Sr.	Date of	Order or other proceedings with signature of Judge or Magistrate
No	order/	
	proceeding	
	s	
1	2	3
•		
		BEFORE THE YBER PAKHTUNKHWA SERVICE TRIBUNAL
	·	Service Appeal No. 705/2019
٠		P.F. Company
		Date of Institution 30.04.2019
		Date of Decision 04.10.2019
1.5	Street St.	Date of Decision 04.10:2019.3
3.	1. 20 10 10 miles 20 10 2 miles 14 page 1, 1 miles	
		Dati O li Darmar a commentation
1,400	Bath grant se	Robina Qureshi, PSHT Teacher Government Girls Primary School
	* . **** .	Deh Bahader, Peshawar.
		Appellant
. '		Versus
	,	
		, · ·
.		1. Government of Khyber Pakhtunkhwa, through Secretar
		Education Peshawar.
		2. District Education Officer (F), Office Near Government Hig
		School No.1, Hashtnagri Peshawar.
		3. Shabana Haider, PSHT GGPS Gulshan Rehman, Peshawar.
		Respondent
. :		
	04.10.2019	Mr. Muhammad Hamid MughalMember(J)
	04.10.2019	Mr. Hussain ShahMember(E)
		Trember (E)
	a	JUDGMENT
	1 1	MUHAMMAD HAMID MUGHAL, MEMBER: Learne
[V]		Learne Andrews Wilder Wild Wild Control of the Cont
.		counsel for the appellant and Mr. Riaz Paindakheil learned Assistan
		ASSISTAL
	·	Advocate Consul present
		Advocate General present.
		O (72) 11 (75(17 (77)) 1 (71) 1
		2. The appellant (PSHT) has filed the present service appear
		being aggrieved against the posting transfer order dated 13.02.201
	•.	
		whereby she has been transferred from GGPS Gulshan Rehman t
-		
		GGPS Deh Bahader No.1.
	-	
		3. Learned counsel for the appellant argued that the appellar
		argued that the appellant argued that the appellan
	1	
	•	was posted at GGPS Gulshan Rehman Colony vide order date

a.

ή.

29.11.2017 however within the span of two (02) years, she was transferred out and posted at GGPS Deh Bahader No.1 vide impugned order dated 13.02.2019. Main contention of Learned counsel for the appellant is that the impugned posting transfer order dated 13.02.2019 is premature and in violation of transfer posting policy of the Provincial Government.

- 4. As against that learned Assistant Advocate General argued that the impugned posting transfer order was issued in the interest of public service; that Section-10 of Khyber Pakhtunkhwa Civil Servants Act, 1973 empowers the competent authority to transfer a civil servant to a place where his/her services are mostly required and the civil servant has no right to demand posting of his/her own choice.
 - 5. Arguments heard. File perused.
 - 6. Under the posting transfer policy of the Provincial Government, the normal tenure of posting is two years. The appellant was posted at GGPS Gulshan Rehman vide order dated 29.11.2017, hence until yet appellant has not completed the normal tenure of two years at GGPS Gulshan Rehman.
 - 7. Two months are left in the completion of normal tenure of the appellant. Consequently while keeping in view the peculiar circumstances of the case, this Tribunal holds that the appellant is at liberty to continue her posting as PSHT at GGPS Gulshan Rehman till 29.11.2019. In case the appellant prefers to continue her posting at GGPS Gulshan Rehman Colony till 29.11.2019, the

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transfer posting order dated 13.02.2019, in relation to the appellant and private respondent, shall take effect from 30.11.2019. The present service appeal stands disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

(Hussain Shah) Member

(Muhammad Hamid Mughal) Member

ANNOUNCED 04.10.2019 04.10.2019

Learned counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General present. Vide separate judgment of today of this Tribunal placed on file, while keeping in view the peculiar circumstances of the case, this Tribunal holds that the appellant is at liberty to continue her posting as PSHT at GGPS Gulshan Rehman till 29.11.2019. In case the appellant prefers to continue her posting at GGPS Gulshan Rehman Colony till 29.11.2019, the transfer posting order dated 13.02.2019, in relation to the appellant and private respondent, shall take effect from 30.11.2019. The present service appeal stands disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

(Hussain Shah) Member

(Muhammad Hamid Mughal) Member

<u>ANNOUNCED.</u> 14.10.2019

30.09.2019

Appellant in person present. Due to general strike of the Khyber Pakhtunkhwa Bar Council, the case is adjourned to 02.10.2019 before D.B at the request of the appellant.

Member

Member

02.10.2019 Learned counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Arguments heard. To come up for order on 04.10.2019 before D.B.

(Hussain Shah) Member (Muhammad Hamid Mughal) Member 07.08.2019

Mr. Fazal Qayum, husband of appellant and Mr. Muhammad Jan, DDA alongwith Sajid, ADO for the respondents present.

Even today the representative of the respondents requests to submit the requisite reply. The matter is, therefore, posted for arguments before the D.B on 28.08.2019.

Chairman

28.08.2019 Junior to counsel for the appellant present. Asst: AG for respondents present. Junior to counsel for the appellant submitted an application for adjournment. Adjourn. Case to come up for arguments on 16.09.2019 before D.B.

Member

Member

16.09.2019

Clerk to counsel for the appellant present. Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the bar. Adjourn. To come up for arguments on 30.09.2019 before D.B.

Member

.Member

26.06.2019

Clerk to counsel for the appellant present. Security and process fee not deposited. Clerk to counsel for the appellant submitted application for extension of time to deposit the same. Application allowed with direction to deposit security and process fee within 7 days. Thereafter notices be issued to respondents for written reply/comments. Adjourn. To come up for written reply/comments on 10.07.2019 before S.B.

Appoint Deposited
Security Process Fee

Member

10.07.2019

Nemo for appellant. Addl: AG for respondents present.

Learned AAG requests for adjournment for submission of written reply.

Adjourned to 24.07.2019 before B.B.

Chairman

24.07.2019

Mr. Fazal Qayum, husband of appellant present. Nemo for the respondents.

Fresh notices be issued to the respondents. To come up for written reply/comments on 07.08.2019 before S.B.

Chairman\

Counsel for the appellant present.

that Contends, inter-alia, the appellant transferred and posted to GGPS Gulshan Rahman Colony through office order dated 29.11.2017. In pursuance thereof she took charge on 26.01.2018. In order to accommodate respondent No. 3 and in partial modification of office order No. 5023-27 dated 24.01.2019, the appellant was dislodged and to GGPS Deh Bahadar No. 1. The impugned: transferred transfér order dated 13.02.2019 is in flagrant violation of the Provincial Government posting/transfer policy wherein normal tenure of posting is provided for two years. The appellant on the other hand, was re-transferred within a period of 13/14 months. Further contends that the appellant was posted in the Union Council of her residence before the passing of impugned order. Relies on PLD 2013-Supreme Court-195.

In view of the arguments of learned counsel and available record instant 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. To come up for written reply/comments on 26.06.2019 before S.B.

The appeal is accompanied by an application for suspension of operation of impugned order. Notice of application be also given to the respondents for the date <u>fixed</u>.

Chairman

Form- A FORM OF ORDER SHEET

 Court of 		
Case No	705/ 2019	_

	Case No	705/ 2019	
S.No.	Date of order proceedings	Order or other proceedings with signature of judge	
1	2	3	
1-	28/05/2019	The appeal of Mst. Robina Qureshi resubmitted today by Mr Arifullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.	
·			
2-	30/05/19	This case is entrusted to S. Bench for preliminary hearing to be put up there on $11/06/19$	
	·		
		CHAIRMAN CHAIRMAN	
	·		
		:	
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		1 .	
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This is an appeal filed by Mrs. Robina Qureshi today on 30/04/2019 against the order dated 13.2.2019 against which she preferred/made departmental appeal/ representation on 28.02:2019 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 and also removing the following deficiency.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be flagged.
- 3- Annexures of the appeal may be attested.
- 4- Copy of impugned order dated 15.1.2019 mentioned in the grounds of the appeal is not attached with the appeal which may be placed on it.

No. 885 /ST,
Dt. 30 4 /2019

REGISTRAR 30 \ \ \ \ \ \ \ \ SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Arifullah Adv. Pesh.

Si,

Resubmilled ofter doing me weedful.

1- Namorandern & affect has been signed from affelled.

2. Annexunes are flaged.

3. Ne inflyed order is of 13.2.19 which is at Page-7 while in the grounds it may a 14th mighance which his hear corrected.

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BEFORE THE HONOURABLE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. 705 /2019

· · · · · · · · · · · · · · · · · · ·		(Appellant)
	VERSUS	
Govt. of KP through	h Secretary Education etc.	
		(Respondents)

INDEX

S. No.	Documents	Annex:	Page No.
1	Grounds of Appeal a/w Affidavit		1-4
2	Application for suspension of impugned orders a/w Affidavit		5-6
3	Copy of impugned transfer order dated 13.02.2019		7
4	Copy of office order dated 23.11.2017		8
5	Charge report dated 26.01.2018		9
6 .	Departmental Appeal		10
7	Wakalat Nama		

Appellant

Through

Arif Ullah

Muhammad Zia Ullah

Advocates High Court,

Dated: 30.04.2019

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. 705 /2019

Robina Qureshi, PSHT Teacher	Diney No. 686
Govt. Girls Primary School, Deh Bahdar, Peshawa	T Dated 30-4-2019
	(Appellant)

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar
- District Education Officer (F), Office Near Govt. High School
 No. 1, Hashtnagri, Peshawar
- 3) Shabana Haider, PSHT GGPS Gulshan Rehman, Peshawar (Respondents)

Appeal Under Section 4 read with other enabling provisions of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the impugned order dated 13.02.2019 issued by respondent No. 2 whereby transfer order No. 665-69 dated 13.02.2019 was made and the appellant has been transferred from Gulshan Rehman to Deh Bahadar.

Prayer:

Re-submitted to -day

Filedto-day

On acceptance of the instant appeal, the impugned order No. 665-69 dated 13.02.2019 of the respondent No. 2 may kindly be set aside and order No. 7636-42 dated 29.11.2017 may kindly be restored.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:

- 1) That the appellant was appointed as Teacher and now serving as PSHT Teacher at Govt. Girls Primary School, Deh Bahadar and always performed her job in the best satisfaction of her superiors.
- That earlier the transfer of the appellant was made on23.11.2017 from Govt. Girls Primary School Achar No.1, Peshawar to Govt. Girls Primary School, Gulshan Rehman.
- 3) That only a period of 15 months have been spent by the appellant while it was require that her stay must be of 3 years which has not been followed.
- That in the impugned order dated 13.02.2019, the PHST Teacher Shabana has been transferred to Govt. Girls Primary School Mushtaq Abad and in the shortage period again her transfer has been made against the post of appellant which is the violation of rules.
- 5) That the appellant being aggrieved of the transfer order dated 29.11.2017 preferred departmental representation on 28.02.2019, but in vain as no speaking order was passed by the concern authority on the above appeal and now preferring the present appeal to please cancel the transfer order on the following grounds.

GROUNDS

- a) That the respondent have not treated appellant in accordance with law, rules, policy on subject, and acted in violation of article 4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned order which is unjust, unfear, and hence not sustainable in the eyes of law.
- b) That the transfer of appellant with in the span of two years without any justified reason and legal exigency is unlawful.
- c) That the impugned transfer order is against the policy invoke of the provincial government.
- d) That appellant house is very much near to the Govt. Girls Primary School, Gulshan Rehman and according to the existing policy she is require to be posted and perform her duties in Govt. Girls Primary School, Gulshan Rehman.
- PLD SC 195) which judgment was communicated to all the administrative departments for compliance does impugned office order dated 13.03.2019 amounts contempt of the ibid judgment of hon'ble Supreme Court of Pakistan.
- f) That the transfer order in question is not in the interest of public service, rather the same is in the interest of a specific person.

g) That the appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly requested that on acceptance of appeal, the impugned transfer order No. 665-69 dated 13.02.2019 of the respondent No. 2 may kindly be set aside and order No. 7636-42 dated 29.11.2017 may kindly be restored.

Appellant

Through

Arif Ullah

Muhammad Zia Ullah

Advocates High Court,

Peshawar

Note:

Dated: 30.04.2019

No such service appeal on the same subject matter has earlier been filed before this honourable court.

AFFIDAVIT

I, Robina Qureshi, PSHT Teacher Govt. Girls Primary School, Deh Bahadar, Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant "Service Appeal" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

DEPONENT

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No._____/2019

· .			
Robina Qureshi			
		(Appellant)	
	VERSUS		

Govt. of KP through Secretary Education etc.

(Respondents)

Application for suspension of operation of impugned order dated 13.02.2019 till the disposal of this appeal.

Respectfully Sheweth,

- 1) That the appellant filed above mentioned appeal along with this application before this august Service Tribunal in which no date has been fixed so far.
- 2) That all the three ingredients necessary for the stay is in favour of the appellant.
- 3) That the transfer of the appellant is against the transfer policy of the government of Khyber Pakhtunkhwa and the impugned transfer orders are also not issued in the public interest nor exigencies of public service.

4) That the grounds of main appeal is also be considered as integral part of this application.

It is, therefore, humbly prayed that on acceptance of this application the impugned order may kindly be suspended till final disposal of the main appeal.

Appellant

Through

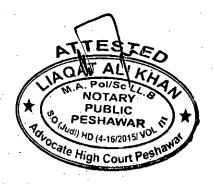
Arif Ullah Muhammad Zia Ullah Advocates High Court,

Dated: 30.04.2019

AFFIDAVIT

I, Robina Qureshi, PSHT Teacher Govt. Girls Primary School, Deh Bahdar, Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

DEPONENT





OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR.

OFFICE ORDER.

In partial modification vide this office order no.5023-27 dated 24/01/2019.

The competent authority is pleased to order the following PSHT teachers noted against each in their own pay and scale in the interest of public service with immediate effect.

S.#	Name of Teacher & Designation	From	То	Remarks
1.	Robina Qureshi PSHT	GGPS Gulshan Rehman	GGPS Deh Bahader No.1	Vice S.No.2
2.	Shabana Haider PSHT GGPS Deh Bahader No.1	Under transfer to GGPS Mushtaq Abad	GGPS Gulshan Rhman	Vice S.No.1
3	Farhat Bibi PSHT GGPS Mushtaq abad	Under transfer to GGPS Deh Bahader No.1	Has been promoted to	
4	Yasmin Akhter PSHT	GGPS Baghbanan	GGPS Mushtaq abad	Vice S.No.3

Note:-

1. Charge report should be submitted to all concerned.

2. NO TA/DA etc. is allowed.

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR

Endst:	665-6	3
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Dated /3 /02 /2019

Copy of the above is forwarded for information to the:-

- 1. Accountant General Khyber Pakhtunkhwa Peshawar.
- 2. SDEO (Female) Concerned, Peshawar.
- 3. ASDEO (Female) Concerned.
- 4. Supdt: local office.
- 5. PSHTs concerned.

DISTRICT EDUCATION OFFICER

O(FEMALE) PESHAWAR

When the last of t

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR

OFFICE ORDER.

Mutual exchange of post between Mst.Robina Qureshi,PSHT GGPS Achar No.1

Peshawar and Mst. Niaz Bibi PSHT GGPS Gulshan Rahman Colony is hereby ordered in their own pay and scale in the interest of public with immediate effect.

Note:- 1. Charge report should be submitted to all concerned.

2. NO TA/DA etc is allowed.

(ULFAT BEGUM)
DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR

Endst: 2636-42

Dated 2-9/// /2017

Copy of the above is forwarded for information to the:-

- 1. Accountant General Khyber Pakhtunkhwa Peshawar.
- 2. P.A. to Director E & S Education Khyber Pakhtun Khwa Peshawar.
- 3. SDEOs (F) concerned.
- 4. ASDEOs concerned.
- 5. Officials concerned
- 6. Supdt: local office.

DISTRICT ED CATION OFFICER
(FEMALE) RESHAWAR

Attalian L

.

بخدمت جنابهسب ڈویژنل ایجوکیشن آفیسرز زنانه پرائمری مدارس پشاور

مود بانہ گزارش کی جاتی ہے کہ میں روبین ڈریش (PSHT) آف گورنمنٹ گرلز پرائمری سکول احچرنمبر(۱) نے گورنمنٹ گرلز پرائمری سکول گلثن رحمان کالونی کی (PSHT) کی جگه آرڈ ر منبتر (42-7636) تحت گوزنمنٹ گرلز پرائمری سکول گلشن رحمان کالونی میں اپنے عہد کے کا خیار کی سنجال لیا ھے۔

26-01-2018

دستخط حارج كننده



The District Education Officer (DEO Female) Khyber Pakhtunkhwa, Peshawar

Subject:

GRIEVANCE PETITION AGAINST THE ORDER DATE 13.02.2019

Respected Sir.

With profound respect the undersigned submit as under:

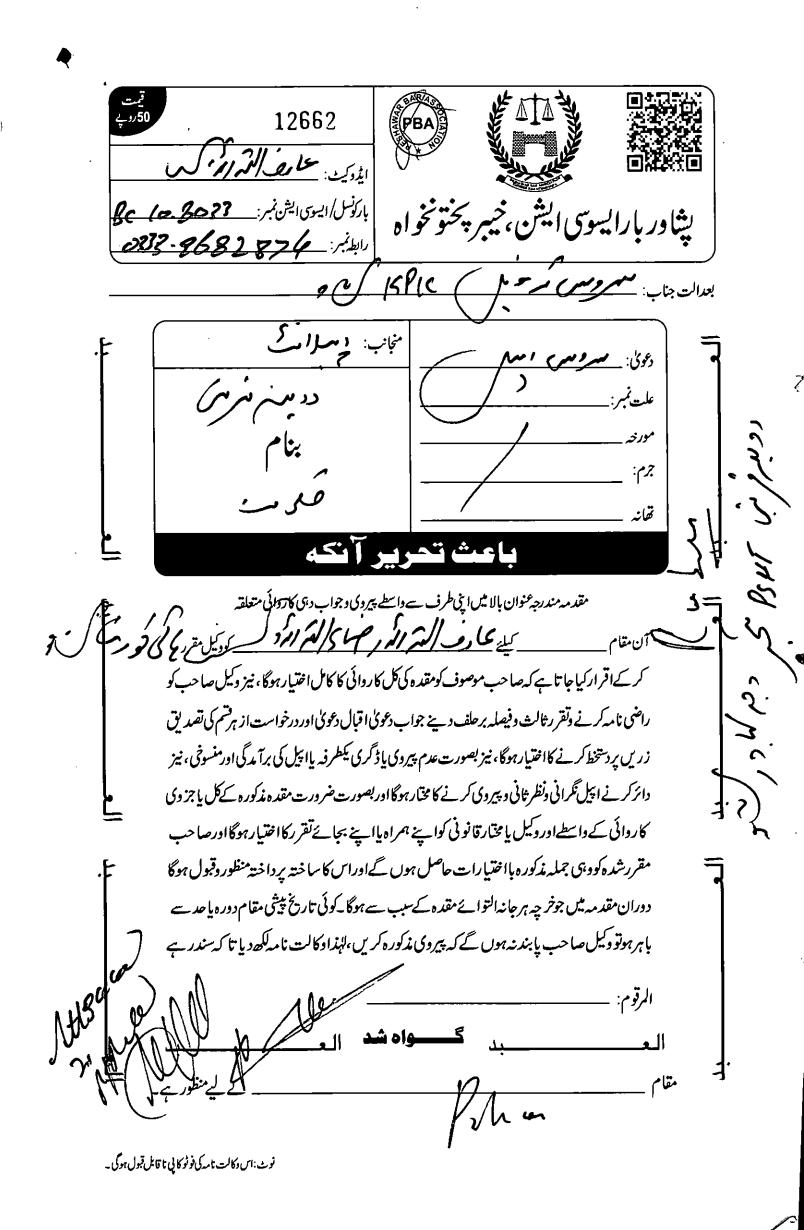
- That the applicant was appointed as Teacher and now serving as 1) PSHT Teacher at Govt. Girls Primary School, Gulshan Rehman and always performed her job in the best satisfaction of her superiors.
- That earlier the transfer of the applicant was made on 23.11.2017 2) from Govt. Girls Primary School Achar No. 1, Peshawar to Govt. Girls Primary School, Gulshan Rehman.
- That only a period of 2 years has been spent by the applicant while it 3) was require that her stay must be of 3 years which has not been followed.
- That in the impugned order dated 13.02.2019, the PHST Teacher 4) Shabana has been transferred to Govt. Girls Primary School Mushtaq Abad and in the shortage period again her transfer has been made against the post of applicant which is the violation of rules.
- 5) That applicant house is very much near to the Govt. Girls Primary School, Gulshan Rehman and according to the existing policy she is require to be posted and perform her duties in Govt. Girls Primary School, Gulshan Rehman.
- That impugned transfer order is against the law and required rules, 6) therefore requires to be set aside. It is, therefore, most humbly prayed that the impugned transfer order may graciously be set aside and the applicant may be retained / allowed to perform her duties at Govt. Girls Primary

School, Gulshan Rehman.

Yours Obediently,

Robina Qureshi

Dated: 28.02.2019



كعالت جارسوس كرسوم بالمهاكن ور روسنه قرش م للم نقيم كيور اسم عموالاه و درفواست براد جمع سرائه سکورتی مخانب جها الحطاری الح 36.10 سام صبر دی عربی رس ہے۔ و عزان! لا كس مس در شارم من عرق به كار برالت ره می موان از کرمی میوری کی دری از ایس میوری از کرمی میوری میروی میرو 2.3.30 (1) 5 (1) 10 (1) 20 (2) 6 (3) (1) 6 (3) 2618(3/1)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1790 /ST

Dated 17/10 2019

То

The District Education Officer (F), Government of Khyber Pakhtunkhwa, Peshawar.

SUBJECT: -

JUDGMENT IN APPEAL NO. 705/2019, MST. ROBINA QURESHI.

I am directed to forward herewith a certified copy of Judgement dated 04.10.2019 passed by this Tribunal on the above subject for strict compliance.

REGISTRAR, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.