-
DIRECTOR GENERAL HEALTH
SERVICES, KPK, PESHAWAR.

No. 18-23 /E.II, Dated Pesh. 05/10/2017.

Copy forwarded to the:-

01. Hospital Director, MTI-LRH Peshawar.
02. Medical Superintendent, Govt. Naseerullah Khan Babar Memorial Hospital Peshawar.
03. Accountant General, Khyber Pakhtunkhwa Peshawar.
04. Assistant Director (Lit.) DGHS Office Peshawar w/r to his letter No. 9160-62/AD(Lit.); dated 05.12.2017.
05. DA-concerned, DGHS office Peshawar.

For information and necessary action.


DEPUTY DIRECTOR (NURSING)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P.K, PESHAWAR

ATTESTED



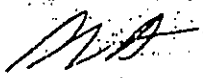
14.03.2018

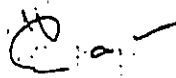
Learned counsel for the appellant present. Mr. Muhammad Jan, learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for reply on COC on 19.03.2018 before D.B. with main appeal.

Member

19.03.2018

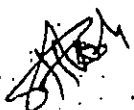
Appellant absent. Learned counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for reply on COC application on 02.04.2018 before D.B with main appeal.



(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

02.10.2018


Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Adjournment requested. Adjourned. To come up alongwith main appeal on 08.10.2018 before D.B.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

08.10.2018

Learned counsel for appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Vide order of today i.e.08.10.2018, the main service appeal has been dismissed as withdrawn. Learned counsel for the appellant did not press the present petition. Consequently the present petition is hereby dismissed being not pressed. No order as to costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ATTESTED

ANNOUNCED
08.10.2018

F

- 12

15-10-18

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

Phone No. 091-9210230 Exchange No. 091-9210157, 091-9210196 Fax No. 091-9210230

OFFICE ORDER.

The following Posting/transfer of Charge Nurses (BPS-16) hereby ordered in the interest of public Service with immediate effect:-

S.No.	Name of Charge Nurse	From	To	Remarks
01	Rahat-ul-Ain D/O Gulzar Khan	Govt. Naseerullah Khan Babar Memorial Hospital Peshawar (Relieved)	Women & Children Hospital Kohat	Against vacant post administrative grounds.
02	Sunya Shehbaz D/O Shehbaz	Category-C Hospital Shabqadar Charsadda	Govt. Naseerullah Khan Babar Memorial Hospital Peshawar	Vice No. 1 above.

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

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

No. 4642-49 /E.II, Dated Pesh. The 15-10-2018.

Copy forwarded to the:-

01. Medical Supdt. Govt. Naseerullah Khan Babar Memorial Hospital Peshawar w/r to his letter No. 6323/GNBMH, dated 28.09.2019
02. Medical Supdt. Women & Children Hospital Kohat.
03. District Health Officer, Charsadda.
04. Accountant General, Khyber Pakhtunkhwa Peshawar.
05. DAO, Kohat.
06. DAO, Charsadda.
07. Charge Nurse concerned.
08. DA-concerned, DGHS K.P.K, Peshawar.

For information and necessary action.

DEPUTY DIRECTRESS (NU)
DIRECTORATE GENERAL H
SERVICES, K.P.K, PESHAWAR

To,

The Director General,
Health Services, Peshawar.

Subject:

**PAYMENT OF MONTHLY SALARIES WITH HELD SINCE
TO 17-8-2015 TILL 01-02-2018.**

Respected Sir,

1. That at the time, appellant was serving the Hospital, Govt. Nasir Ullah Khan Baber, Memorial Hospital, Kohat Road, Peshawar at Charge Nurse.
2. That the then Medical Superintendent, namely Shoukat Jameel transferred appellant from Govt. Nasir Ullah Khan Baber, Memorial Hospital Peshawar to Govt. L.R.H, Peshawar on 17-08-2015 for no reason but refused to surround to his ill wishes during ban period, despite the fact that vacant vacancy was lying there in the Hospital.
3. That on 09-12-2015, appellant filed appeal No. 1373/15 before the Hon'ble Service Tribunal, Peshawar and then on 05-01-2016, stay was granted in her favour and was then performing her official duties in the Hospital.
4. That the then MS of the Hospital was not implementing stay order, so she submitted COC for compliance of the said order and then the said order was withdrawn by my honour on 09-01-2017, meaning thereby that appellant shall perform her official duties in the said Hospital.
5. That appeal was pending disposal before the hon'ble Tribunal when on 28-09-2018, the then MS again transferred her to Govt. Liaqat Memorial Hospital, Kohat and then on 08-10-2018 the said appeal was withdrawn from the hon'ble Tribunal due to change scenario.
6. That during pendency, appellant submitted numerous applications to the department as well as to hon'ble Tribunal, but the then MS was reluctant to do so.

ATTESTED



129

It is, therefore, most humbly requested that then withheld monthly salaries since 17-08-2015 till 01-02-2018 be released to appellant with mark up and obliged.

Thank You, Sir.

Appellant

Rahat-Ul-Ain

Charge Nurse, Govt.
Liaqat Memorial Hospital,
Kohat.

Dated: 23-02-2021

ATTESTED



15

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Received in registered envelope addressed to _____

Write here letter, postcard, packet or parcel with the word "insured" before it when necessary.

Insured for Rs. _____ (in figures) _____ (in words)

Name and address of sender _____

To,

The Director General,
Health Services, KP,
Peshawar.

Subject: REMINDER / PAYMENT OF MONTHLY SALARIES WITHHELD SINCE 17-08-2015 TILL 01-02-2018:

Respectfully Sir,

1. That at the time, appellant was serving the Hospital, Govt. Nasir Ullah Khan Baber, Memorial Hospital, Kohat Road, Peshawar as Charge Nurse.
2. That applicant submitted departmental appeal on 23-02-2021 for release of the withheld salaries to my honor but so far no action was taken. (Copy Attached)
3. That details for release of the withheld salaries have been fully mentioned in the departmental appeal which requires my honor kind consideration.

It is therefore most humbly requested that the said departmental appeal be decided in the one way or the other and the then withheld monthly salaries since 17-08-2015 till 01-02-2018 be released to appellant with mark up and obliged.

ATTESTED

Yours obediently,

Rahat

Rahat-ul-Ain
Charge Nurse, Govt. Llaqat
Memorial Hospital, Kohat
Cell. No.

Dated 31-08-2021



بعد التّ جہاب سرور کے ٹریبونل صوبہ سرحد پشاور

مخانب اہلکٹ

راحت العین بنام محکم صحت و شہری

دعوی اپیل

باعث شکریہ اینکہ

مسترد مندرجہ عنوان بالا میں اپنی لافسے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آل مقام پشاور کیسٹم سٹیشن اڈاسا خان سرور نے ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برتلف یعنی جواب دہی اور اقبال دعویٰ اور لٹریچر ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور بعضی دعویٰ اور درخواست برتلف ہر قسم کی تقدیریں اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور سبھی چیزیں دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت یا مقدمہ بند کر کے کل یا جزوی کاروائی کے واسطے اور وکیل یا شہاد قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور اس پر مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ شہاد و قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہر جانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روزہ پر ہو یا عدت باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

المزوم 21-10-13

القائد

القائد

القائد

ارباب سید انکمال ایڈوکیٹ

سید انور خان شہوت ایڈوکیٹ

راحت العین

ASU

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

SERVICE APPEAL NO. 7595/2021

**SCANNED
KPST
Peshawar**

Rahat-ul-Ain.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

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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

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

SERVICE APPEAL NO. 7595/2021

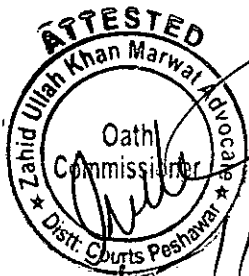
Rahat-ul-Ain.....Appellant

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.



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).

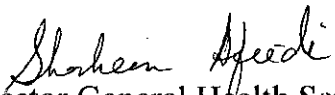
3. Incorrect, as intimated by DMS, MTI, LRH Peshawar vide his letter, the appellant had not reported her arrival LRH Peshawar.
4. Correct to the extent that status quo was granted by the Khyber Pakhtunkhwa Service Tribunal Peshawar on 6.01.2016 but her transfer order was not cancelled as she has not 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:

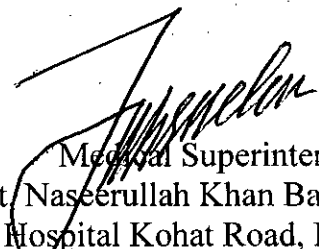
- a. Incorrect, the appellant was relieved from Govt. Naseerullah Khan Babar Memorial Hospital Peshawar on administrative grounds.
- b. The appellant was transferred from Govt. Naseerullah Khan Babar Memorial Hospital Peshawar to LRH Peshawar against the vacant post but she did not submit arrival report 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.


Director General Health Services
Khyber Pakhtunkhwa
Respondent No. 01


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


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

MEDICAL TEACHING INSTITUTION
LADY READING HOSPITAL PESHAWAR

No. 26112 /E-II

Dated: 10/09/2015

To

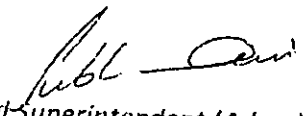
The Director General,
Health Services,
Khyber Pakhtunkhwa, Peshawar

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

26989
14/9/15
27/9/2015

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 7595/2022

Rahat-ul-Ain

versus

DG & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

All the 09 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, to pressurize respondents, against law and rules, not maintainable, malafide, unclean hands, limitation, no jurisdiction and bad for necessary parties.

ON FACTS

1. Admitted correct by the respondents.
2. Not correct. The para of the appeal is correct. The transfer order was issued by the then MS of the hospital because appellant was not fulfilling his ill-wishes. No vacancy was lying vacant at the time in LRH.
3. Not correct. Appellant reported for duty in LRH but was returned back due to non availability of the post. Her monthly salary was also stopped since 17-08-2015.
4. Admitted correct to the extent of filing of appeal before Service Tribunal and status-quo. During the said period she was at Govt. Baber Hospital on stay.
5. Not correct. The para of the appeal is correct. Regarding non compliance of stay order by respondents, COC for the purpose and then withdrawn the transfer order on 09-01-2017 and performed her duties at Govt. Baber Hospital.

6. Admitted correct by the respondents regarding withdraw of appeal from the Tribunal after addressing her grievances.
7. Not correct. The para of the appeal is correct regarding subsequent transfer to Kohat Hospital not on administrative ground but in normal routine.
8. Not correct. The para of the appeal is correct regarding release of withheld salaries. The para of the reply is without proof regarding duty performance certificate from MS Kohat Hospital.

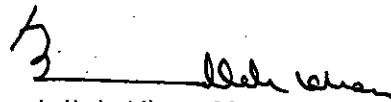
G R O U N D S:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Through

Appellant


Saadullah Khan Marwat

Advocate,

Dated: 06-03-2023