

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No: 214/2023

Atta Ur Rehman (Junior Clerk BPS-11) DEO (F) District Mardan.

Khyber Pakhtunkhwa
Service Tribunal

Case No. 4774

Dated 7/4/2023

(Appellant)

Versus

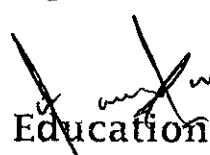
The Govt of KPK Secretary (E&SED) Peshawar & Others.

(Respondents)

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Respondent


District Education Officer
Mardan (Female) Mardan

(1)

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

Service Appeal No: 214/2023

Atta Ur Rehman Junior Clerk DEO (F) MardanAppellant

VERSUS

**Govt; of Khyber Pakhtunkhwa through Secretary E&SE Department Khyber
Pakhtunkhwa & others.....Respondents**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1-4.

Respectfully Sheweth,

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standai to file the instant appeal before this Honorable Tribunal.
- 2 That the appellant is not an aggrieved person within the meaning of Article 212 of the constitution of Islamic Republic of Pakistan.
- 3 That the appellant has concealed material facts from this Honorable Tribunal in the titled appeal.
- 4 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal in hand is based on mala fide intentions for illegal service benefits to the extent of his posting against the junior Clerk post in (BPS-11) in the office of the Respondent No.4/DEO (F) Mardan.
- 6 That the appeal is time barred by law of limitation Act.
- 7 That the case is bad for mis-joinder and non-joinder of the necessary parties.
- 8 That the Notification/order 04-01-2023 of the Respondent No.4 with legal sphere & liable to be maintained. (Copy of order is as Annexure A)
- 9 That the appellant's plea regarding non-compilation of tenure is against the relevant provision of law with reference to Section-10 of Civil Servant Act 1973 & even in accordance with law by reliance on reported judgments, 1996 SCMR P-1649 & 1999 PLC (CS) P-849 of the apex Court of Law.

01/3/23

ON FACTS.

- 1 That Para-1 needs no comments.
- 2 That Para-2 pertains to record, hence needs no comments.
- 3 That Para-3 is also needs no comments as each & every Civil Servants is legally bound to do his duty for the salary, he his drawing from the Govt; Treasury on monthly basis.
- 4 That Para-4 is subject to the production record in support of the stand taken by the appellatant.
- 5 That Para-5 is correct to the extent of the order dated 20-08-2021 which was withdrawn vide order dated 03-09-2021 by the Respondent No.3 under the relevant provision of law & rules in field.
- 6 That Para-6 correct to the extent of the recalling of the transfer order dated 20-08-2021 vide order dated 03-09-2021by the competent authority.

(Copies of orders are as Annexure-C&D with the Service appeal at page No14-15)

- 7 That Para-7 is incorrect as ^{during the} their work so many written complaints regarding the conduct & non-performance of official duty against the noted post by the appellatant, hence, the plea of the appellatant is liable to be rejected.
- 8 That Para-8 is correct in view of the poor duty performance & service record of the appellatant, an order dated 04-01-2023 has been passed on Administrative grounds, whereby, the service of the appellatant were placed at the disposal of Respondent No.3 & latter on through an order dated 11-01-2023, the services of the appellatant were placed at the disposal of the Principal GHSS Khanano Dheri District Buner under Saction-10 of Civil Servant Act 1973 by reliance on reported judgment 1998 SCMR 1293.

(Copies of orders dated 4-1-23 & 11-1-23 are as Annexure-A&B with Comments)

- 9 That Para-9 is correct to the extent of rejection of Departmental Appeal of the appellatant against the orders dated 04-01-2023 & 11-01-2023 vide order dated 20-01-2023.

(Copies of orders are as Annexure-H&I with the Service appeal at page No19-20)

- 10 That Para-10 is correct that a Show Cause notice dated 19-01-2023 has been served upon the appellatant under Sub Rules (a) (b) of Rules-3 of E&D Rules 2011on account of non-obeying the legal order of the Department by reliance on reported judgment PLD-1992 Peshawar-76 & 1998 SCMR-120.

(Copies of Letter & Show Cause Notice is as Annexure-J & K with Service appeal at page No 21-22).

- 11 That Para-11 is incorrect; the Show Cause Notice dated 21-01-2023 is legal & is the result due process of law.

- 12 That Para-12 is correct that vide order dated 04-01-2023 the service of the appellatant were placed at the disposal of the Respondent No.3 & vide another order 11-01-2023, he was posted at GHSS Khanano Dheri District Buner where against the Departmental appeal of the appellatant dated 23-12-2022 was rejected on dated 20-01-2023, hence, the appeal in hand is liable to be dismissed on the following grounds inter alia:-

ON GROUNDS.

- A. **Incorrect & not admitted.** on the grounds that the plea of the appellant is illegal as the order dated 11-01-2023 is legally competent.
- B. **Incorrect & not admitted.** As the act of the Respondent Department with regard to the cited order are within legal para meter & liable to be maintained.
- C. **Incorrect & not admitted.** The appellant has been treated as per Law & Rules & prescribed policy & criteria by the Department vide dated 11-01-2023 reliance is placed on judgments 1996 SCMR-1649 & 1999 PLC (CS)- 849.
- D. **Incorrect & not admitted.** The plea of the appellant is illegal & even against the factual position of the case, hence, liable to be rejected as already replied by the Respondent Department in the forgoing paras of the present reply reliance is placed on NLR-1998 TD (Service)-39 .
- E. **Incorrect & not admitted.** As replied above.
- F. **Incorrect & not admitted.** The appellant been treated as per law & Rules by the Respondent Department in the titled case.
- G. **Incorrect & not admitted.** The plea of the appellant is subject to the production of authentic proof & record in support of his plea.
- H. **Incorrect & not admitted.** The act of the respondent Department regarding the order as cited above is within the ambit of natural justice having no aspect of discrimination towards the appellant from the respondent Department.
- I. **Incorrect & not admitted.** As replied above.
- J. **Incorrect & not admitted.** As replied above.
- K. **Incorrect & not admitted.** As replied above.
- L. **Incorrect & not admitted.** Hence, needs no further comments.
- M. **Incorrect & not admitted.** Hence, needs no further comments.
- N. **Incorrect & not admitted.** The appellant failed to obey the legal order of the respondent Department.
- O. **Incorrect & not admitted.** Hence, needs no further comments.
- P. **Incorrect & not admitted.** Hence, needs no further comments.
- Q. **Incorrect & not admitted.** As replied above.
- R. **Incorrect & not admitted.** As replied above.
- S. **Incorrect & not admitted.** Hence, needs no further comments.


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T. Incorrect & not admitted. Hence, needs no further comments.

U. Incorrect & not admitted. The stand of the appellant is illegal. Therefore, the Respondent also seeks leave to this Honorable Tribunal to submit additional grounds record & case law at the time of arguments.

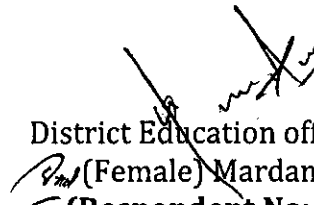
Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.

Dated. ___/___/2023.


SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 & 2)



DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)


District Education officer
Pmd (Female) Mardan
(Respondent No: 4)

07/3/23

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**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 214/2023

Atta Ur Rehman Junior Clerk DEO (F) MardanAppellant

VERSUS

Govt; of Khyber Pakhtunkhwa through Secretary E&SE Department Khyber
Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, Mr. Sajid Legal representative in the Office of the (DEO (F)

Mardan, do hereby solemnly affirm & declare on oath that the contents
of the instant para wise Comments are true & correct to the best of my
knowledge & belief.



Deponent

Sajid
Sajid Khan
16101-6005318-5

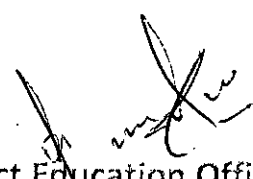
OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

No. 2057

DATED 5/4/2023

AUTHORITY LETTER

I, District Education Officer (Female) Mardan do hereby authorize Mr. Sajid Khan legal representatives of the District Education Officer (Female) Mardan to Deal with the issues regarding Litigation, Represent & to attend the Hon, ble Service Tribunal Regarding Litigation.


District Education Officer

(Female) Mardan

05/4/23

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

CM No _____ 2023 IN

Service Appeal No: 214/2023

Atta Ur Rehman (Junior Clerk BPS-11) DEO (F) District Mardan.

(Appellant)

Versus

The Govt of KPK Secretary (E&SED) Peshawar & Others.

(Respondents)

Subject: *Reply of application for suspension of office order No 33-36 dated 04/01/2023 & 11/01/2023 passed Respondent No 3&4, the rejection order dated 20/01/2023 and show cause notice dated 21/01/2023 Till the decision of the instant appeal.*

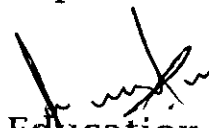
Respected Sir,

Reply Submitted as under:

1. Para No 1 is correct, need no comments.
2. Para No 2 is incorrect, the appellant has not mentioned wedlock transfer policy in his departmental appeal, and therefore the transfer order is legal, hence denied.
3. Para No 3 is incorrect, the case of the appellant is not strong, just waste of time and has no chance its success, hence denied.
4. Para No 4 is incorrect; the balance of convenience is not in favor of the appellant, hence denied.
5. Para No 5 is incorrect; there is no irreparable loss to the appellant and the appellant can perform his duty in his new station and also get fruitful salary, and the order is suspended, hence denied.

It is therefore humbly prayed that in the light of above facts, the Suspension application may please be dismissed with cost.

Respondent


District Education Officer
(Female) Mardan



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)

MARDAN

PHONE/FAX NO.0937-9230150

Email Address: emismardan_deofemale@yahoo.com

 Annex F
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OFFICE ORDER

Services of the following officials of DEO (Female) office Mardan are hereby placed on disposal of Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar on administrative ground in the best interest of public service.

S. no.	Name of Official	Designation
1.	Mr. Yasir Ali Shah	Senior Clerk
2.	Mr. Atta ur Rehman	Junior Clerk

(Atiya Sultana)
 District Education Officer
 (Female) Mardan

Endst. No. 37-36 Dated: 04-01/2023

Copy forwarded to the:

1. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner, Mardan.
3. DMO, EMA Mardan.
4. Officials concerned.

Sultana
 04-01-2023
 District Education Officer
 (Female) Mardan

Annexure = B = 8



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
Phone: 091-9225344 Email: ddadmin@peshawar.gov.pk

Annex-8

Office Order

The posting/transfer in respect of the following officials is hereby ordered on their own pay and BPS on administrative ground as per report of DEO Female Mardan vide letter No 33-10 dated 04/01/2023 in the interest of public service with immediate effect

S.#	Name/Design:	Present Posting	Adjustment at	Remarks
1	Yasir Ali Senior Clerk BPS-14	DEO Female Mardan	GHSS Khararai Buner	A.V.P
2	Atta ur Rehman Junior Clerk BPS-11	DEO Female Mardan	GHSS Khanano Dharai Buner	A.V.P
3	Shahid Islam Junior Clerk BPS-11	GHS Sangao Mardan	DEO Female Mardan	V.S.N.2

Note -

1. Compliance report should be submitted to all concerned
2. No TA/DA etc is allowed

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: NO 6441-56 /F.No. IA-23/MS/Transfer Mardan Vol I/KPK. Dated Peshawar the 11-1-2023
Copy forwarded to the: -

1. District Education Officer (Male/Female) Mardan
2. District Education Officer (Male) Buner
3. District Accounts Officer concerned.
4. Principal/HM concerned.
5. Officials concerned
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. Master file.

Assistant Director (Admn)
Directorate of Elementary & Secy. Education
Khyber Pakhtunkhwa, Peshawar