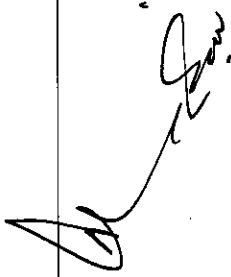


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	<p>29<sup>th</sup> March, 2022</p> 	<p style="text-align: center;"><b>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</b></p> <p style="text-align: center;">Service Appeal No. 173/2022</p> <p>Mst. Sher Bano D/O Hassan Jan R/O Tajori Tehsil and District Tank presently serving as CT Teacher at Kot Habibullah Tehsil and District Tank. ... (Appellant)</p> <p style="text-align: center;"><u>Versus</u></p> <p>Government of Khyber Pakhtunkhwa through Secretary Elementary &amp; Secondary Education Department, Civil Secretariat Peshawar and others. ... (Respondents)</p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p style="text-align: center;"><b><u>KALIM ARSHAD KHAN CHAIRMAN.-</u></b> Counsel for the appellant present and heard. Record perused.</p> <p>2. The appellant Mst. Sher Bano C.T Teacher has challenged her transfer/posting order issued vide endorsement No. 598-607/FTS/CT dated 10.02.2020 alleging the same to be violative and contrary to the Provincial Government posting/transfer policy notified vide Notification No.SOR-II(E&amp;AD)1-1/85 (VOL-II), dated 15<sup>th</sup> February, 2003. The impugned posting order was issued on 10.02.2020 against which an appeal was preferred to the District Education Officer (Female) Tank on 13.02.2020 and another request was made on 17.02.2020. Thereafter, the appellant filed a Writ Petition before the Hon'ble High Court, Bench D.I.Khan which was</p>

decided on 15.09.2021 with the observation that under Article 212 of the Constitution of Islamic Republic of Pakistan, the appellant had to approach this Tribunal and that the Hon'ble Peshawar High Court has no jurisdiction in the mater. It was then another departmental appeal was filed on 11.10.2021 and hence this appeal.

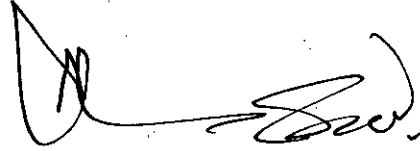
3. On issuance of the impugned order on 10.02.2020 the appellant filed two departmental appeals, one on 13.02.2020 and another on 17.02.2020 and under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 the appellant ought to have waited for ninety days period after making her departmental appeal against the impugned order and after expiry of ninety days waiting period she had to come to this Tribunal within next 30 days by filing an appeal but she, instead, filed Writ Petition before the Hon'ble Peshawar High Court. It is true that the time barred appeal could be admitted after expiry of the period of limitation prescribed there-for when the appellant satisfies the Tribunal that she had sufficient cause for not preferring the appeal within such period and the decision of the Tribunal as to the sufficiency of cause shall be final. As regard this case she did not agitate any plausible ground to satisfy this Tribunal to admit this appeal especially when the tenure of her posting is about to ripe. Finding no merit in this appeal, it is dismissed in limine.

Consign.



29/3/22

4. Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal this 29<sup>th</sup> day of March, 2022.






**(KALIM ARSHAD KHAN)**  
**Chairman**  
**Camp Court, D.I.Khan**

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. \_\_\_\_\_ 173/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	09/02/2022	<p>The appeal of Mst. Sher Bano presented today by Mr. Muhammad Iqbal Kundi 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> <p>2-</p>	28.03.2022	<p>This case is entrusted to touring S. Bench at D.I. Khan for preliminary hearing to be put there on <u>28-03-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel<del>s</del> are on strike. To come up for preliminary hearing tomorrow on 29.03.2022 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"> CHAIRMAN, Camp Court, D.I.Khan</p>

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA CAMP OFFICE D.I.KHAN**

Appeal No: 173/2022

Mst Sher Bano D/O Hassan Jan R/O Tajori Tehsil & District Tank Presently Serving as CT Teacher at Kot Habibullah Tehsil and District Tank

Appellant

**VERSUS**

1. Govt of Khyber Pakhtunkhwa  
Through Secretary Elementary and Secondary  
Education Department Civil Secretary Peshawar
2. Director  
Elementary and Secondary Education  
Govt of Khyber Pakhtunkhwa  
Peshawar
3. District Education Officer (Female)  
District Education Office Tank
4. Mst Zainab Inayat Qureshi D/O Inayat  
R/O Village Pai Tehsil & District Tank  
Presently posted on the Post of C.T Teacher at Govt Grills Middle School (GGMS)  
Tajori Tehsil & District Tank

Respondents

**INDEX:**

S.No	Documents	Annexure	Pages
1	Contents of Service Appeal with Affidavit		2-4
2	Application for condonation of delay with affidavit		5-6
3	Copy of appointment letter dated 28-01-20219	ANN-A	7-9
4	Copy of Appointment/ posting dated 10-02-2020	"B"	10-11
5	Copy of policy dated 15/02/2003	"C"	12-17
6	Copies of request/ application writ petition 8-D/2020 & Judgment dated 15-09-2021	"D E F"	18-28
7	Copy of Departmental Appeal dated and postal receipt	"G"	29-31
8	Copy of Wakalat Nama		32

Petitioner

Dated:07/02/2022

  
Through Counsel

Muhammad Iqbal Kundi  
Advocate High Court

0332-7249427

2

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA CAMP OFFICE D.I.KHAN**

Mst Sher Bano D/O Hassan Jan R/O Tajori Tehsil & District Tank Presently Serving as CT Teacher at Kot Habibullah Tehsil and District Tank

Appellant

**VERSUS**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 195

Dated 09/02/2022


1. Govt of Khyber Pakhtunkhwa  
Through Secretary Elementary and Secondary  
Education Department Civil Secretary Peshawar
2. Director  
Elementary and Secondary Education  
Govt of Khyber Pakhtunkhwa  
Peshawar
3. District Education Officer (Female)  
District Education Office Tank
4. Mst Zainab Inayat Qureshi D/O Inayat  
R/O Village Pai Tehsil & District Tank  
Presently posted on the Post of C.T Teacher at Govt Grills Middle School (GGMS)  
Tajori Tehsil & District Tank

Respondents

**SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST UNLAWFUL AND WRONG POSTING OF RESPONDENT NO. 4 ON THE POST<sup>OF</sup> CT TEACHER AT GGMS TAJORI VIDE ORDER BEARING # 598-607/FTS/CT DATED 10-02-2020 BEING VIOLATIVE AND CONTRARY TO PROVINCIAL GOVERNMENT POLICY BEARING NO. SOR-II(E& AD) 1-1/85 (VOL-II) DATED 15-02-2003**

**PRAYER**

**ON ACCEPTANCE OF INSTANT SERVICE APPEAL THIS HONORABLE SERVICE TRIBUNAL MAY BE PLEASED TO PASS AN ORDER FOR SETTING ASIDE IMPUGNED TRANSFER / POSTING ORDER BEARING NO. 598-607/FTS/CT DATED 10/02/2020 TO THE EXTENT OF RESPONDENT NO. 4 AND APPELLANT BEING UNMARRIED MAY BE POSTED AT GGMS TAJORI ENTITLED AS PER CLAUSE (X) PROVINCIAL GOVERNMENT POLICY NO. SOR-II(E&AD)1-1/85 DATED 15-02-2003, IN PLACE OF RESPONDENT NO. 4 IN THE INTEREST OF JUSTICE.**

  
Advocate High Court  
Legal Advisor Media-Resco

Respectfully Sir,

1. That petitioner was initially appointed on the post of PST (BPS-12) at GGPS Tajori Tehsil & Dissect Tank on the recommendation of Departmental Selection Committee after passing NTS test vide appointment order bearing No. 856-66/NTS/Appointment/2018/PST dated 28/01/2019 and was posted in the ibid branch. Copy of appointment letter dated 28/01/2019 is enclosed and marked as **Annexure A.**
2. That during the course of her posting on PST post at GGPS Tajori an advertisement, for appointments on vacant posts of CT (BPS-15) Teachers in various Schools of District Tank including GGMS Tajori, was published in the Daily News Paper. Appellant being High Qualified and academically eligible applied for the said CT posts and after appearing in the test conducted by FAIR TESTING SERVICE (FTS) she got through the ibid test and thereafter appellant was selected by Departmental Selection Committee on one of the CT BPS-15) post

REGISTRAR  
D.I. KHAN  
D-11000

and was posted at GGMS Kot Habibullah District Tank vide office order 598-607/FTS/CT dated 10-02-2020 where as she was to be posted on vacant post at GGMS Tajori in the light of clause(x) of Provincial Govt Policy bearing No. SOR-II CE+AD)1-1/85 dated 15-02-2003 being unmarried and is living at the station of Tajori being residence of her parents . Copy of Posting Order dated 10/02/2020 is enclosed and marked as Annexure B.

- 3. That according to clause (x) of Posting Transfer policy of Provincial Government Bering No. SOR-II(E+AD) 1-1/85(Vol-11) dated 15-02-2003 appellant being unmarred was to be posted on vacant post of CT<sup>at</sup> GGMS Tajori but despite that respondents No. 4 resident of village Pai Tehsil & District Tank was posted at GGMS Tajori. Relvant Partion of ibid Policy is reproduced here under:


Clause(x) "All the posting/ Transferring authorities may facilitate the posting / Transfers of unmarried female Government servants at the station of the resident of their parents. Copy of policy dated 15/02/2003 is enclosed and marked as Annexure C.

- 4. That appellant severally requested respondents No. 3 to post her at her native <sup>Town</sup> Tajori under the Govt Policy dated 05/02/2003 but no heed was paid to her request. Therefore she instituted writ petition No. 8-D/2020<sup>in</sup> Peshawar High Court Bench D.I.Khan for issuance of writ in her favour by directing the respondents to adopt the govt policy dated 15/02/2003 in letter and spirit and appellant being unmarried is to be ~~posted~~ posted at her native town being station of residence of her parents in the light of clause (x) of ibid Policy, was disposed on 15/09/2021 in the following manner by agust High Court.

"We cannot lose sight of the fact that non-obstante clauses of Articles 212(1) and (2) begin with "notwithstanding anything hereinbefore contained," thus overriding, inter alia, the constitutional jurisdiction of the High Court under Article 199, which is already "subject to the Constitution." Article 212(1)(a) provides that a Tribunal established under the law will enjoy exclusive jurisdiction in the matters relating to terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters. Article 212(2) in unambiguous terms states that no other Court can grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends. Scope of jurisdiction and powers of the Tribunal are provided in sections 4 and 5 of the Act. The High Court, therefore, has no jurisdiction to entertain any proceedings in respect of terms and conditions of service of a civil servant which can be adjudicated upon by the Tribunal under the Act. This Court as a constitutional Court is mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of this constitutional limitation will render the order of the High Court void and illegal. Therefore, unless the jurisdiction of the Tribunal is ousted under section 4(1)(b) of the Act, as described above, assumption of jurisdiction by the High Court in respect of matters of terms and conditions of a civil servant is unconstitutional and impermissible" for the above reasons this petition is dismissed, however the petitioner is at liberty to approach the proper forum for her redressal, if she is so advised.

Copy of request letter & Writ Petition 8-D/2020 and Judgment dated 15/09/2020 are enclosed and marked as Annexure D, E, & F.

- 5. That in the light of Judgment dated 15/09/2021 departmental appeal was filed by appellant before respondents No. 2 through registered post. Copy of the Departmental appeal and Posted Receipt are enclosed and marked as Annexure G& H.
- 6. That after not giving response to the departmental appeal dated 15/10/2021 within stipulated period 90 days instant service appeal is being filed in this Honorable Tribunal for redressal of her grievances inter alia on the following grounds.

  
Legal Advisor Wapua, Peshawar

**GROUND OF APPEAL**

1. That impugned order dated 10/02/2020 of Responded No. 3 is wrong invalid and without lawful authority even the same is against the provincial Govt Policy dated 15/02/2003. Hence the same is liable to be set at naught and <sup>posting</sup> of Respondent No. 4 being resident of Village Pai is liable to be recalled and appellat being resident of Tajori as well as unmarried is to be posted at GGMS Tajori as per clause(x) of ibid Govt Policy which has been reproduced in Para 3 of the fact.
2. That appellat has been discriminated on the instance and Pressure of political figure of the area and therefore she has been posted for away about 50/60Kilometer from her home town as well as station of her residence of her parents.
3. That appellat being female folk and unmarried is facing a lot of problems in the performance of her duty at GGMS Kot Habib Ullah which is 50/60 Kilometers away from her home Town Tajori. Aprat from that appellat's life is at stake due to enmity of her family and she always suffers from danger when she proceeds for duty. Therefore appellat deserves to be posted at her Home Town Tajori on Humanitance ground also.

***In view of the submissions made above it is prayed that instant service appeal of the appellat may be accepted as prayed for in the heading of appeal.***

Dated: 07-02-2022

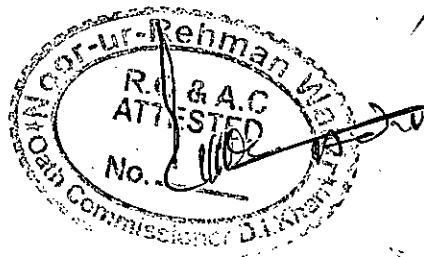
*Sher Bano*  
x Appellant

Through Counsel  
*M. IQBAL*  
M. IQBAL Muhammad Iqbal Kundi  
Advocate High Court  
Legal Advisor Wapda House  
D.I.Khan

**AFFIDAVIT**

I Sher Bano D/O Hassan Jan R/O Tajori Tehsil and District Tank- solemnly affirm on oath and stat that constant of instant appeal are correct and nothing has been concealed from this Court.

*Sher Bano*  
x Deponent





5

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA CAMP OFFICE D.I.KHAN**

Misc Application

In Service appeal

Mst Sher Bano

**VERSUS**

Govt of Khyber Pakhtunkhwa & others

**APPLICATION FOR CONDONATION OF DELAY**

Respectfully Sir,

The applicant respectfully submits as under:

1. That instant application for condonation of delay is being filed with title service appeal.
2. That applicant had impugned the impugned order dated 10-02-2020 through writ petition no. 8-D/2020 in Peshawar High Court which was disposed of on 15/09/2021 with the direction that applicant may approach the service Tribunal being competent forum..
3. That in the light of Judgment dated 15/09/2021 applicant filed departmental appeal on 11/10/2021 and therefore instant appeal is now being filed in this Honorable Tribunal on 07/02/2022 within 30 days after expiry of 90 days. So in this way appeal of the applicant is within time.
4. That impugned order dated 10-02-2020 in continuing wrong which can be challenged any time. So in this manner the title appeal is not time barred.
5. That if this Honorable Tribunal feel that title service appeal is Time barred then instant application for condonation of delay is being filed in this Honorable Tribunal.
6. That this honorable court has ample power to condone delay of submission of title service appeal in the above stated circumstances.

***In view of submission made above it is humbly prayed that title application for condonation of delay may be accepted in the best interest of justice.***

Appellant

Through Counsel

Muhammad Iqbal Kundi

Advocate High Court

D.I.Khan

6

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA CAMP OFFICE D.I.KHAN**

Mst Sher Bano D/O Hassan Jan R/O Tajori Tehsil & District Tank Presently Serving as CT Teacher at Kot Habibullah Tehsil and District Tank

Appellant

**VERSUS**

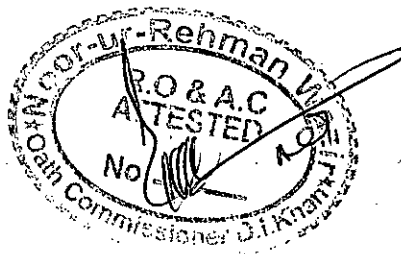
1. Govt of Khyber Pakhtunkhwa  
Through Secretary Elementary and Secondary  
Education Department Civil Secretary Peshawar
2. Director  
Elementary and Secondary Education  
Govt of Khyber Pakhtunkhwa  
Peshawar
3. District Education Officer (Female)  
District Education Office Tank
4. Mst Zainab Inayat Qureshi D/O Inayat  
R/O Village Pai Tehsil & District Tank  
Presently posted on the Post of C.T Teacher at Govt Grills Middle School (GGMS)  
Tajori Tehsil & District Tank

Respondents

**AFFIDAVIT**

I Sher Bano D/O Hassan Jan R/O Tajori Tehsil and District Tank solemnly affirm on oath and stat that constant of instant application are correct and nothing has been concealed from this Court.

*Sher Bano*  
Deponent  
*Sher Bano*



Telephone & Fax: 0963-510380  
 Email: [dcftank@gmail.com](mailto:dcftank@gmail.com)  
 Facebook: [dcoftank](https://www.facebook.com/dcoftank)  
 Twitter: [dcoftank](https://twitter.com/dcoftank)

*(Handwritten signature)*

Appointment Order PST (School Based) Tank

OFFICE OF THE  
 DISTRICT EDUCATION OFFICER (F) TANK

**Ann A**

**APPOINTMENT ORDER:**

Consequent upon the recommendations of the Departmental Selection Committee, following candidates are hereby appointed against the post of PST (school based) in BS-12 (Rs. 13320-960-2120) @ 13320/- fixed plus usual allowances as admissible under the rules on adhoc basis on contract under the existing policy of the Provincial Government in Teaching Cadre with immediate effect on the terms and conditions given below.

**UNION COUNCIL ... TANK CITY-I**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	3317200198	Mehvish Rahim	Rahim Baksh	22/04/1988	12201-8260113-4	Mohallah Qazianwala Tank	111.37	GGPS Jalal Kot Tank

**UNION COUNCIL ... TANK CITY-II**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	3318000122	Tuba Aftab	Muhammad Aftab	11/05/1993	12201-6704477-0	Mohallah Shelkhanwala Tank	124.88	GGPS No. 2 Tank

**UNION COUNCIL ... SHAH ALAM**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	1719000702	Pamina Bibi	Bashir Ahmad	10/12/1990	12201-3796387-6	Village Pirwana Tank	112.41	GGPS Naurang
2	3318000090	Marina Asghar	Muhammad Asghar	23/08/1991	42201-3106381-0	Village Kali Tank	91.36	GGPS No. 1 Pathan Kot

**UNION COUNCIL ... AMA KHEL**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	1719000378	Uzana Ali	Liaqat Ali	16/04/1993	12101-3151490-0	Village Ama Khel Tank	120.47	GGPS Ama Khel
2	1719001516	Amrina Rehman	Fazal ur Rehman	01/01/1990	12201-7262960-6	Village Ama Khel Tank	104.19	GGPS Faqir Abad
3	1719000884	Ancela Tabbasam	Faiz Ullah	21/02/1993	12101-1169145-8	Village Ama Khel Tank	101.24	GGPS Nandoor

**UNION COUNCIL ... MULLAZAI**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	3317200135	Shunaila Kiran	Bismillah Jan	20/03/1990	12201-7617006-6	Village Mullazai Tank	96.91	GGPS Kakka Khel

**UNION COUNCIL ... GUL IMAM**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	1719001145	Shahnaz Begum	Noor Alam	01/04/1991	12201-3826424-0	Village Gul Imam Tank	114.12	GGPS Khyber

*(Handwritten signature)*  
 District Education Officer (F) Tank  
 District Education Office, Tank

**COUNCIL ... TATTA**

Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
000049	Noreen Gul	Muhammad Zarif	01/06/1991	12201-6962524-6	Village Kirri Umar Khan	93.57	GGPS Said Gulan

**UNION COUNCIL ... GOMAL BAZAR**

Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
3317000148	Saameen	Abdul Jalil	01/06/1992	12201-8672529-2	Village Gomal Bazar Tank	91.58	GGPS Raghza
3318000045	Robina Bibi	Abdur Rauf	09/04/1984	12201-5521628-4	Village Gomal Bazar Tank	83.85	GGPS Manjhi

**UNION COUNCIL ... DABBARA**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	3317000214	Farhat Shaheen	Qutab Khan	05/01/1995	12201-9775624-2	Village Urdu Kaley, Dabbara	88.61	GGPS Naikam Koroonna
2	3317000048	Tahira Gul	Gul Janan	28/02/1995	12201-4535478-6	Village Dabbara	78.42	GGCMS Kot Hayyat Ullah

**UNION COUNCIL ... PAI**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	1718000967	Alishbah Aroob	Naveed Anjum	10/10/1989	12101-5336845-8	Village Pai	114.31	GGPS Abizar
2	1718001366	Sher Bano	Hassan Jan	04/09/1997	12201-7595640-0	Village Tajori	108.24	GGPS Tajori

**MINORITY QUOTA (03%):**

Sl#	Roll#	Name of Candidate	Father's / Husband's Name	Date of Birth	CNIC No	Address	Merit Score	Place of Posting
1	3317000283	Ravish	Kaleem Maseeh	25/09/1997	12201-1575365-4	Mohallah PA Compound Tank	85.98	GGPS Janaka

**TERMS & CONDITIONS**

- No TA/DA etc is allowed.
- Charge reports should be submitted to all concerned in duplicate.
- Appointment is purely on adhoc & purely on school based initially for one year from the date of issuance.
- They should not be handed over charge if they exceeds 35 years or below 18 years of age. Age relaxation case may be submitted to competent authority (if required).
- Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by this office, anyone found producing bogus certificate will be reported to the law enforcing agencies for further action. Expenditure on verification will be borne by the appointee.
- Their services are liable to terminate on one month notice from either side. In case of resignation without notice their one-month pay/allowances shall be forfeited to the Government.
- Pay will not be drawn until and unless a certificate regarding verification of their documents is issued by this office.
- They should join their post within 10 days of the issuance of this notification. In case of failure to join the post within stipulated period their appointment will stands expired automatically and no subsequent appeal etc. shall be entertained.

Attested  
**M. IQBAL KUNDI**  
 Advocate High Court  
 Legal Advisor to PESCO

8

9

- 9. Health and Age certificate should be produced from the Medical Superintendent before taking over charge.
- 10. Before handing over charge, they will have to sign an agreement with the Department; otherwise this order will not be valid.
- 11. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 12. Their services shall be terminated at any time, in case their performance is found unsatisfactory during their contract period or in case of misconduct, they shall be proceeded under the rules framed from time to time.
- 13. Their appointment is made on school based, they will have to serve at the place of posting and their service is not transferable to any other station.
- 14. They will be bound to receive a 09 months in service mandatory professional training at RITE / PITE.
- 15. Before handing over charge, once again their documents may be checked by the DDO concerned, if they have not the required relevant qualifications as per rules or in case of any degree/certificate issued after 20/12/2017, against which they claimed score for merit, they may not be handed over charge of the post.

(MRS. SABIRA FARVEEN)  
District Education Officer (F)  
District Tank

Endst. No. 856-66 /NTS Appointment 2018/PST

Dated Tank the 28/01/2019

Copy to the:

- 1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 2. Deputy Commissioner Tank.
- 3. Nazim, District Government Tank.
- 4. District Accounts Officer, Tank.
- 5. DMO, IMU Tank.
- 6. S.D.E.O (Female) Tank.
- 7. Assistant Programmer Local Office.
- 8. All ASDEOs (Circles) concerned.
- 9. Head Teacher Schools Concerned.
- 10. Candidates Concerned.
- 11. Office File.

District Education Officer (F)  
District Tank 2

*Accepted*  
**MIRAN KUNDI**  
 Advocate High Court  
 Legal Council Peshawar



Telephone &amp; Fax: 0963-510350.

Email: deofrank@gmail.com

Facebook: deofrank

Twitter: deofemalesank

**OFFICE OF THE  
DISTRICT EDUCATION OFFICER (F) TANK**

Annex B

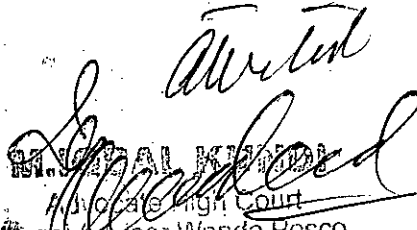
**APPOINTMENT ORDER:**

Consequent upon the recommendations of the Departmental Selection Committee, following candidates are hereby appointed against the post of C.T (school based) in BPS-15 (Rs. 16120-1330-56020) @ 16120/- fixed plus usual allowances as admissible under the rules on adhoc basis on contract under the existing policy of the Provincial Government in Teaching Cadre with immediate effect on the terms and conditions given below.

S#	Roll#	Name of Candidate	Father's Name	Date of Birth	CNIC No	Address	Merit Score	School
1	30073755	Zahida Bibi	Abdul Qayyum	01/09/1995	12201-8458112-8	Village Abizar Tank	115.245	GGMS Rehmat Shah
2	30110264	Natasha Faryal Sherqi	Sharifullah Khan Sherqi	29/03/1993	12101-3788372-0	Village Kirri Haidar Tank	112.170	GGMS Kirri Marwati
3	30021015	Naila Bibi	Muhammad Riaz	20/01/1990	17301-8721887-8	Village Gul Imam Tank	110.981	GGMS Ali Khel
4	30108297	Zainab Ina Qureshi	Imayat Ullah	16/08/1991	11201-0688650-6	Village Pal, Tank	109.064	GGMS Tajori
5	30092884	Tuba Aftab	Muhammad Aftab	11/05/1993	12201-6704477-0	Mohallah Sheikhawala Tank City	108.884	GGMS Kirri Marwati
6	30092848	Sadia Bibi	Muhammad Mehmood	13/10/1991	12201-4397237-8	Moh: Haidar Khan Tank City	107.251	GGMS Kot Habib Ullah
7	30108902	Sher Bano	Hassan Jan	04/09/1997	12201-7595648-0	Village Tajori Tank	106.828	GGMS Kot Habib Ullah

**TERMS & CONDITIONS**

1. No TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on adhoc & purely on school based initially for one year from the date of issuance.
4. They should not be handed over charge if they exceeds 35 years or below 19 years of age. Age relaxation case may be submitted to competent authority (if required).
5. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by this office, anyone found producing bogus certificate will be reported to the law enforcing agencies for further action. Expenditure on verification will be borne by the appointee.
6. Their services are liable to terminate on one month notice from either side. In case of resignation without notice their one-month pay/allowances shall be forfeited to the Government.
7. Pay will not be drawn until and unless a certificate regarding verification of their documents is issued by this office.
8. They should join their post within 10 days of the issuance of this notification. In case of failure to join the post within stipulated period, their appointment will stand exp red automatically and no subsequent appeal etc. shall be entertained.
9. Health and Age certificate should be produced from the Medical Superintendent before taking over charge.

  
 DISTRICT EDUCATION OFFICER (F) TANK  
 District High Court  
 Legal Advisor Wapda Pesco

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11. Before handing over charge, they will have to sign an agreement with the Department otherwise this order will not be valid.

12. They will be governed by such rules and regulations as may be issued from time to time by the Govt.

12. Their services shall be terminated at any time, in case their performance is found unsatisfactory during their contract period or in case of misconduct, they shall be proceeded under the rules framed from time to time.

13. Their appointment is made on school based, they will have to serve at the place of posting and their service is not transferable to any other station.

14. They will be bound to acquire mandatory 09 months training from PITE / RITE whenever it would be scheduled by the department.

15. Before handing over charge, once again their documents may be checked by the DDO concerned, if they have not the required relevant qualifications as per rules or in case of any degree/certificate issued after 17/06/2019, against which they claimed score for merit, they may not be handed over charge of the post.

(MRS. SABIRA PARVEEN)  
District Education Officer (F)  
District Tank #

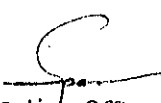
Endst. No. 574/604/FTS/CT


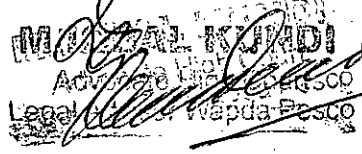
Dated.

Tank the 10/02/2020

Copy to the:

1. Director Elementary & Secondary Education Khyber-Pakhtunkhwa, Peshawar.
2. Deputy Commissioner Tank.
3. District Accounts Officer, Tank.
4. Deputy District Education Officer-F Tank.
5. DMO, IMU Tank.
6. B&AO, Accounts Branch Local Office.
7. Assistant Programmer Local Office.
8. Headmistress Schools Concerned.
9. Candidates Concerned.
10. Office File.

  
District Education Officer (F)  
District Tank #

  
  
WAPDA PESHAWAR  
ADDITIONAL DISTRICT EDUCATION OFFICER  
Legal Cell, Wapda-Peshawar

O.SOR-II (E&AD) 1-1/85(VOL-II)  
Dated Peshawar the 15<sup>th</sup> February 2003.

ANN-C (12)

Subject: POSTING /TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

I am directed to refer to the subject noted above and to say that in supersession of all policy instructions issued in this behalf, the competent authority has approved the following posting Transfer Policy.

- i. All the postings /transfers shall be strictly in public interest and shall not be abused misused to victimize the Government servants.
- ii. All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting /transfer authorities for seeking posting /transfers of their choice and against the public interest.
- iii. All contract Government employees, appointed against specific posts, cannot be posted against any other post.
- iv. The normal tenure of posting shall be three years subject to the condition that for the officers /officials posted in unattractive areas, the tenure shall be two years and for hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v. Months of March and July are fixed for posting /transfer of the officers /officials excluding the officers in B-19 and above in the Province. Posting /transfer in Education and Health Departments shall be made in March while the remaining Departments shall make posting /transfers in July. There shall be a ban on posting/transfers throughout the year excluding the aforesaid two months. However, there shall be no restriction in cases where posting /transfer of Government employees become inevitable in other months due to promotion /retirement /creation of new posts/return from long leave/involvement in

*Attested*  
LEGAL COUNSEL  
Advocate High Court  
Legat. Peshawar



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disciplinary proceedings and adjustment of surplus staff for which specific relaxation shall be obtained from the Chief Minister.

vi. While making postings transfers from settled areas to FATA and vice versa specific approval of the Governor, NWFP needs to be obtained.

vii. Officers may be posted on executive /administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thana) of his area /resident is situated.

viii. No postings /transfers of the officers/officials on detailment basis shall be made.

ix. Regarding the posting of husband /wife, both in Provincial services, efforts where possible would be made to post such persons at one station and this will be subject to the public interest.

7

x. All the posting /transferring authorities may facilitate the postings /transfers of the unmarried female Government Servants at the station of the residence of their parents.

xi. Officers /officials except DCOs and SPs who are due to retire within one year may be posted on their option, on posts in the Districts of their domicile and be allowed to serve their till the retirement.

xii. In terms of Rules-17 (1) and (2) read Schedule-III of the Government of NWFP Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against.

*Attested*  
Adv. Secy. to Govt. NWFP  
Legal Secy. to Govt. NWFP  
*[Signature]*

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**Outside the Secretariat**

i. Officers of the all Pakistan Unified Group i.e DMG, PSP including Provincial Police Officers in BPS-18 and above.

ii. Other officers in BPS-17 and above to be posted against schedule posts, or posts normally held by the APUG, PCS (EG) and PCS (SG).

iii. Head of Attached Departments and other Officers in B-19 & above in all Departments.

**In the Secretariat:**

iv. Secretaries.

v. Other Officers of and above the rank of Section Officers:-

a. Within the Same Department.

b. Within the Secretariat from one Department to another.

vi. Officials upto the rank of Superintendent:-

a. Within the same Department.

b. To and from an Attached Department.

2

Chief Secretary in consultation with the Establishment Department and the Department concerned with the approval of the Chief Minister.

--do--

--do--

Chief Secretary with the approval of Chief Minister.

Secretary of the Department concerned  
Chief Secretary / Secretary Establishment.

Secretary of the Department concerned.  
Secretary of the Department in consultation

*Attested*  
*[Signature]*  
Legal Officer  
Legal Officer  
Legal Officer

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xiii. While considering postings /transfers proposals all the concerned authorities shall keep in mind the following:

a. To ensure the posting of proper persons on proper posts, the annual confidential reports, past and present record of service, performance on post held presently and in file past and general reputation with focus on the integrity of the concerned officers/officials be considered.

b. Tenure on present post shall also be taken into consideration and the posting transfers shall be in the best public interest.

ix) Governments servants including District Govt. employees feeling aggrieved due to the orders of ,posting/transfers authorities may seek remedy from the next higher authority/the appointing authority) as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting /transfer orders could be exercised only in the following cases:-

i) pre-mature posting/transfer or posting/transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.

To streamline the postings /transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North- West Frontier Province District Government Rules of Business 2001 read with schedule -IV thereof is referred. As per schedule -IV the posting/transferring authorities for the officers /officials against each are as under :-

S.No	Officers	Authority
1.	Posting of District Coordination Officer and Executive Distinct Officer in a District.	Provincial Government
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officer in BPS-17 and above posted in the District.	Provincial Government .

Attested

**M. ISHAK KUNDI**  
 Advocate, High Court  
 Legal Consultant, FATA PESCO

(7)

(17)

(15)

4.	Official in BPS-16 and below.	Executive District Officer in consultation with District Coordination Officer.
----	-------------------------------	--

As per Rule 25(2) of the Rules above the District Coordination Department shall consult the Government if it is proposed to :

- a. transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure; and
- b. require an officer to hold charge of more than one post for a period exceeding two months.

4. I am directed further to request that that above noted policy may be strictly observed implemented.

*Mustafa*  
**PROCESSED**  
 Adv. Secy. High Court  
 Legal Secy. High Court  
*[Signature]*

12/2 (→) 1

ANN-D

18

The District Education Officer (Female)  
District Tank

Subject: EARNEST APPEAL FOR THE TRANSFER OF MY POSTING FROM MIDDLE SCHOOL GGMS KOT HABIB ULLAH TO MIDDLE SCHOOL TAJORI DISTRICT TANK.

Dear Madam,

With all due respect and reverence, it is humbly stated that have been appointed as certified teacher (CT) and posted at GGMS Kot Habib Ullah. I am a resident at village Tajori where the same post was laying vacant for many years. I was highly expecting my posting in my own village. Also it was my inherent right keeping in view the policy of E and SE KPK. But to my great dismay and disappointment I have been posted in a far flung and inaccessible area where practically it is almost impossible to perform my duty on daily basis. It is pertinent to mention that I am regularly performing my duties in my own village as PST since last One Year. It is the violation of my fundamental right to appoint another candidate from another village in my resident village instead of me. My family has also bloody enmity and are showing deep reservations over my posting in such far flung and inaccessible area by saying that my honors, dignity and life will be jeopardized.

Your kind self is there for earnestly requested to kindly transfer my posting form GGMS Kot Hibib Ullah to Middle School Tajori where I may be able to perform my duties diligently and with great peace of mind.

Date: 13-02-2020

Yours Humble applicant  
\* *Sher Bano*  
Sher Bano

D/o Hassan Jan.

Copy for information to.

1. Secretary E and SE Civil Secretariat Peshawar
2. Director E and SE Peshawar.

*M. Iqbal Kundi*  
**M. IQBAL KUNDI**  
 Advocate High Court  
 Legal Advisor, District Peshawar

DEO (F)  
District Tank

19

Subject : Earnest Appeal for the Transfer of my posting from GMS KOT Habib Ullah to GGMS Tajori.

Dear Madam!

Pursuant to my earlier application dated 13-02-2020 under the above-mentioned subject matter you are once again humbly and earnestly requested to kindly transfer my posting from GGMS Kot Habib Ullah to GGMS Tajori which is the village of my own residence and my birth place. I had applied for the said post with the sole purpose that the aforesaid post was available / Vacant in my own village and I was the most rightful and eligible candidate for posting in the aforesaid school, where currently I am performing my duties as primary school teacher since the last one year. It is also the violation of Govt policy and regs for the appointment of female Govt Servants. The relevant portion of Govt policy states that "All the Transferring/ posting authorities may facilitate the posting / Transferring of the unmarried female govt servant at the station of residence of their parents.

(copy Attached)

Your kind self is humbly and earnestly requested to kindly transfer my positing form GGMS Kot Habib Ullah to GGPS Tajori for the best interest of public as it is very hard and difficult for me to perform my duties in such a far flung and inaccessible area rather then in my own village where I am diligently performing my duties as PST.

Thanks for best regards.

Dated: 17-02-2020

Your Sincerely,  
x *Sher Bano*  
Sher Bano D/o Hassan Jan

CT BPS-15 GGMS Kot Habib Ullah

Copy for information to.

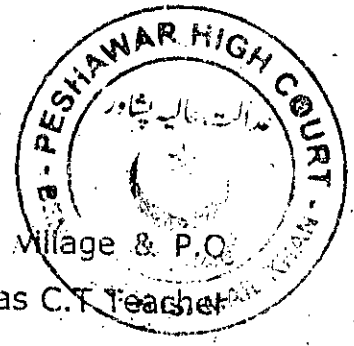
1. Secretary E and SE Civil Secretariat Peshawar
2. Director E and SE Peshawar.

*Q. Mustafa*  
M. ANJAL MAUNDIE  
Additional High Court  
Legal Officer, Peshawar  
*Mustafa*

ANN E<sub>1</sub> 20  
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**BEFORE THE HONOURABLE PESHAWAR HIGH COURT**  
**DERA ISMAIL KHAN BENCH**

Writ Petition No. \_\_\_\_\_ / 2020



**Mst. Sher Bano** daughter of Hassan Jan r/o Village & P.O. Tajori Tehsil & District Tank. Presently serving as C.T Teacher in GGMS Kot Habibullah, Tank.

(PETITIONER)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar.
2. The Director, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Female), Tank.
4. **Mst. Zainab Inayat Qureshi** daughter of Inayatullah r/o village Pai, Tehsil & District Tank. Newly appointed as C.T Teacher at GGMS Tajori District Tank.

(RESPONDENTS)

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN 1973, AGAINST THE ILLEGAL POSTING/TRANSFER ORDER#598-607/FTS/C.T dated 10/02/2020 OF PETITIONER.**

Prayer:-

On acceptance/issuance of this Writ petition and by declaring the impugned Posting/transfer order#598-607/FTS/C.T dated 10/02/2020 issued by respondent No. 3 as illegal, without jurisdiction, without law full authority, based on mala-fide and based on political victimization to the extent of petitioner.

WP-08\_2021-db- (Grounds)

*Legal Advisor*  
MIRZA...  
Legal Advisor Wapda Peshawar

A TEST CL  
EXAMINOR  
Peshawar High Court Bench  
Dera Ismail Khan  
02/11/2021

Filed today 028  
Advt. Registrar  
05/11/21

*PO*

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Any other relief deemed appropriate in the given circumstances may also be granted to the petitioner in the large interest of justice.

**Note:**

That addresses of the parties are sufficient for the purpose of service.

**Respectfully Sheweth;**

**Petitioner humbly submits and request as under:-**

1. That the petitioner was appointed as PST in Education Department Tank vide order No. 598-607/FTS/CT dated 10/02/2020 and since her appointment served at GGPS Tajori Tank and always performed her duties with great zeal and to the entire satisfaction of her high-ups. Copies of CNIC & appointment order of the petitioner as PST are enclosed as **Annexure-A & A/1**.
2. That the respondents advertised some posts of C.T Teachers in district Tank, as the petitioner is highly qualified lady and got education till M.Sc (Zoology) and also got Certificate in Teaching (C.T), hence, being qualified for C.T Teacher, applied for the post C.T and appeared in Fair Testing Service (FTS) and successfully passed the same.
3. That after passing the above mentioned test, the respondent#3 issued the Posting/transfer order#598-607/FTS/C.T dated 10/02/2020 vide which the petitioner is posted at GGMS Kot Habibullah District Tank while the private respondent Zainab Inayat Qureshi (placed at serial No.4) is posted at GGMS Tajori District Tank although the said Zainab Inayat Qureshi is permanent resident of village Pai District Tank. Copy of the impugned posting/transfer order dated 10/02/2020 is annexed as **Annexure-B**.

Filed today 028  
Addl. Registrar  
05/01/21

*Mushtaq*  
MOBIL KUNDI  
Advocate  
Lahore

WP-08\_2021-db- (Grounds)

TESTED  
EXAMINOR  
Dera Ismail Khan  
02/11/21



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4. That petitioner is experienced person in her field and has been performing her duties as PST according to the entire satisfaction of his high-ups at GGPS Tajori as permanent inhabitant of village Tajori but the respondents posted/transfer the service of petitioner from GGMS Tajori to GGMS Kot Habibullah District Tank which is against the Posting/Transfer Policy Of The Provincial Govt. Copy of the Domicile certificate and Posting/Transfer Policy Of The Provincial Govt. is annexed herewith as **Annexure-C&D** for ready reference.

5. That the petitioner made multiple applications to the concerned authorities with the request to appoint the petitioner at GGMS Tajori as the petitioner is already working in the said village as PST being by birth resident of village Tajori but the request of petitioner is shuffling from desk to desk since yet. Copies of applications are jointly annexed as **Annexure-D & E**

6. That now the petitioner has left with no efficacious remedy except to invoke the Constitutional jurisdiction of this Honourable court, inter alia, the following grounds.

Filed today 028  
 05/10/21

**GROUND:-**

A. That the impugned Posting/transfer order#598-607/FTS/C.T dated 10/02/2020 is against Service Laws, Rules, Departmental Policy, and natural justice. Hence, is liable to be set aside to the extent of petitioner.

B. That the petitioner is posted/transferred on the basis of political victimization and political influence which is evident from the face of record. Moreover, village Kot Habibullah is far away from village Tajori and it is not possible for an unmarried/single lady to travel about 80 KM per day in a far flung and inaccessible area. Hence, on this sole ground the

WP-08\_2021-db- (Grounds)

*Attested*  
**GLOBAL KUNDI**  
 Advocate High Court  
 Dera Ismail Khan

EXAMINOR  
 Dera Ismail Khan  
 02/10/21

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impugned posting/transfer order to the extent of petitioner is liable to be set aside.

C. That posting/transfer of Govt. Employees can't be made on the interference of political figures which is offensive to the Constitution and the law on the subject because Chief Minister, Ministers, MPA's, MNA's and Senators, all are under oath to discharge their duties in accordance with the Constitution and Law.

D. That the petitioner made several requests to the respondents to cancel the impugned posting/transfer order to the extent of petitioner but due to the lethargic conduct of the respondents, the request of the petitioner has been shuffling from desk to desk and the rights guaranteed to the petitioner by the Constitution are being violated by the respondents.

E. That the requests made by the petitioner to the respondents for posting in her native village ie GGPS Tajori , Fell on deaf ears. The respondents did not even bothered to respondents to any of the appeals nor did they felt the need to justify their ~~village~~ unlawful, arbitrary and politically motivated orders.

F. That act of the respondents, especially respondent No.3 is without jurisdiction based on mala-fide and on political basis, hence, liable to be declared as null and void by this honorable court.

G. That Counsel for the petitioner may please be allowed to raise additional grounds during the course of arguments.

Filed today 028  
05/10/21

*Armed*  
WAPCA MUNDI  
Legal Advisor Wapca Punjab

WP-08\_2021-db- (Grounds)

RECEIVED  
02/10/21

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It is therefore respectfully prayed that On acceptance/issuance of this petition and by declaring the impugned Posting/transfer.order#598.607/FTS/C. T dated 10/02/2020 issued by respondent No. 3 as illegal, without jurisdiction, without law full authority, based on mala-fide and based on political victimization to the extent of petitioner.

Any other relief deemed appropriate in the given circumstances may also be granted to the petitioner in the large interest of justice.

Filed for J. 028  
Mun. Registrar.  
05/01/21

Dated 02/01/2021

Humble Petitioner

Mst. Sher Bano  
Through Counsel

  
M. Niyas Marwat  
Advocate High Court

ATTEST

EXAMINOR

Muzaffargarh High Court Bench,  
Dera Ismail Khan

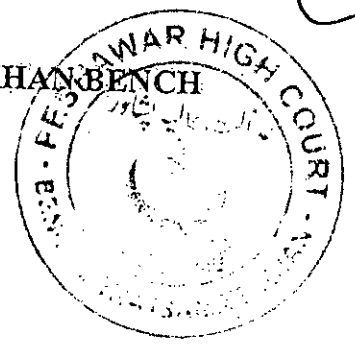
02/01/2021

attested

  
LEGAL COUNSEL  
Muzaffargarh High Court  
Legal Advisor Wapda PESCO

ANN - (F) 25

JUDGEMENT SHEET  
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH  
(Judicial Department)



W.P. No. 08-D/2021

Mst. Sher Bano

Versus

Government of Khyber Pakhtunkhwa through  
Secretary Elementary & Secondary Education  
Department and Peshawar

For petitioner Muhammad Iqbal Khan Kundi, Advocate

For respondents Nemo

Date of hearing 15.9.2021

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JUDGMENT

Sahibzada Asadullah, J.- Through the instant constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Mst. Sher Bano has sought the following relief:-

It is therefore respectfully prayed that on acceptance/issuance of this petition and by declaring the impugned posting/transfer order No. 598-607/FTS/C.T dated 10.2.2020 issued by respondent No. 3 as illegal, without jurisdiction, without lawful authority, based on political victimization to the extent of petitioner. Any other relief deemed appropriate in the given circumstances may also be granted to the petitioner in the large interest of justice.

2. Heard. Record perused.

Attested

Muhammad Iqbal Khan Kundi  
Advocate  
Legal Address: Wapda Peshawar

ATTESTED

EXAMINOR  
Peshawar High Court Bench,  
Dera Ismail Khan

02/X/2021

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3. Record tells that petitioner was appointed as PST in Education Department Tank on ad-hoc basis vide order dated 10.2.2020 and she has served the department on ad-hoc based appointment, that's why, legally the status of ad-hoc employee falls under the sphere and scope of civil servant. Before discussing the stance/prayer of the petitioner, it would be beneficial to survey the applicable law regulating the appointment of a civil servant.

4. The Act of 1973 regulates the appointment of a person to the service of Pakistan and their terms and conditions. The appointment of a civil servant is, therefore, governed under the provisions of the Act of 1973. The other relevant legislation for the purpose of adjudication of the instant petition is the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973. The object and purpose of the Act of 1973 is to regulate, by law, the appointment of persons to the service of Pakistan and their terms and conditions. Sub section (2) of section 1 declares that the Act of 1973 shall apply to all civil servants wherever they may be. The expression 'civil servant' is defined in section 2(b) as a person who is a member of an All-Pakistan Service or of a civil service of the Federation, or who holds a civil post in connection with the affairs of the Federation, including any such post connected with defence. Section 2(a) defines 'ad

*Muhammad*  
**MUHAMMAD KUNDI**  
 Advocate High Court  
 Legal Services Commission  
*Muhammad*

**ATTESTED**  
**EXAMINOR**  
 Ferozpur High Court Bench,  
 Dera Ismail Khan  
 02/8/2021

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hoc appointment' as meaning an appointment made otherwise than in accordance with the prescribed method of recruitment, pending recruitment.

5. Having discussed the provisions of the Act of 1973, the A.P.T Rules, the status of the petitioner being adhoc employee does fall within the definition of civil servant which excludes jurisdiction of this Court to adjudicate upon the matters relating to the terms and conditions of a civil servant and the Tribunal established under the provision of the Service Tribunal Act, 1974 is the proper forum for adjudication of such matters.

6. We cannot lose sight of the fact that non-obstante clauses of Articles 212(1) and (2) begin with "notwithstanding anything hereinbefore contained," thus overriding, inter alia, the constitutional jurisdiction of the High Court under Article 199, which is already "subject to the Constitution." Article 212(1)(a) provides that a Tribunal established under the law will enjoy *exclusive jurisdiction in the matters relating to terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters.* Article 212(2) in unambiguous terms states that *no other Court can grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative*

*Attested*  
M. Iqbal Khani  
Judge, High Court  
Lahore  
*M. Iqbal Khani*

ATTESTED  
EXAMINOR  
Lahore High Court Bench  
Dera Ismail Khan  
22/4/03

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*Court or Tribunal extends.* Scope of jurisdiction and powers of the Tribunal are provided in sections 4 and 5 of the Act. The High Court, therefore, has no jurisdiction to entertain any proceedings in respect of terms and conditions of service of a civil servant which can be adjudicated upon by the Tribunal under the Act. This Court as a constitutional Court is mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of this constitutional limitation will render the order of the High Court void and illegal. Therefore, unless the jurisdiction of the Tribunal is ousted under section 4(1)(b) of the Act, as described above, assumption of jurisdiction by the High Court in respect of matters of terms and conditions of a civil servant is unconstitutional and impermissible.

7. For the above reasons, this petition is dismissed, however, the petitioner is at liberty to approach the proper forum for her redressal, if she is so advised.

Announced  
September 15<sup>th</sup>, 2021  
Hosnain/\*

AD

JUDGE

*Jal*

JUDGE

(D.B)

Hon'ble Mr. Justice Abdul Shakoore  
Hon'ble Mr. Justice Sahibzada Asadullah

Office  
Jan 18/19

*Asadullah*  
ADJUDICATOR GENERAL  
PUNJAB  
Lahore

02/18/2021

Dated: 11-10-2021

The Director  
Elementary and secondary Education  
Directorate of Education Department  
Govt of Khyber Pakhtunkhwa  
Civil Secretariat Peshawar

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Subject: DEPARTMENTAL APPEAL

Respectfully sheweth,

With profound regards it is benignly and humbly submitted:

1. That appellant had been performing duty on post of PST (BPS-12) at Govt Girls Primary school Tajori Tehsil And District Tank since 10-02-2020. During the course of performing of duty an advertisement for appointment on the post of C.T (BPS- 15) was Published in the daily News Paper. Appellant being eligible applied for the vacant post at Tajori and she was selected on one of the vacant post at Tajori by Departmental Selection committee vide office order No. 856-56/NTS appointment 2018/PST dated 29-01-2019.
2. That according to clause X of Posting Transferring Policy of the Provincial Government all the posting and Transferring authorities was to facilitate the posting /Transfers of the unmarried female government Servant at the station of the residence of their parents vide Notification No SOR-II(E&AD) 1-1/85(Vol-II) dated 15/02/2003 which is still in field and intact.
3. That appellant being unmarried and also resident of village Tajori Tehsil & District Tank was to be appointed /Posted on vacant post at Tajori but she was posted at Govt Girls Middle School Kot Habitullah, which is 50 to 60 Kilometer away from Tajori, Vide Office order No. 598-607/FTS CT dated 10-02-2020.
4. That appellant severally requested the District Education Officer (Female) Tank to Transfer / post her at her native Town Tajori. So that she may stay with her parents being unmarried but no heed was paid to her genuine and legal request.
5. That appellant also filed writ petition No. 8-D/202 for redressal of her grievances in Peshawar High Court Bench Dera Ismail Khan which was disposed of in the following manner vide judgment dated 15-09-2021.

"We cannot lose sight of the fact that non-obstante clauses of Articles 212(1) and (2) begin with "notwithstanding anything hereinbefore contained," thus overriding, inter alia, the constitutional jurisdiction of the High Court under Article 199, which is already "subject to the Constitution." Article 212(1)(a) provides that a Tribunal established under the law will enjoy exclusive jurisdiction in the matters relating to terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters. Article 212(2) in unambiguous terms states that no other Court can grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such

*Muhammad*  
MUIQBAL KHAN  
Advocate  
*Muhammad*



Administrative Court or Tribunal extends. Scope of jurisdiction and powers of the Tribunal are provided in sections 4 and 5 of the Act. The High Court, therefore, has no jurisdiction to entertain any proceedings in respect of terms and conditions of service of a civil servant which can be adjudicated upon by the Tribunal under the Act. This Court as a constitutional Court is mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of this constitutional limitation will render the order of the High Court void and illegal. Therefore, unless the jurisdiction of the Tribunal is ousted under section 4(1)(b) of the Act, as described above, assumption of jurisdiction by the High Court in respect of matters of terms and conditions of a civil servant is unconstitutional and impermissible" for the above reasons this petition is dismissed, however the petitioner is at liberty to approach the proper forum for her redressal, if she is so advised.

- 6. That appellant being Civil Servant now file instant Departmental Appeal for resressal of her genuine rights.
- 7. That order dated 10-02-2020 of EDO (F) Tank is illegal and without lawful authority even against government policy dated 15/2/2003 therefore the alleged order dated 10/02/2020 is liable to be set at naught and posting of one Zainab Ina Qureshi ( Resident of Village Pai Tank) is liable to be recalled and she being resident of Tajori and unmarried is entitled for posting at Tajori.
- 8. That appellant has been discriminated on instance and pressure of some Political Figure and she has been posted for away from her native Town.
- 9. That appellant being female is facing hard ship and problems in the performance of her duty at Kot HabibUllah which is for away from her home town. Apart from that her family has enmity in the locality therefore her life is at stake and any mishappening can be expected any time therefore, she request your honor to consider her case on humanitarian grounds also.

In view of the submissions made above it is humbly prayed that office order dated 10/02/2020 may kindly be recalled /cancelled and appellant may be posted at Tajori on post of CT BPS-15in place of Zainab Ina in the interest of justice.

The appellant remains Sir.

*attested*

**GENERAL KUNDI**  
 Adm. Officer  
*[Signature]*

Your Faithfully

*[Signature]*  
 Sher. Bano D/O  
 Hassan Jan  
 R/O Village Tajori  
 Tehsil & District  
 D.I.Khan.