
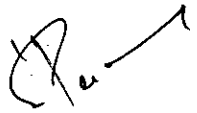


05.09.2018


Application for insertion of the name of Mr. Noor Muhammad Khattak as counsel for respondent No.4 in judgment dated 07.08.2018 of service appeal No.24/2018 submitted. Record be requisitioned and to come up for further proceedings on 06.09.2018 before D.B.

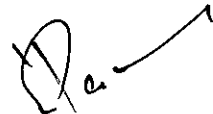

(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

06.09.2018

Junior to counsel for the petitioner present. File of service appeal No.24/2018 perused. It transpired that in the judgment passed in the said service appeal, due to clerical/typographical omission, the name of Mr. Noor Muhammad Khattak learned counsel for Mst. Ulfat Zia (respondent No.4) was not mentioned in the panel of counsel. As such the application is accepted and the name of Mr. Noor Muhammad Khattak learned counsel for the respondent No.4 shall be treated as mentioned in the panel of counsel in the said judgment. The file of present application be made part and parcel of the file of service appeal bearing No.24/2018.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

Before ^{the} Honorable Member of KP Service Tribunal
Peshawar.

Put up to the court appeal No. 24/2018.
with relevant app. ^{l.}

Mst. Hamsheeda Begum vs Education Dept.

Read 5/9/18 Application for the insertion the name
of the counsel for private respondent
No. 4 i.e. Ulfat Zia in judgment dated
07.08.2018 given in appeal No. 24/2018.

Sheweth:

It is most humbly stated that the above
mentioned appeal filed by the appellant was pending
adjudication before this august Tribunal and the
same has been decided vide judgment dated 07⁰⁸/₂₀₁₈
The Privat respondent No. 4 (Mst. Ulfat Zia) had
engaged Mr. Noor Mohammad Khattak, Advocate
as counsel whereas the name of the counsel for
respondent No. 4 had not been incorporated in
the Panel of Counsels in the mentioned judgment.

Therefore, it is requested that the name
of the counsel for private respondent ⁽⁴⁾ may please
be inserted in the Panel Counsels in the mentioned
Judgment.

Dated: 05/09/2018.

Applicant

Signature
Noor Mohammad Khattak
Advocate
Counsel for the Private Respondent
No. 4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 24/2018

Date of Institution 05.01.2018

Date of Decision 07.08.2018



Mst. Hamshada Begum, Arabic Teacher GGHS abbas khalli, Tehsil
Dargai Malakand Agency

... (Appellant)

VERSUS

1. District Education Officer (I) Malakand at Batkhela.
2. Director Education, Khyer Pakhtunkhwa, Peshawar.
3. Secretary School and Literacy, KPK Peshawar.
4. Ulfat Zia, at GGMS Jabban Tehsil Dargai, Malakand Agency.
5. Bakht Saleema, at GGMS Sharif Abad Tehsil Dargai Malakand.

... (Respondents)

M.A. Amin
7.8.2018

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, TO SET ASIDE BOTH THE IMPUGNED ORDERS NO. 6368-72 ON DATED 06.11.2017 PASSED BY THE RESPONDENT NO. 1 IN THE FAVOUR RESPONDENT NO.5 AND ALSO SET ASIDE ORDER OF DEPARTMENTAL APPEAL DATED 09.11.2017 WHICH IS ILLEGAL, UNLAWFUL AND AGAINST THE TRANSFER POLICY.

Mr. Naqeebullah Khalil Advocate ... For Appellant
Mr. Muhammad Jan, Deputy District Attorney ... For Respondents

MR. MUHAMMAD AMIN KHAN KUNDI MEMBER (JUDICIAL)
MR. MUHAMMAD HAMID MUGHAL MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KUNDI, MEMBER: -, Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the official respondents also present. Arguments heard and record perused.

ATTESTED

[Signature]
MEMBER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

2. Brief fact of the case as per present appeal are that the appellant was serving in Education Department as Arabic Teacher at Government Girl Middle School Sharif Abad Dargai. She was transferred from Government Girls Middle School Sharif Abad to Government Girls High School Abbas Kalay Vide Order dated 06.11.2017 by the competent authority. The appellant filed departmental appeal on 08.11.2017 which was rejected on 09.11.2017. Hence the present service appeal on 04.01.2018

3. Respondents were summoned who contested the appeal by filing written reply.

4. Learned Counsel for the appellant contended that the appellant was serving in Education department as Arabic Teacher in GGMS Sharif Abad Dargai. It was further contended that the appellant was transferred from GGMS Sharif Abad to GGHS Abbas Kalay in violation of transferred posting policy. It was further contended that the appellant was illegally transferred by the respondent department on the basis of judgment dated 03.10.2017 of this service tribunal, although the appellant was not party in the aforesaid appeal. It was further contended the appellant has been transfer to the place which is 17 to 18 kilometer away from the house of the appellant. Therefore prayed that the appeal may be accepted and the impugned order dated 06.11.2017 may set aside.

ATTESTED

5. On the other hand learned Deputy District Attorney opposed on the contention of the learned counsel for the appellant and contended that the appellant is serving in Education department as Arabic Teacher.

MA Amin
7.8.2018

[Signature]
DEPUTY DISTRICT ATTORNEY
Services Tribunal
Peshawar

EXAMINER
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
ISLAMABAD

ATTESTED

department was directed to immediate posting of the Mst. Bakht
service appeal was accepted on 03.10.2017 and the respondent
appeal wherein she had challenged another transfer order. The said
record further reveals that the said private respondent had filed a service
transferred from GHS 'Abbas Kalay, to GMS Sharif Abad. The
Kalay while private respondent Bakht Saleema Arabic Teacher was
Dargat. She was transferred from GMS Sharif Abad to GHS Abbas
in Education department as Arabic Teacher in GMS Sharif Abad
6. Perused of the record reveals that the appellant was serving

dismissal of appeal.
that the appeal of the appellant is also time barred and prayed for
therefore, the appellant was rightly transferred. It was further contended
Act, any Civil Servant shall be liable to serve anywhere in the province
place. It was further contended that under Section 10 of civil servant
transferred and Bakht Saleema Arabic Teacher was transferred to her
therefore in compliance of that judgment the present appellant was
abode preferably within the radius of 5 kilometer ~~at~~ her abode.
posting of the appellant Bakht Saleema to the School nearer to her
03.10.2017. Wherein tribunal directed ~~to~~ respondent to immediate
Saleema versus District Education Officer Malakand, Batkhela on
tribunal passed judgment in service appeal No. 118/2015 title Bakht
completion of her tenure. It was further contended that this service
respondent department on the basis of transfer posting policy after
It was further contended that the appellant was transferred by the

M. Amin
7.8.2018

Salcema to School near to her abode. The record further reveals that the respondent department has transferred the private Respondent No.5 to GGHS Abbas Kalay and the present appellant has been transferred to place of private Respondent No.5 in compliances of the aforesaid judgment of this tribunal. Furthermore the record also reveals that the impugned order was passed by District Education officer (F) Malakand, Batkhela. Therefore the appellant was required to file departmental appeal to the Director ⁱⁿ ~~Gen~~eral Education but she has filed departmental appeal to District Education Officer (F). Moreover the said departmental appeal was rejected Vide Order dated 09.11.2017. Therefore the appellant was required to file service appeal within One Month but the appellant has filed present service appeal on 04.01.2018 after sufficient delay, and the appellant has also not filed any application for condonation of delay. As such the service appeal is also time barred. Therefore the ^{appeal} ~~appellant~~ has ^{no force in} ~~not~~ for which is hereby dismissed with no order as to cost. File be consigned to the record room.

ANNOUNCED

07.08.2018

Muhammad Amin
 (MUHAMMAD AMIN KUNDI)
 MEMBER

M

(MUHAMMAD HAMID MUGHAL)
 MEMBER

Certified to be true copy

Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Date of Presentation of Application 04-09-18
 Number of Copies 1600
 Copy Fee 10.00
 Urgent 2.00
 Total 12.00
 Name of Copyist [Signature]
 Date of Completion of Copy 04-09-18
 Date of Delivery of Copy 04-09-18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 24/2018

Date of Institution **05.01.2018**

Date of Decision **07.08.2018**

Mst. Hamshada Begum, Arabic Teacher GGHS abbas khalli, Tehsil
Dargai Malakand Agency

... (Appellant)

VERSUS

1. District Education Officer (F) Malakand at Batkhela.
2. Director Education, Khyer Pakhtunkhwa, Peshawar.
3. Secretary School and Literacy, KPK Peshawar.
4. Ulfat Zia, at GGMS Jabban Tehsil Dargai, Malakand Agency.
5. Bakht Saleema, at GGMS Sharif Abad Tehsil Dargai Malakand.

... (Respondents)

M.A. Amin
7.8.2018

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 , TO SET ASIDE BOTH THE IMPUGNED ORDERS NO. 6368-72 ON DATED 06.11.2017 PASSED BY THE RESPONDENT NO. 1 IN ~~THE~~ FAVOUR RESPONDENT NO.5 AND ALSO SET ASIDE ORDER OF DEPARTMENTAL APPEAL DATED 09.11.2017 WHICH IS ILLEGAL, UNLAWFUL AND AGAINST THE TRANSFER POLICY.

Mr. Naqeebullah Khalil Advocate ... For Appellant
Mr. Muhammad Jan, Deputy District Attorney , ... For Respondents

MR. MUHAMMAD AMIN KHAN KUNDI MEMBER (JUDICIAL)
MR. MUHAMMAD HAMID MUGHAL MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KUNDI, MEMBER: -, Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the official respondents also present. Arguments heard and record perused.

2. Brief fact of the case as per present appeal are that the appellant was serving in Education Department as Arabic Teacher at Government Girl Middle School Sharif Abad Dargai. She was transferred from Government Girls Middle School Sharif Abad to Government Girls High School Abbas Kalay Vide Order dated 06.11.2017 by the competent authority. The appellant filed departmental appeal on 08.11.2017 which was rejected on 09.11.2017. Hence the present service appeal on 04.01.2018

3. Respondents were summoned who contested the appeal by filing written reply.

4. Learned Counsel for the appellant contended that the appellant was serving in Education department as Arabic Teacher in GGMS Sharif Abad Dargai. It was further contended that the appellant was transferred from GGMS Sharif Abad to GGHS Abbas Kalay in violation of transferred posting policy. It was further contended that the appellant was illegally transferred by the respondent department on the basis of judgment dated 03.10.2017 of this service tribunal, although the appellant was not party in the aforesaid appeal. It was further contended the appellant has been transfer^m to the place which is 17 to 18 kilometer away from the house of the appellant. Therefore prayed that the appeal may be accepted and the impugned order dated 06.11.2017 may set aside.

5. On the other hand learned Deputy District Attorney opposed on the contention of the learned counsel for the appellant and contended that the appellant is serving in Education department as Arabic Teacher.

M. Amin
7.8.2018

It was further contended that the appellant was transferred by the respondent department on the basis of transfer posting policy after completion of her tenure. It was further contended that this service tribunal passed judgment in service appeal No. 118/2015 title Bakht Saleema versus District Education Officer Malakand, Batkhela on 03.10.2017. Wherein tribunal directed ^{the} ~~to~~ respondent to immediate posting of the appellant Bakht Saleema to the School nearer to her abode preferably within the radius of 5 kilometer ^{or} ~~at~~ her abode. Therefore in compliance of that judgment the present, appellant was transferred and Bakht Saleema Arabic Teacher was transferred to her place. It was further contended that under Section 10 of civil servant Act, any Civil Servant shall be liable to serve anywhere in the province therefore, the appellant was rightly transferred. It was further contended that the appeal of the appellant is also time barred and prayed for dismissal of appeal.

M. Amin
7.8.2018

6. Perused of the record reveals that the appellant was serving in Education department as Arabic Teacher in GGMS Sharif Abad Dargai. She was transferred from GGMS Sharif Abad to GGHS Abbas kalay while private respondent Bakht Saleema Arabic Teacher was transferred from GGHS Abbas kalay, to GGMS Sharif Abad. The record further reveals that the said private respondent had filed a service appeal wherein she had challenged another transfer order. The said service appeal was accepted on 03.10.2017 and the respondent department was directed to immediate posting of the Mst. Bakht

Saleema to School near to her abode. The record further reveals that the respondent department has transferred the private Respondent No.5 to GGHS Abbas Kalay and the present appellant has been transferred to place of private Respondent No.5 in compliances of the aforesaid judgment of this tribunal. Furthermore the record also reveals that the impugned order was passed by District Education officer (F) Malakand, Batkhela. Therefore the appellant was required to file departmental appeal to the Director ~~General~~^{Gen}eral Education but she has filed departmental appeal to District Education Officer (F). Moreover the said departmental appeal was rejected Vide Order dated 09.11.2017. Therefore the appellant was required to file service appeal within One Month but the appellant has filed present service appeal on 04.01.2018 after sufficient delay, and the appellant has also not filed any application for condonation of delay. As such the service appeal is also time barred. Therefore the ~~appellant~~^{appeal} has ~~not~~^{no force} for which is hereby dismissed with no order as to cost. File be consigned to the record room.

ANNOUNCED

07.08.2018





**(MUHAMMAD HAMID MUGHAL)
MEMBER**


**(MUHAMMAD AMIN KUNDI)
MEMBER**

11.07.2018

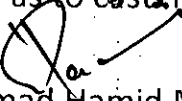
Clerk to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Due to general strike of the bar, the case is adjourned. To come up on 07.08.2018 before D.B.

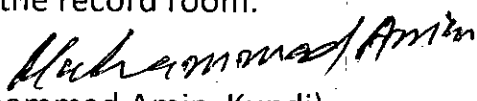

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

07.08.2018

Learned Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Vide our detail Judgment of today placed on file, the service appeal is time barred. Therefore the appeal has no force, which is hereby dismissed with no order as to costs. File be consigned to the record room.


(Muhammad Hamid Mughal)
Member


(Muhammad Amin Kundi)
Member

ANNOUNCED

07.08.2018

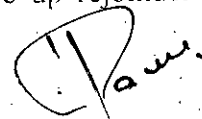
28.03.2018

Appellant absent. Counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Sher Azam Khan, Assistant for official respondent No. 1 to 3 and private respondent No. 4 also present. None present on behalf of private respondent No. 5 therefore, fresh notice be issued to private respondent No. 5 for attendance. Written reply not submitted. Requested for adjournment. Adjourned. Last opportunity is granted. To come up for written reply/comments on 11.04.2018 before S.B.


Member

11.04.2018

Appellant absent. Junior counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Sher Azam Khan, Assistant for official respondent no. 1 to 3 present, junior counsel for private respondent no. 4 present. Written reply submitted on behalf of official respondent no. 1 & 2 as well as private respondent no. 4. Representative of the respondent department stated at the bar that respondent no. 3 relies on the same. None present on behalf of private respondent no. 5 despite last opportunity hence, proceeded ex-parte. To come up rejoinder and arguments on 26.04.2018 before D.B.


Member

26.04.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney alongwith Sher Azam Khan Assistant for the respondents present. The Tribunal is non functioned due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 11.07.2018.


READER

09.02.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Vide impugned order dated 06.11.2017 she was transferred from GGMS Sharif Abad to GGHS Abad Kali. She preferred departmental appeal on 08.11.2017 which was rejected on 09.11.2017, hence, the instant service appeal. Learned counsel further argued that she was transferred to a place which is 17 k.m away from her house. That other teachers of the same locality were not disturbed. It may not be out of place to mention here that she has completed normal tenure at the place of her present posting. The present service appeal is time barred and an application for condition of delay has been submitted.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit, subject to limitation. The appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 28.02.2018 before S.B.

(AHMAD HASSAN)
MEMBER

28.02.2018

Clerk to counsel for the appellant and Addl:AG alongwith Mr. Sher Alam Khan, Assistant for official respondents present. Wakalat Nama on behalf of private respondent no.4 submitted by Mr. Noor Muhammad Khattak, Advocate. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply on 15.03.2018 before S.B.

(Ahmad Hassan)
Member (E)

15.03.2018




Clerk of the counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional AG alongwith Sher Azam Khan, Assistant for official respondent No. 1 to 3 and counsel for private respondent No. 4 present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 28.03.2018 before S.B.

(Muhammad Hamid Mughal)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 24/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	5/1/2018	<p>The appeal of Mst. Hamsheeda Begum resubmitted today by Mr. Naqibullah Khalil Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p>11/01/18.</p> <p><i>not lead.</i></p>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22/01/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	22.01.2018	<p>Counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary ^{hearing} on <u>09/02/18</u> before S.B.</p> <p style="text-align: center;"> (Muhammad Hamid Mughal) Member (J)</p>

The appeal of Mst. Hamsheeda Begum Arabic Teacher GGHS Abbas Khalil Malakand received today i.e. on 04.01.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant. ✓
- 2- Annexures of the appeal may be attested. ✓
- 3- Annexures of the appeal may be flagged. ✓
- 4- Approved file cover is not used. ✓
- 5- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal. ✓

No. 21 /S.T,

Dt. 04/01 /2018

Amir
REGISTRAR
for SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Naqibullah Khalil Adv. Pesh.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 24 /2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATHHELA and
other**

INDEX

S.N	Description of Documents	Annexure	Page
1	Memo of APPEAL		1-3
2	Affidavit		4
3	Copy of impugned transfer order dated 06/11/2017	A	5
4	Copy of departmental Appeal dated 08/11/2017 and <i>Rejected order vide dated 09-11-2017.</i> and reference to the judgment of honorable service tribunal dated 03/10/2017	B & <i>B1, C</i>	6-10
5	Wakalat Nama		11

Hamshida
Applicant

Through

M/K
Naqeeb ullah khalil

&
H
Hamad Hussain

Dated: *04*/01/2018

Cell No 0332-9254039/03120952763

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 24 /2018.

Mst Hamshada begum, Arabic Teacher,GGHs abbas Khalli, Kopar, Tehsil Daargai, Malakand Agency.

.....Petitioner Khyber Pakhtunkhwa Service Tribunal

Diary No. 10

VS

Dated 04-01-2018

1. DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATHHELA.
2. DIRECTOR EDUCATION, KHYBER PAKHTUNKHWA, PESHAWAR.
3. SECRETARY SCHOOL AND LITERACY, KPK, PESHAWAR.
4. ULAFAT ZIA A T, GGMS JABBAN, TEHSIL, DARGAI, MALAKAND AGENCY.
5. BAKHT SALEEMA, A T, GGMS SHARIF ABAD TEHSIL, DARGAI, MALAKAND AGENC..

.....RESPONDENTS

Appeal U/S 4 of Khyber Pukhtunkhwa service Tribunal Act 1974 , to Set aside both the impugned orders No 6368-72 on dated 06/11/2017 passed by the Respondent No 1 in the favour Respondent No 5 and also set aside order of Departmental Appeal dated 09/11/2017, which is illegal , unlawful and against the transfer policy.

PRAYER IN APPEAL:

On acceptance of this appeal both the impugned Orders dated 06/11/2017 and 09/11/2017 please may be set aside.

Any other relief, which this honorable tribunal may deems fit, may please be granted in petitioner favour.

Respectfully sheweth:

1. That the Applicant was an Arabic teacher at GGMS sharif Abad Dafgai, and she was transferred by the Respondent No, 1 vide Impugned order dated 06/11/2017.(Transfer order is annexed A)
2. That there after the Applicant submitted Departmental Appeal on dated 08/11/2017 which was rejected by the Respondent No, 1 on dated 09/11/2017 while giving reference to the judgment of honorable service tribunal .(Tribunal reference order' "B" and "C" is annexed').

Filed to-day

Registrar

Resubmitted to-day and filed.

Registrar

D

3. That Applicant being aggrieved with both vides impugned order dated, 06/11/2017 and 09/11/2017, Applicant approached this honorable service Tribunal inter alia on the of following grounds.

GROUNDS

A. That the impugned orders are against the facts, law and transfer policy, hence untenable being unjust and unfair to be set aside.

B. That Respondent No, 1 has illegal transfer the Applicant while giving reference to the judgment of honorable service tribunal, but in the same the applicant was not arrayed as party and one Ulfat zai transfer order was challenge by Mst Bakht Saleema whose appeal was, accepted so, Mst Ulfat zai should have been transferred instead of applicant thus the impugned order liable to be set aside on this score alone.

C. That Respondent No1 has malafidely transferred the applicant while giving the reference of the honorable service tribunal on the basis of political_ influence ,if the judgment of the honorable service tribunal was giving to be implement , then the Mst Ulfat zai should have been transferred is not the applicant.

D. That the respondent No, 1 in the garb of this honorable service tribunal has transferred the applicant to a place which is round about 17/18 kilometer away from the house of applicant , while in the locality there are other teacher Namely (1), Rubina GGHS Meherdi, (2) Tasleem GGHS Kharkai, and kouser Begum GGHS Dargai, whose stay is more than the applicant thus for the sake of argument if the judgment of this honorable service tribunal was giving to be implemented then the above mentioned teacher should have been transferred instead of applicant but as the applicant is a poor teacher , while the Respondent No,4 is having political influence thus the applicant was made as a scapegoat for the implementation of the honorable tribunal.

E. That the transfer order was passed in the violation of the transfer policy.

F. That the august Supreme Court has directed the authorities to Act according to the law & rules but the Respondent No 1 has not obeyed the order of the august Supreme Court.

G. That the said order is void, liable to cancellation.

H. That vide order of the petitioner is discriminated.

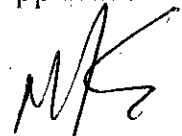
I. That the husband of the applicant is a retired and aged person, while the applicant is posted 17/18 kilometer away from his village dargai, which is also Against the spouse policy.

It is therefore humbly prayed that on acceptance of this appeal the impugned Order dated 06/11/2017 and 09/11/2017 regarding transfer please may be set aside.


Any other relief, which this honorable tribunal may deems fit, may please be granted in petitioner favour.

Hamidida
Applicant

Through



Naqeeb ullah khalil

&


Hamad Hussain

Dated: 04/01/2018

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATHHELA

Affidavit

I, MST HAMSHADA BEGUM W/o NASIB GUI R/O Village maherdi Nasir bana tehsil dargai & Distract malakand do, hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best and belief of my knowledge and nothing has been concealed from this honorable Tribunal.

Hamshada
Deponent

MST HAMSHADA BEGUM
15401-6156359-8

04 JAN 2018
ATTESTED
Oath
Commissioner
Advocate High Court Peshawar



"A"
5

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (FEMALE)
MALAKAND AT BATKHELA**

OFFICE ORDER:-

Consequent upon the judgment of the Honorable Service Tribunal Peshawar vide order Service appeal No.118/2015 announced on Dated 03-10-2017, the following ARII teachers are hereby transferred/Adjusted to the school noted against each their name in the interest of public service with immediate effect

S.No	Name of Teacher/Designation	From	To	Remarks
1	Mst. Bakht Saleema AT	GGHS Abbas Kalli	GGMS Sharif Abad	U.S. No. 2
2.	Mst. Hamsyda AT	GGMS Sharif Abad	GGHS Abbas Kalli	U.S. No. 1

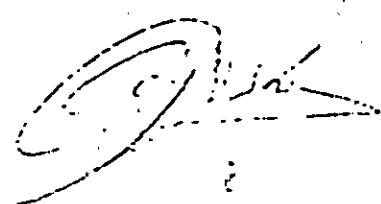
- NOTE:**
1. Charge reports should be submitted to all concerned.
 2. No TA/DA is allowed.

(DILSHAD BEGUM)
DISTRICT EDUCATION OFFICER,
(FEMALE)MALAKAND AT BATKHELA

Endst: No. 6368-72 /File-Transfer/Adjustment AT/Caria Dated 06 /Nov/2017

Copy of the above is forwarded to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Peshawar w/r to this office No.2174/ST Dated 05-10-2017.
3. District Accounts Officer Malakand.
4. Head Mistress GGHS Abbas Kalli.
5. Head Mistress GGMS Sharif Abad.
6. Teachers Concerned.


DISTRICT EDUCATION OFFICER
(FEMALE)MALAKAND AT BATKHELA

AZ KHAN

Attested by
Hamaad Hussain
Advocate

گورنٹ ہائی اسکول شریف آباد اور ہائی اسکول شریف آباد

صافی - درخواست میں ہے

1۔ یہ اسکول شریف آباد میں کچھ دنوں میں کھلتا ہے AT اٹھنٹی
گورنٹ ہائی اسکول شریف آباد میں ہے۔

2۔ یہ اسکول شریف آباد میں کچھ دنوں میں کھلتا ہے AT اٹھنٹی
گورنٹ ہائی اسکول شریف آباد میں ہے۔

3۔ یہ اسکول شریف آباد میں کچھ دنوں میں کھلتا ہے AT اٹھنٹی
گورنٹ ہائی اسکول شریف آباد میں ہے۔

4۔ یہ اسکول شریف آباد میں کچھ دنوں میں کھلتا ہے AT اٹھنٹی
گورنٹ ہائی اسکول شریف آباد میں ہے۔

Attested by
Hamad Hussain
Advocate

الکرافت

کیا ہے

08/11/17

گورنٹ ہائی اسکول شریف آباد

گورنٹ ہائی اسکول شریف آباد



Office of the "B, 22"
District Education Officer (Female)
Batkheela Malakand

(7)

No. 6474-77, Dated: 09/11/2017.

To.

Mst. Hamshida Begum, AT
GGMS Sharif Abad.

Subject. Application for Adjustment.

Memo.

Reference to your application No.Nil, Dated: 8.11.2017.

You are hereby directed to arrival at new station i.e. GGHS Abbas Kalay in the light of judgment of the Court decision on 3.10.2017.

Sd-

DISTRICT EDUCATION OFFICER
(F) MALAKAND AT BATKHEILA.

Endst: No.

Copy forwarded to:-

1. The Head Mistress, GGMS Sharif Abad with the remarks that she is relieved.
2. The Head Mistress, GGHS Abbas Kalay for information.
3. The District Accounts Officer, Malakand.

DISTRICT EDUCATION OFFICER
(F) MALAKAND AT BATKHEILA.

Attested by
Humaid Hussain
Advocate

CAH

Sl. No. Date of order/proceeding

Order or other proceedings with signature of Judge or Magistrate



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. -118/2015

Date of Institution 02.02.2015

Date of Decision 03.10.2017

Mrs. Bakht Saleema, Arabic Teacher,
GGM School, Abbas Kalay, Kopar,
Tehsil Dargai, Malakand Agency.

Appellant

Versus

1. The District Education Officer (F) Malakand at Bakhela.
2. The Director Education, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary School and Literacy, Khyber Pakhtunkhwa, Peshawar.
4. Ulfat Zia Arabic Teacher, GGMS Jabban, Tehsil Dargai, Malakand Agency.

Respondent:

*Attested by
Hamid Hussain
Advocate
03.10.2017*

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned

counsel for the appellant present. Learned Deputy District Attorney for the respondents present. Husband of the respondent No. 4 present.

1. Appellant Mrs. Bakht Saleema (Arabic Teacher) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the official respondents and private respondent NO. 4 and made impugned transfer order dated 29.09.2014 whereby the respondent No. 4 was transferred from Government Girls

ATTESTED

[Signature]
Secretary
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Middle School, Sindano to Government Girls Middle School Jabban against the newly created Arabic Teacher post.

3. Arguments heard. File perused.

4. Learned counsel for the appellant argued that the appellant is serving as Arabic Teacher at Government Girls Middle School Abbas Kaley since 2003 which school is far away from the abode of the appellant and she submitted several transfer applications to the respondent No. 1 for her posting near to her abode however instead of the appellant, the respondent No. 4 was posted at GGMS Jabban situated nearby the abode of the appellant.

5. On the other hand the respondent No. 4 in her Para-wise comments has alleged that she also served for more than thirteen years in far flung areas since 24.11.2000.

6. The Learned Deputy District Attorney remained unable to justify the act on the part of the official respondents vis-a-vis continuous service of the appellant at the same school for the last fourteen years despite her applications for her transfer and posting to the school situated nearby her abode.

7. Admittedly the respondent department has not dealt the appellant in accordance with the transfer and posting policy in vogue.

Attested by
Hameed Hussain
Advocate
[Signature]

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,

7. In the light of above the respondent department is directed for immediate posting of the appellant to the school situated nearer to her abode preferably within the radius of 5 kilometers of her abode for a normal tenure as mentioned in the transfer and posting policy. However the Arabic Teacher who has not yet completed her normal tenure shall not be disturbed in order to accommodate the appellant.

8. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

SD/
 TAHMAD HASSAN)
 MEMBER

SD/
 (MUHAMMAD HAMID MUGHAL)
 MEMBER

ANNOUNCED
 03.10.2017

Certified to be true copy
 K. S. KHAN
 MEMBER
 District Tribunal,
 Faisalabad

Attested by
 Humad Hussain
 Advocate *[Signature]*

وقت
50



20919

ایڈووکیٹ: نقیب اللہ حلیل ایڈووکیٹ
بار کونسل ایسوسی ایشن نمبر: 46-14-BC
رابطہ نمبر: 0332-9254039

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: Service Tribunal خیبر پختونخواہ سٹامپ

مخانب: سائل	دعویٰ:
بمشیتہ بیگم	علت نمبر:
نقیب اللہ بنام	مورخہ:
د سٹیمٹ ایجوکیشن	جرم:
آئینہ سائبر سٹامپ	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ ایڈووکیٹ حسین ایڈووکیٹ آن مقام سٹامپ کیلئے نقیب اللہ حلیل ایڈووکیٹ کو ذیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 4/1/2018

المقام: سٹامپ کے لیے منظور ہے۔

سائلہ: ہمیشہ سی بی یو صوبہ خیبر پختونخواہ
Hamshida

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Handwritten signatures and marks at the bottom of the page.

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other**

APPLICATION UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT
APPLICATION FOR CONDONATION OF DELAY

Respectfully Shewth:

1. That the appellant has submitted an appeal under section 4 of Service Tribunal Act in which no date has been fixed.
2. That the appellant had submitted departmental appeal on 08/11/2017 and the same was disposed of on 09/11/2017.
3. That the said rejected order was not provided intentionally to the appellant within time and thus the appellant did not file instant appeal within time.

It is therefore humbly prayed that this honorable court may be pleased to condone the delay.

Through

Hamshada
Appellant

Naqeebullah Khalil
Naqeebullah Khalil

&

Hanfaul Hussain
Hanfaul Hussain

Dated: / 01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other

Interim relief

1. That the appellant being a female has very embarrassed to attend her in the far flung station.
2. That the appellant aged women and a patient of hypertension and she faced very difficult to be performed her duties in the new station as far away.

It is therefore, humbly prayed that the impugned order dated 6/11/2017 issued by the Respondent No 1 may please be suspended till the final disposal of the instant appeal.

Hamshida
Appellant

Through

Naqeebullah Khalil

&
Hamid Hussain

Dated: /01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (E) MALAKAND AT BATHHELA

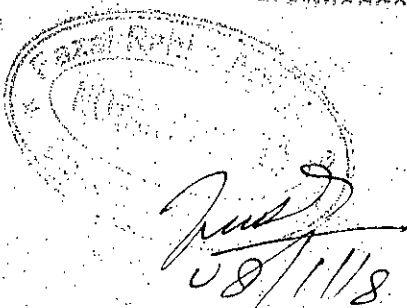
Affidavit

I, MST HAMSHADA BEGUM W/o NASIB GUI R/O Village maherdi Nasir bana tehsil dargai & Distract malakand do, hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best and belief of my knowledge and nothing has been concealed from this honorable Tribunal.

Hamshada

Deponent

MST HAMSHADA BEGUM



08/11/18

Service Appeal No. _____ /2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BARKHELA and
other**

APPLICATION UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT

APPLICATION FOR CONDONATION OF DELAY

Respectfully Shewth:

1. That the appellant has submitted an appeal under section 4 of Service Tribunal Act in which no date has been fixed.
2. That the appellant had submitted departmental appeal on 08/11/2017 and the same was disposed of on 09/11/2017.
3. That the said rejected order was not provided intentionally to the appellant within time and thus the appellant did not file instant appeal within time.

It is therefore humbly prayed that this honorable court may be pleased to condone the delay.

Through

Hamshida
Appellant

Naqeebullah
Naqeebullah Khalil

&

Hamad Hussain
Hamad Hussain

Dated: / 01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ /2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other**

Interim relief

1. That the appellant being a female has very embarrassed to attend her in the far flung station.
2. That the appellant aged women and a patient of hypertension and she faced very difficult to be performed her duties in the new station as far away.

It is therefore, humbly prayed that the impugned order dated 6/11/2017 issued by the Respondent No 1 may please be suspended till the final disposal of the instant appeal.

Hamshida
Appellant

Through

Naqeebullah Khalil

&

Hamad Hussain

Dated: /01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (E) MALAKAND AT BATHHELA

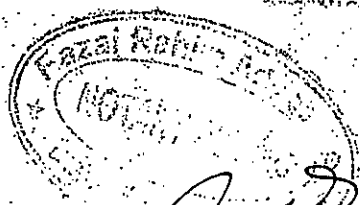
Affidavit

I, MST HAMSHADA BEGUM W/o NASIB GUL R/O Village maherdi Nasir bana tehsil dargai & Distract malakand do, hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best and belief of my knowledge and nothing has been concealed from this honorable Tribunal.

Hamshada

Deponent

MST HAMSHADA BEGUM



Fazal Raza
10/11/18

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other**

**APPLICATION UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT
APPLICATION FOR CONDONATION OF DELAY**

Respectfully Shewth:

1. That the appellant has submitted an appeal under section 4 of Service Tribunal Act in which no date has been fixed.
2. That the appellant had submitted departmental appeal on 08/11/2017 and the same was disposed of on 09/11/2017.
3. That the said rejected order was not provided intentionally to the appellant within time and thus the appellant did not file instant appeal within time.

It is therefore humbly prayed that this honorable court may be pleased to condone the delay.

Through

Hamshida
Appellant

Naqeebullah Khalil

&

Hamid Hussain

Dated: / 01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other

Interim relief

1. That the appellant being a female has very embarrassed to attend her in the far flung station.
2. That the appellant aged women and a patient of hypertension and she faced very difficult to be performed her duties in the new station as far away.

It is therefore, humbly prayed that the impugned order dated 6/11/2017 issued by the Respondent No 1 may please be suspended till the final disposal of the instant appeal.

Hamshida
Appellant

Through

Naqeebullah Khalil

&

Hamad Hussain

Dated: /01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (E) MALAKAND AT BATHHELA

Affidavit

I, MST HAMSHADA BEGUM W/o NASIB GUI R/O Village maherdi Nasir bana tehsil dargai & Distract malakand do, hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best and belief of my knowledge and nothing has been concealed from this honorable Tribunal.

Hamshada

Deponent

MST HAMSHADA BEGUM

Just
08/11/18

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 28

Dated 08/01/2018

APPLICATION UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT

APPLICATION FOR CONDONATION OF DELAY

Respectfully Shewth:

1. That the appellant has submitted an appeal under section 4 of Service Tribunal Act in which no date has been fixed.
2. That the appellant had submitted departmental appeal on 08/11/2017 and the same was disposed of on 09/11/2017.
3. That the said rejected order was not provided intentionally to the appellant within time and thus the appellant did not file instant appeal within time.

*Put up to the court along with
relevant appeal.*

It is therefore humbly prayed that this honorable court may be
pleased to condone the delay.

8/1/18.

Dated: / 01/2018

Through

Hamshida
Appellant

Naqeebullah
Naqeebullah Khalil

&

Hamad Hussain
Hamad Hussain

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

**DISTRICT EDUCATION OFFICER (F) MALAKAND AT BATKHELA and
other**

Interim relief

1. That the appellant being a female has very embarrassed to attend her in the far flung station.
2. That the appellant aged women and a patient of hypertension and she faced very difficult to be performed her duties in the new station as far away.

It is therefore, humbly prayed that the impugned order dated 6/11/2017 issued by the Respondent No 1 may please be suspended till the final disposal of the instant appeal.

Dated: /01/2018

Hamshida
Appellant
Through
Naqeebullah Khalil
&
Hamad Hussain

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2018

MST HAMSHADA BEGUM

Vs

DISTRICT EDUCATION OFFICER (D) MALAKAND AT BATHHELA

Affidavit

I, MST HAMSHADA BEGUM W/o NASIB GUI R/O Village maherdi Nasir bana tehsil dargai & Distract malakand do, hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best and belief of my knowledge and nothing has been concealed from this honorable Tribunal.

Hamshada

Deponent

MST HAMSHADA BEGUM



[Signature]
08/11/18

D. 164/HAB
28/3/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 24/2018

Mst Hamsheeda Begum AT (B-15) Govt Girl High School Abbaskily

Malakand Appellant

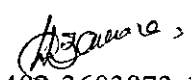
VERSUS

1. Government of KPK through The District Education Officer (Female) Elementary and Secondary Education Malakand at Batkhela
2. The Director, (Elementary and Secondary Education) Department Khyber Pakhtunkhwa Peshawar
3. Mst Ulfat Zia AT (BPS-15) Government Girls Middle School Jabban
4. Mst Bakht Saleema AT(AT-15) Government Girls Middle School Sharif Abad
..... Respondents.

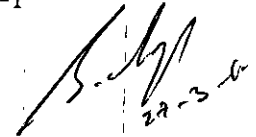
INDEX

S.No.	Description of documents	Annexure	Pages
1	Para Wise Comments	-	1-2
2	Addresses of Parties	-	3
	Affidavit		4
3	Authority letter	-	6

Deponent


CNIC No. 15402-3603873-1

(Respondent No.1)


District Education Officer (F)
Malakand at Batkhela

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 24/2018

Mst Hamsheeda Begum AT Govt Girl High School Abbaskily

Malakand Appellant

VERSUS

1. Government of KPK through The District Education Officer (Female) Elementary and Secondary Education Malakand at Batkhela
2. The Director, (Elementary and Secondary Education) Department Khyber Pakhtunkhwa Peshawar
3. Mst Ulfat Zia AT (BPS-15) Government Girls Middle School Jabban
4. Mst Bakht Saleema AT(AT-15) Government Girls Middle School Sharif Aba
..... Respondents.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not come to this August tribunal with clean hands.
2. That the appellant has got no cause of action and locus standi.
3. That the appellant is estopped by his own conduct to file instant appeal.
4. That the instant appeal is barred by law.

REPLY ON FACTS

1. Correct. The appellant is Arabic Teacher but has been transferred according to Transfer policy and judgment of Service Tribunal passed in the case Bakhat Salma AT VS Ulfat Zia AT. The respondent Department is directed for immediate positing of Applicant to the school situated near to her abod preferably with the radius of 5 Km of her abod for normal tenure as mentioned in the transfer and posting policy. However the Arabic teacher who has not yet completed her tenure shall not be disturb in order to accommodate the appellant passed on 03-10-2017.
2. Correct the appeal was rejected according to the transfer policy and judgment of the services Tribunal passed on 3-10-2017 as mentioned Para-I
3. NO Comments.

OBJECTIONS ON GROUNDS

- A. Incorrect and not admitted. The order has been issued according to the law.
- B. In correct According to the Judgment the appellant may posted in the radius of 5 Km while not disturbed the teacher who has not completed her normal tenure.
- C. Incorrect. No political influence has been imposed but order honour issued by in the light of order of Services Tribunal passed on 03-10-2017 in case mentioned vide Para NO.1
- D. Incorrect. The teacher mentioned by the appellant has not completed their normal tenure and the applicant tenure was 4 years.
- E. The order was passed according to Transfer policy.
- F. The order has been issued according to Rules and Regulation.
- G. No discrimination has been made.
- H. NO comments.

PRAYERS

As explained the whole position of the case that it is not value and causes only wastage of time of this office honourable Services Tribunal as the Education Department may please be dismissed

RESPONDANCE No. 1

District Education Officer (F)
Malakand at Batkhela

RESPONDANCE No. 2

Director,
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
Director,
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 24/2018

1. Mst Hamsheeda Begum AT Government Girls High School Abbaskily Malakand

Malakand Appellant

VERSUS

- 1. Government of KPK through The District Education Officer (Female) Elementary and Secondary Education Malakand at Batkhela
- 2. The Director, (Elementary and Secondary Education) Department Khyber Pakhtunkhwa Peshawar
- 3. Mst Ulfat Zia AT(AT-15) Government Girls Middle School Jabban
- 4. Mst Bakht Saleema AT(AT-15) Government Girls Middle School Sharif Aba

..... Respondents.

Reply to application for interim relief on behalf of respondents No. 1 & 2.


Respectfully Sheweth,

- 1. That the reply to memo of appeal may be considered as integral part of this reply.
- 2. Incorrect. The respondents have strong prima faice case in their favour.
- 3. Incorrect. The balance of convenience lies in favour of respondents
- 4. Incorrect. The respondents will suffer irreparable loss if the application of the appellants is allowed.

It is, therefore, requested that application for interim relief may very kindly be dismissed.

Respondent no.1



DEO (F) Malakand at Batkhela (himself)
And also for respondent No 2
Director (E&SE) KP Peshawar 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 24/2018

Mst Hamsheeda Begum AT(BPS-15) Govt Girl High School Abbaskily

Malakand Appellant

VERSUS

1. Government of KPK through The District Education Officer (Female) Elementary and Secondary Education Malakand at Batkhela
2. The Director, (Elementary and Secondary Education) Department Khyber Pakhtunkhwa Peshawar
3. Mst Ulfat Zia AT (BPS-15) Government Girls Middle School Jabban
4. Mst Bakht Saleema AT(AT-15) Government Girls Middle School Sharif Abad
.....Respondents.

AFFIDAVIT


I Mr. Sher Azam Khan Assistant (B-16) on the instruction of DEO female Malakand do hereby solemnly affirm and declare on oath that the contents of the best of my knowledge and belief and nothing has been concealed from this Hon,ble Court.

Deponent



CNIC No. 15402-3603873-1

(Responand No.1)



District Education Officer (F)
Malakand at Batkhela



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 24/2018

Mst Hamsheeda Begum AT (B-16) Govt Girl High Scool Abbaskily

Malakand Appellant

VERSUS

1. Government of KPK through The District Education Officer (Female) Elementary and Secondary Education Malakand at Batkhela
2. The Director, (Elementary and Secondary Education) Department Khyber Pakhtunkhwa Peshawar
3. Mst Ulfat Zia AT (BPS-15) Government Girls Middle School Jabban
4. Mst Bakht Saleema AT(AT-15) Government Girls Middle School Sharif Abad
.....Respondents.

AUTHORITY

I Mr. Sher Azam Khan Assistant (B-16) is hereby authorized to attend the court, submit reply and pursues the above titled writ petition on behalf of the undersigned till the decision of the case and progress made be intimated, to this office as well as to all other concerned.

(Respondent No.1)



District Education Officer (F)
Malakand at Batkhela

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 24 /2018

HAMSHEEDA BEGUM

VS

EDUCATION DEPTT:

REPLY ON BEHALF OF PRIVATE RESPONDENT NO.4
(ULFAT ZIA), ARABIC TEACHER, GGMS JABBAN,
TEHSIL DARGAI, DISTRICT MALAKAND)

R/SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed materials facts from this Honorable Tribunal.
4. That the instant appeal is not maintainable in its present form.
5. That the appeal is bad due to Non-Joinder & Mis-Joinder of necessary parties.
6. That the appeal is not maintainable U/S 10 of the Civil Servant Act 1973.
7. That the appeal of the appellant is badly time barred.
8. That the appellant is estopped by his own conduct to file the instant appeal.

ON FACTS:

1. Correct but prior to the instant impugned order both the private respondents No.4 & 5 have filed applications before the competent authority for their transfer to GGMS Jabban. That the private respondent No.4 being most deserving employee and due to her illness was transferred to GGMS Jabban vide order dated 29.9.2014. That in response the private respondent No.4 submitted her arrival report and started performing her duty quite efficiently and up to the entire satisfaction of her superiors. That private respondent

No.5 feeling aggrieved from the transfer of the replying respondent filed service appeal NO.118/2015 before this august Tribunal and vide judgment dated 3.10.2017 the appeal of the private respondent No.5 was disposed off with the direction to accommodate/transfer the private respondent No.5 to nearby station without disturbing the replying respondent No.4. That in light of the directions of this august Tribunal the respondents issued the order dated 6.11.2017. Copies of the application, transfer order dated 29.9.2014 and judgment are attached as annexure..... **R.**

2. Pertains to record hence need no comments.
3. Incorrect and misconceived hence denied.

GROUND:

- A- Incorrect and misconceived. That the order dated 06-11-2017 & 09-11-2017 has been issued by the competent authority in accordance with law and rules.
- B- Incorrect and misconceived. That transfer of the appellant is in accordance with section-10 of the Civil servant Act 1973 and as such the same has been issued in the best interest of public service.
- C- Incorrect and misconceiving hence denied.
- D- Incorrect and misconceiving hence denied.
- E- Incorrect and misconceiving. That the transfer order dated 9.11.2017 has been issued by the competent authority on the directions of this august Tribunal.
- F- Incorrect and misconceived. That appellant has already completed her normal tenure at GGMS Sharif Abad, therefore the respondents had rightly transferred the appellant from GGMS Sharifabad.
- G- As explain above.
- H- Incorrect and misconceived.
- I- Incorrect and misconceived.

It is therefore, most humbly prayed that on acceptance of this reply the appeal of the appellant may kindly be dismissed with cost.

PRIVATE RESPONDENT NO.4


ULFAT ZIA

THROUGH:


NOOR MOHAMMAD KHATTAK

&


MUHAMMAD MAAZ MADNI
ADVOCATE

(Annexure - 3) 3

کد دست چا

R-4

Foridom
11/5/14

D.E.O. قیصل حد کنڈر ایسٹ جیٹ
د درخواست برائے ٹرانسفر تیار کہ
از G.M.S. سندھو ٹو G.M.S. جین
خالی پوسٹ

صاحب عالی

گزارش اچھائی ہے۔ کہ میں عمر صدم پانچ
سالوں میں گورنمنٹ گریڈ مڈل سکول سندھو میں
A.T پوسٹ پر ڈیوٹی سرانجام دے رہی ہوں۔

گزشتہ چند مہینوں سے میرے کمپن میں دراز ہے۔ اور
اس کی وجہ سے زیادہ سفر سہا کر سکتی ہوں۔
اور ڈاکٹر صاحب نے بھی مشورہ دیا ہے۔ کہ زیادہ سفر
کرنے سے گریڈ کر رہوں۔

کہہ درخواست ~~توجی~~ کی اچھائی ہے۔ کہ میری
بیماری کو مد نظر رکھ کر میری مناد کہ گورنمنٹ
گریڈ مڈل سکول جین کے خالی پوسٹ پر تبدیل
ہونی کی اصلاحات صادر فرمائیں۔
حقیق گزارش ہوگی

الاعلیٰ
A.T گورنمنٹ گریڈ مڈل سکول سندھو
مدینہ

Attested
G2

DEO (P) Malakand
For vacant post
relating to
as desired by
HME (P) 11/5/14
P.A to
Minister of Education
KPK

(5)

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)MALAKAND AT
BATKHELA.

OFFICE ORDER/

Mst:Ulfat Zia AT Govt: Girls Middle School Sindano is hereby transferred to Govt:Girls Middle School Jabban against the newly creat AT post a in the interest of Public Service with immediate effect.

NOTE:- 1. No TA/DA is allowed.
2. Charge report should be submitted to all concerned

**(MST:RABBAIA BIBI)
DISTRICT EDUCATION OFFICER
(FEMALE)MALAKAND AT BATKHELA**

Endst:NO. 3962-677F.NO.1/DMTransfer/ Dated Batkhela the 29/9 /2014.
Copy of the above is forwarded to the:-

1. The Director of E & S E Khyber Pakhtun Khwa Pedshawar.
2. The Chairman DDAC Malakand.
3. The District Accounts Officer Malakand
4. The B&AO Local Office.
5. All the Head Mistresses concerned.
6. ✓ The teacher concerned.

**DISTRICT EDUCATION OFFICER
(FEMALE)MALAKAND AT BATKHELA**

(Faridoon /DA/Estt:

Attested
[Signature]

(6)

CERTIFICATE OF TRANSFER OF CHARGE


1. Certified that we have on the fore/afternoon of this day i.e. 01/10/2014 respectively made over and received charge of this office of the AT Post at GGMS Jabban Dargai vide DEO Female (E&SE) Malakand Endst No : 3962-67/F.NO.1/DM Transfer/Dated Batkhela Dated 29/09/2014
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:-

Station: GGMS Jabban

Signature of relieved
Head Mistress
Designation SST


HEAD MISTRESS
G.G.M.S.
Jabban Dargai MKD.


Dated : 01/10/2014


Signature of relieving
Government Servant: Ulfat Zia 
Designation AT

Endst No: 03 dated _____ Dated 01/10/2014

Forwarded to:

- 1 Secretary Education (E&SE) Khyber Pakhtoonkhwa at Peshawar.
- 2 Director of Education (E&SE) Khyber Pakhtoonkhwa at Peshawar.
- 3 District Education Officer (E&SE) Female Malakand at Batkhela.
- 4 Agency Account Office.


HEAD MISTRESS
G.G.M.S.
Jabban Dargai MKD.
Govt Girls Middle School,
Jabban Dargai Malakand.

Attested


Sr. No. 1
Date of order proceeding 2

ATTESTED

Handwritten signatures and stamps

03.10.2017

Order or other proceedings with signature

or Magistrate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

Service Appeal No. 118/2015

Date of Institution 02.02.2015

Date of Decision 03.10.2017

Mst. Bakht Saleema, Arabic Teacher, GGM School, Abbas Kalay, Kopar, Tehsil Dargai, Malakand Agency.

Appellant

Versus

1. The District Education Officer (F) Malakand at Baitchela.
2. The Director Education, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary School and Literacy, Khyber Pakhtunkhwa, Peshawar.
4. Ulfat Zia Arabic Teacher, GGM School, Abbas Kalay, Tehsil Dargai, Malakand Agency.

Respondents

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER, Learned

counsel for the appellant present. Learned Deputy District Attorney for the respondents present. Husband of the respondent No. 4 present.

2. Appellant Mst. Bakht Saleema (Arabic Teacher) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the official respondents and private respondent NO. 4 and made impugned transfer order dated 29.09.2014 whereby the respondent No. 4 was transferred from Government Girls

Sl. No. 1
Date of order proceeding 2

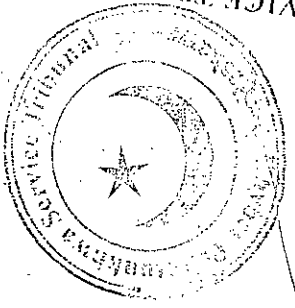
ATTESTED

Handwritten signatures and stamps

03.10.2017

Handwritten mark

Order or other proceedings with signature of Judge or Magistrate



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 118/20

Date of Institution 02.09.15

Date of Decision 03.10.17

Mst. Bakht Saleema, Arabic Teacher, GGM School, Abbas Kalay, Kopar, Tehsil Dargai, Malakand Agency.

Appellant

Versus

1. The District Education Officer (F) Malakand Agency, Khyber Pakhtunkhwa.
2. The Director Education, Khyber Pakhtunkhwa.
3. The Secretary School and Literacy, Khyber Pakhtunkhwa.
4. Urfai Zia Arabic Teacher, GGM School, Dargai, Malakand Agency.

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER

counsel for the appellant present. Learned Deputy District Counsel for the respondents present. Husband of the respondent present.

2. Appellant Mst. Bakht Saleema (Arabic Teacher) has

present appeal u/s 4 of the Khyber Pakhtunkhwa Service

Act, 1974 against the official respondents and private respondents

NO. 4 and made impugned transfer order dated 29.09.2014 whereby

the respondent No. 4 was transferred from Government Girls

Handwritten signature

ATTESTED
KIMBERLY A. BROWN
Sgt. at Arms
Postmaster

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Middle School, Sindano to Government Girls Middle School Jabban against the newly created Arabic Teacher post.

3. Arguments heard. File perused.

4. Learned counsel for the appellant argued that the appellant is serving as Arabic Teacher at Government Girls Middle School Abbas Kalay since 2003 which school is far away from the abode of the appellant and she submitted several transfer applications to the respondent No. 1 for her posting near to her abode however instead of the appellant, the respondent No. 4 was posted at GMS Jabban situated nearby the abode of the appellant.

5. On the other hand the respondent No. 4 in her Para-wise comments has alleged that she also served for more than thirteen years in far lung areas since 24.11.2000.

6. The Learned Deputy District Attorney remained unable to justify the act on the part of the official respondents vis-a-vis continuous service of the appellant at the same school for the last fourteen years despite her applications for her transfer and posting to the school situated nearby her abode.

7. Admittedly the respondent department has not dealt the appellant in accordance with the transfer and posting policy in vogue.

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7. In the light of above the respondent department is directed for immediate posting of the appellant to the school situated nearer to her abode, preferably within the radius of 5 kilometers of her abode, for a normal tenure as mentioned in the transfer and posting policy. However the Arabic Teacher who has not yet completed her normal tenure shall not be disturbed in order to accommodate the appellant.

8. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

SD/-
 (AHMAD HASSAN)
 MEMBER

SD/-
 (MUHAMMAD HAMID MUGHAL)
 MEMBER

ANNOUNCED
 03.10.2017

Certified to be true copy

MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Attested
12

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 24/2018

Hamsheeda Begum. Appellant

Versus

Education Department and Others Respondents

Rejoinder on behalf of Appellant

Respectfully Sheweth

On preliminary objections

- 1- That the Para No 1 of the preliminary objection is incorrect. The appellant is come with clean hands.
- 2- That Para no 2 of the preliminary objection is incorrect. The Appellant has got best good cause of action and already locus standi has been created in favor appellant
- 3- Para No 3 is incorrect appellant has put in to dark by the high up about the minutes.
- 4- Para No 4 is incorrect. The Appeal of the appellant is within time, hence no question of estoppels has been created.

On facts: -

1. Para No 1 correct, That the appellant is Arabic Teacher and the rest of the sentence is incorrect because the appealant has not been transferred according to the transferred policy , more over one Bakhat Saleema Arabic Teacher who filed service appeal NO118/15 in this

honorable service tribunal where as she challenged the order of one Mst Ulfat Zia A T which was accepted, but the Respondent NO 1 misinterpreted the order of this service tribunal and did not transferred her due to political Influence and transferred the appellant, which is clear cut discrimination with the appellant.

2: That para No 2 the appellant appeal to the concerned department which was rejected while giving references to the judgment of the service tribunal on 3/10/2017, moreover the Departmental appeal has not been decided according to law.

3. Para No. 3. The appellant being aggrieved with the order of the respondent NO 1.

On Grounds: -

- A. Correct, the impugned order is against the law, facts and transferred policy, hence liable to be set aside.
- B. Correct, the Respondents No 1 has transferred the appellant while giving reference to the judgment of the service tribunal, one Bakht Saleema who filed appeal wherein she challenged order of the one Mst Ulfat Zia which was accepted, so the respondent No 1 should has been transferred her instead of the appellant.
- C. Correct, the Respondent No 1 has not been properly implemented the judgment of the Honorable service tribunal and transferred the appellant on the basis of political influence and personal bias.
- D. Correct, the teacher mentioned, Rubina, Tasleem and Kouser, stayed on one and the same station more then to the Appellant.
- E. Para No E is incorrect and baseless the transfer has been passed on the respondents whims.
- F. Para No F is incorrect. The transfer order has been issued against the prevailing rules, regulation and transfer policy.

G. Para No G is incorrect and baseless. Personal bias, malafide intention political influence clear cut point out discrimination on part of the respondents.

H. Para No H is incorrect and baseless,

It is therefore most humbly requested that the rejoinder of the petitioner may kindly be accepted.

Appellant

Through


Naqeeb Ullah Khalil

&


Hamad Hussain

Advocate, High Court Peshawar

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No.24/2018

Hamsheeda Begum

Appellant

Versus

Education Department and Others

Respondents

AFFIDAVIT

I, Hamsheeda Begum W/O Nasib Gul, do hereby affirm and declare that the contents of this rejoinder are true and correct to the best of my knowledge and information and nothing has been concealed from this Honorable Tribunal.

Hamsheeda
Deponent

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No.24/2018

Hamsheeda Begum

..... Appellant

Versus

Education Department and Others

..... Respondents

Rejoinder on behalf of Appellant

Respectfully Sheweth

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It is therefore most humbly requested that the rejoinder of the petitioner may kindly be accepted.

Appellant

Through


Naqeeb Ullah Khalil

&


Hamad Hussain

Advocate, High Court Peshawar

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 24/2018

Hamsheeda Begum

..... Appellant

Versus

Education Department and Others

..... Respondents

AFFIDAVIT

I, Hamsheeda Begum W/O Nasib Gul, do hereby affirm and declare that the contents of this rejoinder are true and correct to the best of my knowledge and information and nothing has been concealed from this Honorable Tribunal.

Hamsheeda

Deponent

VAKALATNAMA

*Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar.*

OF 2018

Hamskeda Begum

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We *not: Ufat Zia (Private Jsp No. 4)*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 28/02 /2018

Ufat Zia

CLIENT

NK
ACCEPTED
NOOR MOHAMMAD KHATTAK
ADVOCATE

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141