

21th April, 2022

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl. AG alongwith Qazi Muhammad Ayaz, Litigation Officer for the respondents present.

Representative of the respondents has produced copy of notification No. SO(C-I)HE/2-110/Pay Adjustment/Roheela Sayal, dated 20.04.2022 showing implementation of the judgment of this Tribunal. Learned counsel for the petitioner has expressed his satisfaction. Instant execution petition is, therefore, filed. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 21st^h day of April, 2022.*




Chairman

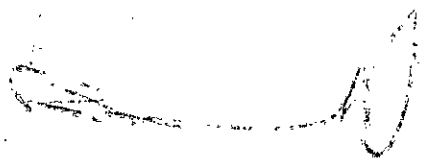
07.04.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Qazi Muhammad Ayaz, Litigation Officer for the respondents present.

Representative of the respondents seeks further adjournment to submit implementation report. Last opportunity is granted. In case implementation report is not submitted on the date fixed, salary of the defaulting officials/officers will be attached. Case to come up for implementation report on 21.04.2022 before S.B. Original file be also requisitioned.



Chairman



21th April, 2022

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl. AG alongwith Qazi Muhammad Ayaz, Litigation Officer for the respondents present.

Representative of the respondents has produced copy of notification No. SO(C-I)HE/2-110/Pay Adjustment/Roheela Sayal, dated 20.04.2022 showing implementation of the judgment of this Tribunal. Learned counsel for the petitioner has expressed his satisfaction. Instant execution petition is, therefore, filed. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 21stth day of April, 2022.*

Chairman

appeal, the appellant may be reinstated into service with all back benefits.

6. Learned Addl. Advocate General while rebutting the arguments of learned counsel for the appellant contended that on a complaint discreet enquiry was conducted and it was found that newly appointed Bailiff (appellant) was happened to be nephew of the competent authority, therefore, the later was rightly directed that after serving show cause notice to the appellant, he may be removed from service. He further argued that according to the direction of Hon'ble Peshawar High Court, the post was re-advertised and filled after adopting codal formalities one Muhammad Afraz Khan was appointed as Bailiff (BPS-04). He requested that the appeal may be dismissed with costs.

7. It is an undisputed fact that the appellant was removed from service simply for the reason that he was related to the competent authority who made the appointment of the appellant. According to show cause notice annexed with memorandum of appeal, it is there that on completion of due process appellant was appointed as Bailiff in the Labour Court Haripur vide order No. 46-49/LC dated 31.01.2019; and that the competent authority of Hon'ble Peshawar High Court had directed the signatory of the show cause notice



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar 20/04/2022

NOTIFICATION

NO. SO(C-I)HE/2-110/Pay Adjustment/Roheela Sayal: In pursuance of Khyber Pakhtunkhwa Service Tribunal judgment dated 10.06.2021 passed in service appeal No.11879/2020, the competent authority is pleased to adjust **Ms. Roheela Sayal**, Associate Professor (BPS-19) Pak Studies, Government Girls Degree College, No.2, Hayatabad Peshawar against the vacant posts in the following Colleges for the period mentioned against each, for the purpose of the withdrawal of Pay only:-

S#	Name of College	Period
1.	GFCW Peshawar	01.09.2020 to 30.11.2020
2.	GGDC Garhi Kapura, Mardan	01.01.2021 to 31.05.2021

SECRETARY
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principals of the Colleges Concerned
4. District Accounts officers Concerned.
5. Officer Concerned.
6. Master File.

(RIAZ)

SECTION OFFICER (COLLEGES-I)

16.12.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Salman, Assistant for respondents present.

Learned AAG requested for a adjournment to submit implementation report on the next date positively. Adjourned. To come up for further proceedings on 24.01.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

24.01.2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

It is observed with great concern that despite two orders sheets i.e dated 26.11.2021 and 16.12.2021, no notice has ever been issued to the respondents. This state of affairs is no longer tolerable. Registrar of this Tribunal is Therefore, directed to keep the house in order and not only investigate the lapse on the part of concerned at default but also to take appropriate punitive action against them. Notices be issued to the respondents for submission of implementation report on 14.02.2022 before S.B.


(Mian Muhammad)
Member(E)

15.02.2022

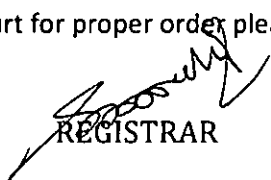

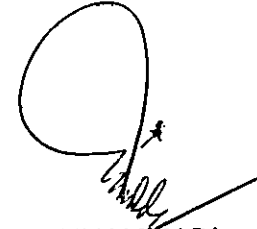
Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.04.2022.for the same as before.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 272 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	04.11.2021	<p>The execution petition of Ms. Roheela Sayal submitted today by Mr. Muhammad Amin Ayub Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench on <u>26/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	26.11.2021	<p>Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 16.12.2021 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Rohaila Sayal vs Goat

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

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

Name: _____

Signature: _____

Dated: _____

[Handwritten Signature]

06-11-21

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 272 /2021
IN
Service Appeal No. 11879 /2020

Ms. Rohecla Sayal Appellant

Versus


The Govt. of KPK and others.....Respondents

INDEX

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3.	Application for Implementation	10.10.2021	B	6-7
4.	Wakalat Nama			- 8

Petitioner

Through


Muhammad Amin Ayub


Muhammad Ghazanfar Ali
Advocates, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

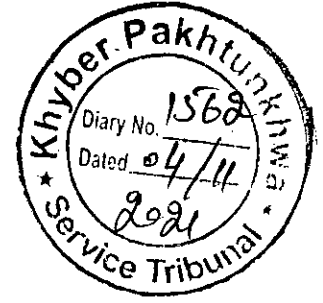
Dated: 05 /11/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 272 /2021

IN

Service Appeal No. 11879 /2020



Ms. Roheela Sayal

Associate Professor (Pakistan Study),

Frontier College for Women, Peshawar.....Appellant

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**

through Chief Secretary,
Civil Secretariat, Peshawar.

2. **The Secretary**

to Govt. of Khyber Pakhtunkhwa
Higher Education Department,
Civil Secretariat, Peshawar.....Respondents

Execution Petition for directing the Respondents to implement the Judgment of this Hon'ble Tribunal dated 10.06.2021 passed in Service Appeal No.11879/2020.

Respectfully Sheweth,

1. That petitioner had filed Service Appeal No.11879/2020 which was allowed by the Hon'ble Tribunal vide Judgment dated 10.06.2021 (*Annex:-A*) in the following terms:

“Consequently, in light of statement of learned Additional Advocate General so recorded before the Tribunal, the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal is disposed of accordingly. Parties are left to bear their own const. File be consigned to the record room.”

2. That after obtaining attested copy of the order, petitioner submitted the same to the Departments through application (*Annex:-B*) for


implementation in accordance with law but the Department failed to implement the same as per the directions of the Hon'ble Tribunal.

3. That moreover, at the time of announcement of judgment, the representatives of the Respondents were available and they were fully in the knowledge of the judgment but inspite of the same they failed to honour the above captioned judgment of this Hon'ble Tribunal which amounts to the violation of the lawful order.

It is, therefore, humbly prayed that Execution proceedings may kindly be initiated against the Respondents for implementation of the judgment of the Hon'ble Tribunal.

Petitioner

Through



Muhammad Amin Ayub


Muhammad Ghazanfar Ali
Advocates, High Court

Dated: 05/11/2021

Affidavit

I, Roheela Sayal, Associate Professor (Pakistan Study) Frontier College for Women, Peshawar, do hereby affirm and declare on oath that the contents of this Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent



Service Appeal No. 11879/2020 - 3

Date of Institution 08.10.2020

Date of Decision ... 10.06.2021

Amir A

Ms. Roheela Sayal, Associate Professor (Pakistan Study),
Frontier College for Women, Peshawar

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar and another.

... (Respondents)

Mr. MUHAMMAD AMIN AYUB,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

MR. ATIQU-UR-REHMAN WAZIR

MEMBER (EXECUTIVE)

JUDGEMENT:

SALAH-UD-DIN, MEMBER:- The appellant has filed the instant Service Appeal, challenging the order dated 07.07.2020, whereby the transfer/posting order of the appellant dated 09.03.2020 was cancelled and the departmental appeal of the appellant filed against the order dated 07.07.2020 was not responded to within the statutory period of ninety days.

2. Brief facts giving rise to filing of the instant Service Appeal are that upon her promotion as Associate Professor, the appellant was transferred from Government Girls Degree College Gulbahar Peshawar to Government Girls Post Graduate College Kohat and she assumed the charge accordingly. The husband of the appellant was serving as Accounts Officer in Accountant General Office Khyber Pakhtunkhwa

ATTESTED

Peshawar and they are having three school going children, therefore, the appellant and her husband were facing hardship due to posting of the appellant in Government Girls Post Graduate College Kohat. The husband of the appellant submitted so many requests to the concerned Authority for adjustment of the appellant at Peshawar and eventually the appellant was transferred from Government Girls Post Graduate College Kohat to Government Frontier College for Women Peshawar vide transfer/posting Notification dated 09.03.2020. The appellant assumed the charge in Government Frontier College for Women Peshawar and started performing her duty, however vide Notification dated 07.07.2020, the Notification dated 09.03.2020 regarding transfer of the appellant to Government Frontier College for Women Peshawar, was unlawfully withdrawn without any legal justification. The impugned order dated 07.07.2020 was challenged through filing of departmental appeal on 09.07.2020, however the same was not responded to by the appellate Authority, therefore, the appellant filed the instant service appeal.

3. Respondents were summoned, who contested the appeal through filing of comments wherein they negated the stance of the appellant and contended that as the departmental appeal of the appellant was still sub-judice before the competent Authority, therefore, the appeal filed by the appellant is not maintainable being premature.

4. During the course of arguments, learned Additional Advocate General stated at the bar that the grievance of the appellant has already been redressed as in light of departmental appeal of the appellant, summery was put up before the Chief Minister Khyber Pakhtunkhwa, who ordered that the appellant may be posted against any vacant post in Peshawar, therefore, vide Notification dated 15th March 2021, the appellant has been transferred from Government Girls Post Graduate College Kohat to Government Girls Degree College No. 2 Hayatabad Peshawar. In this respect he produced copy of summery put up to Chief Minister as well as copy of posting/transfer order dated 15.03.2021, which are placed on file.

5. Learned counsel for the appellant, however stated that the

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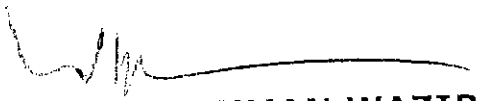
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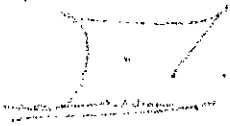
09.03.2020 but in the recent posting/transfer order dated 15.03.2021, she has been shown to have been transferred from Government Girls Post Graduate College Kohat. Learned counsel for the appellant added that in view of aforementioned scenario, the appellant is facing problem in respect of her pay as well as submission of charge relinquishment report. He also produced copy of LPC, issued from the office of District Comptroller of Accounts Kohat, upon transfer of the appellant from Kohat as well as copy of charge assumption in Government Frontier College for Women Peshawar, bearing Endorsement No. 505-11 dated 30.06.2020. While responding to the aforementioned submission of learned counsel for the appellant, learned Additional Advocate General stated that on behalf of the respondents, he undertakes that the appellant shall be allowed to relinquish her charge from Government Frontier College for Women Peshawar and the issue of her unpaid salary shall be resolved in accordance with relevant rules as soon as possible. In this respect, statement of learned Additional Advocate General recorded and placed on file.

6. Learned counsel for the appellant stated that the appeal in hand may be disposed of in light of statement of learned Additional Advocate General so recorded before the Tribunal.

7. Consequently, in light of statement of learned Additional Advocate General so recorded before the Tribunal, the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.06.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ATTESTED

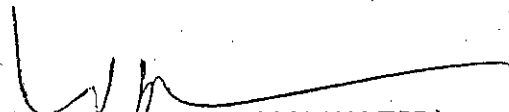

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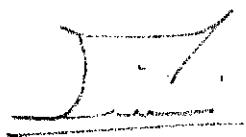
ORDER
10.06.2021

Mr. Khalid Mehmood, husband of the appellant alongwith Mr. Muhammad Amin Ayub, Advocate, present. Mr. Qazi Muhammad Ayaz, Litigation Officer and Mr. Khan Gul, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, in light of statement of learned Additional Advocate General so recorded before the Tribunal, the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.06.2021


(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ATTESTED

To,

Secretary to Government,
Khyber Pakhtunkhwa, Higher Education Department,
Peshawar.

-6 Anna B
CIMS-95275410
10-10-2021

Subject: IN LIGHT OF THE DIRECTION/ORDER DATED 10.06.2021 IN APPEAL NO. 11879/2020 PASSED BY THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, RELEASE OF PAY AND ALLOWANCES OF MISS. ROHEELA SAYEL, ASSOCIATE PROFESSOR (BS-19)

Respected Sir,

Kindly refer to the subject noted above it is stated that I was prematurely transferred from Frontier College for Women Peshawar to Post Graduate College for Women Kohat on 07.07.2020. Against my premature transfer dated 07.07.2020 I submitted appeal in the office of Chief Secretary Khyber Pakhtunkhwa and did not relinquish the charge of my post and kept continued my duty at FCW (Frontier College for Women) Peshawar. After completion of 90 days I submitted a service appeal in Khyber Pakhtunkhwa Service Tribunal wherein, the honorable court dated (11.12.2020) suspended the order dated 07.07.2020. Despite the orders of honorable court Education Department inactive my salary which was remained blocked up to 07 months (**Detail at Annexure-I**).

2. Aforementioned service appeal decided on 10.06.2021 and a separate order sheet was issued too (**Decision at Annexure-II**). As per Para-7, *the applicant* (under signed) *is allowed to relinquish her charge from Government Frontier College for women Peshawar and she shall be entitled to receive all the outstanding salaries.*

3. It is pertinent to mention here that honorable Service Tribunal has legalized the stay of appellant in Frontier College for Women Peshawar and has authorized the drawl of withheld pay and allowances from Frontier College for Women Peshawar by allowing the undersigned to relinquish her charge from Government Frontier College for Women Peshawar for onward taking charge in Girls Degree College Hayatabad Peshawar.

4. It is brought to your kind notice that since final and clear judgement of Khyber Pakhtunkhwa Service Tribunal undersigned has not been intimated with any authorization with regard to release of withheld pay. The Supreme Court of Pakistan in its judgment in C.A. No. 28 has ruled that a civil servant has and always had the right to recover salary for a period of

ATTESTED

absence from duty, on re-instatement as a result of Court's decision while in the instant case no action has so far been taken even though in subject service appeal representation of Higher Education Department was made by the Litigation Officer of the department along with Additional Advocate General.

5. Your good self is, therefore, requested that in light of above subject decision of Khyber Pakhtunkhwa Service Tribunal, subordinates of your department may please be directed to honour the honorable court direction in true spirit without any further delay and issue the pay release order out of the budget of Frontier College for Women Peshawar for the period mentioned in Annexure-I.

6. Your favorable consideration of the matter will be highly regarded.

Dated: 10 / 09 /2021.

Yours faithfully,



(ROHEELA SAYEL)

AC ASSOCIATE PROFESSOR (BS-19)
GIRLS DEGREE COLLEGE
HAYATABAD, PESHAWAR

Copy forwarded for information to:

1. Mr. Muhammad Adeel Butt, Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. Mr. Qazi Muhammad Ayaz, Litigation Officer, Higher Education Department Khyber Pakhtunkhwa, Peshawar.
3. Mr. Khan Gul, Assistant Frontier Girls College for Women, Peshawar.



(ROHEELA SAYEL)

AC ASSOCIATE PROFESSOR (BS-19)
GIRLS DEGREE COLLEGE
HAYATABAD, PESHAWAR

21/9/2015

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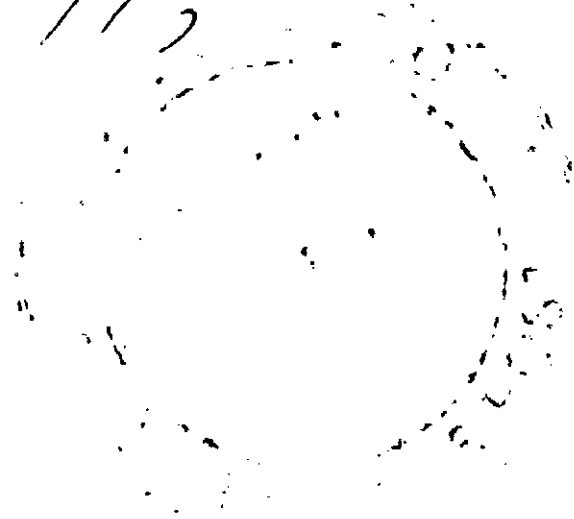
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ATTESTED

Handwritten signature or mark over the word ATTESTED.

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Mrs Rehela Sayal

Appellant(s)/Petitioner(s)

VERSUS

Govt etc

Respondent(s)

I/We _____ do hereby appoint **Mr. Muhammad Amin Ayub & Mr. Muhammad Ghazanfar Ali**, Advocates High Court in the above mentioned case, to do all or any of the following acts, deeds and things.

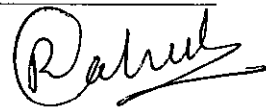
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-


- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Signature of Executants


Muhammad Amin Ayub
Advocate, High Court

&


Muhammad Ghazanfar Ali
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. _____/2021

IN

Service Appeal No. 11879 /2020

Ms. Roheela Sayal Appellant

Versus

The Govt. of KPK and others..... Respondents


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3.	Application for Implementation	10.10.2021	B	6-7
4.	Wakalat Nama			8

Petitioner

Through


Muhammad Amin Ayub


Muhammad Ghazanfar Ali
Advocates, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 05 /11/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. _____/2021

IN

Service Appeal No. 11879 /2020

Ms. Roheela Sayal

Associate Professor (Pakistan Study),

Frontier College for Women, Peshawar.....Appellant

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**

through Chief Secretary,
Civil Secretariat, Peshawar.

2. **The Secretary**

to Govt. of Khyber Pakhtunkhwa
Higher Education Department,
Civil Secretariat, Peshawar.....

Respondents

Execution Petition for directing the Respondents to implement the Judgment of this Hon'ble Tribunal dated 10.06.2021 passed in Service Appeal No.11879/2020.

Respectfully Sheweth,

1. That petitioner had filed Service Appeal No.11879/2020 which was allowed by the Hon'ble Tribunal vide Judgment dated 10.06.2021 (*Annex:- A*) in the following terms:

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2. That after obtaining attested copy of the order, petitioner submitted the same to the Departments through application (*Annex:-B*) for


implementation in accordance with law but the Department failed to implement the same as per the directions of the Hon'ble Tribunal.

3. That moreover, at the time of announcement of judgment, the representatives of the Respondents were available and they were fully in the knowledge of the judgment but inspite of the same they failed to honour the above captioned judgment of this Hon'ble Tribunal which amounts to the violation of the lawful order.

It is, therefore, humbly prayed that Execution proceedings may kindly be initiated against the Respondents for implementation of the judgment of the Hon'ble Tribunal.

Petitioner

Through



Muhammad Amin Ayub

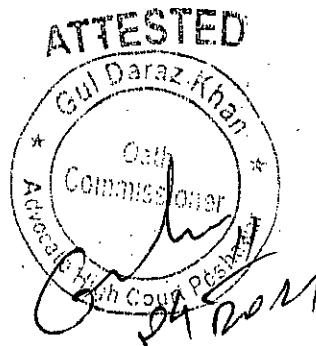

Muhammad Ghazanfar Ali
Advocates, High Court

Dated: 05/11/2021

Affidavit

I, Roheela Sayal, Associate Professor (Pakistan Study) Frontier College for Women, Peshawar, do hereby affirm and declare on oath that the contents of this Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent



Service Appeal No. 11879/2020 -3

Date of Institution ... 08.10.2020

Date of Decision ... 10.06.2021

Amir A

Ms. Roheela Sayal, Associate Professor (Pakistan Study),
Frontier College for Women, Peshawar

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar and another.

... (Respondents)

Mr. MUHAMMAD AMIN AYUB,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

MR. ATIQ-UR-REHMAN WAZIR

MEMBER (EXECUTIVE)

JUDGEMENT:

SALAH-UD-DIN, MEMBER:- The appellant has filed the instant Service Appeal, challenging the order dated 07.07.2020, whereby the transfer/posting order of the appellant dated 09.03.2020 was cancelled and the departmental appeal of the appellant filed against the order dated 07.07.2020 was not responded to within the statutory period of ninety days.

2. Brief facts giving rise to filing of the instant Service Appeal are that upon her promotion as Associate Professor, the appellant was transferred from Government Girls Degree College Gulbahar Peshawar to Government Girls Post Graduate College Kohat and she assumed the charge accordingly. The husband of the appellant was serving as Accounts Officer in Accountant General Office Khyber Pakhtunkhwa

ATTESTED

- 4

Peshawar and they are having three school going children, therefore, the appellant and her husband were facing hardship due to posting of the appellant in Government Girls Post Graduate College Kohat. The husband of the appellant submitted so many requests to the concerned Authority for adjustment of the appellant at Peshawar and eventually the appellant was transferred from Government Girls Post Graduate College Kohat to Government Frontier College for Women Peshawar vide transfer/posting Notification dated 09.03.2020. The appellant assumed the charge in Government Frontier College for Women Peshawar and started performing her duty, however vide Notification dated 07.07.2020, the Notification dated 09.03.2020 regarding transfer of the appellant to Government Frontier College for Women Peshawar, was unlawfully withdrawn without any legal justification. The impugned order dated 07.07.2020 was challenged through filing of departmental appeal on 09.07.2020, however the same was not responded to by the appellate Authority, therefore, the appellant filed the instant service appeal.

3. Respondents were summoned, who contested the appeal through filing of comments wherein they negated the stance of the appellant and contended that as the departmental appeal of the appellant was still sub-judice before the competent Authority, therefore, the appeal filed by the appellant is not maintainable being premature.

4. During the course of arguments, learned Additional Advocate General stated at the bar that the grievance of the appellant has already been redressed as in light of departmental appeal of the appellant, summery was put up before the Chief Minister Khyber Pakhtunkhwa, who ordered that the appellant may be posted against any vacant post in Peshawar, therefore, vide Notification dated 15th March 2021, the appellant has been transferred from Government Girls Post Graduate College Kohat to Government Girls Degree College No. 2 Hayatabad Peshawar. In this respect he produced copy of summery put up to Chief Minister as well as copy of posting/transfer order dated 15.03.2021, which are placed on file.

5. Learned counsel for the appellant, however stated that the

ATTESTED

3 - 5

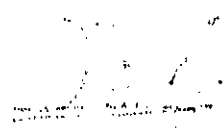
09.03.2020 but in the recent posting/transfer order dated 15.03.2021, she has been shown to have been transferred from Government Girls Post Graduate College Kohat. Learned counsel for the appellant added that in view of aforementioned scenario, the appellant is facing problem in respect of her pay as well as submission of charge relinquishment report. He also produced copy of LPC, issued from the office of District Comptroller of Accounts Kohat, upon transfer of the appellant from Kohat as well as copy of charge assumption in Government Frontier College for Women Peshawar, bearing Endorsement No. 505-11 dated 30.06.2020. While responding to the aforementioned submission of learned counsel for the appellant, learned Additional Advocate General stated that on behalf of the respondents, he undertakes that the appellant shall be allowed to relinquish her charge from Government Frontier College for Women Peshawar and the issue of her unpaid salary shall be resolved in accordance with relevant rules as soon as possible. In this respect, statement of learned Additional Advocate General recorded and placed on file.

6. Learned counsel for the appellant stated that the appeal in hand may be disposed of in light of statement of learned Additional Advocate General so recorded before the Tribunal.

7. Consequently, in light of statement of learned Additional Advocate General so recorded before the Tribunal; the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.06.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ATTESTED



ORDER
10.06.2021

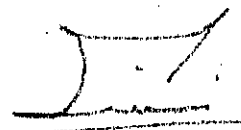
5A

Mr. Khalid Mehmood, husband of the appellant alongwith Mr. Muhammad Amin Ayub, Advocate, present. Mr. Qazi Muhammad Ayaz, Litigation Officer and Mr. Khan Gul, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, in light of statement of learned Additional Advocate General so recorded before the Tribunal, the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.06.2021


(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ATTESTED

-6 Hand B
C/MS-95278410
10-10-2021

To,

Secretary to Government,
Khyber Pakhtunkhwa, Higher Education Department,
Peshawar.

Subject: IN LIGHT OF THE DIRECTION/ORDER DATED 10.06.2021 IN APPEAL NO. 11879/2020 PASSED BY THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, RELEASE OF PAY AND ALLOWANCES OF MISS. ROHEELA SAYEL, ASSOCIATE PROFESSOR (BS-19)

Respected Sir,

Kindly refer to the subject noted above it is stated that I was prematurely transferred from Frontier College for Women Peshawar to Post Graduate College for Women Kohat on 07.07.2020. Against my premature transfer dated 07.07.2020 I submitted appeal in the office of Chief Secretary Khyber Pakhtunkhwa and did not relinquish the charge of my post and kept continued my duty at FCW (Frontier College for Women) Peshawar. After completion of 90 days I submitted a service appeal in Khyber Pakhtunkhwa Service Tribunal wherein, the honorable court dated (11.12.2020) suspended the order dated 07.07.2020. Despite the orders of honorable court Education Department inactive my salary which was remained blocked up to 07 months (Detail at Annexure-I).

2. Aforementioned service appeal decided on 10.06.2021 and a separate order sheet was issued too (Decision at Annexure-II). As per Para-7, *the applicant* (under signed) *is allowed to relinquish her charge from Government Frontier College for women Peshawar and she shall be entitled to receive all the outstanding salaries.*

3. It is pertinent to mention here that honorable Service Tribunal has legalized the stay of appellant in Frontier College for Women Peshawar and has authorized the drawl of withheld pay and allowances from Frontier College for Women Peshawar by allowing the undersigned to relinquish her charge from Government Frontier College for Women Peshawar for onward taking charge in Girls Degree College Hayatabad Peshawar.

4. It is brought to your kind notice that since final and clear judgement of Khyber Pakhtunkhwa Service Tribunal undersigned has not been intimated with any authorization with regard to release of withheld pay. The Supreme Court of Pakistan in its judgment in C.A. No. 28 has ruled that a civil servant has and always had the right to recover salary for a period of

ATTESTED

20/9/21

AD خانہ PSH

UMS95275407

قائمہ نمبر 4

UMS95275408

عمر علی 6

UMS95275409

سنگھ سٹریٹ نوٹری پبلک 11

UMS95275410



ATTESTED

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Mrs Raheela Sayal

Appellant(s)/Petitioner(s)

VERSUS

Govt etc

Respondent(s)

I/We _____ do hereby appoint
Mr. Muhammad Amin Ayub & Mr. Muhammad Ghazanfar Ali,
Advocates High Court in the above mentioned case, to do all or any of the
following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Muhammad Amin Ayub
Advocate, High Court



Signature of Executants

&



Muhammad Ghazanfar Ali
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

No.SO(Lit-II)/HED/EP-25/2021/Roheela Sayal /203
Dated Peshawar the 24/03/2022

To,

The Director,
Higher Education Department,
Khyber Pakhtunkhwa, Peshawar.

DH
31/3

Subject: NON-DRAWAL-CERTIFICATE

I am directed to enclose herewith a copy of Non-Drawal-Certificate bearing No. No.PR-8/GAZ/2021-22 dated 15/03/2022, office of the Accountant General Khyber Pakhtunkhwa on the subject noted above and to state that the Salaries in respect of Ms.Roheela Sayal, Associate Professor (BPS-19), GGDC, Hayatabad No.2, Peshawar may kindly be released as per Non-Drawal-Certificate provided by Accountant General Khyber Pakhtunkhwa, Peshawar.

b/c

R

(RIAZ)

SECTION OFFICER (COLLEGES-I)

Copy forwarded to:

1. PS to Secretary, Higher Education Department.
2. Master file.

b/c

R

(RIAZ)

SECTION OFFICER (COLLEGES-I)



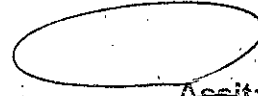
NO-PR-8/GAZ/2021-22/

Office of the
ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA PESHAWAR
TEL # 091-9211250-54 FAX # 091- 9211254

Dated : 15.03.2022

NON-DRAWL CERTIFICATE

Certify that Mst. Rohila Sayel Associate Professor BPS-19 GGDC Hayatabad No.02 Peshawar has not drawn pay and allowances w.e.f 01.09.2020 to 31.10.2020 & 01.01.2021 to 31.05.2021 through computer system.



2502
Asst: Accounts Officer
O/o A.G Khyber Pakhtunkhwa
Accounts Officer

Raf
15/03

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 11879/2020

Date of Institution ... 08.10.2020

Date of Decision ... 10.06.2021

Ms. Roheela Sayal, Associate Professor (Pakistan Study),
Frontier College for Women, Peshawar

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar and another.

... (Respondents)

Mr. MUHAMMAD AMIN AYUB,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN ---
MR. ATIQ-UR-REHMAN WAZIR ---


MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGEMENT:

SALAH-UD-DIN, MEMBER:- The appellant has filed the instant Service Appeal, challenging the order dated 07.07.2020, whereby the transfer/posting order of the appellant dated 09.03.2020 was cancelled and the departmental appeal of the appellant filed against the order dated 07.07.2020 was not responded to within the statutory period of ninety days.

2. Brief facts giving rise to filing of the instant Service Appeal are that upon her promotion as Associate Professor, the appellant was transferred from Government Girls Degree College Gulbahar Peshawar to Government Girls Post Graduate College Kohat and she assumed the charge accordingly. The husband of the appellant was serving as Accounts Officer in Accountant General Office Khyber Pakhtunkhwa

Peshawar and they are having three school going children, therefore, the appellant and her husband were facing hardship due to posting of the appellant in Government Girls Post Graduate College Kohat. The husband of the appellant submitted so many requests to the concerned Authority for adjustment of the appellant at Peshawar and eventually the appellant was transferred from Government Girls Post Graduate College Kohat to Government Frontier College for Women Peshawar vide transfer/posting Notification dated 09.03.2020. The appellant assumed the charge in Government Frontier College for Women Peshawar and started performing her duty, however vide Notification dated 07.07.2020, the Notification dated 09.03.2020 regarding transfer of the appellant to Government Frontier College for Women Peshawar, was unlawfully withdrawn without any legal justification. The impugned order dated 07.07.2020 was challenged through filing of departmental appeal on 09.07.2020, however the same was not responded to by the appellate Authority, therefore, the appellant filed the instant service appeal.

 3. Respondents were summoned, who contested the appeal through filing of comments wherein they negated the stance of the appellant and contended that as the departmental appeal of the appellant was still sub-judice before the competent Authority, therefore, the appeal filed by the appellant is not maintainable being premature.

4. During the course of arguments, learned Additional Advocate General stated at the bar that the grievance of the appellant has already been redressed as in light of departmental appeal of the appellant, summery was put up before the Chief Minister Khyber Pakhtunkhwa, who ordered that the appellant may be posted against any vacant post in Peshawar, therefore, vide Notification dated 15th March 2021, the appellant has been transferred from Government Girls Post Graduate College Kohat to Government Girls Degree College No. 2 Hayatabad Peshawar. In this respect he produced copy of summery put up to Chief Minister as well as copy of posting/transfer order dated 15.03.2021, which are placed on file.


5. Learned counsel for the appellant, however stated that the appellant had already assumed charge in Government Frontier College for Women Peshawar in light of earlier posting/transfer order dated

09.03.2020 but in the recent posting/transfer order dated 15.03.2021, she has been shown to have been transferred from Government Girls Post Graduate College Kohat. Learned counsel for the appellant added that in view of aforementioned scenario, the appellant is facing problem in respect of her pay as well as submission of charge relinquishment report. He also produced copy of LPC, issued from the office of District Comptroller of Accounts Kohat, upon transfer of the appellant from Kohat as well as copy of charge assumption in Government Frontier College for Women Peshawar, bearing Endorsement No. 505-11 dated 30.06.2020. While responding to the aforementioned submission of learned counsel for the appellant, learned Additional Advocate General stated that on behalf of the respondents, he undertakes that the appellant shall be allowed to relinquish her charge from Government Frontier College for Women Peshawar and the issue of her unpaid salary shall be resolved in accordance with relevant rules as soon as possible. In this respect, statement of learned Additional Advocate General recorded and placed on file.

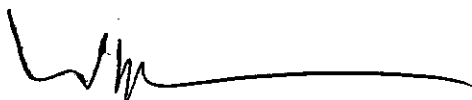
6. Learned counsel for the appellant stated that the appeal in hand may be disposed of in light of statement of learned Additional Advocate General so recorded before the Tribunal.

7. Consequently, in light of statement of learned Additional Advocate General so recorded before the Tribunal, the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.06.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)




(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


ORDER
10.06.2021

Mr. Khalid Mehmood, husband of the appellant alongwith Mr. Muhammad Amin Ayub, Advocate, present. Mr. Qazi Muhammad Ayaz, Litigation Officer and Mr. Khan Gul, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, in light of statement of learned Additional Advocate General so recorded before the Tribunal, the appellant is allowed to relinquish her charge from Government Frontier College for Women Peshawar and she shall be entitled to receive all the outstanding salaries. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.06.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

08.04.2021

Due to demise of Hon'ble Chairman
The Tribunal is defunct, therefore, the case is
adjourned to 09.06.2021 for the same as before.

Reader

09.06.2021

Mr. Khalid Mehmood, husband of the appellant alongwith
learned counsel for the appellant Mr. Muhammad Amin Ayub,
Advocate, present. Mr. Qazi Muhammad Ayaz, Litigation Officer
and Mr. Aurangzeb Ahmed, Assistant alongwith Mr. Muhammad
Adeel Butt, Additional Advocate General for the respondents
present. *Fresh w/N on behalf of the appellant submitted, which is
placed on file.*

Partial arguments heard. To come up for remaining
arguments before the D.B on 10.06.2021.

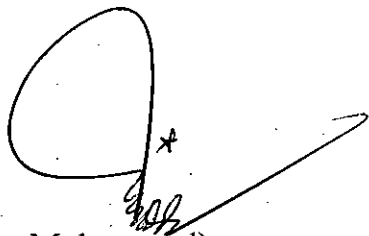
(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

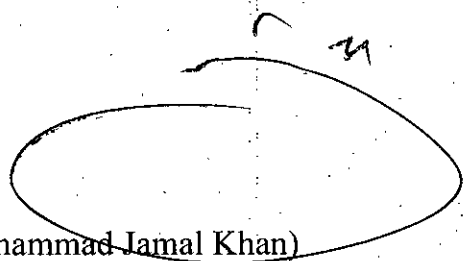
12.02.2021

Husband of the appellant present. Mr. Asif Masood,
Deputy District Attorney for respondents present.

Husband of the appellant seeks adjournment due to
general strike of the Bar. The case is adjourned to 05.03.2021
for arguments before D.B. Operation of impugned order dated
07.07.2020 shall remain suspended till the date fixed if not
already acted upon.



(Mian Muhammad)
Member (E)




(Muhammad Jamal Khan)
Member(J)

05.03.2021

Counsel for the appellant and Mr. Abdur Rashid, DDA
alongwith Qazi Muhammad Ayaz, Litigation Officer for the
respondents present.

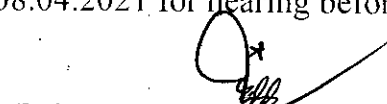
An application for vacation of interim relief granted on
11.12.2020 has been submitted by the respondents. A copy of
application has been handed over to learned counsel for the
appellant. To come up for arguments on appeal as well as
Misc. matter on 16.03.2021 before the D.B. The restraint order
dated 11.12.2020 shall remain operative till next date of
hearing.


(Atiq-ur-Rehman Wazir)
Member(E)
Chairman

16.03.2021

Junior to counsel for the appellant and Addl. AG for
the respondents present.

Former requests for adjournment as learned senior
counsel for the appellant is busy in the Honourable
Peshawar High Court in various cases today. Adjourned to
08.04.2021 for hearing before the D.B.


(Mian Muhammad)
Member (E)
Chairman

38-12-2020

Due to summer vacation, case is adjourned to

17-3-2021 for the same as before.


Reader

~~Order~~

Husband of the appellant present with Asif Masood,
Legal District Attorney for respondents present.

Husband of the appellant seeks adjournment due to
general strike of the Bar.

Adjourned to 05/03/2021 for arguments before J.D.

(William J. Gannote)
Member (C)

(Muhammad Saad Khan)
Member (J)

11.12.2020

Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Atta ur Rehman Assistant for respondents present.

Written reply submitted on behalf of respondents which is placed on file. To come up for rejoinder, if any and arguments on 30.12.2021 before D.B. ~~Operation of~~ ~~impugned order dated 07.07.2020~~ shall remain suspended till the date fixed if not already acted upon.




(Rozina Rehman)
Member (J)

03.11.2020

Nemo for appellant. Mr. Kabirullah Khattak, Additional Advocate General is present.

Neither written reply on behalf of respondents submitted nor any representatives on their behalf are present, therefore, notices be issued to them for submission of written reply/comments. File to come up for written reply/comments on 25.11.2020 before S.B.




(Muhammad Jamal Khan)
Member (Judicial)

25.11.2020

Mr. Amin Ayub, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present. However, no official representing respondents has forth come. Respondents are directed through learned Additional Advocate General to submit their reply.

Learned counsel for appellant invited the attention of the bench to the application moved earlier for suspension of impugned order, notice of which has already been communicated to the respondents. Accordingly, the operation of the impugned order dated 07.07.2020 shall remain suspended till the date fixed if not already acted upon. File to come up for written reply/comments on 11.12.2020 before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

16.10.2020

Mr. Amin Ayub, Advocate for appellant is present. The sum total of what has been agitated at the bar is that the transfer of the appellant from Government Girls Degree College, Gulbahar, Peshawar, to the Government Girls Post Graduate College, Kohat, is against the spouse policy as her husband is serving as Account Officer in Accountant General Office, Khyber Pakhtunkhwa, Peshawar. On movement of manifold applications to the authorities under whose ages the spouses act, appellant was transferred there-from was transferred to Government Frontier College for Women, Peshawar, vide notification dated 09.03.2020 which has been withdrawn after few months of assuming the charge, departmental representation moved for the purpose remained un-responded, necessitating the present appeal. The impugned order suffers from multiple legal infirmities, it is discriminatory and is against the spirits of Articles 4, 27, 34 & 35 of the Constitution of Islamic Republic of Pakistan, 1973, and also against the provision contained in Section 24-A of the General Clauses Act.

The points agitated at the bar needs, further consideration. The appeal is admitted for regular hearing subject to all just, legal and factual objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 03.11.2020 before S.B.

Appellant has moved application for suspending the operation of the impugned notification dated 09.03.2020. Notice of application be issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee

19/10/20


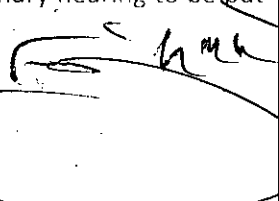
(Muhammad Jamal Khan)
Member (Judicial)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 11 879 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/10/2020	<p>The appeal of Mst. Roheela Sayal presented today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	14.10.20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16-10-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020

Ms. Roheela Sayal Appellant

Versus


The Govt. of KPK and others.....Respondents

INDEX


S.No.	Description of Documents	Date	Annexure	Pages
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3.	Notification of promotion of appellant to the post of Associate Professor	10.10.2018	A	6-8
4.	Application of husband of appellant	22.10.2018	B	9
5.	Letter forwarding application ibidi to Respondent No.2	23.10.2018	C	10
6.	Applications		D	11-16
7.	Notification of appellant's transfer from Postgraduate Girls Degree College, Kohat to Govt. Frontier College for Women, Peshawar	09.03.202	E	17
8.	Impugned Notification	07.07.2020	F	18
9.	Departmental Representation	07.07.2020	G	19-20
10.	Transfer/Posting Policy		H	21-23
11.	Office Memorandum	03.01.2013	I	24-27
12.	Regulations		J	28-38
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Through

Appellant


Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&


Muhammad Amin Ayub
Advocate, High Court
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: ___/10/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 11879/2020Khyber Pakhtunkhwa
Service TribunalDiary No. 11325Dated 08/10/2020**Ms. Roheela Sayal**

Associate Professor (Pakistan Study),

Frontier College for Women, Peshawar.....Appellant

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**through Chief Secretary,
Civil Secretariat, Peshawar.2. **The Secretary**to Govt. of Khyber Pakhtunkhwa
Higher Education Department,
Civil Secretariat, Peshawar.....

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 07.07.2020 WHEREBY THE TRANSFER ORDER DATED 09.03.2020 WAS CANCELLED AGAINST WHICH SHE PREFERRED DEPARTMENTAL APPEAL BEFORE RESPONDENT NO.1 ON 09.07.2020 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 07.07.2020 issued by Respondent No.2 may graciously be set aside by restoring the order dated 09.03.2020 and allowing the appellant to serve at Frontier College for Women, Peshawar under the Spouse Policy in the public interest as well as in the interest of justice.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant is serving as Associate Professor (Pakistan Study) (BPS-19) at Frontier College for Women, Peshawar. She was initially Assistant Professor in the year 2003. Since then she has been discharging her duties

Filed to-day
Registrar
8/10/2020

with zeal and zest and no complaint whatsoever has ever been lodged against her.

2. That vide Notification dated 10.10.2018 (*Annex:-A*) appellant alongwith other Assistant Professors (BPS-18) were promoted to posts of Associate Professor (BPS-19) and resultantly she was transferred from Govt. Girls Degree College, Gulbahar, Peshawar to Govt. Girls Postgraduate College, Kohat. The appellant accordingly assumed the charge at GGPG College, Kohat.
3. **That** it is pertinent to mention here that husband of the appellant was/is working as Accounts Officer at Accountant General Office, Khyber Pakhtunkhwa, Peshawar. It is apprised that appellant having three school going children and her husband is/was also discharging his duties at Peshawar, therefore, husband of the appellant ventilated a request (*Annex:-B*) on 22.10.2018 through proper channel to his parent Department which was endorsed to Respondent No.2 for favourable consideration on 23.10.2018 (*Annex:-C*). It is further adduced that spouse were facing great socio-economic problems and hardships which was also affecting their performance with regard to the discharge of their duties. It is significant to mention here that keeping in view the hardships and in order to provide facility to the spouse the Provincial Government has accorded a policy wherein it was held that the spouses would be posted at the same station then they were assured that their grievance would be redressed as per prevailing law.
4. **That** appellant was hopeful for redressal of her grievances but the matter was deliberately kept pending without any legal justification, therefore, once again the spouse knocked the door of the high-ups containing the same request (Applications *Annex:-D*) pointing out the vacant available positions. Eventually, request of the spouse was considered to be genuine, hence vide Notification dated 09.03.2020 (*Annex:-E*) appellant was transferred from Postgraduate Girls Degree College, Kohat to Govt. Frontier College for Women, Peshawar where she took over the charge and commenced performing her duties.

5. That appellant was performing her duties at Peshawar when all of sudden the impugned Notification dated 07.07.2020 (*Annex:-F*) was passed by the Respondent No.2 whereby transfer order dated 09.03.2020 was unlawfully withdrawn without any justification muchless lawful.
6. That being aggrieved of the impugned order *ibid*, appellant preferred a departmental Representation (*Annex:-G*) on 07.07.2020 to Respondent No.1 but the same was not disposed of within statutory period of 90 days. (The Departmental Representation of the appellant may be considered as integral part of the instant Service Appeal), hence, the instant appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification by prematurely withdrawing the transfer order dated 09.03.2020 of appellant issued under the Spouse Policy, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the impugned Notification is against the tenure and Posting/Transfer Policy (*Annex:-H*) issued by the Provincial Government as well as against the Judgment of the august Supreme Court of Pakistan circulated through O.M. dated 03.01.2013 (*Annex:-I*). Moreover, the Government of Khyber Pakhtunkhwa, Establishment Department has also accorded the same as is evident from Regulations (*Annex:-J*).
- C. That it is crystal clear from the record that at the time of transfer of appellant to Kohat, the vacant posts of Associate Professor were available at Peshawar and keeping in view the spirit of the Posting/Transfer Policy which requires that posting and transfer of the spouses would be made on the basis of availability of posts, therefore, once appellant was transferred on the basis of Spouse Policy, therefore, the same cannot be taken away and that too prematurely under the principle of *locus poenitentiae* and for

that matter promissory estoppels.

- D. That under Article-35 of the Constitution of the Islamic Republic of Pakistan, 1973, it is the obligatory duty of the State to protect the marriage, the family and the mother and the child, however, appellant has been denied the fundamental rights which has resulted in serious miscarriage of justice.
- E. That the Respondents are bound to follow the instructions/ directives/ policy framed/circulated in the public interest to redress the grievances of the aggrieved civil servants but they have failed to discharge the responsibilities/obligations cast upon them by the law, which is utterly illegal and unconstitutional and hence not maintainable under the law.
- F. That appellant, her spouse and children have been in great hardships due to the displacement of the family which has adversely affected their lives, the same is not only unjust and unfair but is also detrimental to the performance of their official duties, which also requires a solaced mind and atmosphere.
- G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

Dated: ___/10/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020

Ms. Roheela Sayal Appellant

Versus

The Govt. of KPK and others..... Respondents

Application for suspending the operation of the impugned Notification dated 07.07.2020 to the extent of appellant till the final disposal of the instant appeal.

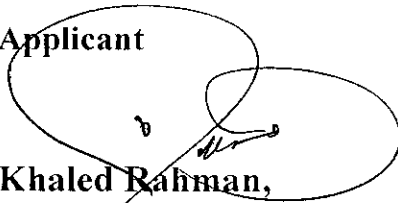
Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/ appellant.
3. That the balance of convenience also lies in favour of applicant/appellant and in case the operation of the impugned Notification is not suspended the applicant/appellant will suffer irreparable loss.


It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned Notification dated 07.07.2020 may graciously be suspended to the extent of appellant till the final disposal of the main appeal.

Through

Applicant


Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

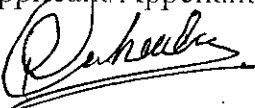

Muhammad Amin Ayub
Advocate, High Court

Dated: ___/10/2020

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Applicant/Appellant





GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated 10th October, 2018

NOTIFICATION

No. SO(C-III)/HE/Promotion/BS-18 to BS-19/Vol-III/ In continuation of this Department Notification of even number dated 30th May, 2018, the competent authority is pleased to order the Posting of the following Female Associate Professor (BS-19) on their promotion from the post of Assistant Professor (BS-18) to the post of Associate Professor (BS-19):-

S. #	NAME & DESIGNATION	PRESENT STATION	POSTED AT	DOMICILE	REMARKS
1	Ms. Anna Begum Assistant Professor of Pashto	GGPGC Saidu Sharif (Swat)	As Associate Professor GGDC Barikot (Swat)	Swat	AVP
2	Ms. Shingula Associate Professor of Political Science (On acting charge basis)	GGDC Garhi Kapora (Mardan)	As Associate Professor /Principal at GGDC Garhi Kapora (Mardan)	Mardan	AVP
3	Ms. Saima Shams Associate Professor of Economics (On acting charge basis)	On Deputation to (CA & DD) Islamabad	As Associate Professor at GGDC Panjpir (Swabi) with the condition that she will actualise in her own cadre.	Mansehra	AVP
4	Ms. Shakila Nadir Assistant Professor of Zoology	GGDC No.1 Hayatabad (Peshawar)	As Associate Professor at GGDC KDA (Kohat)	Bannu	AVP
5	Ms. Ruqa Bibi Assistant Professor of Zoology	GGDC No.2 D.I.Khan	As Associate Professor at GGDC No.2 D.I.Khan	D.I.Khan	AVP
6	Ms. Humera Naz Assistant Professor of English	GFC (W) Peshawar	As Associate Professor at GFC (W) Peshawar	Haripur	AVP
7	Ms. Sadia Nisar Assistant Professor of Computer Science	GGDC Nowshera	As Associate Professor at GGDC Nowshera	Mardan	AVP
8	Ms. Ishrat Jabeen Associate Professor of Economics (On acting charge basis)	GGDC Chagharmatti (Peshawar)	As Associate Professor at GGDC Chagharmatti (Peshawar)	Peshawar	AVP
9	Ms. Saraj-Ul-Saba Associate Professor of Home Economics (On acting charge basis)	GHEC Nowshera	As Associate Professor at GHEC Nowshera	Peshawar	AVP
10	Ms. Hamida Bano Associate Professor of English (On acting charge basis)	GGDC Takht Bhai (Mardan)	As Associate Professor at GGDC Batkhela (Malakand)	Mardan	AVP
11	Ms. Humna Ibrar Associate Professor of Computer Science (On acting charge basis)	GGDC No.2 Tajo Bibi (Charsadda)	As Associate Professor at GGDC No.2 Tajo Bibi (Charsadda)	Peshawar	AVP
12	Ms. Saima Noreen Associate Professor of Pakistan Study (On acting charge basis)	GGPGC Mardan	As Associate Professor at GGPGC Mardan (On acting charge basis)	Mansehra	AVP

ATTESTED

36.	Ms. Syed Shawana Ghazi Assistant Professor of Economics	GGDC Mandian (Abbottabad)	Matloon (Mardan) As Associate Professor at GGDC KTS (Haripur)	Abbottabad	AVP
37.	Ms. Shaista Bibi Assistant Professor of Statistics	GGDC NawanShehr (Abbottabad)	As Associate Professor GHEC, Abbottabad	Abbottabad	AVP
38.	Ms. Tahira Banó Assistant Professor of Economics	GGDC Sheikh Maltoon (Mardan)	As Associate Professor at GGDC Sheikh Maltoon (Mardan)	Mardan	AVP
39.	Ms. Neelam Fareed Assistant Professor of Home Economics	GGDC Bacha Khan (Peshawar)	As Associate Professor. GHEC, Nowshera	Peshawar	AVP
40.	Ms. Mehreen Shehzadi Assistant Professor of English	GGDC Kanju (Swat)	As Associate Professor at GGDC Kanju (Swat)	Thana MKD	AVP
41.	Ms. Tahira Shams Assistant Professor of Biology	GGDC Nowshera	As Associate Professor at Julagram (Malakand)	Peshawar	AVP
42.	Ms. Naseem Khattak Assistant Professor of History	GGDC Nowshera	As Associate Professor/Principal at GGDC Khankohi (Nowshera)	Nowshera	AVP
43.	Ms. Saeeda Begum Assistant Professor of Islamiyat	GGDC Kernal SherKilli (Swabi)	As Associate Professor at GGDC Kernal SherKilli (Swabi)	Swabi	AVP
44.	Ms. Gul Nasreen Assistant Professor of Physics	GGDC Nelor Saidan (Abbottabad)	As Associate Professor at GGDC Panjpir (Swabi)	Abbottabad	AVP
45.	Ms. Saima Almas Assistant Professor of Maths	GGDC Pirpai (Nowshera)	As Associate Professor at GHEC, Nowshera	Lakki Marwat	AVP
46.	Ms. Shamelah Nawaz Assistant Professor of English	GGDC Parhina (Mansehra)	As Associate Professor at GGPGC Mardan	Mansehra	AVP
47.	Ms. Safer Un Nisa Assistant Professor of Computer Science	GGDC Havelian (Abbottabad)	As Associate Professor at GGDC Maneri (Swabi)	Abbottabad	AVP
48.	Ms. Naila Sayal Assistant Professor of Pashto	GGDC Gulbahar (Peshawar)	As Associate Professor at GGPGC Kohat	Peshawar	AVP
49.	Ms. Riaz Khaliq Assistant Professor of Pakistan Study	GGDC No.1 Charsadda	As Associate Professor at GGDC No.1 Charsadda	Charsadda	AVP
✓ 50.	Ms. Roheela Sayal Assistant Professor of Pakistan Study	GGDC Gulbahar (Peshawar) ✓	As Associate Professor at GGPGC Kohat	Peshawar ✓	AVP ✓
51.	Ms. Shabana Kausar Assistant Professor of Physics	GGDC NawanShehr (Abbottabad)	As Associate Professor at GGDC Mankarai (Haripur)	Abbottabad	AVP
52.	Ms. Rukhsana Naz Assistant Professor of Biology	GGDC Takht Bhai (Mardan)	As Associate Professor at GGDC Takht Bhai (Mardan)	Mardan	AVP
53.	Ms. Naila Afiab Assistant Professor of Pakistan Study	GGDC Mandan (Bannu)	As Associate Professor/ Principal at GGDC Kakki (Bannu)	Bannu	AVP

ATTESTED

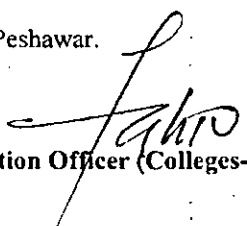

	Ms. Ayesha Bibi, Assistant Professor of History	GGDC KotNajibullah Haripur	GGDC Trakha (Nowshera)	Against the post of HPE vacated by Gul Sanobar vice Sr. No. 04
7	Ms. Nabila Khan Assistant Professor Economics	GGDC, Gulshan Rehman, Peshawar	GGDC No. 1 Hayatabad, Peshawar	
8.	Ms. Bibi Salma, Associate Professor of English	GGDC, Shaikh Maltoon (Mardan)	GGPGC, Mardan	AVP
9.	Ms. Shaima Rahim, Assistant Professor of English	GGDC Rustam Mardan	GGDC, Gulshan Rehman (Peshawar)	AVP
10.	Ms. Mumlikat Bano, Assistant Professor of Islamiyat	GGDC, Panjpir, Swabi	GGDC Maneri, Swabi	Vice S.No. 06 of adjustments
11.	Ms. Bacha Rehmat, Assistant Professor of Pak Study	GGDC, Khwaza Khela, Swat	GGPGC, Saidu Sharif, Swat	AVP

**SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT**

Endst: No. & Date Even

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Director Higher Education, Khyber Pakhtunkhwa Peshawar.
4. Director Education (FATA) Warsak Road, Peshawar.
5. Deputy Director HEMIS Cell Higher Education Department.
6. District Accounts Officers concerned.
7. Principals of the Colleges concerned.
8. Manager, Govt. Printing Press Khyber Pakhtunkhwa, Peshawar.
9. Officers Concerned.


Section Officer (Colleges-III)

ATTESTED

- 9 -
ALINE B

To:

The Secretary to Government of Khyber Pakhtunkhwa,
Higher Secondary Education Department,
Peshawar

Through: PROPER CHANNEL

Subject: POSTING/TRANSFER OF Ms. ROHEELA SAYEL BPS-19 ON
THE BASIS OF SPOUSE POLICY.

R Sir

Seizing the opportunity, I would like to bring your kind attention towards the recent notification bearing No. SO(C-III)/HE/Promotion BS-18 to 19 Vol-III dated 10.10.2018 regarding promotion of Assistant Professor (BS-18) to Associate Professor (BS-19), wherein my wife Ms. Roheela Sayal at serial No. 50 has also been promoted.

It is worth mentioning here that being a permanent government servant of BS-18, your head office was requested for posting of my spouse in Peshawar on the basis of Spouse Policy well before the issuance of above mentioned notification but no attention was given to my request and she was posted in GGPC Kohat while most of the staff whose spouses were not of government servants, adjusted in Peshawar in the same order.

It has come to the knowledge of undersign that some posts of BS-19 are now vacant in Peshawar due to the recent promotion of BS-19 to BS-20. It is, therefore, requested that my spouse Ms. Roheela Sayel (BS-19) of GGPC Kohat may please be adjusted in any one of the said vacant posts in light of Spouse Policy notified by Prime Minister Secretariat Islamabad which has duly indorsed by Provincial Government.

Keeping in view the above mentioned spouse policy, you are requested for issuance of adjustment orders of my spouse Ms. Roheela Sayel (BS-19) of GGPC Kohat into Peshawar.

Yours,

Dated: 22.10.2018

Yours faithfully



(KHALID MEHMOOD)
ACCOUNTS OFFICER
ACCOUNTANT GENERAL OFFICE, PESHAWAR

ATTESTED

10-

MW&C

ACCOUNTANT GENERAL

Ministry of Finance
Government of Punjab



Subject: POSTING, TRANSFER OF MR. ROHETA SAEED PPS (ON THE BASIS OF SPOUSE POLICY)

Res: For reference to the subject, the application of Mr. Khan Muhammad (Accountant General) for transfer to the vacant post of Accountant General is noted.

It is further submitted that Mr. Khan Muhammad is a regular employee of this organization and serving this office as Accountant General.

D.S.K.
[Handwritten signature]
25/10

[Handwritten signature]
(MUHAMMAD TAHIR)
ACCOUNTS OFFICER (Admin)

ATTESTED

[Handwritten signature]

To,

The honorable Chief Minister,
Khyber Pakhtunkhwa.

11-
ANNE D

Subject:

**POSTING/TRANSFER OF Ms. ROHEELA SAYEL BPS-19 ON
THE BASIS OF SPOUSE POLICY.**

R/Sir,

Seizing the opportunity, I would like to bring your kind attention towards the recent notification bearing No. SO(C-III)/HE/Promotion/BS-18 to 19/Vol-III dated 10.10.2018 regarding promotion of Assistant Professor (BS-18) to Associate Professor (BS-19), wherein my spouse Ms. RoheelaSayal at serial No. 50 has also been promoted.

It is worth mentioning here that being a permanent government servant of BS-18, Secretary Higher Education was requested for posting of my spouse in Peshawar on the basis of Spouse Policy well before the issuance of above mentioned notification but no attention was given to my request and she was posted in GGPGC Kohat while most of the staff whose spouses were not of government servants, adjusted in Peshawar in the same order.

Now it has come to the knowledge that under notification No. SO(E-1) E & AD/9-88/2018 some Associate Professors (Female) have been promoted BS-19 to BS-20 as per the following detail:

1. Ms. Maryam Bibi of GulshanRehman College Peshawar (BS-19 to 20)
2. MS. Rukhsana Rehman of GulshanRehman College Peshawar (BS-19 to 20)
3. Ms. AfshanTabassum of GGDC Gulbahar Peshawar (BS-19 to BS-20)

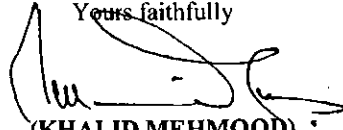
It is, therefore, requested that my spouse Ms. RoheelaSayel (BS-19) of GGPGC Kohat may please be adjusted against one of the said vacant posts in light of the Spouse Policy notified by Prime Minister Secretariat Islamabad which has duly endorsed by Provincial Government.

Keeping in view the above mentioned spouse policy, you are requested to accord directions regarding adjustment of my spouse Ms. RoheelaSayel(BS-19) bearing personal No. 109980, of GGPGC Kohat into Peshawar.

Thanks.

Dated: 19.11.2018

Yours faithfully



(KHALID MEHMOOD)
ACCOUNTS OFFICER

ACCOUNTANT GENERAL OFFICE, PESHAWAR

ATTESTED

Girls Colleges

EXCHANGE CARD

EXCHANGE CARD

EDUCATION DEPARTMENT

TIER COLLEGE FOR WOMEN

COLLEGE GULBAHAR

RAHMAN COL

The Honorable Chief Minister,
Khyber Pakhtunkhwa.

Subject: POSTING/TRANSFER OF MST. ROHIF

RS/

DDO OPEN AND FILLED POSTS

CITY GIRLS COLLEGE GULBAHAR PESHAWAR

PAR. NO.	EMPLOYEE NAME	EMP. GROUP	POSITION	DESCRIPTION	JOB	JOB DESCRIPTION	SFS	OP/FILL	TOTAL
50949	SHAKILA NASIRA	4	80214746	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
46410	ITRAT FATIMA	4	80214829	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
46405	MISS REHMANIA BEGUM	4	80214830	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
46739	MST. NOOR-US-SABA	4	80214832	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
26271	MISS BIBI FATIMA	4	80214833	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
182987	POZIA MEMOON KHATTAK	7	80214837	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
		3	80214839	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	OPEN	1
131018	SHAKEZZLA BEGUM ✓	3	80214841	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
		4	80214842	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	OPEN ✓	1

DEVELOPED BY : CGA FABS CC ISLAMABAD

ATTESTED

16
 IDENT EXCHANGE CARD
 IDENT EXCHANGE CARD
 HIGHER EDUCATION DEPARTMENT
 FRONTIER COLLEGE FOR WOMEN
 GIRLS COLLEGE GULBAHAR
 GIRLS COLLEGE GULSHAN RAHMAN COL
 College Hayat Abad
 MATHRA

The Honorable Chief Minister,
 Khyber Pakhtunkhwa
 Subject: **POSTING/TRANSFER OF MST/J**
 R/S/...
 Seizing the opportunity, I would like to

DDO OPEN AND FILLED POSTS

Govt GIRLS DEGREE COLLEGE HAYAT ABAD

PER. NO.	EMP. NAME	EMP. GROUP	POSITION	DESCRIPTION	JOB IN	JOB DESCRIPTION	BPS	OP/FILL	TOTAL
284342	NEELAM GUL	7	80233157	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
			80233159	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	OPEN	1 ✓
113598	RUBINA TARIQ	4 ✓	80233162	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1
147820	FARZANA	7	80233229	ASSOCIATE PROFESSOR	00100393	ASSOCIATE PROFESSOR	19	FILLED	1

DEVELOPED BY : CGA FABS CC ISLAMABAD

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT
CIVIL SECRETARIAT

- 17 -
ANNEX E

Dated Peshawar the 09/03/2020

NOTIFICATION

NO.SO(C-I)/HE/5-2/Posting-Transfer/2020: The Competent Authority is pleased to transfer the following Associate Professors (BPS-19) of college cadre in relaxation of ban with immediate effect:-

S#	Name of Officer	Present Station	Adjusted Station	Remarks
1	Ms. Roheela Sayal, Associate Professor (BPS-19) of Pak Study	Post Graduate Girls Degree College, Kohat	GFC-W, Peshawar	Vice S#2
2	Ms. Shazia Bangash, Associate Professor (BPS-19) of Islamiyat	GFC-W, Peshawar	Post Graduate Girls Degree College, Kohat	Vice S#1
3	Mr. Riaz Ahmad, Associate Professor (BPS-19) of Zoology	GDC, Mingora, Swat	As Principal (BPS-19) at GDC, Mingora, Swat	AVP

SECRETARY
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN.

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education Khyber Pakhtunkhwa, Peshawar.
3. Principal, GFC-W, Peshawar
4. Principal, Post Graduate Girls Degree College, Kohat.
5. Principal, Government Degree College, Mingora, Swat.
6. District Accounts Officer, Kohat.
7. District Accounts Officer, Swat.
8. Director (HEMIS), Higher Education Department.
9. Officers concerned.
10. Master File.


(RIAZ)

SECTION OFFICER (COLLEGES-I)

ATTESTED



TO BE SUBSTITUTED WITH THE NOTIFICATION BEARING SAME NO. & DATE

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT
CIVIL SECRETARIAT

Annex F 18-

Dated Peshawar the 09/03/2020

NOTIFICATION

NO.SO(C-D)/HE/S-2/Posting-Transfer/2020, This Department's Notification of even number dated 09.03.2020 regarding posting / transfer stands cancelled to the extent of officers at S.No.1 (Ms. Roheela Sayal, Associate Professor (HPS-19) of Pak Study) and S.No.2 (Ms. Shazia Waqar, Associate Professor (HPS-19) of Islamiyat) with immediate effect.

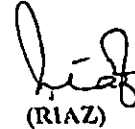
SECRETARY
HIGHER EDUCATION DEPARTMENT

NO.SO(C-D)/HE/S-2/Posting-Transfer/2020:

Dated 07.07.2020

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education Khyber Pakhtunkhwa, Peshawar.
3. Principal, GFC-W, Peshawar
4. Principal, Post Graduate Girls Degree College, Kohat. S.No.2
5. District Accounts Officer, Kohat.
6. Director (HEMIS), Higher Education Department.
7. Officers concerned. S.No.2
8. Master File.


(RIAZ)

SECTION OFFICER (COLLEGES-I)

ATTESTED

To

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

ANNEXURE G
10.7.2020
3782 WE with sub
15/7/20

Subject: REPRESENTATION/DEPARTMENTAL APPEAL AGAINST PRE-MATURE TRANSFER FROM PESHAWAR TO KOHAT VIDE ORDER DATED 7.7.2020

Respected Sir,

This representation/departmental appeal is preferred for the following facts and reasons:

1. That appellant was promoted to BS-19 as Associate Professor and was transferred from Peshawar City Girls Degree College Peshawar to Post Graduate Girls College, Kohat on 15.10.2018 where appellant served till 9.3.2020. Copy of posting/transfer order attached herewith as Annexure "A".
2. That petitioner/appellant had submitted a request to Chief Minister (Hereinafter referred to as CM) for transfer who very kindly approved transfer request and accordingly appellant was transferred from Kohat to Frontier Women Degree College Peshawar on 9.3.2020. Copy of order is attached herewith as Annexure "B".
3. That after four months on 07.07.2020 aforementioned order was cancelled though the petitioner/appellant is not aware that the worthy Chief Minister has ordered so. If the worthy CM has not given approval, then how was the Appellant transferred pre-maturely. Copy of the order is attached herewith as Annexure "C".
4. That the petitioner/appellant prefer this appeal for the following reasons:
 - A. That the husband of petitioner/appellant is a grade-18 officer and is posted in the office of Accountant General as Accounts Officer General Administration. The Spouse Policy does not approve the transfer of appellant from Peshawar.
 - B. That having served for about 4 months and cancelling her posting order before completing the normal tenure, the transfer of the petitioner/appellant is against the policy of the provincial government.
 - C. That the substitute of the appellant/petitioner belongs to Kohat and she is the second wife of the ex-MPA Mr. Arif Yousuf who resides at Islamabad. Her transfer to Peshawar and sending the appellant to Kohat is obviously because

ATTESTED

-21-

ANNEX H'



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

ATTESTED

Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act,1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

Posting/transfer policy of the Provincial Government.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants.
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- ✓ iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas. }
- v) ⁷⁹[]

79 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rule of Business,1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

ATTESTED

- vi) ⁸⁰While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, NWFP needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) ✓ Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) ✓ All the posting/transferring authorities may facilitate the posting/ transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

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⁸¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

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

Outside the Secretariat	
1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2. Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3. Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat	
1. Secretaries	Chief Secretary with the approval of the Chief Minister.
2. Other Officers of and above the rank of Section Officers:	
a) Within the Same Department	Secretary of the Department concerned.
b) Within the Secretariat from one Department to another.	Chief secretary/Secretary Establishment.
3. Officials up to the rank of Superintendent:	Secretary of the Department concerned.
a) Within the same Department	Secretary of the Department in consultation with Head of Attached Department concerned.
b) To and from an Attached Department	
c) Within the Secretariat from one Department to another	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

81 Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.


ATTESTED

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

- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.*

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

S.No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government.
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

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

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

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

5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

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GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

- 24 -
ANNEX I

Jo.F.1/11/2012-Lit-IV

Islamabad – the 3rd January, 2013.

OFFICE MEMORANDUM

Subject: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS. ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN DATED 18.10.2012

The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its Judgment dated 12-11-2012 passed in the subject case. The operative parts of the Judgment given vide para-22 are reproduced as under:-

- (i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- (iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- (iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

ATTESTED

2. The Supreme Court has further recognized the need for ensuring that decision making in relation to tenure, appointment, removal, promotion and transfer remains ruled based and is not susceptible to arbitrariness or absolute and unfettered discretion.

3. In view of foregoing, the following guidelines have been circulated vide Establishment Division's O.M.No.4/10/2012-E-2 dated 26th December, 2012 (copy enclosed) with the approval of competent authority for strict compliance of the Supreme Court orders, dated 12.11.2012 while passing any such orders relating to appointment, tenure and transfer of the officers in BS-17 to BS-22:-

- a) The normal tenure specified must be respected and may not be varied except for compelling reasons which should be recorded in writing and would be defensible if subjected to judicial scrutiny.
- b) The officer appointed on a post be allowed to earn at least one Annual Performance Evaluation Report.
- c) The officer should not be posted as OSD except for compelling reasons, usually for training, temporary inefficiency of extreme hardship and transit period for minimum possible time with the reasons to be recorded in writing.
- d) There is no space for unilateral surrender of the officers by Ministries/Divisions/Provincial Governments and they are requested to refrain from this practice. However, even if they intend to change the officer, matter may be taken up with the Establishment Division, in case of APUG and federal employees and with respective Provincial Departments dealing with service matters of the officer, for appropriate action.

4. Attention of all the Ministries/Divisions/Departments/Organizations is also invited to the existing provisions contained in the Constitution of Pakistan, 1973, Rules of Business, 1973, Pakistan Penal Code, and Conduct Rules, 1964. The relevant extracts are as under:-

The Constitution of Islamic Republic of Pakistan 1973 In terms of article 240 of the 1973 Constitution the appointment to and the conditions of service of Pakistan are determined inter-alia through the Act of Parliament.

- "4. Right of individuals to be dealt with in accordance with law, etc.
- (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
 - (2) In particular:-
 - (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
 - (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
 - (c) no person shall be compelled to do that which the law does not require him to do:

"9. Security of person. No person shall be deprived of life or liberty save in accordance with law"

ATTESTED

GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

26

No.F.1/11/2012-Lit-IV.

Islamabad - the 3rd January, 2013.

OFFICE MEMORANDUM

SUBJECT: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN dated 18.10.2012

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- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- iv) OSD: Officers should not be posted as OSD except for compelling reasons; which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

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2. The Supreme Court has further recognized the need for ensuring that decision making in relation to tenure, appointment, removal, promotion and transfer remains ruled based and is not susceptible to arbitrariness or absolute and unfettered discretion.

3. In view of the foregoing, the following guidelines have been circulated vide Establishment Division's O.M.No.4/10/2012-E-2 dated 26th December, 2012 (copy enclosed) with the approval of competent authority for strict compliance of the Supreme Court orders, dated 12.11.2012 while passing any such orders relating to appointment, tenure and transfer of the officers in BS-17 to BS-22:-

- a) The normal tenure specified must be respected and may not be varied except for compelling reasons which should be recorded in writing and would be defensible if subjected to judicial scrutiny.
- b) The officer appointed on a post be allowed to earn at least one Annual Performance Evaluation Report.
- c) The officer should not be posted as OSD except for compelling reasons, usually for training, temporary inefficiency of extreme hardship and transit period for minimum possible time with the reasons to be recorded in writing.
- d) There is no space for unilateral surrender of the officers by Ministries/Divisions/Provincial Governments and they are requested to refrain from this practice. However, even if they intend to change the officer, matter may be taken up with the Establishment Division, in case of APUG and federal employees and with respective Provincial Departments dealing with service matters of the officer, for appropriate action.

4. Attention of all the Ministries/Divisions/Departments/Organizations is also invited to the existing provisions contained in the constitution of Pakistan, 1973, Rules of Business, 1973, Pakistan Penal Code, and Conduct Rules, 1964. The relevant extracts are as under:-

The Constitution of Islamic Republic of Pakistan 1973 In terms of article 240 of the 1973 Constitution the appointment to and the conditions of service of Pakistan are determined inter-alia through the Act of Parliament.

- "4. Right of individuals to be dealt with in accordance with law, etc.
 - (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan;
 - (2) In particular :-
 - (a) no action, detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
 - (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
 - (c) no person shall be compelled to do that which the law does not require him to do"

"9. Security of person. No person shall be deprived of life or liberty save in accordance with law"

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Attested to be
True Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

Nb. SOR-V/E&AD/1-4/2010/Vol-VIII
Dated Peshawar, the, 07th August, 2012

To

3. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject: POSTING OF SERVING HUSBAND/WIFE AT THE SAME STATION OF THE PROVINCIAL GOVERNMENT.

Dear Sir

I am directed to refer to the subject noted above and to state that keeping in view the Socio economic Problems and hardships faced by husbands and wives in Government Service due to posting at different station of duty, the competent authority has been pleased to prescribe the following guideline to facilitate posting of husband and wife at the same station:-

i) Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.

ii) If request involves temporary deputation to another department, it may be processed in consultation with the concerned department and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.

iii) If there is a tie between two or more Government servants for posting at the same station in the same department/unit of an

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organization, the Government servant with greater length of service may be preferred.

iv) Request for posting by a spouse facing serious medical problems may be accorded highest priority.

v) Spouses already posted at one station, including those posted on deputation may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.

2. Kindly acknowledge receipt.

Yours faithfully,

Majam
7/8/12

(NAJ-MUS-SAHAR)

SECTION OFFICER (REG:VI)

Endst No. & date even.

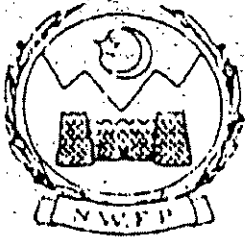
Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Registrar, Peshawar High Court, Peshawar.
4. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. The Director General, Provincial Disaster Management Authority.
6. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Incharge Resource Centre, Estt.&Admn: Department.

Majam
7/8/12

SECTION OFFICER (REG:VI)

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GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

-30-

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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viii) No posting/transfers of the officer's/officials on detailment basis shall be made.

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

x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

xi) Officers/officials, except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
 1 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

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

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent:	

¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/14/2005, dated 9-9-2005.

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a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

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

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

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

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.


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

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

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

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
 (Authority: Letter No. SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

.....

✓ It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

NO: The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect.

CHIEF SECRETARY
GOVERNMENT OF NWFP

Endst. No. and date even.

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(NAME)
SECTION OFFICER
Administrative Department

{Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{Authority: Letter No: SOR-VI (E&AD) 1-1/2008/Vol-VI, dated 3-6-2008}.

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.}

.....
The Chief Minister NWFP has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

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- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 86-2004.
Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005}

.....

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting officers/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

.....

PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06, dt 9-2-2007

ATTESTED

ed till 10 Jan, 2009

40

Posting - Transfer Policy - updated till 10 Jan, 2009


officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/her posting.

ATTESTED

ATTESTED

ATTESTED

	<p align="center"> GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING) NO. SOR.VI (E&AD)1 -4/2005/Vol-II Dated Peshawar, 27th February, 2013 </p>
---	--

To

[Handwritten signature]

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

- (i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

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ATTESTED

[Handwritten signature]

ATTESTED

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(iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

(iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,

NAJAM
(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

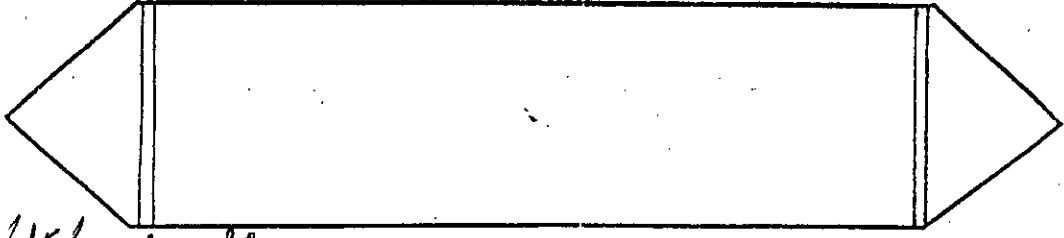
1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

NAJAM
SECTION OFFICER (REG-VI)

[Signature]
ATTACHED

ATTACHED

بعدالت مروسن مزدگول لٹا



۲۰۲۰ء منجانب اسٹریٹ
روصلہ سٹیشن بنام ورنٹ

موزخہ
مقدمہ
دعوی
جرم

باعث تحریر آنک

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

آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ نیا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکورہ کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

المرقوم ۲۸ ماہ ۲۰۲۰ء

واہ الب

بمقام کے لئے منظور ہے۔

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

Service Appeal No. 11879/2020


Miss. Roheela Sayal Assistant Professor.....(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa.....(Respondents)

INDEX

S No.	Description of Documents	Annexure	Pages
1.	Parawise Comments		1-2
2.	Affidavit		3-3
3.	Departmental Appeal (Returned with directives)	A	4-4


**Section Officer (Litigation)
Higher Education Department
Khyber Pakhtunkhwa Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 11879/2020

**Ms. Roheela Sayal,
Associate Professor (Pak Study)
Frontier College for Women, Peshawar**

.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & another

.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

RESPECTFULLY SUBMITTED AS:

PRELIMINARY OBJECTIONS:

1. That the departmental appeal of the appellant is subjudiced before the Competent Authority, therefore, the instant appeal is Premature and having no legal footing, hence liable to be dismissed/ returned.
2. That the instant appeal is not maintainable in its present form.
3. That the appellant has no cause of action or locus standi to file the instant service appeal in this Hon'ble Tribunal.
4. That the appellant has not come to this Hon'ble Tribunal with clean hands.
5. That the appellant has concealed material facts from the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar.
6. That the appellant has been estopped by her own conduct to file the appeal.

ON FACTS:

1. Pertains to record, hence, subject to proof if agitated on ground at the bar.
2. Correct.
3. The appellant Ms. Roheela Sayal, Associate Professor of Pak Studies (BPS-19) was transferred from GGPGC, Kohat to GFC (W) Peshawar on 09.03.2020 which was subsequently cancelled on 07.07.2020 on the directives of the Competent Authority. It is important to mention here that the departmental appeal of Ms. Roheela Sayal, Associate Professor of Pak Studies was submitted to the Chief Secretary, Khyber Pakhtunkhwa and the same has been returned with the instruction to move the instant appeal to the Chief

Minister through a summary (**Annex-A**). In compliance the departmental appeal has been forwarded to Chief Minister for decision in the instant case, which is pending yet.

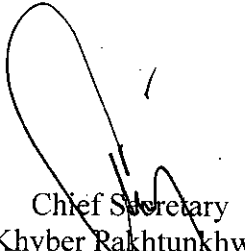
4. Pertains to record, with further explanation that subsequently the impugned notification was cancelled on the directives of the competent authority on 07.07.2020.
5. Correct to the extent of passing of notification dated 07.07.2020. Rest contents of the Para are incorrect hence denied.
6. As elaborated in reply to Para 3 of the facts. Appeal of the appellant is in pipeline and will be decided soon.

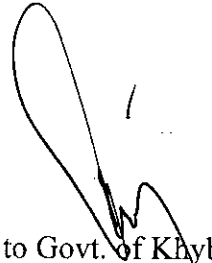
On Grounds: -

- A. Incorrect, hence denied, as replied above.
- B. As elaborated in preceding paras, the appeal is subjudiced and has not got finality yet.
- C. As elaborated in preceding paras, the appeal is subjudiced and has not got finality yet.
- D. The appellant was treated as per law.
- E. Incorrect, hence denied. The appellant was treated as per Policy.
- F. As elaborated in preceding paras, the appeal is subjudiced and has not got finality yet.
- G. The respondents seek leave to raise additional grounds at the time of arguments.

PRAYER:

As the appeal is subjudiced before the Competent Authority, therefore, the instant appeal is Premature and not maintainable before this Tribunal right now, hence may kindly be dismissed.


Chief Secretary
Khyber Pakhtunkhwa
(Respondents No. 1)


Secretary to Govt. of Khyber Pakhtunkhwa
Higher Education Department
(Respondent No. 2)

BEFORE THE LEARNED KHYBER PAKHTUNKHWA SERVICE
TRINBUNAL, PESHAWAR

Service Appeal No. 11879/2020

Miss. Roheela Sayal.....(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa.....Respondent)

AFFIDAVIT

I, Atta Ur Rehman, Focal Person, Higher Education, Archives & Libraries Department, Government of Khyber Pakhtunkhwa, do hereby solemnly declare and affirm on oath, that the contents of Parawise Comments is correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'ble Court.



Deponent

CNIC No. 14202-0497102-1

Mob: 0334-8273884

8/16 293
83

To

The Honorable Chief Minister,
Khyber Pakhtunkhwa.

Subject: ROSTING/TRANSFER OF MST ROHEELA SAYAL BPS-19

R/Sir,

Seizing the opportunity, I would like to bring a serious matter in your kind notice that I am an Associate Professor (Pak Study) BS-19, posted at Government Girls Post Graduate Degree College Kohat. At the time when I was being promoted, a request to the Secretary Higher Education was made for my retention in Peshawar on the basis of Spouse Policy. It is pertinent to mention here that number of posts in BS-19 were vacant in Peshawar District at that time but my request was not entertained and I was posted in GGPGC Kohat.

After some time, when few post in BS-19 vacant again in Peshawar District, a second reference was made to the Secretary Higher Education for my transfer to Peshawar on the same Spouse Policy by my spouse through his department. Copy of the request is enclosed with this application as ready reference. But this time again the request of my spouse was headed to dustbin.

Now it has come to the knowledge of ~~undersigned that some posts of BPS-19 are vacant in Government Girls College Hayatabad and Frontier Girls College Peshawar are vacant.~~ Despite the clear vacancies, I am afraid this time again my request will not be entertained.

The Honorable Chief Minister is, therefore, requested that my transfer orders from GGPGC Kohat to ~~Government Girls College Hayatabad~~ or Frontier Girls College Peshawar may please be made against one of these vacant posts under the Spouse Policy.

I shall be very thankful to you for this act of kindness.

Dated: 27.12.2019

Yours faithfully

ROHEELA SAYAL
Associate Professor (BS-19)
Post Graduate Girls Degree College Kohat

SS
please process on
summary for
approval of
CM
13/1/2020
pl process under
Spouse Policy
CHIEF MINISTER
Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 11879/2020

Ms. Roheela Sayal,
Associate Professor (Pak Study)
Frontier College for Women, Peshawar

.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & another

.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

RESPECTFULLY SUBMITTED AS:

PRELIMINARY OBJECTIONS:

1. That the departmental appeal of the appellant is subjudiced before the Competent Authority, therefore, the instant appeal is Premature and having no legal footing, hence liable to be dismissed/ returned.
2. That the instant appeal is not maintainable in its present form.
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6. That the appellant has been estopped by her own conduct to file the appeal.

ON FACTS:

1. Pertains to record, hence, subject to proof if agitated on ground at the bar.
2. Correct.
3. The appellant Ms. Roheela Sayal, Associate Professor of Pak Studies (BPS-19) was transferred from GGPGC, Kohat to GFC (W) Peshawar on 09.03.2020 which was subsequently cancelled on 07.07.2020 on the directives of the Competent Authority. It is important to mention here that the departmental appeal of Ms. Roheela Sayal, Associate Professor of Pak Studies was submitted to the Chief Secretary, Khyber Pakhtunkhwa and the same has been returned with the instruction to move the instant appeal to the Chief

Minister through a summary (Annex-A). In compliance the departmental appeal has been forwarded to Chief Minister for decision in the instant case, which is pending yet.

4. Pertains to record, with further explanation that subsequently the impugned notification was cancelled on the directives of the competent authority on 07.07.2020.
5. Correct to the extent of passing of notification dated 07.07.2020. Rest contents of the Para are incorrect hence denied.
6. As elaborated in reply to Para 3 of the facts. Appeal of the appellant is in pipeline and will be decided soon.

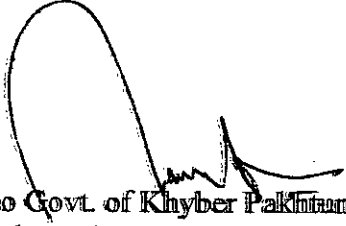
On Grounds: -

- A. Incorrect, hence denied, as replied above.
- B. As elaborated in preceding paras, the appeal is subjudiced and has not got finality yet.
- C. As elaborated in preceding paras, the appeal is subjudiced and has not got finality yet.
- D. Legal, hence needs no comments. *the appellant was treated as per law.*
- E. Incorrect, hence denied. *The appellant was treated as per Policy.*
- F. As elaborated in preceding paras, the appeal is subjudiced and has not got finality yet.
- G. No comments. *The respondents seek leave to raise additional grounds at the time of arguments.*

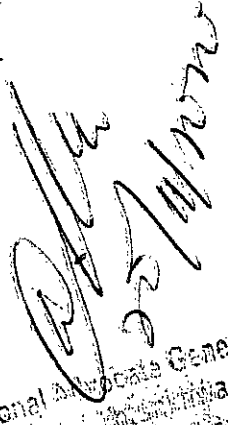
PRAYER:

As the appeal is subjudiced before the Competent Authority, therefore, the instant appeal is Premature and not maintainable before this Tribunal right now, hence may kindly be dismissed.

Chief Secretary
Khyber Pakhtunkhwa
(Respondents No. 1)


Secretary to Govt. of Khyber Pakhtunkhwa
Higher Education Department
(Respondent No. 2)

*Subject verified
Attachment of annexure,
affidavit and approval of
ATG
man*

*Agreed as
above.*

Additional Advocate General
Khyber Pakhtunkhwa
Service Inland Peshawar

KP Service Tribunal, Peshawar

Service Appeal No 11879/2020



Mst. Rohela Sayul vs Govt etc

put up to the court with relevant appeal.

Application for early hearing

Respectfully Submitted
15/11/2021

Reads:

- ① That the above captioned appeal is pending adjourned before this Hon'ble Tribunal and fixed for 17-03-21
- ② That the matter relating to transfer, while this Hon'ble Tribunal was pleased to grant/suspend the impugned notification date 07⁰⁷/₂₀ by virtue of Order sheet dated 11¹²/₂₀.
- ③ That the salary of the applicant/applicant was unlawfully been stopped by the Respondents in spite of fact that impugned notification was suspended.

It is therefore humbly prayed that on acceptance of the instant application in appeal may kindly be considered to early date.

Dated 15⁰¹/₂₁

applicant/applicant
through

Counsel. Atul

Verification:

that the content of the application are true and correct

[Signature]

Be accelerated to a date in 2nd week of February, 2021. Notice. Appellant shall bear the cost of service.
12.2.21

[Signature]
19/1/2021

KP Service Tribunal, Patna

Service Appeal No 11879/2020

Mst Rohela Sayel vs Govt etc

Application for early hearing

Respectfully Sheweth

- ① That the above captioned appeal is pending adjournment before this Hon'ble Tribunal and fixed for 17-03-21
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- ③ That the salary of the applicant/applicant was unlawfully been stopped by the Respondents in spite of fact that impugned notification was suspended.

It therefore humbly prayed that in compliance of the instant application in appeal may kindly be accelerated to early date.

Dated 15⁰¹/₂₁

applicant/applicant
through
Counsel. W. J.

Verification

that the content of
the application are
true and correct

W. J.

KP Service Tribunal, Patna

Service Appeal No 11879/2020

Mst Rohela Sayul vs Govt

Application for early hearing

Respectfully Sheweth

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- ② That the matter relating to transfer, while this Hon'ble Tribunal was pleased to grant/suspend the impugned notification date 07⁰⁷/₂₀ by virtue of Order sheet dated 11¹²/₂₀
- ③ That the salary of the applicant/appellant was unlawfully been stopped by the respondents in spite of fact that impugned notification was suspended.

It therefore humbly prayed that in compliance of the instant application in appeal may kindly be considered to early date.

Dated 15⁰¹/₂₁

applicant/appellant
through
Counsel Atul

Verification
that the content of
the application and
facts are correct

[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar, 15th March, 2021

NOTIFICATION

NO.SO(C-I)HED/1-5/2021 The Competent Authority is pleased to issue the posting/transfer order in respect of the following officers of College Cadre with immediate effect in the public interest:

S#	Name & Designation Of Officers	From	To	Remarks
1.	Ms. Rohela Sayal, Associate Professor of (Pak-Studies (BS-19))	Government Girls Postgraduate College, Kohat	As Associate Professor (BS-19) of Pak Studies at Government Girls Degree College No. 2, Hayatabad, Peshawar. Vice Serial No. 2)	Against the upgraded post of BS-17 to BS-19 under the 05-tier formula.
2.	Ms. Abida Bano, Lecturer of Chemistry (BS-17)	Government Girls Degree College No. 2, Hayatabad, Peshawar	Govt. Girls Degree College, Topi, Swabi.	

SECRETARY TO GOVT.
OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officer, Kohat.
4. Principal, Govt. Girls Postgraduate College, Kohat.
5. Principal, Govt. Girls Degree College No. 2, Hayatabad, Peshawar.
6. Principal, Govt. Girls Degree College, Topi, Swabi.
7. PS to Secretary, Higher Education Department.
8. PS to Special Secretary, Higher Education Department.
9. Officer concerned.


SECTION OFFICER (C-I)

*Word 4 Bull*2021 P.L C (C.S.) 366[Peshawar High Court]Before Lal Jan Khattak and Ahmad Ali, JJ**RIAZ ALI KHAN and 2 others****Versus****DIRECTOR GENERAL, PESHAWAR DEVELOPMENT AUTHORITY,
HAYATABAD, PESHAWAR and 2 others**Writ Petition No.490-P. of 2017, decided on 21st November, 2019.**(a) Provincial Urban Development Board Service Rules, 1978---**

---R. 23---Employees of Provincial Urban Development Board---Allegation of misconduct---Dispensing with regular inquiry---Effect---Authority while dispensing with regular inquiry issued show cause notice to the employees and they were dismissed from service---Contention of employees was that authorities had not provided copies of record for submitting reply of show-cause notice---Validity--
-Employees applied for copies of the record to submit reply of show-cause notice but same had not been provided to them---Entire procedure provided in R.23 of Provincial Urban Development Board Service Rules, 1978, was mandatory--- Inquiry could not be dispensed with for disciplinary action against the employees of Provincial Urban Development Board---Employees had Fundamental Right to be acquainted with the record and evidence establishing alleged misconduct---Entire departmental action was void ab initio having no legal sanctity in the eye of law--- Impugned order passed by the authorities was set aside and employees were reinstated into service with back benefits---Authority would be at liberty to proceed against the employees under Provincial Urban Development Board Service Rules, 1978---Constitutional petition was allowed, in circumstances.

(b) Interpretation of statutes---

---Mandatory or directory provision, determination of---Procedure---Word "shall" used in a provision of law---Significance---Word 'shall' by the legislature brands a provision as mandatory, especially when an authority, is required to do something in a particular manner.

Haji Abdul Karim and others v. Messrs Florida Builders (Pvt.) Limited PLD 2012 SC 247 and The Collector of Sales Tax, Gujranwala and others v. Messrs Super Asia Mohammad Din and Sons and others 2017 SCMR 1427 rel.

(c) Administration of justice---

---When law required a thing to be done in a particular manner then it must be done accordingly.

Director, Directorate-General of Intelligence and Investigation and others v. Messrs Al-Faiz Industries (Pvt.) Limited and others 2006 SCMR 129 and

Muhammad Hanif Abbasi v. Imran Khan Niazi and others PLD 2018 SC 189 rel.

Amin ur Rehman Yousafzai for Petitioners.

Saif Ullah Khalil for Respondents.

Date of hearing: 21st November, 2019.

JUDGMENT

AHMAD ALI, J.---Through this petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners are seeking the following relief:

It is, therefore, prayed that on acceptance of the instant petition, this Hon'ble Court be pleased to:

- i. Set aside the backdated impugned Termination Orders dated 19.01.2017 issued illegally against the petitioners by Respondent No.1 as being unlawful and contemptuous since the same are against the order dated 20.01.2017 of this Hon'ble Court.
- ii. Declare the impugned show-cause notice No.1/12.270/01 dated 16.01.2017, Show-Cause Notice No.1/13.326/07 dated 16.01.2017 and Show-Cause Notice No.1/13.379/05 dated 16.01.2017 as illegally and without lawful authority.
- iii. Declare that respondent No.1 has no authority to initiate any disciplinary actions against the petitioners.
- iv. Restrain respondent No.1 from taking any further adverse actions on the basis of impugned Termination Orders against the petitioners such as depriving them of their pay, service benefits and plots.

Any other relief not specifically prayed for but found just in the given facts and circumstances of the case may also graciously be allowed.

2. Brief and essential facts of the present writ petition are that the petitioners were the employees of erstwhile 'Provincial Urban Development Board' established under N-W.F.P. Urban Planning Ordinance, 1978 which was thereafter repealed by N-W.F.P. Urban Development Board (Dissolution) Ordinance, 2002; and thereby the entire assets, authorities and employees were placed under the control of respective District Governments. An open auction of all kinds of residential and commercial plots in different phases/sectors of Hayatabad, Regi Model Town, Jehangir Abad and Tehkal Payan was conducted on 23rd to 26th June, 2015 was advertised in the national dailies and an auction committee comprising of the Director Estate Management, Director Finance, Director PDA, Deputy Director Estate Management, Housing Officer Headquarter and Deputy Regi Model Town was constituted. However, one commercial Plot No.6AA Sector A-2 measuring 2.7 Kanal, phase-V, Hayatabad, received the highest bid from one Ihsanullah who was acting as representative on behalf of Shahid Ali, Shah Nawaz, Masood Faizullah and Muhammad Amjad. The said highest bid was approved and finally, the said

plot was allotted to Shahid Ali etc. Thereafter, the respondent No.1 issued show-cause notices to petitioners accusing therein the illegal transfer of said plot in favour of Shahid Ali etc instead of original bidder Ihsanullah. Petitioners applied for the issuance of the copies of complete record enabling them to submit their replies to show-cause notices, but respondents refused to provide them copies of the record. Petitioners then called in question the vires of show-cause notices through Writ Petition No.213-P/2017 before this Court; and vide order dated 20.01.2017, this court suspended the operation of show-cause notices but petitioners received their termination letters dated 19.01.2017, which according to them, are antedated and petitioners have impugned their termination letters through present constitutional petition seeking relief as quoted in the preceding Para.

3. This court directed respondents to file their parawise comments which they did wherein they resisted the issuance of desired writ. Petitioner also filed rejoinder.

4. Learned counsel for petitioners argued that the impugned dismissal orders issued to petitioners are antedated and the same was issued after the grant of interim relief by this Court on 20.01.2017 but respondents, in order to sabotage the rights of petitioners, deliberately put a backdate. He maintained that, even otherwise, the impugned dismissal orders are hit by the doctrine of lis pendence as they were served with the notices before the institution of writ petition and they were aware of the filing and pendency of writ petition before the Honourable High Court. Learned counsel for petitioners kept on to say that petitioners were not afforded with ample opportunity to defend their rights as they were fully unaware of the documents which were made basis for issuance of show-cause notices and it was duty of respondents to provide copies of same to petitioners to submit reply/defence. It is stressed that the impugned show cause notices and dismissal orders were issued by the Director-General who was not the competent authority in the case of petitioners. He argued that the allotment was finalized under the signature of Director General and petitioners cannot be held responsible for the acts done by the D.G.

5. Mr. Saqi Raza Advocate, while appearing on behalf of respondents, stated that the petitioners have not come to the court with clean hands. They illegally and by misusing their official authority provided aid and assistance to Shahid Ali etc to get the allotment of commercial Plot No.6AA despite the fact that they neither appeared in the bidding process nor token was issued in their names. The original successful bidders for the said plot was Ihsanullah but the allotment was made in favour of Shahid Ali etc despite the fact that the allotment of plots was not transferable. Petitioners were provided sufficient time to submit their replies to show-cause notices and they were also provided access to the record but they delayed the filing of their defence reply and as such penalty of dismissal from service was imposed upon them which is quite justified.

6. We have given our deep thought to the arguments of learned counsel for the parties and perused the record with their valuable assistance.

7. We would first like to mention that the allottees Shahid Ali etc filed Writ Petition No.267-P/2017 against Peshawar Development Authority etc whereby the

authority stopped them from constructing the building of hospital. The said writ petition was dismissed vide Judgment dated 02.03.2017 by this Court on the ground that factual controversy was involved. Accordingly, the said Shahid Ali etc filed a civil suit which is now pending before the learned Civil Court and the controversy as to whether the actual bidder Ihsanullah was representative of Shahid Ali etc, and whether the allotment to Shahid Ali etc was legal? will be determined by the Civil Court after recording evidence. Therefore, we do not think it apposite to pass any verdict as to the legality of the allotment proceedings and procedure. The only question for determination before this Court is the legality of the departmental proceedings against petitioners and their termination letters.

8. There is no denial of the fact that the petitioners are the erstwhile employees of the Provincial Urban Development Board and presently they have been serving as housing officers in BPS-17. This Court, in the case of "Muhammad Mushtaq Qureshi and others v. Government of Khyber Pakhtunkhwa and others" (2019 PLC (C.S.) 565) decided vide Judgment dated 22.01.2018, has already settled that the service of employees of erstwhile Provincial Urban Development Board can only be governed by the PUDB Service Rules, 1978. The said judgment was upheld by the august Apex Court through a common judgment dated 05.07.2018.

9. Record unfolds that the respondents took start of departmental proceedings against petitioners by issuing them show-cause notices, wherein the authority while dispensing with the inquiry, directed petitioners to show-cause within three days as to why major penalty of dismissal from service be imposed on them under PUDB Service Rules, 1978. The last para of the show-cause notice of each petitioner is the same which is reproduced hereunder for ready reference:

"Keeping in view the above-mentioned facts, the undersigned being Competent Authority has decided to dispense with inquiry. Therefore, you are directed to Show your Cause within 03-days of receipt of this letter that why not major penalty of dismissal from service be imposed upon you under PUDB Service Rules, 1978." (emphasis supplied).

10. After the receipt of show-cause notice, petitioners applied for copies of the record enabling them to submit reply but record manifests that no such copies were provided to them; and finally, petitioners were terminated vide letters dated 19.01.2007. The last para of the termination letters also signifies that the penalty was awarded under PUDB Service Rules, 1978. The relevant Para runs as under:

"NOW THEREFORE, I being the Competent Authority am satisfied that the accused officer is guilty of the charges levelled against him. Therefore, under the provisions of rule 23(g) of PUDB Service Rules, 1978, the major penalty of dismissal from service is imposed upon the above-named Officer with immediate effect." (emphasis supplied).

11. Evidently, the proceedings have been initiated and culminated against petitioners under the PUDB Service Rules, 1978. In the Provincial Urban Development Board Service (PUDB) Rules, 1978, only Rules 22 and 23 deal with the disciplinary actions against an official. Rule 22 of the Rules describe the nature

of misconduct whereas, procedure for disciplinary action has been specified in the Rule-23 which provides as under:

Procedure for disciplinary action.-

23. (a) On any alleged action of misconduct the employee will be informed in writing and will be given an opportunity to explain in writing the circumstances of misconduct alleged against him within the time specified in the letter. The Competent Authority shall on receipt of the explanation appoint an inquiry officer to conduct the enquiry into the alleged misconduct.
- (b) If considered necessary the employee may be suspended during the period of enquiry. The order of suspension shall be in writing and shall take effect immediately on delivery to the employee. During the period of suspension, the employee concerned shall be paid a subsistence allowance of not more than 50% of his salary. If he is found not guilty, he shall be deemed to be on duty suspension and shall be entitled to during the period of the same salary as he would have received had he not been suspended.
- (c) The Enquiry Officer shall obtain necessary record and statements etc. relating to the complaint. The Statement of witness if any may be obtained in the presence of accused who may be allowed to cross-examine the witness. Such cross-examination and answer shall also be recorded. The enquiry officer shall then record his own opinion giving a definite verdict and submit his report along with the record of inquiry to the Competent Authority for taking decision.
- (d) While taking decision the Competent Authority shall take into account the previous record of the employee. He shall have discretion to award any of the under mentioned punishment keeping in view the gravity of the misconduct.
1. Dismissal from service without any compensation.
 2. Premature retirement.
 3. Reduction to a lower grade/post
 4. With-holding increment or promotion for a specified period.
 5. Reprimand/Censure.

12. In the above-cited provisions, the use of the word 'shall' by the legislature brands a provision as mandatory, especially when an authority is required to do something in a particular manner. Reliance in this regard is placed on the case of Haji Abdul Karim and others v. Messrs Florida Builders (Pvt.) Limited (PLD 2012 SC 247) wherein while interpreting Order VII, Rule 11 of the Code of Civil Procedure, 1908, the august Apex Court held:

"9. We have already noticed that the court is bound by the use of the mandatory word "shall" to reject a plaint if it "appears" from the statements in the plaint to be barred by any law."

This view was further elaborated by the apex Court in the case titled "The Collector of Sales Tax, Gujranwala and others v. Messrs Super Asia Mohammad Din and Sons and others" (2017 SCMR 1427).

13. A threadbare perusal of the Rule-23 of the PUDB Service Rules, 1978, reveals that the only procedure provided to proceed against an official on the allegations of misconduct is to:

- i. Issue explanation letter to accused official to explain in writing the circumstances of the misconduct alleged against him;
- ii. Appoint an inquiry officer to conduct the inquiry into the alleged misconduct;
- iii. Inquiry officer shall obtain record and collect evidence giving opportunity to accused-official to cross-examine the witnesses if produced;
- iv. Inquiry officer shall record his opinion giving a definite verdict and submit report along with record to Competent Authority.
- v. Finally, the Competent Authority will take decision in view of the previous record of the employee and gravity of the misconduct.

14. Here, in the present case, a novel procedure has been adopted by the respondents. There is no mention of dispensing with the inquiry in the Rule 23 *ibid* rather the holding of inquiry is mandatory. Even the show-cause notice too is alien to the provision of the above-quoted Rule. The entire procedure given in the above Rule 23 is mandatory, instead, the departmental proceedings initiated and finalized against petitioner are totally strange to the rule governing procedure for disciplinary action against an employee of PUDB. If law required a thing to be done in a particular manner, that should be done accordingly. In case the prescribed procedure is not followed then a strong presumption would be that the same has not been legally done. For rendering this view, we are fortified by the dictum laid down by the Hon'ble Apex Court in *Director, Directorate-General of Intelligence and Investigation and others v. Messrs AL-Faiz Industries (Pvt.) Limited and others* (2006 SCMR 129). Reliance is also placed on the case of *Muhammad Hanif Abbasi v. Imran Khan Niazi and others* (PLD 2018 Supreme Court 189) wherein it was held:

(e) Administration of justice---

----Where the law required something to be done in a particular manner, it must be done in that manner.

(f) Administration of justice---

----What could not be done directly could not be done indirectly.

15. Another aspect which attracted our attention, that the petitioners were awarded punishment under Rule 23(g) of the PUDB Service Rules, 1978, which is an error. Yet there is another aspect; respondents have not only deviated from law by issuing show-cause notices to petitioners but also remained reluctant to provide them copies of the record to make their defence reply. It is a right of an official to

be acquainted with all the record and evidence establishing his alleged misconduct, in order to have an ample opportunity to establish his defence which is his fundamental right. The authority in the present case was proceeding against petitioners without any inquiry on the basis of documentary evidence but petitioners were not provided with the said documentary evidence to clarify their position and circumstances of the misconduct.

16. For what has been discussed above, we are unanimous that the entire departmental action against petitioners commencing from show-cause notice and culminating on their dismissal from service is void ab initio and thus have no legal sanctity. The impugned office orders are thus, set aside and petitioners are reinstated into service retrospectively with back benefits. However, if the competent authority wants to proceed against the petitioners, then they are at liberty to proceed against them strictly under the PUDB Service Rules, 1978.

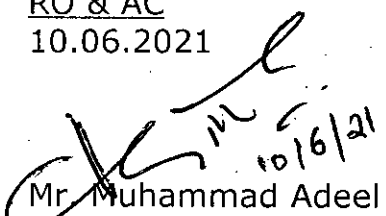
17. In view of the above, the instant writ petition is allowed in the above terms, with no order as to cost.

ZC/212/P Petition allowed.


Mr. Muhammad Adeel Butt, Learned Additional Advocate General on oath:

On consulting the record, it was found that the appellant has assumed charge in Government Frontier College for Women Peshawar vide Order bearing Endorsement No. 505-11 GFC(W)Peshawar dated 30.06.2020. On behalf of the respondents, I undertake that the appellant shall be allowed to relinquish her charge from Government Frontier College for Women Peshawar. Similarly, the due salary of the month of December 2020 and onward shall also be paid to the appellant in accordance with relevant rules as soon as possible.

RO & AC
10.06.2021


10/6/21
Mr. Muhammad Adeel Butt,
Additional Advocate General.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARY DEPARTMENT

NO. SO (Lit) HED/4-19/2020/SA#11879/2020-Roheela Sayar

Dated the Peshawar February 8, 2021

To

The Director,
Higher Education Khyber Pakhtunkhwa,
Rano Ghari, Peshawar.

Subject: SERVICE APPEAL NO. 11879/2020 TITLED MS. ROHEELA SAYAL VS GOVT. OF KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of notice alongwith copy of contempt of court petition filed by appellant Ms. Roheela Sayal against Ms. Zill-e-Huma Principal, Govt. Frontier College for Women, Peshawar as well order sheet dated 25.11.2020 (which are self-explanatory) for further necessary action/ compliance, under intimation to all stakeholders, please.

2. Being court matter, therefore, this may be treated "Most Urgent".

Encl: as Above.

Yours faithfully,

[Handwritten signature]
07/02/21 o/c

[Handwritten signature]
Section Officer (Litigation)
PH # 091-92132501 FAX # 091-9210368

Endst: No. & date even.

Copy forwarded to the:

1. The Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
2. The Additional Advocate General, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
3. The Section Officer (C-I) Higher Education Department alongwith copy of the above for further necessary action, under intimation to all stakeholders, please.
4. The Principal, Govt. Frontier College for Women, Peshawar alongwith copy of the above for further necessary action, under intimation to all stakeholders, please.
5. PS to Secretary, Higher Education, Archives & Libraries Department.
6. PA to Deputy Secretary (Lit) Higher Education Department.
7. Master File.

[Handwritten signature]

[Handwritten signature]
Section Officer (Litigation)

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I on the fore afternoon of this day respectively take/hand over charge of this office as Mst. Roheela Sayal Associate Professor BPS-19 in Govt. Frontier College for Women Peshawar. Vide Govt. of Khyber Pakhtunkhwa Higher Education, Archives & Libraries Department Notification No. SO(C-1)11/5-2-Posting-Transfer/2020 dated 09.03.2020

Particular of cash and important secret and confidential documents handed over are noted on the Reverse.

Station: GFCW Peshawar

Signature of Relieved _____
Government Servant: _____
Designation: _____

Dated: 30.06.2020 (A.N)

Signature of relieving P. Hida
Government Servant: Mst. Roheela Sayal
Designation: Associate Professor

OFFICE OF THE PRINCIPAL GOVT FRONTIER COLLEGE FOR (WOMEN) PESHAWAR

Endst: No: - 505/11 - GFC(W) Peshawar the dated: 30/6/2020

Copy of the above is forwarded for information to: -

1. The Section Officer (Colleges-I), Higher Education, Archives & Libraries Department Govt. of Khyber Pakhtunkhwa
2. The Director Higher Education Khyber Pakhtunkhwa Peshawar.
3. Accountant General Govt. of Khyber Pakhtunkhwa Peshawar.
4. Principal Govt. Post Graduate Girls Degree College, Kohat.
5. Director (HEMIS), Higher Education Department.
6. The Official concern.
7. Personal file.

J. Hida
PRINCIPAL
GOVT FRONTIER COLLEGE
FOR WOMEN PESHAWAR



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT
CIVIL SECRETARIAT

SUMMARY FOR CHIEF MINISTER.
KHYBER PAKHTUNKHWA

Subject: REPRESENTATION / DEPARTMENTAL APPEAL AGAINST PRE-MATURE
TRANSFER FROM PESHAWAR TO KOHAT VIDE ORDER DATED 07.07.2020.

Note for Chief Secretary, Khyber Pakhtunkhwa regarding representation / departmental appeal against pre-mature transfer dated 07.07.2020 from GFC-W, Peshawar to Government Postgraduate College, Kohat in respect of Ms. Rohila Sayel, Associate Professor (BPS-19) of Pakistan Studies was processed at (Annex-I).

2. Brief of the instant case is that the applicant, Ms. Rohila Sayel, Associate Professor (BPS-19) was transferred from Postgraduate Girls Degree College, Kohat to Government Frontier College for Women, Peshawar vide Notification No.SO(C-I)/HE/5-2/Posting-Transfer/2020 dated 09.03.2020 (Annex-II). The said notification was cancelled by the Chief Minister (Competent Authority) vide this Department Notification dated 07.07.2020 (Annex-III).

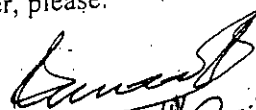
3. Note for Chief Secretary, Khyber Pakhtunkhwa was examined by the Establishment Department and vide Para-7 of the Note added the following:-

"The stance of the lady officer in light of Para-Viii-A, Para-Xiii (a & b) and Para-XIV (i) of Posting / Transfer Policy seems justified. However, the appeal in this case is to be submitted to the Chief Minister in light of Schedule-III of Khyber Pakhtunkhwa Govt. Rules of Busienss 1985".

4. It is pertinent to mention here that at present there are few vacant seats of BPS-19 in District Peshawar due to the upgradation of posts under 5-tier formula, but the Department has to adjust the Lecturers against these positions as the posts of Lecturers are required to be abolished first. The Department has initiated disciplinary proceedings against the lady officer on the basis that she has not resumed her duty at Government Girls Postgraduate College, Kohat. Therefore, the lady may be directed to resume her duty at Postgraduate Girls Degree College, Kohat immediately.

5.

Foregoing in view, this Department proposes that the Chief Minister, Khyber Pakhtunkhwa may kindly regret the instant appeal of the lady officer, please.



DAWOOD KHAN
SECRETARY HIGHER EDUCATION

Special Assistant to Chief Minister for Higher Education,
Khyber Pakhtunkhwa.



Special Assistant to CM
Higher Education Department
Govt. of Khyber Pakhtunkhwa

Secretary Establishment,
Khyber Pakhtunkhwa.

Chief Secretary,
Khyber Pakhtunkhwa.

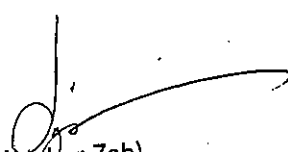
Chief Minister,
Khyber Pakhtunkhwa.

P.T.O

6. Earlier Establishment Department examined appeal of the officer and supported her stance in light of Para-viii-A, Para-xiii (a & b) and Para-xiv (i) of Posting/Transfer Policy (Annex-I) (Annex-IV) and asked the Administrative Department to move a summary for orders of the competent authority (Annex-I).

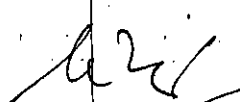
7. In response, Higher Education Department moved a summary regarding representation/departmental appeal against premature transfer from Peshawar to Kohat submitted by Ms. Rohila Sayel, Associate Professor of Pakistan Studies (BS-19). Observations of Establishment Department at Para-7 read with Para-6 of the earlier Note (Annex-I) still stand as Administrative Department could not address the same.

8. However, summary is submitted to the Hon'ble Chief Minister, Khyber Pakhtunkhwa for appropriate orders, being competent authority in terms of Schedule-III of the Khyber Pakhtunkhwa Govt. Rules of Business, 1985 (Annex-V)



(Mutaher Zeb)
Secretary Establishment
January 11, 2021

Chief Secretary Khyber Pakhtunkhwa

Views of the Establishment Department contained in Annex I are supported. The case seems to be of gross injustice that needs redressal.


Chief Secretary I
Govt. of Khyber Pakhtunkhwa

Chief Minister
May be posted against a vacant post in Peshawar.


2-8-1-2021
CHIEF MINISTER
Khyber Pakhtunkhwa

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

CM No. _____/2021

in

SA No. 11879/2020

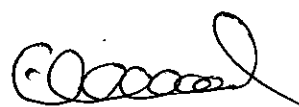
Ms. Roheefa SayalAppellant

VERSUS

Govt. of Khyber Pakhtunkhwa & OthersRespondents.

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**Section Officer (Litigation)
Higher Education Department
Khyber Pakhtunkhwa Peshawar**

IN THE KHYBER PAKHTUNKHA SERVICE TRIBUNAL, PESHAWAR.

CM No. _____/2021

In

SA No. 11879/2020

Ms. Roheela Sayal

.....Appellant

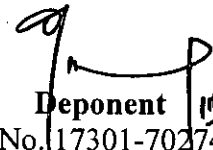
VERSUS

Govt. of Khyber Pakhtunkhwa & Others

.....Respondents.

AFFIDAVIT

I, Qazi Muhammad Ayaz, Litigation Officer, Higher Education, Archives & Libraries Department, Government of Khyber Pakhtunkhwa, do hereby declare and affirm on oath that the contents of application for vacation of stay are correct to the best of my knowledge and belief that and nothing has been concealed from the Hon'able Service Tribunal.



Deponent
CNIC No. 17301-7027499-5

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

CM No. _____/2021

In

SA No. 11879/2020

Ms. Roheela Sayal



.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa & Others

.....Respondents.

Subject: **APPLICATION FOR VACATION OF INTERIM RELIEF ORDER DATED 25.11.2020 PASSED BY THIS SERVICE TRIBUNAL IN THE ABOVE TITLED SERVICE APPEAL.**

Respectfully Shewith:-

1. That the above titled Service Appeal is pending for adjudication before this Service Tribunal which is fixed for hearing on 12.02.2021.
2. That this Service Tribunal vide Order dated 25.11.2020 has passed an order that status quo to the extent of appellant be maintained till the dated fixed 12.02.2021. (Annex-A).
3. That the Interim Relief Order dated 25.11.2020 is causing inconvenience to the respondents.
4. That the case of the appellant is at weaker footing and there is no chance of success of the case of the appellant.
5. That ingredients necessary for the grant of Interim Relief are not available with the Service Appeal rather the appellants/respondents sanguine to the disposal of the case in their favour.
6. That it is in the interest of justice and the balance of convenience also lies in favour of Applicants/Respondents.
7. That any other ground not specifically mentioned may kindly be taken at the time of arguments with the permission of this Hon'able Service Tribunal.

Put up to the court with relevant appeal.

12/2/2021

Read

Prayer:-

It is, therefore, humbly prayed that on acceptance of this application the Interim Relief granted vide order dated 25.11.2020 may graciously be vacated in the best interest of justice.



**Chief Secretary
Govt. of Khyber Pakhtunkhwa.
Respondent No.1**



**Secretary
Govt. of Khyber Pakhtunkhwa.
Higher Education Department
Respondent No.2**