

EP 73/18

28.08.2019

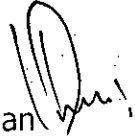
Petitioner alongwith counsel and Addl. AG for the respondents present.

Copy of notification dated 20.02.2019 has been produced by the petitioner whereby the transfer notification dated 03.04.2017 has been withdrawn and the petitioner has been retained as District Education Officer (Female) Nowshera.

In view of the development the petitioner requested for consigning the proceedings in hand. Order accordingly.

File be consigned to the record room.

Chairman



30.05.2019

Counsel for the petitioner and Addl. AG for the respondents present.

Learned AAG states that the execution of relief granted to the petitioner has been approved by the competent authority/Chief Minister, however, the notification in that regard is not available with him today. He, therefore, requests for time to produce before the Tribunal the copies of said notification.

Adjourned to 05.07.2019 before S.B.



Chairman


05.07.2019

None for the petitioner present. Mr. Ziaullah, DDA for respondents present. Notices be issued to the petitioner and his counsel. Case to come up for further proceedings on 30.08.2019 before S.B.



(Ahmad Hassan)
Member

20.02.2019 Petitioner with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Shakeel Superintendent representative of the respondent department present and seeks adjournment to furnish implementation report. Adjourn. To come up for implementation report on 12.03.2019 before S.B.



Member

12.03.2019

None present on behalf of the petitioner. Mr. Kabirullah Khattak, Additional AG for the respondents present. Implementation report not submitted. Additional AG seeks further adjournment. Adjourned to 18.04.2019 for implementation report before S.B. Notice be also issued to petitioner and her counsel for attendance for the date fixed.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

18.04.2019

DBA is on strike. Implementation report not submitted. Shakeel Ahmad Superintendent representative of the respondent department absent He be summoned with the direction to furnish implementation report. Adjourn. To come up for further proceedings/implementation report on 30.05.2019 before S.B



Member

02.01.2019

Petitioner alongwith her counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Fazl-e-Subhan, Section Officer for the respondents present. Implementation report not submitted. Learned Additional AG requested for further adjournment for filing of implementation report. Adjourned. To come up for implementation report on 14.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

14.1.2019

Petitioner alongwith counsel and Addl. AG for the respondents present.

Learned AAG produced a copy of the summary put up to the Chief Minister, Khyber Pakhtunkhwa for compliance of judgment under implementation ~~report~~ and stated that the matter will be finalized in few days. Adjourned to 01.02.2019 for submission of implementation report.

Chairman 

01.02.2019

Petitioner alongwith counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Implementation report not submitted. Learned Additional AG requested for further time for filing of implementation report. Adjourned to 20.02.2019 for implementation report before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

9-11-2018

Due to retirement of Honorable
Chairman the Tribunal is non functional
therefore the case is adjourned to come
up for the same on 3-12-2018

Rehman
Rehman

03.12.2018

Petitioner in person present. Mr. Yousaf Haroon, SO Lit-II alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present.

Representative of respondent-department requested for adjournment and stated at the Bar that on next date of hearing either the order of august Supreme Court of Pakistan requiring suspension of judgment of this Tribunal will be produced or the implementation report would be brought. Adjourned to 02.01.2019 for implementation report before S.B.

Rehman
Chairman

09.10.2018

Mst. Attia Sultana, petitioner in person alongwith her counsel Mr. Muhammad Tariq Advocate present. Mr. Hameedur Rahman, A.D alongwith Mr. Kabirullah Khattak; Addl. AG for the respondents present.

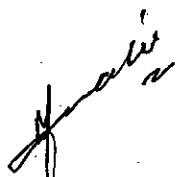
The above named representative of the respondents submitted progress report regarding implementation of order of this Tribunal which shows that the case of the petitioner has been processed and reached to the office respondent No. 1.

In view of the matter and delay already occurred, respondent No. 1 i.e. Secretary E&SE Khyber Pakhtunkhwa Peshawar is directed to submit final report himself or through any responsible officer not below BPS-17 on 26.10.2018 before S.B.


Chairman

26.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 9.11.2018.


Reader

EP 73/18

26.9.2018

Mst. Attia Sultana petitioner in person alongwith her counsel for Fayaz Khan Chamkani, Advocate present. Mr. Hameedur Rahman, A.D (Litigation) alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present. Implementation report not submitted and the learned Addl. AG and the above named representative made a request for adjournment that the respondents have filed CPLA in the august Supreme Court of Pakistan. However, in the absence of any stay/suspension order of the august Supreme Court of Pakistan mere filing of CPLA will not debar this Tribunal from carrying out the execution proceedings. As such last chance is given to the respondents either to produce stay/suspension order of the august Supreme Court of Pakistan or furnish conditional implementation report on 08.10.2018 before S.B.


Chairman

08.10.2018

Petitioner Mst. Attia Sultana alongwith her Counsel Mr. Fayaz Khan Chamkani, Advocate present. Mr. Hameedur A.D alongwith Mr. Usman Ghani, District Attorney for the respondents present. The above named representative of the respondents requested for adjournment as he is not in a position to apprise this Tribunal on the latest position. As such case is adjourned for conditional implementation report on 09.10.2018 before S.B.


Chairman

18.07.2018

Petitioner in person present. Learned Additional Advocate General present. Mr. Hameed Ur Rehman AD litigation representative of the respondents absent. The previous date was adjourned due to note reader. Representative of the respondent department be summoned with the direction to furnish implementation report on 26.07.2018. Adjourned. To come up for implementation report on the date fixed before S.B.


Member

26.07.2018

Neither appellant nor his counsel present. However, Mr. Muhammad Tariq, Advocate put appearance on behalf of counsel for the petitioner. Mr. Sajad Ahmad, Admin Officer alongwith Mr. Muhammad Jan, DDA for respondents present and submitted reply to the execution petition which is placed on file. Case to come up for arguments on 05.09.2018 before S.B.


Chairman


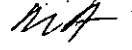


05.09.2018

Petitioner in person and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for petitioner is not available. Adjourned. Respondent department is also directed to furnish implementation report on the next date fixed as 26.09.2018. To come up for further proceedings on the date fixed before S.B.


Member

FORM OF ORDER SHEET

Execution Petition No. 73/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	12.03.2018	<p>The Execution Petition of Mst. Attia Sultana submitted to-day by Mr. Fayyaz Khan Chamkani 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-	15/03/18	<p>This Execution Petition be put up before S. Bench on <u>27/03/18</u>.</p> <p style="text-align: right;"> MEMBER</p>
27.03.2018		<p>Petitioner with counsel present. Notice of the present execution petition be issued to the respondents for reply. To come up for implementation report/reply on 25.04.2018 before S.B</p> <p style="text-align: right;"> Member</p>
	25.04.2018	<p>The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on <u>18.07.2018</u> before S.B.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KP
PESHAWAR

Exception Petition No. 73/2018

Mst. Attia Sultana

D/o Zafar Ali Khan Advocate (late)

R/o Riaz Colony, Hashim Abad,

Tehsil and District Nowshera.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 282

Dated 12/03/2018

.....*Petitioner*...../ **Appellant**

VERSUS

1. **Government of Khyber Pakhtunkhwa** through
Secretary Elementary & Secondary Education
Peshawar.

2. **Director** Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar.

3. **Chief Secretary**, Khyber Pakhtunkhwa, Peshawar.

..... **Respondents**

APPLICATION FOR IMPLEMENTATION OF
THE ORDER DATED 02.01.2018 PASSED IN
SERVICE APPEAL NO 820/2017.

Respectfully Sheweth:

1. That the Petitioner filed appeal against the order dated 03.04.2017 passed by the Respondent, before this Hon'ble Tribunal.
2. That the Respondents submitted reply of the appeal and after hearing the parties the learned Bench accepted the appeal set aside the impugned order.
(Copy attached)
3. That the Petitioner on obtaining attested copy of the order submitted Application along with the order for

Put up to the court with relevant appeal.
13/3/18.
Reader.

retaining at her post (DEO) F Nowshera. (Copy of order is attached)

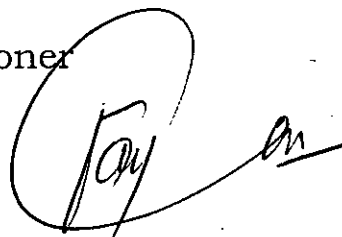
4. That the Petitioner since the date of order is waiting for her post but the Respondents are using delaying tactics in complying and implementing the order passed by this Hon'ble Tribunal.
5. That inspite of clear notice, the Respondents are not ready to obey the lawful order and initially avoiding of the compliance of they said order which amounts to contempt of court order and are liable to be punishment under the law.

It is, therefore, humbly prayed that on acceptance of this Application the Respondents be strictly directed for the compliance of the order dated 02.01.2018 in letter and spirit and further they be issued show cause notice for the considerable delay.

Petitioner

Through

Dated: 09.03.2018

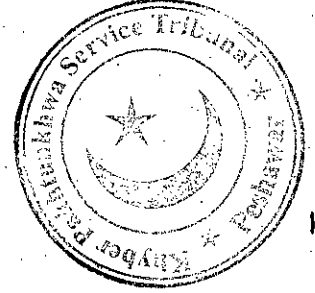


Fayyaz Khan Chamkani
Advocate, Peshawar

AFFIDAVIT:-

It is stated on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.


DEPONENT

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**SERVICE APPEAL NO. 820/2017**Date of institution ... 27.07.2017
Date of judgment ... 02.01.2018Mst. Attia Sultana D/O Zafar Ali Khan Advocate (late)
R/O Riaz Colony, Hashim Abad, Tehsil and District Nowshera.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Chief Secretary Khyber Pakhtunkhwa Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL KPK AGAINST THE IMPUGNED TRANSFER ORDER NO. SO(S/F)E&SED/4-16/2017/MST ATTIA SULTANA DEO (F) NSR, DATED PESHAWAR THE APRIL 3RD, 2017, VIDE WHICH THE APPELLANT WAS TRANSFERRED AND HER SERVICES WERE PLACED AT THE DISPOSAL OF DIRECTORATE OF E&SE WITH IMMEDIATE EFFECT BY THE RESPONDENTS.

ATTESTED

 Executive Officer
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar.

Mr. Fayaz Khan Chamkani, Advocate. .. For appellant.

Mr. Riaz Ahmed Payanda Khel, Assistant Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. AHMAD HASSAN

.. MEMBER (JUDICIAL)

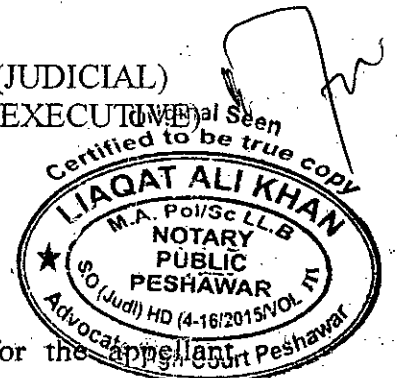
.. MEMBER (EXECUTIVE)

JUDGMENT**MUHAMMAD AMIN KHAN KUNDI, MEMBER:-** Counsel for the appellant

present. Mr. Riaz Ahmed Payanda Khel, Assistant Advocate General for the respondents

also present. Arguments heard and record perused.

06 MAR 2018



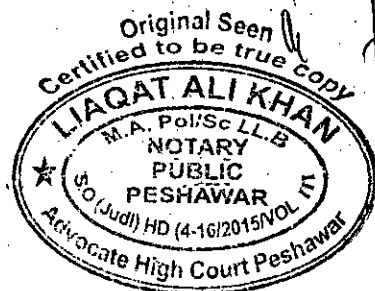
Brief facts of the present service appeal are that the appellant is serving in Education Department and was posted/transferred as District Education Officer (Female) Nowshera vide order dated 26.04.2016. Later on the appellant was transferred from the aforesaid post and her services were placed at the disposal of Directorate of E&SE with immediate effect vide order dated 03.04.2017. The appellant also filed departmental appeal on 04.05.2017 but the same was not responded hence, the present service appeal.

3. Learned counsel for the appellant contended that the appellant was transferred to the post of District Education Officer (Female) Nowshera vide order dated 26.04.2016. It was further contended that the appellant has performed her duty for 11 months and 3 days efficiently and without any single complaint from the higher authorities. It was further contended that vide order dated 03.04.2017 the appellant was again transferred from the post of District Education Officer (Female) Nowshera and placed her services at the disposal of Directorate of E&SE with immediate effect. It was further contended that the said transfer order was not passed in public interest but to victimize the appellant without assigning any reason and after transfer of the appellant the said post is still vacant. It was further contended that the said impugned transfer order is premature and in violation of transfer posting policy therefore, the impugned transfer order is illegal and liable to be set-aside.

4. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant has completed her tenure and the respondent-department has rightly transferred the appellant. It was further contended that the appellant being civil servant is legally bound to serve anywhere transferred/posted by competent authority and prayed for dismissal of appeal.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,



06 MAR 2016

5. Perusal of the record reveals that the appellant is serving in Education Department and was transferred by respondent-department to the post of District Education Officer (Female) Nowshera against the vacant post vide order dated 26.04.2016. The record further reveals that the appellant was again transferred by the respondent-department on 03.04.2017 from the said post and placed her services at the disposal of Directorate of E&SE. The record further reveals that the appellant has only served as DEO (F) Nowshera for a period of 11 months and 3 days meaning thereby that the appellant was transferred prior to completion of her normal tenure. Furthermore, the transfer of the appellant was made neither in the public interest nor exigency of service rather issued in utter violation of Posting/Transfer Policy notified by the Provincial Government. The said post is still vacant and additional charge has been assigned DEO (M) Nowshera. As such, we are constrained to accept the present service appeal and set-aside the impugned transfer order dated 03.04.2017. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.01.2018

Sd/- M. Amin Khan Kundi
Member

Sd/- Ahmad Hassan
Member

Certified true copy
Notary Public
Peshawar

Date of Presentation of Application 03-01-2018
 Number of Words 1200
 Copying Fee 8-00
 Urgent 0-00
 Total 08-00
 Name of Copyist [Signature]
 Date of Completion of Copy 18-01-2018
 Date of Delivery of Copy 18-01-2018

Original Seen
Certified to be true copy
LIAQAT ALI KHAN
M.A. Pol/Sc LL.B
NOTARY
PUBLIC
PESHAWAR
S.O. (Jud) HD (4-16/2015/VOL II)
Advocate High Court Peshawar

05 MAR 2018

The Secretary Elementary and Secondary
Education Peshawar.

Subject: Retain as DEO (F) Nowshera.

Respected Sir,

I. Ms Atia Sultana was serving
as a DEO (F) Nowshera. Then on 3rd April
2017 my services were put at the disposal of
Directorate of E and SE.

Later on the Directorate of E and SE transferred
me as principal at GRCMHSS Mardan.

I have appeal to the chief secretary and then to
the Service Tribunal KP Peshawar which is
accepted on 02-01-2018 (copy attached).

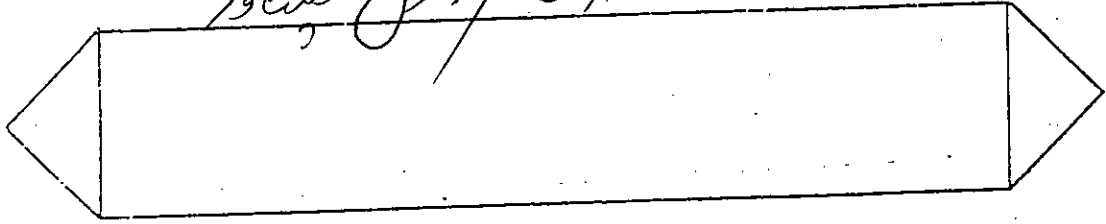
Therefore requested to retain me as DEO (F)
Nowshera and I shall be thankful to you.

Atia Sultana
Principal GRCMHSS

Date: 22-01-2018

Mardan.

بعد الت جناب سوس ٹریبیونل کشاور



20 منجانب

بنام لوہنٹ و برلم سٹاٹس ایجوکیشن
کشاور

صفا عظیم سلطان

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی سلسلہ
آن مقام کشاور کیلئے غلام خان جانی اور محمد علی صاحب کے لئے محمد طارق خان اور دیگر
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز دیکل صاحب
کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے
اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر دستخط کرانے کا اختیار ہوگا۔
نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل گمرانی 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 باختیارات
حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے
مقدمہ کے سبب ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے
کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سند ہے۔

المرقوم..... 20

کیلئے منظور ہے۔

بمقام.....

Accepted
Tay

د گواہ ش
A Sultan

ELEMENTARY & SECONDARY EDUCATION DEPARTMENT,
GOVERNMENT OF KHYBER PAKHTUNKHWA

Subject:- Implementation Report i.e. Conditional Order of Mst: Attia Sultana.

It is submitted that Mst. Attia Sultana (BS-19) (Teaching Cadre), Principal, GGHS Kass Koroona, District Mardan was transferred and posted as Distict Education Officer (Female) (BS-19) Nowshera vide Notification dated 26-04-2016. She remained posted there for 11 months and 03 days. She, then transferred and placed her services at the disposal of E&SE Directorate, vide Notification dated 03-04-2017. She preferred Departmental Appeal against the Notification dated 03-04-2017, which did not respond within stipulated period. Hence, she filed the Service Appeal No. 820/2017 on 27-07-2017 and got decided it in her favour on 02-01-2018 with which Notification dated 03-04-2018 (for placement of her service to the Directorate of E&SE) has been set aside.

12. Against this Judgment, CPLA has been filed in the Supreme Court of Pakistan, which is pending.

13. Now on 26-09-2018 the Hon'able Service Tribunal KP vide Order Sheet duly flagged directed the Respondent Deptt. to present stay order of Supreme Court of Pakistan, against this order or submit Implementation Report on 08-10-2018 to the Hon'able Service Tribunal by giving last chance, (F/A).

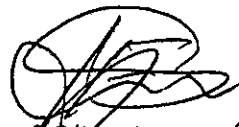
14. This Department approached Law Deptt: for filing of Early Hearing Application before the SCP vide letter dated 07-09-2018. (F/B).

15. Keeping in view the clear order/direction of Service Tribunal KP regarding posting of Mst: Attia Sultana (Teaching Cader) (BS-19) as District Education Officefr (BS-19), Nowshera is required to be made an conditional basis to avoid any adverse decision of the Hon'able Service Tribunal KP.

16. The file may please be marked to SO (Female) for necessary action. Afterwards, the file may be returned before due date i.e. 08-10-2018, to this office for submission the Implementation Report before the Hon'able Service Tribunal.

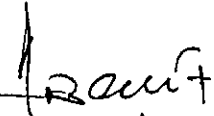
17. Submitted for perusal and orders, deem appropriate, pls.

A.S (E&SE)



S.O (Lit-II) 28/09/18

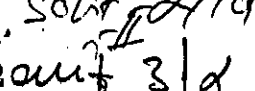
18. what's proposal?

SO (Lit-II)


11/8

19. Para-15/N contained the proposal, pl.

20. AS(E) Offer views today. 

Re-submit to n/a. today. SO Lit II/18
Time bound case. 
13/8

SO (F)

Reference para-26/N:

Subject: IMPLEMENTATION REPORT I.E. CONDITIONAL ORDER OF MST. ATTIA SULTANA

In pursuance of para-26/N above, guidance is solicited whether:

a. Summary be processed for implementation of court decision by transferring Mst. Attia Sultana (BS-19) as DEO (Female) Nowshera and the incumbent DEO (F) Nowshera Mst. Naghmana Sardar (BS-18) be transferred to some other district.

OR

b. Litigation wing of this department may be asked to approach Supreme Court of Pakistan for stay order.

Submitted for kind perusal and further orders, please.

SO (SF) transferred
DS (Admin)

(Handwritten initials)
B-11

29.

Para 27 (a) & (b) is submitted for perusal and approval please

30

AS (E) Reference PORDAS 11-21

Proposal contained in Form 15 is submitted for approval. Dr. Abou
Secretary (E & CE)

Print Track (track_print.php?department=7&idissue...

--Summary For CM

POSTING/TRANSFER ATTIA SULTANA

File Number: SO(S)F/E&SE/4-16/2018/POSTING TRANSFER ATTIA

Source: External | **Diary Number:** SE DIARY NO. 928 DATED 01.02.2019 | **Flag:** Normal

0 Days 0
hours 9
Minutes



Paper Under Consideration (PUC)

From Date: 19-02-2019 15:24 PM | **To Date:** !

From: Establishment - Secretary | **To:** Chief Secretary - Chief Secretary

fwd 15/2 296

0 Days 1
hours 1
Minutes



Paper Under Consideration (PUC)

From Date: 15-02-2019 11:14 AM | **To Date:** 15-02-2019 12:15 PM

From: Establishment - Special Secretary (R), Establishmnet | **To:**
Establishment - Secretary

385

0 Days 22
hours 13
Minutes



Paper Under Consideration (PUC)

From Date: 14-02-2019 12:32 PM | **To Date:** 15-02-2019 10:46 AM

From: Establishment - Addl. Secretary (R-I), Establishment | **To:**
Establishment - Special Secretary (R), Establishmnet

335

0 Days 1
hours 11
Minutes



Paper Under Consideration (PUC)

From Date: 14-02-2019 11:18 AM | **To Date:** 14-02-2019 12:30 PM

From: Establishment - Deputy Secretary (R-I) | **To:**
Establishment - Addl. Secretary (R-I), Establishment

234

1 Days 1
hours 30
Minutes



Paper Under Consideration (PUC)

From Date: 13-02-2019 09:46 AM | **To Date:** 14-02-2019 11:17 AM

From: Establishment - Section Officer R-I, ESTT | **To:**

2/19/2019

File Tracking System

0 Days 17
hours 49
Minutes

P. Singh
Paper Under Consideration (PUC)

From Date: 12-02-2019 15:55 PM | **To Date:** 13-02-2019 09:44 AM

From: Establishment - Secretary | **To:** Establishment - Section Officer R-I, ESTT

0 Days 2
hours 6
Minutes

Paper Under Consideration (PUC)

From Date: 11-02-2019 10:43 AM | **To Date:** 11-02-2019 12:49 PM

From: Elementary and Secondary Education - PS to Minister | **To:**
Establishment - Secretary

9 Days 18
hours 15
Minutes

Paper Under Consideration (PUC)

From Date: 01-02-2019 16:25 PM | **To Date:** 11-02-2019 10:41 AM

From: Elementary and Secondary Education - Secretary | **To:**
Elementary and Secondary Education - PS to Minister

FOR APPROVAL OF CM



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

SUMMARY FOR CHIEF MINISTER, KHYBER PAKHTUNKHWA

SUBJECT: POSTING/ TRANSFER

This department had transferred Mst. Attia Sultana (BS-19) Teaching Cadre from the post of District Education Officer (Female) Nowshera and placed her services at the disposal of Directorate of E&SE vide notification dated 03-04-2017 (Annex-I). Later on she was adjusted as Principal (BS-19) GGCMS Canal Road Mardan vide notification dated 04-07-2018 (Annex-II). However, she filed an appeal against her transfer order dated 03-04-2017, before the Khyber Pakhtunkhwa Service Tribunal vide service appeal No. 820/2017 (Annex-III); whereupon the Tribunal decided the case in her favour by setting aside this department notification dated 03/04/2017 vide judgment dated 02-01-2018 (Annex-IV).

2. In compliance of above court orders, the Elementary & Secondary Education Department proposes that this department notification dated 03/04/2017 may be withdrawn and Mst. Attia Sultana (BS-19) be directed to take charge of District Education Officer (Female) Nowshera with immediate effect.

3. The Chief Minister Khyber Pakhtunkhwa, being appointing authority in terms of Rule-4 (I) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, is requested to approve the proposal contained in para-2 above, please.

(Dr. Muhammad Ajmal)
SECRETARY
E&SE DEPARTMENT

ADVISOR TO CM FOR E&SE, KHYBER PAKHTUNKHWA

SECRETARY, ESTABLISHMENT DEPARTMENT

CHIEF SECRETARY, KHYBER PAKHTUNKHWA

CHIEF MINISTER, KHYBER PAKHTUNKHWA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

E.P. # 73/2018
In S.A # 820/2017.

Attia Sultan.....Appellant.

VERSUS

Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others..... Respondents.

Reply to the Execution Petition on behalf of the Respondents.

Respectfully Sheweth,

*Plse "file"
26-7-2018*

The Respondents submit as under:-

1. That the titled case bearing service Appeal no 820/2017 case titled Mst Attia Sultana VS Govt. of Khyber Pakhtukhwa through Secretary Elementary and Secondary Education Department Peshawar and others was decided vide judgment dated 02-01-2018 by the Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar in favour of appellant judgment attached as Annexure (A)
2. That aggrieved from the above mentioned judgment the respondent referred the case to the law Department for placing the said judgment before the Scrutiny Committee letter attached as Annexure (B)
3. That the case was fixed for briefing before the Scrutiny Committee on 28-02-2018 in Law Department where in the case has been made fit for CPLA before the August Supreme Court of Pakistan.

Copy of Minutes of the Scrutiny Committee attached as Annexure (C)

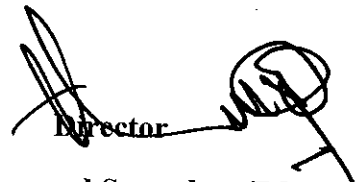
4. That in view of the Scrutiny Committee meeting dated 28-02-2018 the Respondent department has approached the office of the Advocate On Record of Khyber Pakhtunkhwa for the needful Copy of the Power of Attorney is attached as Annexure (D)
5. That in the mean time the appellant has filed the Execution petition No 73/2018 requesting for the implementation of the judgment dated 02-01-2018 which is fixed for hearing on 26-07-2018 in the Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar

In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the present Execution Petition of the Appellant with in favour of the Respondents.



Secretary

Elementary & Secondary Education
Department.



Director

Elementary and Secondary Education
Peshawar

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 138 /ST

Dated 19 /01/2018

To:

The Secretary Elementary and Secondary Education ,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: **JUDGEMENT IN APPEAL NO. 820/17 MST.ATTIA SULTANA**

I am directed to forward herewith a certified copy of Judgment dated 02/01/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

SS
22/1
Dg (C)
24/1

SECRETARY, ESSE



Sd/- (C) -11)
25/1/18

"A"

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 820/2017

Date of institution ... 27.07.2017

Date of judgment ... 02.01.2018



Mst. Attia Sultana D/O Zafar Ali Khan Advocate (late)
R/O Riaz Colony, Hashim Abad, Tehsil and District Nowshera.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Chief Secretary Khyber Pakhtunkhwa Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL KPK AGAINST THE IMPUGNED TRANSFER ORDER NO. SO(S/F)E&SED/4-16/2017/MST ATTIA SULTANA DEO (F) NSR, DATED PESHAWAR THE APRIL 3RD, 2017, VIDE WHICH THE APPELLANT WAS TRANSFERRED AND HER SERVICES WERE PLACED AT THE DISPOSAL OF DIRECTORATE OF E&SE WITH IMMEDIATE EFFECT BY THE RESPONDENTS.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Mr. Fayaz Khan Chamkani, Advocate.

.. For appellant.

Mr. Riaz Ahmed Payanda Khel, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. AHMAD HASSAN

.. MEMBER (JUDICIAL)

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant present. Mr. Riaz Ahmed Payanda Khel, Assistant Advocate General for the respondents also present. Arguments heard and record perused.

Brief facts of the present service appeal are that the appellant is serving in Education Department and was posted/transferred as District Education Officer (Female) Nowshera vide order dated 26.04.2016. Later on the appellant was transferred from the aforesaid post and her services were placed at the disposal of Directorate of E&SE with immediate effect vide order dated 03.04.2017. The appellant also filed departmental appeal on 04.05.2017 but the same was not responded hence, the present service appeal.

3. Learned counsel for the appellant contended that the appellant was transferred to the post of District Education Officer (Female) Nowshera vide order dated 26.04.2016. It was further contended that the appellant has performed her duty for 11 months and 3 days efficiently and without any single complaint from the higher authorities. It was further contended that vide order dated 03.04.2017 the appellant was again transferred from the post of District Education Officer (Female) Nowshera and placed her services at the disposal of Directorate of E&SE with immediate effect. It was further contended that the said transfer order was not passed in public interest but to victimize the appellant without assigning any reason and after transfer of the appellant the said post is still vacant. It was further contended that the said impugned transfer order is premature and in violation of transfer posting policy therefore, the impugned transfer order is illegal and liable to be set-aside.


4. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant has completed her tenure and the respondent-department has rightly transferred the appellant. It was further contended that the appellant being civil servant is legally bound to serve anywhere transferred/posted by competent authority and prayed for dismissal of appeal.


ATTESTED

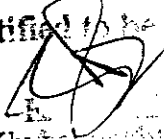
EKA
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Perusal of the record reveals that the appellant is serving in Education Department and was transferred by respondent-department to the post of District Education Officer (Female) Nowshera against the vacant post vide order dated 26.04.2016. The record further reveals that the appellant was again transferred by the respondent-department on 03.04.2017 from the said post and placed her services at the disposal of Directorate of E&SE. The record further reveals that the appellant has only served as DEO (F) Nowshera for a period of 11 months and 3 days meaning thereby that the appellant was transferred prior to completion of her normal tenure. Furthermore, the transfer of the appellant was made neither in the public interest nor exigency of service rather issued in utter violation of Posting/Transfer Policy notified by the Provincial Government. The said post is still vacant and additional charge has been assigned DEO (M) Nowshera. As such, we are constrained to accept the present service appeal and set-aside the impugned transfer order dated 03.04.2017. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.01.2018


(AHMAD HASSAN)
MEMBER (EXECUTIVE)


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER (JUDICIAL)


Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



(B)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No. SO(S/F)E&SED/4-16/2017/Mst. Attia Sultana/Mardan
Dated Peshawar the February 6th, 2018


To

The Section Officer (Lit-II),
E&SE Department Khyber Pakhtunkhwa,
Peshawar.

Subject:

**JUDGMENT DATED 02-01-2018 IN SERVICE APPEAL NO. 820/2017 TITLED
MST. ATTIA SULTANA**


I am directed to refer to your letter No. SO(Lit-II)E&SED/1-3/SA#820/17/Attia Sultana dated 31/01/2018 on the subject noted above and to intimate that the case may be prepared for filing of CPLA and further necessary action at your end.


(ANEELA FAHIM)
SECTION OFFICER (S/F)

Endst: of even No. & Date:

Copy forwarded to the:

1. PS to Secretary, E&SE Department.
2. PS to Additional Secretary (Estab) E&SE Department.


SECTION OFFICER (S/F)

B



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

MOST IMMEDIATE / COURT MATTER

NO.SO (Lit-II) E&SED/1-3/SA # 820/17/Attia Sultana.
Dated Peshawar, the 16-02-2018.

To

The Secretary,
Govt: of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department.

Subject:

REQUEST FOR FILING OF CPLA AGAINST THE JUDGMENT DATED 02-01-2018, PASSED BY THE HON'ABLE SERVICE TRIBUNAL IN SERVICE APPEAL NO. 820/2017, UNDER TITLED CASE ATTIA SULTANA R/O RIAZ COLONY, HASHIM ABAD, TEHSIL AND DISTT: NOWSHERA VS GOVT: OF KHYBER PAKHTUNKHWA E&SE, DEPTT: & OTHERS BEFORE THE AUGUST SUPREME COURT OF PAKISTAN.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of Judgment dated 02-01-2018 passed by the Service Tribunal in Service Appeal No.820/2017 Attia Sultana VS Govt: of KPK & others alongwith Brief/Working Papers/Grounds of the case. Now the Department intends to file CPLA/Appeal alongwith Application for stay order/status quo before the Supreme Court of Pakistan against the impugned Judgment dated 02-01-2018.

I am further directed to request to kindly keep the said impugned judgment before the Scrutiny Committee for filling of CPLA/Appeal in the Supreme Court of Pakistan and also file application for stay order/status quo under intimation to this Department.

Yours Faithfully,

SECTION OFFICER (LIT:II)

9/2

Enc: as above.

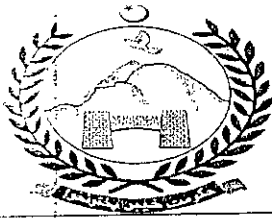
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Copy is forwarded to:-

1. The Assistant Director E&SE, Peshawar.
2. P.S to Secretary E&SE Department.
3. P.A to Deputy Secretary (Legal) E&SE, Department.

SECTION OFFICER (LIT:II)

9/2



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

No.SO(Lit)/LD/9-5(16)E&SED/2018/13944-47 W18
Dated Peshawar the 5/3 /2018

To

1. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

Subject:

Service Appeal No.820/2017 Titled As Attia Sultana Vs Government Of
Khyber Pakhtunkhwa Elementary & Secondary Education Department
And Others.

Dear Sir,

I am directed to refer to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department letter NO.SO(Lit-II)E&SED/1-3/SA# 820, 43/17/Attia Sultana, dated 16-02-2018 on the subject noted above and to forward herewith minutes of the meeting held on 28-02-2018 in Law Department (which are self explanatory) for perusal and further necessary action, please.

Yours faithfully,

(ALAM ZEB)

SECTION OFFICER (Lit)

2.3.18

Endst: No.& Date Even.

Copy forwarded to the:

1. PS to Secretary Law Department Khyber Pakhtunkhwa.
2. PA to Deputy Solicitor Law Department.

SECTION OFFICER (Lit)

Spl Secy
R ascc
5/3/18
1927
SB

SERVICE APPEAL NO.820/2017 TITLED AS ATTIA SULTANA VS GOVT. OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT AND OTHERS.

A meeting of the Scrutiny Committee was held on 28-02-2018 at 14:00 hours in the office of Additional Secretary (Opinion) Law Department under his Chairmanship to determine the fitness of the subject case for filing of appeal / CPLA in the proper forum. Additional Advocate General (Mr. Wilayat Khan) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa.

2. The meeting started with the recitation from the Holy Quran and thereafter Chairman of the Committee invited the representative of **E&SE Department Mr. Fazle Subhan Section Officer (Lit-II)** to apprise the Committee about the background of the case which they did accordingly. The representative informed the Scrutiny Committee that the respondent department has officers of management cadre in BPS-18 (Female) & have been posted against the DEO(F) Post in the Province for imparting modern & better teaching learning as well as administrative services to the concerned stake holders at their respective door steps in view of the Educational Emergency Agenda of bringing positive changes & developments in Education Sector. That the appellant has rightly been posted against the Principal BPS-19 post in accordance to her cadre of teaching & in view of the placement committee meeting held under supervision of the competent authority in the instant case. That the appellant has experience of heading a District Education Sector of being an officer of teaching cadre in BPS-19. Hence here transfer from Management Cadre post to a Teaching Cadre post was in accordance with the current policy of the Govt. That the appellant was adjusted against the DEO(F) post Nowshera on stop gape arrangements till the arrival of formal / regular officer of management cadre on the analogy of right man for right job. Hence the plea of the appellant regarding sticking to the post of her choice for which she is not competent & eligible was its self violation of the relevant policy of the placement committee framed by the Provincial Government hence the respondent department further submit on the following grounds:-

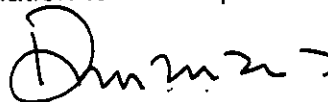
GROUND:-

3. The grounds proffered by the representative were that the appellant has been treated as per law, rules & placement committee policy vide the impugned notification dated 03-04-2017 by the respondent department which was legal & liable to maintained in favour of the grounds that the appellant is basically an officer of BPS-19 from Teaching Cadre for School Administration. That the appellant was not competent & entitled for the posting against an administrative post in the respondent Department on the grounds of being a Teaching Cadre officer and her adjustment against . . . DEO(F) Nowshera Post was only for the purpose of stop gape arrangement & till the arrival of a regular management cadre(F) officer.

DECISION:-

4. After threadbare discussion it was decided with consensus by the Scrutiny Committee that the subject case was a fit case for filing of appeal / CPLA in the Supreme Court of Pakistan.

5. The representative of **E&SE Department** was advised to approach the office of Advocate General along with complete record of the case for doing the needful within the period of limitation under intimation to this Department.


TAHIR IQBAL KHATTAK
DEPUTY SOLICITOR

POWER OF ATTORNEY
IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

CPLA. No. /2018

Govt. of KPK

PETITIONER(S)

VERSUS

Mst. Attia Sultana

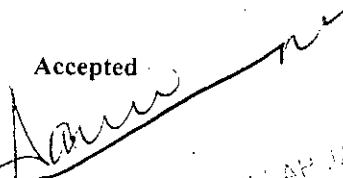
RESPONDENTS

I (we) Petitioner/Govt. of KPK in the above suit/Appeal/Petition/Reference, do hereby appoint and constitute **Mian Saadullah Jandoli**, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [or plaintiff(s) or Petitioner(s) or Respondent (s) or defendant (s) or opposite party] to commence and prosecute (or to appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the process of the Court, to appoint and instruct counsel, to represent the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority

In witness whereof I/we do hereunto set my/our hand (s) this day of

Accepted

Signed with Official seal stamp


(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate-General's
Office KPK, High Court Building, Peshawar.
Office Tel. # 091-9210312, 9210119

1- Secretary Elementary & Secondary
Education Govt. of Khyber Pakhtunkhwa,
Peshawar

2- Director Elementary & Secondary
Education Khyber Pakhtunkhwa
Peshawar.

3- Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Peshawar.
Chief Secretary
Govt. Of Khyber Pakhtunkhwa

Director
Elementary & Secondary Edu
Khyber Pakhtunkhwa Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
 Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar
 Fax # 091-9211419

Dated Peshawar the February 20th, 2019.

NOTIFICATION

Sl. No. SO(S/F)E&SED/4-16/2017/Mst. Attia Sultana/DEO(F)/NSR: In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar judgment dated 02-01-2018 delivered in Service Appeal No/S20/2017, and consequent upon approval of the Competent Authority/ Chief Minister Khyber Pakhtunkhwa, the transfer notification of even No. dated 03-04-2017 may be treated as withdrawn and Mst. Attia Sultana (BPS-19) Teaching Cadre is hereby retained as District Education Officer (Female) Nowshera.

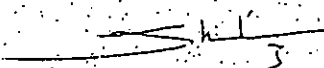
Consequent upon above, District Education Officer (Male) Nowshera is hereby relieved of the additional charge of District Education Officer (Female) Nowshera.

SECRETARY

Ends: of even No. & date:

Copy forwarded to the:

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. Director E&SE Khyber Pakhtunkhwa, Peshawar.
4. District Education Officers (Male/ Female) Nowshera.
5. District Accounts Officer Nowshera.
6. In-charge EMIS, E&SE Department, Peshawar.
7. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
8. PS to Advisor for E&SE Khyber Pakhtunkhwa, Peshawar.
9. PS to Secretary E&SE Department, Peshawar.
10. Officer concerned.
11. Office order file.


 (SHABIR KHAN)

SECTION OFFICER (SCHOOLS FEMALE)

ADD
20/11
22/2

22-2-19
21-06-2017
 DIRECTOR E&SE DEPARTMENT
 PESHAWAR

22/11
22/2

ould