

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT SWAT**

Service Appeal No. 7086/2021

Date of Institution      ...      16.07.2021

Date of Decision      ...      12.01.2023

Mst. Saira Bano SS BPS-17, Government Girls High Secondary School  
No.1, Saidu Sharif District Swat.

... (Appellant)

**VERSUS**

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and three  
others.

... (Respondents)

Irfan Ali  
Advocate

... For appellant.

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents.

Mrs. Rozina Rehman

... Member (J)

Miss Fareeha Paul

... Member (E)

**JUDGMENT**

**ROZINA REHMAN, MEMBER (J):** The appellant has invoked the  
jurisdiction of this Tribunal through above titled appeal with the prayer  
as copied below:

**“That on acceptance of this appeal the order of the  
respondents No. 2 may be set aside to the extent of serial  
No. 2 and she may please be restored to her prior position  
as SS BPS-17 Government Girls Higher Secondary School  
NO. 1, Saidu Sharif District Swat.”**



2. Brief facts of the case are that the appellant is an employee of respondent department and was posted at GGHSS No. 1 as SS (BPS-17). She was performing her duty with zeal and zest when in the meanwhile she was transferred to Mastuj Booni District Chitral as SDEO (Female) BS-17 vide impugned order dated 09.07.2021. Being aggrieved she filed departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Irfan Ali Advocate, learned counsel for the appellant and Muhammad Adeel Butt, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Learned counsel for the appellant contended that the appellant was not treated in accordance with law and rules on the subject and as such respondents violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan. He submitted that appellant was the employee of the respondents department in teaching cadre and was transferred to hard area in administrative cadre without her consent which was against rules and policy and that no person belonging to the teaching cadre could be posted on the post of management cadre. Learned counsel further submitted that being female the transfer order was also against the spouse policy because her family was residing at District Swat and her children would suffer a lot due to her transfer. He therefore, requested for acceptance of instant service appeal.

5. Conversely, the learned AAG submitted that the transfer posting order of the appellant was notified in public interest and that each and every civil servant falling under the ambit of Section-10 of KP Civil



Servant Act, 1973 was legally bound to serve the department anywhere in the province and that posing transfer could not be claimed as a matter of right. He argued that stance of the appellant was illegal as the post of SS was purely a Provincial Cadre post and that appellant was adjusted against SDEO post.


6. We have heard learned counsel for the parties and perused the record. Admittedly the appellant is a teaching cadre officer in Elementary and Secondary Education Department who was posted as SS (BPS-17) at GGHSS No. 1 Saidu Sharif Swat on 04.03.2020. She was transferred to Mastuj Booni District Chitral as SDEO (Female) vide impugned order dated 09.07.2021. Record shows that she served in Saidu Shareef for a period of almost 16 months. As per transfer & posting policy she had not completed her tenure. The most important aspect of the case is that she is a teaching cadre officer and she should not have been deputed against a Management Cadre post. The impugned order was premature which hits the transfer and posting policy. Reliance is placed on PLD 2013 SC 195, 2001 PLC (CS) 172 and 2011 PLC (CS) 993. As per law no one shall be proposed against wrong post and whosoever is enjoying such illegal facilitation be withdrawn and posted against their original post. In the instant case no public interest was shown and she was posted against the post in administrative cadre without any justification.

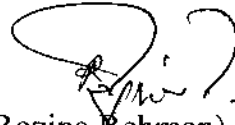
7. For what has been discussed above, this appeal is accepted as prayed for. It is important to note here that the official respondents had been directed through various judgments not to intermingle the posts in

two cadres and post officials from one cadre to the other. The respondents, however have remained at loss in compliance thereof. It is a sorry state of affairs that the policy of Government/Rules are defied by the responsible officers for adjustment and convenience of their blue eyed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

12.01.2023

  
(Farveha Paul)  
Member (E)  
(Camp Court Swat)

  
(Rozina Rehman)  
Member (J)  
(Camp Court Swat)


ORDER  
12.01.2023

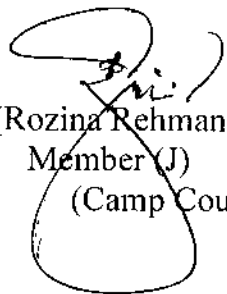
Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate  
General for respondents present.

Vide our detailed judgment of today of this Tribunal  
placed on file, instant service appeal is accepted as prayed for.  
Parties are left to bear their own costs. File be consigned to the  
record room.

ANNOUNCED.  
12.01.2023

  
(Farscha Paul)  
Member (E)  
(Camp Court Swat)

  
(Rozina Rehman)  
Member (J)  
(Camp Court Swat)

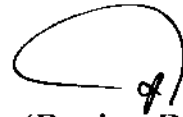
18<sup>th</sup> Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.



**(Farceha Paul)**  
**Member(E)**



**(Rozina Rehman)**  
**Member(J)**

SECRETARY  
10/11/2022

05.07.2022

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

Due to paucity of court time, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 11.08.2022.




(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

11.8.2022

Proper DB not available the case is adjourned to 3-11-2022

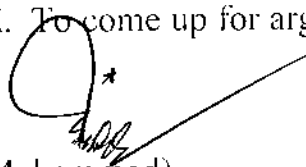
  
Reader

03.11.2022

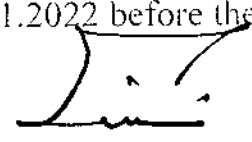
Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Representative of the respondents requested that time may be granted to him to probe as to whether Miss. Gul Farzana SDEO (Female) BS-17 whose name is mentioned at serial No. 01 of impugned order, has filed service appeal before this Tribunal or not.

Adjourned. To come up for arguments on 18.11.2022 before the D.B.



(Mian Muhammad)  
Member (E)




(Salah-Ud-Din)  
Member (J)

SCANNED  
K.P.E.T  
Peshawar

09.12.2021

Husband of appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Syed Nasirud Din, Asstt. for the respondents present.

Representative of the respondents states that written reply is well prepared for submission. He is required to submit the same within 10 days in office alongwith application as right of respondents for submission of reply has already been struck off. Case to come up for arguments on 07.02.2022 before the D.B.

  
(Salah-ud-Din)  
Member(J)

  
Chairman

7-2-22

*Due to Retirement of the Hon.ble  
Chairman the case is adjourned to  
come up for the same as before on*

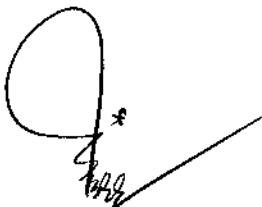
*30-5-22*

*Reader*

30<sup>th</sup> May, 2022

Learned counsel for the appellant present. Mr. Asif Masood, DDA for the respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the Court. Last opportunity is granted. To come up for arguments on 05.07.2022 before the D.B.

  
(Mian Muhammad)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

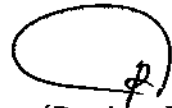


05.11.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Saleem S.O for respondents present.

As per preceding order sheet, respondents were directed to file reply within 10 days but till today, reply was not submitted. Therefore, right of respondents for submission of reply is hereby struck off. To come up for arguments on 09.12.2021 before D.B.



(Rozina Rehman)  
Member (J)



Chairman

09.12.2021

Learned counsel for the appellant present.

As per preceding order sheet dated 05.11.2021, the right of respondents for submission of reply stands struck off and the case was fixed to come up for arguments before D.B on 09.12.2021. However, the instant service appeal seems to have mistakenly been reflected on the cause list for hearing before S.B. The service appeal in hand is therefore submitted for appropriate orders before the D.B.



(Mian Muhammad)  
Member (E)



Stipulated period passed reply not submitted.

15.09.2021


Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

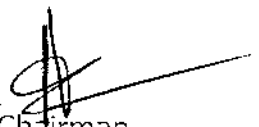
Chairman 

21.09.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem Khan, S.O for the respondents present.

Reply/comments have not been submitted by the respondents. Let them file the reply/comments on or before the next date, failing which their right for submission of reply/comments shall be deemed as struck off. Case to come up for arguments on 05.11.2021 before the D.B.

  
(Rozina Rehman)  
Member(Judicial)

  
Chairman

Appellant Deposited  
Security & Process Fee

this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 21.09.2021 before the D.B.

An application has been filed alongwith the appeal for suspension of the impugned transfer order dated 09.07.2021 to the extent of appellant till final decision of the appeal. Notice of the application be also given to the respondents. The operation of the impugned order shall remain suspended till next date.

  
Chairman

**S.A No. 7086/2021**

Mst. Saira Bano

02.08.2021 Counsel for the appellant present. Preliminary arguments heard.



The appellant has impugned the transfer order dated 09.07.2021 through this Service Appeal where-against the departmental representation/appeal was filed on 13.07.2021. The present appeal was filed on 16.07.2021 which was returned due to objection from this office that it was filed without completing the period of ninety days after filing of departmental appeal. However, the appeal was re-submitted that requisite period of 15 days as provided under the Policy of the Government has been completed. This Tribunal has already admitted appeals against the transfers on account of the precedent of 15 days period for decision of appeal by the competent authority by overruling the objection of the office for waiting period of ninety days. Therefore, this appeal as matter of consistency has rightly been filed after expiry of 15 days day period. When the appellate authority has failed to decide the appeal within stipulated time according to policy of the government. The appellant contends that the impugned transfer of the appellant is against the tenure as provided under the policy of the Government and no public interest is involved in the impugned order. Therefore,

Form- A

# FORM OF ORDER SHEET

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

Case No.- 7086 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/07/2021	<p>The appeal of Mst. Saira Bano resubmitted today by Mr. Irfan Ali Yousafzai 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 - 29/7/2021</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Sira Bano vs Govt

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

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

Name:

Muham Ali Yousofzai Adv

Signature:

[Signature]

Dated:

29-7-2021

This is an appeal filed by Mst. Saira Bano today on 16/07/2021 against the order dated 09.07.2021 against which she preferred/made departmental appeal/ representation on 13.07.2021 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1319 /ST,

Dt. 19/07/2021

*S. Yousof*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Irfan Ali Yousafzai Adv. Pesh.

R/S that the requisite period of 15 days has been completed under the policy so it is requested that the case may kindly be fixed before the court.

*Irfan Ali Yousafzai*

Dated Advocate.  
29-07-2021

①

**BEFORE THE COURT OF WORTHY CHAIRMAN**  
**SERVICES TRIBUNAL, PESHAWAR**

Appeal No. \_\_\_\_\_/2021

Mst. Saira Bano.....Appellant

**V E R S U S**


Chief Secretary and others.....Respondents

**I N D E X**

<b>S.No.</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Memo of appeal	*	1-6
	Application for suspension	*	6-7
2.	Affidavit	*	8
3.	Copy of impugned order	A	9
4.	Copy of departmental appeal	B	10
5.	Wakalatnama	*	11

  
Appellant

Through

  
**Irfan Ali Yousafzai**  
Advocate, High Court,  
Peshawar  
Cell# 0314-9070658

Date: 16/07/2021



15

Amended (B)



OFFICE OF THE  
PRINCIPAL GOVT:GIRLS HIGHER SECONDARY SCHOOL NO.1 SAIDU SHARIF SWAT  
Phone No. 924213

No. \_\_\_\_\_

dated: 24/12/2022

To  
The District Education Officer  
Female Swat

Subject: - STOPPAGE OF PAY I/R OF MST:SAIRA BANO SS

Memo:  
As directed through telephonic message by your good office again and again the undersigned sent source for stoppage of pay i/r of Mst: Saira Bano SS of this School and requested to DCA Swat that the pay of above mentioned teacher may kindly be made in-active as she is transferred from this school vide Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department No.SO(S/F)E&SED/7-1-2021/posting/transfer dated:9/07/2021.

As at that time the teacher concerned stated that transfer order has already been challenged in the Service tribunal Khyber Pakhtunkhwa vide appeal No.7086/2021 dated:16/07/2021:

And the teacher concerned could not relived by this office, however she could not submit any court order or evidence till date and the transfer in question is still intact.

The salary has stopped on your directions and report of the same is submitted for your kind attention please.

Principal  
Government Girls Higher  
School No.1 Saidu Sharif Swat

Indstt No. 1483

Copy for information to Mst: Saira Bano SS (History) B-17 working against SS (History) B-18 GCHS No-1 Saidu Sharif Swat

Principal  
Government Girls Higher  
School No.1 Saidu Sharif Swat



OFFICE OF THE  
PRINCIPAL GOVT:GIRLS HIGHER SECONDARY SCHOOL NO.1 SAIDU SHARIF SWAT  
Phone No. 924213

(15)

Amended (B)

No. \_\_\_\_\_

dated: 24/12/2022

To

The District Education Officer  
Female Swat

Subject: - STOPPAGE OF PAY I/R OF MST:SAIRA BANO SS

Memo:

As directed through telephonic message by your good office again and again the undersigned sent source for stoppage of pay i/r of Mst: Saira-Bano SS of this School and requested to DCA Swat that the pay of above mentioned teacher may kindly be made in-active as she is transferred from this school vide Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department No.SO(S/F)E&SED/7-1-2021/posting/transfer dated:9/07/2021.

As at that time the teacher concerned stated that transfer order has already been challenged in the Service tribunal Khyber Pakhtunkhwa vide appeal No 7086/2021 dated:16/07/2021.

And the teacher concerned could not relived by this office, however she could not submit any court order or evidence till date and the transfer in question is still intact.

The salary has stopped on your directions and report of the same is submitted for your kind attention please..

Principal  
Government Girls Higher  
School No.1 Saidu Sharif Swat

Endstt: No. 1483

Copy for information to Mst: Saira Bano SS (History) B-17 working against SS (History) B-18 GGHS No-1 Saidu Sharif Swat

Principal  
Government Girls Higher  
School No.1 Saidu Sharif Swat

APPEAL UNDER SECTION 4 OF  
KP SERVICES TRIBUNAL ACT  
1974 AGAINST THE TRANSFER  
ORDER NO. SO(S/F)E&SD/7-  
1/2021/POSTING/TRANSFER  
DATED PESHAWAR THE JULY  
09<sup>TH</sup> 2021 TO THE EXTENT OF  
# 2 AND # BY WHICH THE  
APPELLANT WAS TRANSFERRED  
AND HER SERVICE WERE  
PLACED AT THE SDEO (FEMALE)  
BS-17 MASTUJ BOONI DISTRICT

Registered  
 29/7/2021  
 Re-submitted to-day  
 and filed.

Filed to-day  
 29/7/2021  
 Registrar

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.  
 2. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.  
 3. Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.  
 4. DEO (Female) District Swat.....**Respondents**

**V E R S U S**

**Appellant**.....  
 Mst. Saira Bano SS BPS-17, Government Girls High  
 Secondary School No.1, Saidu Sharif District Swat

**BEFORE THE COURT OF WORTHY CHAIRMAN**  
**SERVICES TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
 Service Tribunal  
 Diary No. 7338

Appeal No. 7086 /2021

Dated 16/7/2021

**CITIRAL AGAINST THE SERIAL  
NO.1 WITH IMMEDIATE EFFECT  
AGAINST WHICH THE  
DEPARTMENT APPEAL ALSO  
FILED BUT STILL PENDING**

**Prayer in Appeal:**

On acceptance of this service appeal, the order of the respondents No. 2 may be set aside to the extent of S# 2 and the appellant may please be restored to her prior position as SS BPS-17 Govt. Girls Higher Secondary School No.1 Saidu Sharif District Swat.

**Respectfully Sheweth:**

1. That the appellant is the employee of respondents department and posted as SS BPS-17 at GGHSS No.1 Saidu Sharif District Swat and were posted at that position on 04/03/2020.
2. That the appellant performing his duty with zeal and zest at that post and suddenly the respondent No.1 issued impugned order No. SO(S/F)E&SED/7-1/2021/Posting/Transfer dated Peshawar the July 09<sup>th</sup> 2021 and transferred the appellant to Mastuj Booni District Chtiral as SDEO (Female) BS-17 vice

Serial No.1. **(Copy of the impugned order dated 09/07/2021 is attached as Annexure-A)**

3. That the appellant aggrieved from the above mentioned order filed departmental appeal to the respondent No.2 which is still pending and no order yet has been passed in this regard. **(Copy of the departmental appeal is attached as Annexure-B)**
4. That the appellant is belong to District Swat and her family also resided and District Swat and the impugned order is also against the spouse rules and policy.
5. That the appellant aggrieved from the transfer order dated 09/07/2021, which is illegal, unlawful, void-ab-initio and liable to be set aside inter alia on the following grounds:

**GROUND S:**

- A. That the respondent No. 2 acted illegally and in violation of KPK Services Rules by issuing the impugned transfer order to the extent of S# 2.
- B. That the appellant is the employee of the respondents department in teaching cadre and transferred to hard area in administrative cadre

- 5
- without her consent which is against the rules and policy.
- C. That being female the transfer order is also against the spouse policy because the family of the appellant resided at District Swat and due to the transfer of appellant, the children of the appellant will also suffer.
- D. That malafide and misuse of authority on the part of the respondents is very much clear that the impugned order is premature because the appellant was posted as SS at GGHSS No.1 Saidu Sharif Swat on 04/03/2020 and after only 14/15 month transfer to the hard area which is against the rules and policy.
- E. That the impugned order of the respondent No.2 is illegal, unlawful and without lawful authority, liable to be set aside.
- F. That the counsel for appellant may kindly be permitted to explain his view on the points, which shall be raised at the time of arguments.


**It is, therefore, most humbly prayed that on acceptance of this service appeal, the order of the respondents No. 2 may be set aside to the extent of S# 2 and the appellant may please be restored to her prior position**

as SS BPS-17 Govt. Girls Higher Secondary School No.1 Saidu Sharif District Swat.

Any other relief may deemed fit in the circumstances of the law may also be granted in favour of the appellant against respondent.

  
Appellant

Through

  
**Irfan Ali Yousafzai**  
Advocate, High Court,  
Peshawar

Date: 16/07/2021

**BEFORE THE COURT OF WORTHY CHAIRMAN**  
**SERVICES TRIBUNAL, PESHAWAR**

CM No. \_\_\_\_\_/2021

IN

Appeal No. \_\_\_\_\_/2021

Mst. Saira Bano.....**Appellant**

**V E R S U S**

Chief Secretary and others.....**Respondents**

**APPLICATION FOR SUSPENSION OF THE**  
**IMPUGNED TRANSFER ORDER DATED**  
**09/07/2021 TO THE EXTENT OF**  
**APPELLANT, TILL THE FINAL DECISION**  
**OF THE SERVICE APPEAL.**

**Respectfully Sheweth:-**

1. That the above noted service appeal is being filed before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That the facts and grounds of the service appeal may kindly be read as an integral part of this application.
3. That the applicant has got a good prima facie case in her favour, and is sanguine about its success.




4. That the balance of convenience also lies in favour of the applicant.
5. That if the transfer order dated 09/07/2021 not suspended, than the applicant would suffer irreparable loss.

**It is, therefore, respectfully prayed that on acceptance of this application, the impugned transfer order dated 09/07/2021 may kindly be suspended, till the final decision of the case.**

  
Applicant

Through

  
**Irfan Ali Yousafzai**  
Advocate, High Court,  
Peshawar

Date: 16/07/2021

8

**BEFORE THE COURT OF WORTHY CHAIRMAN**  
**SERVICES TRIBUNAL, PESHAWAR**

CM No. \_\_\_\_\_/2021

IN

Appeal No. \_\_\_\_\_/2021

Mst. Saira Bano.....**Appellant**

**V E R S U S**

Chief Secretary and others.....**Respondents**

**AFFIDAVIT**

I, **Mst. Saira Bano SS BPS-17, Government Girls High Secondary School No.1, Saidu Sharif District Swat**, do hereby solemnly affirm and declare on oath that the contents of accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

Identified by:

*S. Aa.*  
**DEPONENT**

CNIC#

Cell# 0314-9070658

*Irfan Ali Yousafzai*  
**Irfan Ali Yousafzai**  
Advocate, High Court,  
Peshawar.





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

'A'

9

Dated Peshawar the July, 09 2021

**NOTIFICATION**

**NO.SO(S/F) E&SED/7-1/2021/Posting/Transfer;** The Competent Authority is pleased to order the posting/ transfer of the following officers on the posts/ stations mentioned against their names in the interest of public service with immediate effect:-

S.#	Name & Designation with present place of posting	Transfer To	Remarks
1	Miss Gul Farzana SDEO (Female) BS-17 Mastuj Booni District Chitral.	Services placed at the disposal of Directorate of E&SE.	-----
2	Miss Saira Bano SS BS-17 GGHSS No 1 Saidu Sharif District Swat.	SDEO (Female) BS-17 Mastuj Booni District Chitral.	Vice S. No.1

2 No TA/DA is allowed.

**SECRETARY**

Endst: of even No. & Date

Copy forwarded to the

- 1 Accountant General, Khyber Pakhtunkhwa Peshawar
- 2 Director. E&SE Khyber Pakhtunkhwa, Peshawar.
- 3 District Accounts Officers Concerned.
- 4 District Education Officer (Female) Concerned.
- 5 PS to Minister E&SE, Khyber Pakhtunkhwa.
- 6 Incharge EMISE E&SE Department.
- 7 PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- 8 Officers concerned
- 9 Office order file.

*[Handwritten Signature]*  
21/7/21

for SECTION OFFICER (SCHOOLS/FEMALE)

**ATTESTED**

*[Handwritten Signature]*  
to be true copy  
Advoc.

9A 10

GOVT. GIRLS HIGHER SECONDARY SCHOOL NO.1  
AT SAIDU SHARIF DISTRICT SWAT

Ref No. 1092

Dated: 11/02/2020

VACANCY CERTIFICATE

It is certified that the post of Subject Specialist History  
com Civics BPS No. 18 is laying vacant at Government Girls  
Higher Secondary School No.1 Saidu Sharif District Swat.



Principal

**PRINCIPAL**

Govt. Girls Higher Secondary School No.1  
Saidu Sharif Swat.

Government Girls Higher Secondary  
School No.1 Saidu Sharif District Swat.

4-3-2020  
Verified

To

2B

10 4039  
13/7

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Elementary and Secondary Education Department.

**Reply to the Notification dated Peshawar the July 09, 2021.**

Respectfully Shewith.

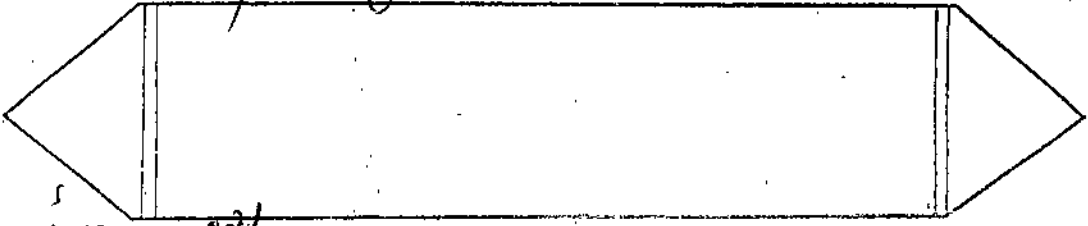
1. That the applicant belongs to Saidu Shārif and she has small children, who are studying in local schools.
2. That transfer of the applicant is against the rules and regulations as many teachers have been posted on wrong posts on their own choices.
3. That being a female and veiled women it is not possible to the applicant to join the said post in District Chitral.

It is therefore, humbly prayed that on acceptance of this replication the said notification be suspended for ends of justice.

*Saira*  
Miss: Saira Bano SS (History) BS-17  
GGHSS No.1 Saidu Sharif  
District Swat

**ATTESTED**  
*[Signature]*  
to be true copy  
Advocate

# بعد االت سروں در پوسل ان



2002ء منجانب مسائل

مسماة - سائبر بانو بنام حکمت و علیہ

موزخه  
مقدمہ  
دعوی  
ہیزم

## باعث تحریر آئنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ در  
 آن مقام ~~کلیے عمر جان سے لے کر~~ کیلئے عمر جان سے لے کر  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب مرصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جو اب وہی اور اقبال دعوی اور  
 باصورت ڈگری کرنے اجراء اور صولی چیک، دروپیہ اور عرضی اور رخواست 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 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ  
 پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے دہوگا۔  
 کوئی تاریخ پیشینی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 16 ماہ جولائی 2002ء

بہ مقام لکھنؤ

Attested & Accepted

Jafar Ali Jansajdar Advocate

BE 09-1766 mob-0314-907065

مسماة - سائبر بانو

07/02/22

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

CM NO \_\_\_\_\_/21

IN

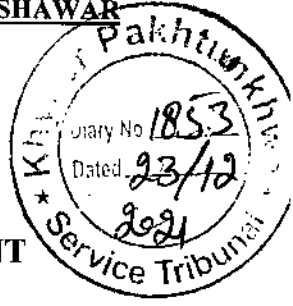
**Service APPEAL. 7086/2021**

**SAIRA BANO SUBJECT SPECIALIST BPS 17.....APPELANT**

**VERSUS**

**GOVT OF KHYBER PAKHTUNKHWA & OTHERS.....RESPONDENTS**

**SUBJECT: RESTORATION APPLICATION FOR SUBMISSION OF REPLY ON BEHALF  
RESPONDANTS**



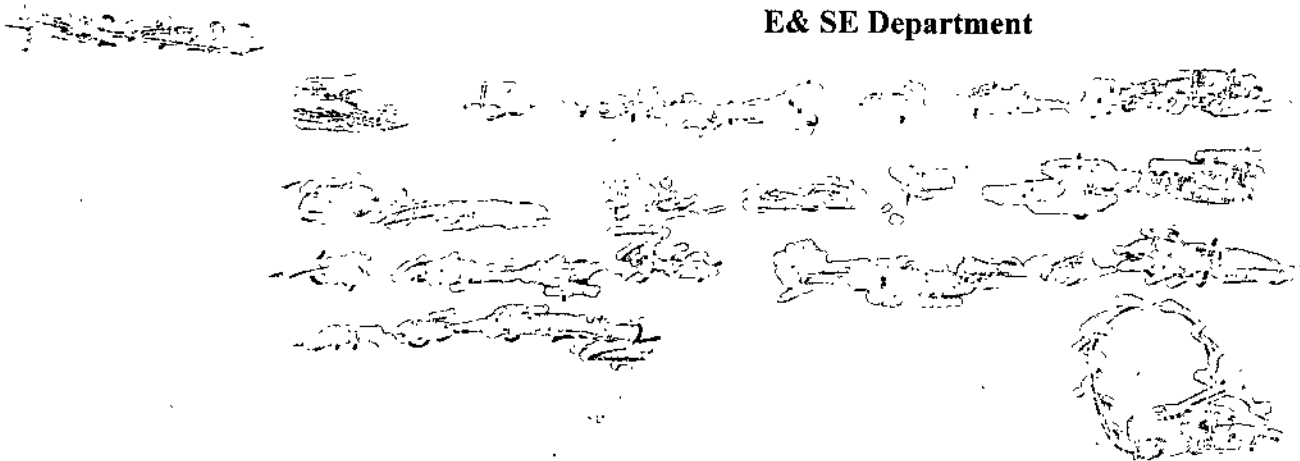
**Respectfully sheweth,**

1. That the instant appeal was fixed for hearing before this honorable KP service tribunal on 5/11/2021 for submission of reply on behalf of answering respondents.
2. The honourable Khyber Pakhtunkhwa Service Tribunal vide its order dated 05/11/2021 struck off the right of submission of reply of the official respondents.
3. The reply in the instant appeal was prepared well in time but due to more than one respondents the input was required from more than one respondents and was required to be in-corporated in the instant reply.
4. Due to more than one respondents the correspondence between the quarter concerned took time and the official respondent became unable to submit reply on the last date i.e. 5/11/2021.

**In view of the above submission it is humbly requested that right of respondent for submission of reply may please be restored to enable this department to submit joint Para wise reply/comments to this honorable KP service tribunal so as to decide the case on merit and spirits of justice.**

  
Secretary

**E& SE Department**

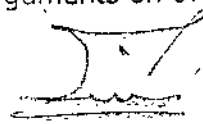


Appeal No. 7086/2021  
Saida Bano vs Govt


09.12.2021

Husband of appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Syed Nasirud Din, Asstt. for the respondents present.

Representative of the respondents states that written reply is well prepared for submission. He is required to submit the same within 10 days in office alongwith application as right of respondents for submission of reply has already been struck off. Case to come up for arguments on 07.02.2022 before the D.B.

  
(Salah-ud-Din)  
Member(J)

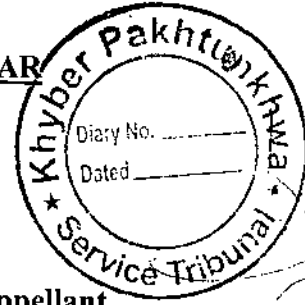
  
Chairman

  
Registrar

Date of Presentation of Application 10/12/21  
No. of Words 1200  
24/-  
14/-  
10/12/21  
10/12/21

Order sheet = Applications  
(3) Reply



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

Service Appeal No. 7086/2021

Mst, Sair Bano, Subject Specialist ..... **Appellant**

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa Peshawar through Chief Secretary ..... **Respondents.**

**JOINT PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS NO. 1 & 3.**

**Respectfully Sheweth,**

**Preliminary Objections**

1. That the appellant has got no cause of action to file the instant appeal.
2. That the Appellant is not aggrieved person within the meaning of Article 199 of the Constitution of Islamic Republic of Pakistan 1973.
3. That Appellant is estopped by his own conduct to approach this Hon'able Tribunal.
4. That no vested right of the appellant has been infringed nor any provisions of the Constitution have been violated, therefore, the instant Service Appeal is not maintainable in the circumstances.
5. That the instant appeal is based on mala-fide intention just to put pressure on the Respondents for the grant of illegal and even unauthorized service benefits.
6. The present appeal has been filed to entangle the Department unnecessarily in litigation and to waste the precious time of the respondents as well as of this Hon'able Tribunal.
7. That the present appeal is against the relevant provision of law and rules.
8. That in the instant Service Appeal the Appellant has suppressed material facts from this Honorable Tribunal which are sin-qua-non for the just and fair disposal of the case.
9. The appeal of the appellant is time barred.

**REPLY ON FACTS.**

1. That Para 1 Pertains to record of the appellant.
2. Pertain to record, however, the said transfer/posting order was notified in the public interest.
3. That each and every civil servant falling under the ambit section-10 of KPK, Civil Servant Act 1973 is legally bound to serve the Respondent Department to the entire satisfaction of the Competent Authority. Furthermore, the departmental appeal is under process and the instant service appeal is premature.

- 35
4. That the appellant is working Provincial Cadre Post in the respondent department and appellant is liable to serve under provision of section 10 of KPK Civil Servant Act, 1973.
  5. Incorrect. That the appellant has been transferred / adjusted against SDEO post. Hence, the instant Service Appeal may be dismissed inter-alia on the following grounds.

**REPLY ON GROUNDS**

- A. Incorrect and denied, the impugned Notification dated 09-07-2021 of the Respondents within legal sphere and is liable to be maintained in favour of the Respondent Department in the interest of justice and under the mandatory provisions of Section 10 of KPK, Civil Servant Act, 1973.
- B. Incorrect and not admitted. The stance of the appellant is illegal as the post of the Senior Subject Specialist BS-17 is purely a Provincial Cadre post in the Respondent Department and the appellant has been treated as per law & rules vide Notification and Order dated 09-07-2021 by the Respondent Department.
- C. Incorrect and not admitted. The stance of the appellant is illegal as the post of the Senior Subject Specialist BS-17 is purely a Provincial Cadre post in the Respondent Department and the appellant has been adjusted against SDEO post.
- D. Incorrect & not admitted. The plea of the appellant is illegal on the grounds that the Notification dated 09-07-2021 of the Respondent is in accordance with the provision of Section 10 of Civil Servant Act, 1973. As the post of the appellant is a Provincial Cadre in the Respondent Department having no question or tenure completion and U/C based posting, hence the stance of the appellant is illegal.
- E. Incorrect. Hence denied. The impugned order has been issued in the best public interest as per law on the subject.
- F. However, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds, case law and record at time of argument on the date fixed.

**In view of the above submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favour of the Respondents in the interest of justice.**

  
Secretary  
E&SE Department.

**Chief Secretary**  
Khyber Pakhtunkhwa

**MOST IMMEDIATE/**  
**COURT MATTER**

26/21



**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT DEPARTMENT**  
**(Judicial wing)**

No. SO(Lit-II)E&AD/3-515/2021  
Dated: Peshawar, the 01-12-2021

To ✓  
The Secretary to Govt. of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department,  
Peshawar.

Attention:- Section Officer (LIT-II)

Subject: **SIGNATURE OF JOINT PARA-WISE COMMENTS IN SERVICE APPEAL NO. 7086/2021 SAIRA BANO VS GOVT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY E&SE DEPARTMENT**

Dear Sir,

I am directed to refer to your letter No. SO(LIT-II)E&SED/1-3/SA#7086/21/Saira Bano dated 25-11-2021 on the above captioned subject and to state that parawise comments in the case are returned herewith (in original) with the intimation that the Administrative Secretary of the Department concerned is authorized to sign the comments on behalf of Chief Secretary Khyber Pakhtunkhwa in the cases of Service Appeals filed by the Civil Servants before the Khyber Pakhtunkhwa Service Tribunal, under this Department Circular letter No. SOR-I (S&GAD) 4-2/82 dated 15.01.1999 (copy enclose). Hence, further action may be taken accordingly, please.

Yours faithfully,  
  
Section Officer (Litigation-II)

Encl: as above;

Enclat: of Even No. & Date:

Copy forwarded to the:-

1. PS to Secretary, Establishment Department.
2. PS to Special Secretary, Establishment Department
3. PS to Additional Secretary (Judicial), Establishment Department.
4. PA to Deputy Secretary (Judicial), Establishment Department.
5. Master file.

Section Officer (Litigation-II)

D-Drive S.O (Lit-II) Office Work (Letters for I&NA)

1228  
2/12

2.12.21

AS (G)

SO (Lit-II)

2/12

2/12/21

Better Copy

Govt. of NWFP,  
Ser. Sec and General Admin.  
Deptt. (Regulation Wing)

No. SOR-I (S&GAD)4-2/82.  
Dated: 15.01.1999.

To

1. All Administrative Secretaries to Government of NWFP.
2. Secretary to Governor, NWFP.
3. Secretary to Chief Minister, NWFP.
4. All Divisional Commissioners in NWFP.
5. All Heads of attached Departments in NWFP.
6. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
7. All Deputy Commissioners/Political Agents In NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. All District and Session Judges in NWFP.
10. The Registrar, NWFP Services Tribunal, Peshawar.
11. The Secretary, NWFP Public Service Commission.
12. The Director, Anti-Corruption Establishment, Peshawar.
13. The Secretary, Board of Revenue, NWFP.

SUBJECT: - **SIGNING OF PARA-WISE COMMENTS ETC. IN SERVICE APPEALS FILED IN THE NWFP SERVICES TRIBUNAL BY CIVIL SERVANTS.**

Sir,

I am directed to refer to the subject noted above and to say that pursuant to Rule-12(2) of NWFP Services Tribunal Rules, 1974, the competent authority has been pleased to authorize the Administrative Secretaries concerned or a subordinate officer to be nominated by the Administrative Secretary to sign para-wise comments etc. on behalf of the Chief Minister, NWFP and Chief Secretary, NWFP, as the case may be in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal.

Yours Obedient Servant,

SECTION OFFICER (REGULATION-I)  
S&GAD.

Endst: Even No. and date.

A copy is forwarded for information to the:-

1. All Addl: Secretaries/Dy: Secretaries in S&GAD.
2. All Section Officers/Estate Officers in S&GAD.
3. P.S. to Chief Secretary, NWFP.
4. P.S. to Secretary S&GAD.
5. Librarian, S&GAD.

SECTION OFFICER (REGULATION-I)

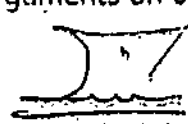
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(Salah-ud-Din)  
Member(J)

  
Chairman



10/12/21 -  
17/12/21  
14/12/21

Date of delivery of copy of 10/12/21  
Date of delivery of copy of 10/12/21