

| S.No. of order or proceedings | Date of Order or proceedings. | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary. |
|-------------------------------|-------------------------------|--|
| 1 | 2 | 3 |
| | 06.01.2016 | <p><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p><u>Appeal No.299/2014</u></p> <p><u>(Mst. Nadia Ahmed-vs-.Govt. of Khyber Pakhtunkhwa through Secretary E&SE Department, Peshawar and 4 others).</u></p> <p><u>JUDGMENT</u></p> <p><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (litigation) and Daud Jan, Superintendent alongwith Mr. Usman Ghani, Senior Government Pleader for respondents present. Fresh Wakalat Nama on behalf of appellant filed.</p> <p>Mst. Nadia Ahmed, SET (BPS-16) GGHSS Khazana Dheri District Mardan, hereinafter referred to as the appellant, has preferred the instant appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with a prayer to direct the respondents to issue Last Pay Certificate (LPC) to the appellant.</p> <p>Brief facts of the case of the appellant are that she was serving as Headmistress at Government Girls Middle School, Soor Kamar Khyber Agency when her services were placed at the disposal of DEO (E&SE) Department vide notification dated 19.6.2013 and there-after she was adjusted as SET (Gen) at GGHSS Khazana Dheri District Mardan vide order dated 3.8.2013. As a consequence of the said orders appellant took over the charge as SET (Gen) at GGHSS Khazana Dheri District Mardan on 4.8.2013. That appellant was not issued relieving certificate/LPC by the respondent-department despite application and departmental appeal and hence the instant service appeal.</p> |

Handwritten signature and date:
 06/01/16

Learned counsel for the appellant has argued that the appellant was serving as Headmistress at Government Girls Middle School, Soor Kamar Khyber Agency when her services were placed at disposal of DEO (F) Mardan and the services of one Ms. Saima Waris SST were placed at the disposal of Director FATA Education for further adjustment vide notification dated 19.6.2013. He further argued that further adjustment of the appellant was made by the DEO (F) Mardan vide office order dated 3.8.2013 and appellant posted against a vacant post of SET (Gen) from the date of taking over charge which she had taken over on the following day and date i.e 4.8.2013. That the LPC of the appellant is withheld by the respondents on the plea that the Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar has not provided proper substitute of the appellant. That the treatment meted out with the appellant is not in harmony with the law and rules as the appellant is neither authorized nor obliged to provide substitute and, moreover, withholding the LPC of the appellant for such a reason is not recognized by any statute, law or rules.

Learned Senior Government Pleader argued that the appellant was not entitled to relinquish the charge without the express permission of respondents No. 3 and 4 and as such the appellant, while relinquishing the charge of her previous post, has acted contrary to the norms of service rules. He placed reliance on letter dated 23.7.2013 addressed to the Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar by Additional Director (ESTAB) according to which Ms. Saima Waris SST was not considered as a proper substitute and a request was made for providing a proper substitute of the appellant.

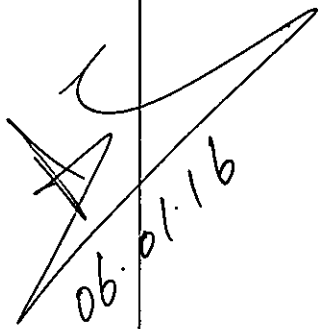
We have heard arguments of the learned counsel for the parties and perused the record.

It was not disputed before us that the notification dated 19.6.2013 in respect of placing the services of the appellant at the disposal of DEO (F) Mardan were made by the competent authority. It was also not

06.01.16


disputed that in furtherance of the said notification dated 19.6.2013 appellant was adjusted by DEO (F) Mardan against the post of SET (Gen) vide office order dated 3.8.2013 from the date of taking over the charge in the interest of public service. Pursuant to the said two notifications of the relevant authorities the appellant has assumed the charge of the said post on 4.8.2013 and we were informed that since then the appellant is performing her duties but the service record of the appellant has been withheld by respondents No. 3 to 5 so as to compel the respondents No. 1 and 2 to provide substitute of the appellant. It was further argued by the learned Senior Government Pleader that the appellant was not authorized to relinquish the charge as she was not relieved by the competent authority and as such she was obliged to serve against her previous post unless relieved.

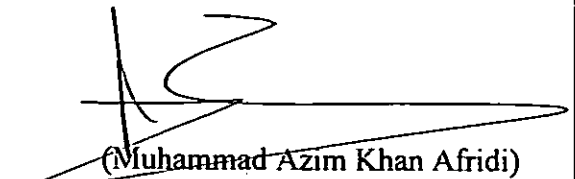
Providing substitute is undoubtedly the domain of respondents No. 1 and 2 and the appellant is neither obliged nor authorized to make any efforts in this regard. We were not confronted with any provisions of law or rules or any other statutory obligation under which the respondents No. 3 to 5 were authorized to withhold the service documents of an employee who has been transferred by the competent authority. Even if it is assumed for the sake of arguments that the appellant was under an obligation to have waited for a reasonable time until her substitute was provided even then the action complained of by the appellant i.e withholding of service record including LPC was not justified as the transfer order was made on 19.6.2013 followed by adjustment order of the appellant on 3.8.2013 meaning thereby that even the adjustment order of the appellant was made after lapse of considerable period spreading over about one and half months. According to record placed before us, despite lapse of more than two and half years, the respondents are yet to finalize the issue of substitute taken up vide letter dated 23.7.2013 by the Directorate of Education FATA Secretariat with the Director, E& SE Department, Khyber Pakhtunkhwa, Peshawar. We would, therefore,

 06.01.16

observe that withholding of service record of appellant is a penalty novel to law and rules and inflicted upon appellant due to fault or omission of her superiors.

In view of the above, we are left with no option but to accept the appeal of the appellant and direct the respondents No. 3 to 5 to send the record of the appellant to the quarter concerned in the prescribed manners within a period of one month from the date of receipt of this judgment. In case of failure on the part of respondents in timely implementing the judgment, apart from other remedies available to appellant, she will also be entitled of reasonable costs recoverable from the persons of respondents No. 3 to 5. The appeal is accepted in the above terms. File be consigned to the record room.


(Abdul Latif)
Member


(Muhammad Azim Khan Afridi)
Chairman
06.01.16

ANNOUNCED
06.01.2016

12 : : 01.07.2015

Agent of counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2015.


Chairman

24.11.2015

Counsel for the appellant and Mr. Daud Jan, Supdt: alongwith Asst: AG for respondents present . Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 6/11/16 for arguments


Member

Appeal No. 299/2014
Mst. Nadeem Ahmed


9.
Reader Note:

18.11.2014

Counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 04.02.2015 for the same.


Reader

10.
04.02.2015

Appellant deposited
process fee & security



Counsel for the appellant and Mr. Kabirullah Khattak, Asst. Advocate General for the respondents present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The appellant has prayed for directing the respondents to issue Last Pay Certificate. He filed departmental appeal on 25.11.2013 which was not responded within the statutory period of 90 days, hence the instant appeal on 03.03.2014.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 03.04.2015.


Member

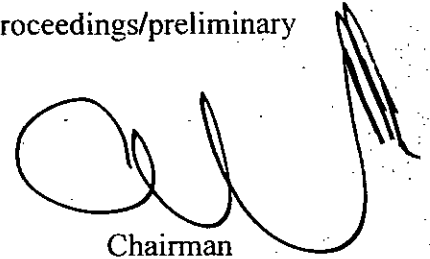
11.
03.04.2015

Counsel for the appellant and Mr. Daud Jan, Supdt alongwith Addl: AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 01.07.2015 before S.B.


Chairman

6.
22.08.2014

Counsel for the appellant and Mr. Kabirullah Khattak, Assistant Advocate General present. Since the matter relates to Agency Accounts Officer, Khyber Agency (respondent No.5), respondent No. 5 be summoned alongwith Last Pay Certificate (LPC) of the appellant for further proceedings/preliminary hearing on 25.09.2014.



Chairman

7.
25.09.2014

Counsel for the appellant and Mr. Suleman, Senior Auditor for respondent No.5 with Mr. Kabirullah Khattak, Assistant Advocate General for the respondents present. Notice be issued to the Agency Education Officer, Khyber Agency (respondent NO.4) to produce relevant record of the appellant. To come up for further preliminary hearing on 14.10.2014.



Member

8.
14.10.2014

Counsel for the appellant and Mr. Suleman, Senior Auditor for respondent No.5 with Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Representative of respondent No.4 is not present. Fresh notice be issued to respondent No.3 and 4 to produce the relevant record. The learned AAG also directed to contact the respondents for production of relevant record of the appellant. To come up for further preliminary hearing on 18.11.2014.



Member

3.

23.04.2014

Clerk of counsel for the appellant present and requested for adjournment due to general strikes of the Bar. To come up for preliminary hearing on 02.06.2014.



Member

4.

02.06.2014

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 30.06.2014.



Member



5.

30.06.2014

Counsel for the appellant present. Preliminary arguments partly heard. The matter required further elucidation, therefore, pre-admission notice be issued to the learned GP to assist the Tribunal. To come up for preliminary hearing on 22.08.2014.





Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 299/2014

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 03/03/2014 | <p>The appeal of Mst. Nadia Ahmad presented today by Mr. Noor Muhammad Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2 | 6-3-2014. | <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>23-4-2014.</u></p> <p style="text-align: right;"> CHAIRMAN</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 299 /2014

NADIA AHMED

VS

GOVT: OF KPK

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| 3. | Order | B | 5. |
| 4. | Charge report | C | 6. |
| 5. | Application | D | 7. |
| 6. | Departmental appeal | E | 8- 10. |
| 7. | Vakalat nama | | 11. |

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 299 /2014

Mst: Nadia Ahmad, SET (BPS-16),
GGHSS Khazana Dheri, District Mardan Appellant

VERSUS

[Stamp]
310
03-3-14

- 1- The Government of Khyber Pakhtunkhwa through Secretary E&SE Department, Khyber Pakhtunkhwa Peshawar.
- 2- The Director (E&SE) Department Khyber Pakhtunkhwa Peshawar.
- 3- The Director FATA (E&SE) Department, FATA Secretariat Warsak Road, Peshawar.
- 4- The Agency Education Officer, Khyber Agency.
- 5- The Agency Account Officer, Khyber Agency.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO ISSUE LAST PAY CERTIFICATE TO THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may be directed to issue/grant last pay certificate to the appellant in the light of orders dated 19-06-2013 and 03-08-2013. Any other remedy which this august tribunal deems fit and may also be awarded in favor of the appellant.

[Signature]
3/3/14

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and is serving the respondent Department quit efficiently and up to the entire satisfaction of his superiors.
- 2- That appellant while serving as Headmistress at Government Girls Middle School Soor Kamar Khyber Agency a Notification dated 19-06-2013 was issued by respondent No.1 due to which the services of the appellant were placed at the disposal of the DEO (E&SE) Department. That later on vide

order dated 03-08-2013 the appellant was adjusted as SET (Gen) at Government Girls Higher Secondary School Khazana Dheri District Mardan and in consequence the appellant took over the charge on dated 04-08-2013. Copies of the Notification, adjustment order and charge report are attached as annexure **A, B, & C.**

That the appellant approached the respondent No.4 for issuance/grant of Relieving Certificate but the same was refused to the appellant by one way or other. That it is also very pertinent to mention that appellant submitted his relieving certificate to the concerned authority but inspite of that the respondents are willing to release the same. Copy of the application is attached as annexure **D.**

- 3-** That feeling aggrieved from the inaction of the respondents the appellant filed Departmental appeal before the respondent No.3 but no reply has been received so far. Hence the appellant filed the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **E.**

GROUND:

- A- That not issuing/granting relieving Certificate/ Last pay Certificate to appellant by the respondent Department is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in an arbitrary and malifide manner while not issuing the relieving certificate/ last pay certificate to the appellant.
- D- That the respondent No.4 discriminated the appellant on the subject noted above rather than the respondent No.4 violating the principle of natural justice.
- E- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Nadia

NADIA AHMAD

THROUGH:

NM

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

A-4



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Dated Peshawar the 19-06-2013.

NOTIFICATION.

NO.SO(PE)2-7/E&SE/Khyber Agency/2013. The competent authority is pleased to transfer the following Headmistress/SST from FATA to Settled area and vice versa:-

| S.No. | Name | Present posting | Proposed place of posting. |
|-------|-----------------------------|-------------------------------|--|
| 1 | Ms.Nadia Ahmad Headmistress | GGMS Soor Kamar Khyber Agency | Services placed at the disposal of DEO (F) Mardan. |
| 2 | Ms.Saima Waris SST | New recommendee of PSC | Services placed at the disposal of Director FATA Education for further adjustment. |

J. u. or h. k. h. g. g. g.

SECRETARY

Endst. No. & Date as above:

Copy forwarded to:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Director Education FATA, Peshawar.
3. The District Education Officer (Female) Mardan.
4. The District Accounts Officer Mardan.
5. Agency Education Officer (Female) Khyber Agency.
6. Agency Accounts Officer Khyber Agency.
7. SST/ Headmistress concerned.
8. PS to Secretary FATA, Peshawar.
9. PS to Secretary E&SE Department.

DE *SOE* *Beenish Imban*

(BEENISH IMBAN)
SECTION OFFICER (PRIMARY)

ATTESTED

19/6

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE DISTT: MARDAN.

ADJUSTMENT

Consequent upon the services placed by the directed
E/S Education Khyber Pakhtoon Khwa Peshawar vide No SO(PE)2-7 EASE/Khyber P
Agency dated 19.6.2013. Ms. Nadia Ahmad SGT GGHS Soor Khan Khyber Agency
is hereby adjusted to SGT Khazana Dheri Mardan against vacant post of SGT
(Gen) from the date of taking over charge in the interest of public service.

1. No TA/DA is allowed.

2. Charge report submitted to all concerned.

(ATTYA SULTANA)

DISTRICT EDUCATION OFFICER
FEMALE MARDAN.

Distt: No 222/2 dated 2/8/2013.

Copy to the:-

- 1. H/M GGHS Khazana Dheri Mardan.
- 2. DAO Mardan.
- 3. Official concerned.

Attya
03-08-13
DISTRICT EDUCATION OFFICER
FEMALE MARDAN.

ATTESTED

[Signature]

C-6

CERTIFICATE OF TRANSFER OF CHARGE

1. Certify that we have on the fore/afternoon of this day respectively made over and received charge of this

office of the SET(G) at G.G.H.S. KHAZANA DHERI MARDAN vide ENDSIN No. 222/6

2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse dated - 3/8/2013

Signature of relieved Government servant Vacant

Designation SET P.O.F

Station G.G.H.S. KHAZANA DHERI MARDAN

Signature of relieving Radi

Government Servant NADIA AHMAD

Dated 1-8-2013 FN

Designation S.E.T

Forwarded to the

N.W.F.P. Acctt. Try. No. 42 1- DE/S KPK Rehman.

2- DE (F), Masha.

3- DAS Masha.

[Signature]
Head Mistress
G.G.H.S. Khazan, Dheri
MARDAN

ATTESTED

[Signature]

TO

DIRECTOR OF EDUCATION PATA
KPK

SUBJ, APPLICATION FOR RELIEVING CERTIFICATE

R/Sir,

As you know Sir that I have been transferred
 from G. G. Middle School ^{SOORKAMAR} ~~Khaga~~ Jamrud Khyber
 Agency (PATA) to District Mardan. I have
 taken over charge on SET post in Govt Girls
 Higher Secondary School Khaga Dheri
 Mardan. I am therefore going to request
 you for giving me relieving certificate
 from your honourable office.

I shall always be highly thankful
 to you for your this kind favour.

ATTESTED



Thanking you
 obediently yours
 NADIA AHMED
 SST GG HIGER
 SECONDARY SCHOOL
 KHAGA DHERI
 DISTRICT MARDAN
 (Nadia)

TO,

THE DIRECTOR FATA (E+SE) DEPT,
FATA SECRETARIATE PESHAWAR

SUBJ: RELIEVING CERTIFICATE

R/Sir,

Respectfully it is stated that I was transferred from Govt Girls Middle School Soorkamor Jamrud Khyber Agency to District Mardan on 19/6/2013. I handed over charge to my respective colleagues and took over charge in Govt Girls Higher Secondary School Khazana Dheri Mardan as a SET. Copies of all relevant and necessary documents are attached here with this application.

When I contacted office of Director Fata for getting my relieving certificate, I was refused and told that new recommendee of psc can not be considered as a substitute, when I showed them Notification letter No. 50(PE)2-7/FATA TRF/2012/32 dated 6-4-2012, copy is attached, In this transfer order 22 SETs were transferred from Fata to settle over. In that case new recommendee of psc were considered as a substitute, then why

ATTESTED

13/7

... was ...
... is not considered as a substantial
... and why I am not being relieved
... interestingly in three to four different
... notifications of transfer order with
... was included but later on it was
... The transfer case of mine was in
... program continues with those recommendations
... in 2018. If the decision
... it can be applied on the transferred 2ET
... in letter no 20 (PE) 2-7/FATA/R/2018 dated
... More over they were also not giving me NOC
... but after untiring efforts I got it by hand.
... It can be traced from letter no. 20/A-1-19/2018
... no. date 2/10/2011 A-1/1906 Female 2ET, Directorate
... element and record and education settled in
... It is recommended that
... for know sir my husband is belonging to
... District Mardan Governmentally and he is
... being job in Afghanistan. We have also
... started to Mardan and we are wanted
... our kids in the local camp Mardan, their
... admission form is attached with application
... other relevant documents are attached

(10)

Sir I have been regularly discharging
my duties as a SET teacher in Govt Girls
Higher Secondary School Khazama Dheri
Mardan. I am not being relieved and
as a result I can not get my Lpc.
I am highly tortured and request you
to please look into this matter very
seriously and do justice.

DATED - 25/11/2013

Thanking you
Nadia
NADIA AHMED
SET GOVT GIRLS HIGHER
SECONDARY SCHOOL
KHARA DHERI DISTRICT
MARDAN.

ATTESTED

19

I am not being reviewed as
 a result I can not get my job.
 I am highly tortured and request
 you please look into this matter very
 seriously and do justice.

DATE D - 32/11/2013

MARDAN
 KHARA DHERI DISTRICT
 SECONDARY SCHOOL
 GET Govt GIRLS HIGH
 MADIA AHMED
 (Signature)

ATTESTED

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2014

Nadia Ahmad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt. of KPK

(RESPONDENT)
(DEFENDANT)

I/We Nadia Ahmad

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. ___/___/2014

Nadia

CLIENT

Accepted

**NOOR MOHAMMAD KHATTAK
(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 299/2014

Mst. Nadia Ahmad BPS-16 Appellant

GGHSS Khazana Dheri District Mardan

.....VERSUS.....

1. The Government of Khyber Pakhtunkhwa through Secretary E&SE Department, Khyber Pakhtunkhwa Peshawar.
2. The Director (E&SE) Department Khyber Pakhtunkhwa Peshawar.
3. The Director FATA (E&SE) Department, FATA Secretariat Warsak Road Pesh.
4. The Agency Education Officer Khyber Agency.
5. The Agency Accounts Officer, Khyber Agency..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 3 AND 4 IN

APPEAL NO. 299/2014.

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 appeal is not maintainable in its present form.
5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to bring the present appeal.

Respectfully Sheweth.


1. No Comments pertains to record.
2. Incorrect. It is submitted for the kind information of the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar that a letter has been sent to Director (Elementary & Secondary Education) Khyber Pakhtunkhwa Peshawar by the respondent No.3 to provide a proper substitute as Mst. Saima Waris SST is not a real and proper substitute as she is appointed in Zone-I/FATA quota and according to the policy she will have to compulsorily serve for 18 months in FATA (Letter and notification are attached as Annexure- A and B).
3. No comments. As explained in Para-2.

Grounds.


- A. Incorrect. It is submitted for the kind information of the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar that a letter has been sent to Director (Elementary & Secondary Education) Khyber Pakhtunkhwa Peshawar by the respondent No.3 provide a proper substitute as Mst. Saima Waris SST is not a real and proper substitute as she is appointed in Zone-I/FATA quota and according to the policy she will have to compulsorily serve for 18 months in FATA.
- B. Incorrect. The appellant was be treated in accordance with law as no one is allowed to violate the Government rules.
- C. Incorrect. As explained in Para-A above.
- D. Incorrect. Due to acute shortage of female teachers in FATA respondents No.3 is not in position to relieve Mst. Nadia Ahmad SST at present stage.
- E. Respondents also seeks permission to advance other grounds and proofs at the time of arguments.

In the light of above facts it is most humbly prayed that the appeal may be dismissed in favour of the respondents with cost throughout.

Respondent No3.


Director Education (FATA)
FATA Secretariat Peshawar

Respondent No.4


Agency Education Officer
Khyber Agency at Jamrud


AFFIDAVIT

We, the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

Respondent No3.


**Director Education (FATA)
FATA Secretariat Peshawar**

Respondent No.4


**Agency Education Officer
Khyber Agency at Jamrud**

تعمیرات
10 روپے



33283

ایڈووکیٹ / دستخط
بارنول ابار ایسوسی ایشن
103998-10
رابطہ نمبر: 0333-9122244

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: *Khyber Pakhtunkhwa Service Tribunal*

| | |
|---|--|
| <p>Nadia Ahmad SET (BS-16) مخانب:</p> | <p>دعویٰ: علت نمبر: مورد نمبر: مزم: تھانہ:</p> |
| <p>Government of Khyber Pakhtunkhwa Through Secretary, SET PWT And Others</p> | <p>پشاور بار ایسوسی ایشن KHYBER PAKHTUNKHWA</p> |

بابت تحریر آگے

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

آگے مقام *KPST* *Qasim Ali* کو ذمیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ذمیل صاحب کو راضی نامہ کرنے و تقریرات و فیصلہ برطاعت دینے جواب دہی اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں بد دستخط کرنے کا اختیار ہوگا، نیز یہ صورت ہر صورت پیروی یا اہیل کی طرف یا اہیل کی برآمدگی اور منسوخی، نیز دائر کرنے اہیل نگرانی و نظریاتی و پیروی کرنے کا اختیار ہوگا اور یہ صورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور ذمیل یا اہیل نگرانی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا نام نہ خواجہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے حساب سے ہوگا وہ ذمیل موصوف و ذمیل کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو ذمیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: *Qasim Ali*

بد العواہ شد بد العواہ

مقام کے لئے منظور ہے۔

Qasim Ali
Advocate
High Court



FATA SECRETARIAT
DIRECTORATE OF EDUCATION

WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210156 FAX 091-9210216

NO. 10580
A-127 NADIA AHMED SST

DATED 23/7/13

26 (A)

To

The Director
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar

Subject: NOTIFICATION

I am directed to refer the Govt. of Khyber Pakhtunkhwa E&SE Deptt. Notification NO. SO(PE)2-7/E&SE/Khyber Agency/2013 dated 19/6/2013 under which they have placed the services of Mst. Nadia Ahmed SST (Gen) GGMS Sur Kamar, Khyber Agency at the disposal of DEO (F) District Mardan and the services of Saima Waris SST at the disposal of this Directorate as substitute.

It is submitted for your kind information that Ms. Saima Waris SST is not a real and proper substitute as she is appointed in Zone-I/FATA quota and according to the policy she will have compulsorily to serve for 18 months in FATA. In this regard you have already been informed vide this Directorate Endst: No. 7099-7106 dated 20/5/2013 (copy enclosed) that fresh PSC selectee appointed in Zone-1 FATA quota could not be considered as substitute. Hence provide a proper substitute.

(SYED MANZAR JAN SAJID)
ADDL: DIRECTOR (ESTAB)

cc 10581-84

Copy for information and necessary action to the:-

- 1 Section Officer (PE) Govt. of Khyber Pakhtunkhwa, E&SE Deptt., Peshawar with ref. to his Endst: mentioned above.
- 2 Section Officer (Edu), FATA Secretariat, Peshawar
- 3 ~~Agency Education Officer, Khyber Agency at Jamrud with the remarks that Mst. Nadia Ahmed SST GGMS Sur Kamar, Khyber Agency should not be relieved until & unless her transfer notification is endorsed by this Directorate.~~
- 4 Agency Accounts Officer, Khyber Agency with the remarks that LPC to the above named mistress may not be issued.

ADDL: DIRECTOR (ESTAB)

1585

FATA SECRETARIAT
 DIRECTORATE OF EDUCATION
 KHYBER PAKHTUNKHWA, WARSAK ROAD, PESHAWAR, PAKISTAN
 PHONE: 091-9210166 FAX: 091-9210253
 No. /
 Date Pesh: the / / 2013

Subject: TRANSFER FROM FATA TO SETTLED AREA/PROVISION OF PROPER SUBSTITUTE

The Government of Khyber Pakhtunkhwa E&SE Department has been placed the services of Mst. Nadia Ahmed SST GGMS Sur Kamar, Khyber Agency at the disposal of DEO (Female) District Mardan and placed the services of Ms. Saima Waris SST fresh PSC selectee at the disposal of this Directorate as her substitute vide Notification dated 19/6/2013 at (F/A).

2. It is submitted that being domicile of Kurram Agency, Mst Saima Waris was adjusted at GGHS Alzai Kurram Agency vide this Directorate Endst: No. 7099-7106 dated 20/5/2013 at F/B and the Director E&SE Khyber Pakhtunkhwa was informed in the same order that fresh PSC selectee appointed in Zone-II/FATA quota could not be considered as substitute, as according to the policy fresh PSC selectee should compulsory serve in FATA for at least 18 months F/C under approval at F/D.

3. Keeping in view the position as explained above, this Directorate is not in position to relieve Mst. Nadia Ahmed SST due to acute shortage of female teachers in FATA until & unless her proper substitute is provided. Therefore the Director Elementary & Secondary Education Khyber Pakhtunkhwa may please be asked to provide proper substitute and not proposed fresh PSC selectee appointed in Zone-II/FATA quota as substitute of existing teachers in future.

4. The proposal contained in Para-3/N above is submitted for consideration, please.

[Signature]
 for Director Education FATA

Secretary Edu: (FATA)

No-707
 DT-9-7-13

[Handwritten notes and signatures]
 yes pl.
 DEC FATA
 10.7.13
 9/7/13

[Vertical handwritten notes and signatures]
 19/7/13
 12/7/13

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 80 ST

Dated 13 / 1 / 2016

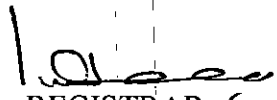
To

1. The Director FATA (E&SE),
FATA Secretariat Warsak Road Peshawar.
2. Agency Education Officer,
Khyber Agency.
3. Agency Account Officer,
Khyber Agency.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 6.1.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.