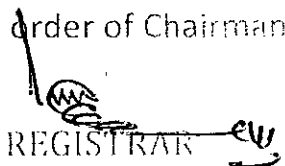


FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 235/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.04.2023	<p>The execution petition of Mst. Farhat Naz submitted today by Mr. Najeem-ul-Hassan Khan Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____</p> <p>Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, CAMP COURT,
ABBOTTABAD**

Execution Petition NO. 235/2023
C.M No. _____ of 2023

IN

Service Appeal No 1555 of 2019

Mst. Farhat NazAPPLICANT/APELLANT

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar etc.
.....RESPONDENTS

APPLICATION FOR IMPLEMENTATION

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Dated 05.04.2023

Mst. Farhat Naz
...Applicant

Through

NAJEEM-UL-HASSAN KHAN,
Advocate High Court,
Mansehra.

0312-9523677

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, CAMP COURT,
ABBOTTABAD**

Execution Petition No. 235/2023

C.M No. _____ of 2023 for Khyber Pakhtunkhwa
Service Tribunal

IN

Diary No. 4806

Service Appeal No 1555 of 2019

11/4/2023

Mst. Farhat Naz wife of Mohsin resident of Mohallah Jabri Mufti Abad, Tehsil and District Mansehra presently SST (Bio/Chemistry), Government Girls Higher Secondary School Murad Pur, Tehsil and District Mansehra.....**APPLICANT/APPELLANT**

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer, Elementary and Secondary Education (Female), Mansehra.
4. Mst. Tayyaba Yousaf, SST, Government Girls Higher Secondary School No.1, Mansehra.
5. Mst. Sidra Hussain, SST (Bio-Chemistry) Government Girls Higher Secondary School No.1, Mansehra**RESPONDENTS**

APPLICATION SEEKING IMPLEMENTATION
OF THE JUDGMENT/ORDER DATED
24.01.2023 PASSED BY THIS

HONOURABLE TRIBUNAL IN SERVICE
APPEAL BEARING NO.1555/2019.

PRAYER: -

On acceptance of the instant petition, the respondents may please be directed to implement the judgment of this Honourable Court dated 24.01.2023 in its true letter and spirit and to transfer the applicant to a school/station that is near to her home or any other order or relief as this Honourable Court deems fit and appropriate in the circumstances of the case, may also be issued/passed.

Respectfully Sheweth!

1. That, applicant filed the above-mentioned service appeal before this Honourable Tribunal challenging the refusal of the respondents from transferring the appellant. The said appeal was listed before this Honourable Tribunal and this Honourable Tribunal vide order dated 24.01.2023 allowed the appeal filed by the appellant and directed the

respondents to transfer the applicant to a school/station that is near to her home so that she may be compensated to some extent of her overstay at GGHSS Muradpur.

(Copies of the Service Appeal alongwith judgment are annexed as annexure "A&B").

2. That, the appellant after passage of the above said judgment of this Honourable Tribunal duly approached the respondents and handed over the copy of the judgment of this Honourable Tribunal for its implementation but the respondents initially made lame excuses and later on straightaway refused to implement the judgment of this Honourable Tribunal.
3. That, this Honourable Tribunal while accepting the service appeal as prayed for clearly directed the respondents to consider the grievance of the applicant and to transfer the applicant to a school/station that is near to her home but the respondents despite awareness about the

judgment of this Honourable Tribunal has not taken into genuine grievances of the applicant despite lapse of considerable time and thus committed contempt of the order of this Honourable court.

4. That, more than 02 months have been elapsed but despite lapse of considerable time, the respondents have not acted upon the judgment/order of this Honourable Tribunal rather the conduct of the respondents clearly shows that they in no way ready to implement the judgment of this Honourable Court hence the instant application is being filed.
5. That, the judgments of the apex court of the country are bounden upon the respondents and they are duty bound to implement the same in its true letter and spirit but the respondents while not taking into consideration the judgment of this Honourable Tribunal has committed contempt of the order of this Honourable Court and such act of the respondents is highly condemnable and deplorable.

6. That, respondents were left with no other legal option except to implement the judgment passed by this Honourable Tribunal but they have badly failed to comply with the direction so given.
7. That, the applicant time and again visited the office of the respondents for doing the needful but despite hectic efforts, the respondents have not acted upon the order of this Honourable Tribunal rather initially made lame excuses and later on, straightaway refused to act upon the judgment of this Honourable Tribunal.

.....**PRAYER**

It is, therefore, most humbly prayed that on acceptance of the instant petition, the respondents may please be directed to implement the judgment of this Honourable Tribunal dated 24.01.2023 in its true letter and spirit and to transfer the applicant to a school/station that is near to her home or any other order or relief as this Honourable Court deems fit and

appropriate in the circumstances of the case, may also be issued/passed.

Dated 05.04.2023

Mst. Farhat Naz
...Applicant

Through

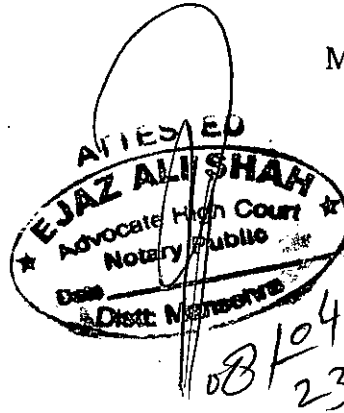
NAJEEM-UL-HASSAN KHAN,
Advocate High Court,
Mansehra.

AFFIDAVIT.

I, Mst. Farhat Naz wife of Mohsin resident of Mohallah Jabri Mufti Abad, Tehsil and District Mansehra presently SST (Bio/ Chemistry), Government Girls Higher Secondary School Murad Pur, Tehsil and District Mansehra, Petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing application are true and correct and nothing has been concealed from this Honourable Court.

Dated 05.04.2023

Mst. Farhat Naz
(DEPONENT)



**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, CAMP COURT,
ABBOTTABAD**

C.M No. _____ of 2023

IN

Service Appeal No 1555 of 2019

Mst. Farhat NazAPPLICANT/APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar etc.
.....RESPONDENTS

APPLICATION FOR IMPLEMENTATION

CORRECT ADDRESSES OF THE PARTIES

APPLICANT.

Mst. Farhat Naz wife of Mohsin resident of Mohallah Jabri Mufti Abad, Tehsil and District Mansehra presently SST (Bio/ Chemistry), Government Girls Higher Secondary School Murad Pur, Tehsil and District Mansehra.

RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer, Elementary and Secondary Education (Female), Mansehra.
4. Mst. Tayyaba Yousaf, SST, Government Girls Higher Secondary School No.1, Mansehra.
5. Mst. Sidra Hussain, SST (Bio-Chemistry) Government Girls Higher Secondary School No.1, Mansehra.

Dated 05.04.2023

Mst. Farhat Naz
...Applicant

Through

NAJEEM-UL-HASSAN KHAN,
Advocate High Court,
Mansehra.

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

Service Appeal No. 1555 of 2019

Mst. Farhat Naz wife of Mohsin resident of Mohallah Jabri Mufti Abad, Tehsil and District Mansehra presently SST (Bio/Chemistry), Govt. Girls Higher Secondary School Murad Pur, Tehsil and District Mansehra ...Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer, Elementary and Secondary Education (Female), Mansehra.
4. Mst. Tayyaba Yousaf, SST, Government Girls Higher Secondary School No.1, Mansehra.
5. Mst. Sidra Hussain, SST (Bio-Chem) Government Girls Higher Secondary School No.1, MansehraRespondents.

**SERVICE APPEAL UNDER SECTION 4
OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
OFFICE ORDER BEARING NO.12051-54
DATED 31.07.2019 AND OFFICE ORDER
NO.12162-70 DATED 31.07.2019 ISSUED
BY THE RESPONDENT NO.3 WHEREBY
THE APPELLANT WAS REFUSED
TRANSFER FROM GOVERNMENT**

GIRLS HIGH SCHOOL MURAD PUR TO
GOVERNMENT GIRLS HIGH SCHOOL
NO.1, MANSEHRA AGAINST VACANT
POST AND RESPONDENTS NO.4 AND 5
WERE TRANSFERRED AGAINST
VACANT POST AT GHSS NO.1. BOTH
THE ORDERS AGAINST VACANT POST
AT GHSS NO.1 PASSED BY THE
RESPONDENT NO.3 ARE WRONG,
ILLEGAL, AGAINST THE LAW AND
FACTS, AGAINST THE RELEVANT
LAW, RULES AND REGULATIONS ON
THE SUBJECT, BASED ON MALAFIDE,
POLITICALLY MOTIVATED, AGAINST
THE E-POLICY REGARDING POSTING
AND TRANSFER OF TEACHERS IN
ELEMENTARY AND SECONDARY
EDUCATION DEPARTMENT LAUNCHED
ON 01.08.2019 BY CHIEF MINISTER
KHYBER PAKHTUNKHWA.

PRAYER: -

On acceptance of the instant service appeal, the impugned orders dated 31.07.2019 issued by respondent No.3 may please be declared as wrong, illegal, against the law and facts, against the relevant law, rules and regulations on the subject, based on malafide, politically motivated, against

the E-transfer policy regarding posting and transfer of teachers in Elementary and Secondary Education Department launched on 01.08.2019 by Chief Minister Khyber Pakhtunkhwa hence be set aside and the respondent No.3 may please be directed to adjust/transfer the appellant at GGHSS No.1 Mansehra on the post which was vacant on 30.07.2019 or any other relief as this Honourable Tribunal deems fit and appropriate in the circumstances of the case, may also be issued/passed.

Respectfully Sheweth!

The facts giving rise to the instant appeal are as under: -

1. That, the appellant was inducted in Education Department as SST (Bio-Chem) Teacher in Education Department vide Endst. No.414-19 dated 16.10.2012 and was adjusted for further duty through notification No.07 at GGHSS Oghi against the vacant post.

(Copy of the notification is annexed as annexure "A").

2. That, the appellant performed her assigned duties with great zeal and zest who was later on transferred from GGHS Oghi to GGHSS Murad Pur vide letter Endst. No.2780 dated 12.03.2012.

(Copy of letter dated 12.03.2012 is annexed as annexure "B").

3. That, in view of the above mentioned order dated 12.03.2012, the appellant is performing her duties since last 07 years at GGHSS Murad Pur to the entire satisfaction of her superior as well as community where she is serving as a teacher and never given any chance of complaint to the local public as well as to the Department.
4. That, the appellant has 07 years of service at her credit and during the whole service period, the appellant remained far away from her home station whereas the appellant was married at Mohallah Mufti Abad, Mansehra who is residing with her husband permanent who is also a Government servant.
5. That, GHSS Murad Pur is a very far flung station and the appellant had to

suffer difficulties to proceed her duties at Government Girls Higher Secondary School Murad Pur and had to change three vehicles on daily basis which amount to physical and mental agonies for the appellant.

- 6. That, in the meanwhile, the appellant came to know that some posts of SST (Bio-Chem) are vacant at GGHSS No.1 Mansehra and on coming to know about the vacant position, the appellant duly submitted an application on 01.07.2019 to respondent No.3 for her adjustment/transfer from GGHSS Murad Pur to GGHSS No.1 Mansehra at vacant post.

(Copy of the application is annexed as annexure "C").

- 7. That, as the previous application of the appellant was unattended to, therefore, the appellant again moved an application to respondent No.3 for transfer/adjustment against the vacant post at GHSS No.1 Mansehra from GGHSS Murad Pur and in both the applications, the appellant brought her difficulties in the notice of the respondent No.3 and both the

applications were recommended by the concerned MPA and also by the advisor to Chief Minister of Elementary and Secondary Education, KPK to respondent No.3.

(Photocopies of second application is annexed as annexure "D").

8. That, on 01.08.2019, Honourable Chief Minister launched ceremony E-posting and transfer BAN restoration of teacher in Education Department of KPK through transfer policy and it was clearly mentioned in that policy that all transfers shall be made on merit basis.

(Copy of E-posting Transfer of Teachers is annexed as annexure "E").

9. That, it was also clearly mentioned in E-posting transfer policy that minimum tenure for transfer would be three years on a school in plain area and 1.5 years in hard area school.
10. That, inspite of clear cut direction in E-posting transfer policy, the respondent No.3 illegally, unlawfully and with malafide intention and on mere political influence transferred/adjusted the respondents No.4 and 5 to GHSS No.1, Mansehra whereas refused the

(7)
(14)

transfer/adjustment to the appellant at vacant post of GGSS No.1, Mansehra by way of impugned orders dated 31.07.2019.

(Copies of the impugned orders dated 31.07.2019 are annexed as annexure "F").

11. That, both the impugned orders of respondents No.4 and 5 were made by the respondent No.3 on 02.08.2019 while disobeying the E-transfer and posting policy of Honourable Chief Minister KPK announced on 01.08.2019 whereas the respondent No.3 illegally and with malafide intention issued the impugned order in back date i.e. on 29.07.2019 and this fact also speaks volume of malafide on the part of the respondent No.3 and to this effect press clipping is very much clear and considerable.

(Copy of the press clipping is annexed as annexure "G").

12. That, the appellant being aggrieved from the impugned orders and refusal of her adjustment/transfer at GHSS No.1 by the respondents preferred a departmental appeal/representation

(8) (15)

before the respondent No.2 on 10.08.2019 but the same is still unattended to within the statutory period.

(Copy of the departmental appeal is annexed as annexure "H").

13. That, the appellant, being aggrieved from the impugned orders of respondent No.3 and refusal of respondent No.3 from adjustment/transfer of the appellant at GGHSS No.1 seeks the gracious indulgence of this Honourable Court by way of instant service appeal, inter alia, on the following grounds: -

GROUNDS

- a. That, the impugned orders passed by the respondent No.3 whereby the respondents No.4 and 5 were transferred/adjusted at vacant post of GGHSS No.1 Mansehra are wrong, illegal, against the law and facts, against the relevant law, rules and regulations on the subject, based on malafide, politically motivated, against

the E-policy regarding posting and transfer of teachers in Elementary and Secondary Education Department launched on 01.08.2019 by Chief Minister Khyber Pakhtunkhwa.

- b. That, the impugned order is in direct conflict with the E-posting and transfer policy launched/announced on 01.08.2019 by Chief Minister, KPK. The respondent No.3 was duty bound to observe the policy, law, rules and regulations on the subject but the respondents have issued the impugned order in blatant violation of the relevant law, rules and regulations.
- c. That, as per policy so introduced by the Education Department, minimum three years tenure is for plain areas school and 1.5 years tenure is for hard areas schools whereas in the case in hand, the respondent No.4 was transferred from GGHSS Shinkhari to GGHSS No.1 Mansehra vide Endst. No.12051-54 dated 31.07.219 who tenure is hardly two years at GGHSS Shinkhari whereas the respondent No.5 was transferred from GGHSS Doga to GGHSS No.1 Mansehra vide Endst. No.12162-70 dated 31.07.2019 who

also did not completed her tenure at Doga.

- d. That, the appellant is serving since 07 years at GHSS Murad Pur and despite of completion of her tenure period, she had not been transferred/adjustment despite of repeated requests/applications whereas keeping in view the service tenure of the appellant at GGHSS Murad Pur, she was entitled to be transferred/adjusted at GGHSS No.1, Mansehra against the vacant post.
- e. That, the impugned order issued by the respondent No.3 is against the tenure policy of the Government and is also in violation of the principles of natural justice and law.
- f. That, the merit on the subject has been bypassed by the respondent No.3 while issuing the impugned order and premature transfer/adjustment order of respondents No.4 and 5 has been bypassed despite of the fact that they have not completed their tenure at their previous school hence blue eyed chaps have been facilitated by the respondents while depriving the

appellant from his legitimate, legal and vested right and such practice has no legal sanctity in the eyes of law.

- g. That, law, rules, regulations and policy on the subject matter is very much clear on the subject whereas the respondent No.3 have close her eyes and bypass the law, rules and regulations on the subject just to facilitate/accommodate the respondents No.4 and 5.
- h. That, the public representative has nothing to do with the affairs of the education department whereas the respondent No.3 while making herself pawn in the hands of the respondent No.3 issued/passed the impugned order only on the behest of the public representative which is not permissible under the law.
- i. That, the impugned order passed/issued by the respondent No.3 offends all norms of justice, fair play, equity and good conscious which is also against the constitutionally guaranteed rights of the appellant.
- j. That, it is inalienable right of the appellant to enjoy the protection of

law, rules and regulations as well as policy on the subject and to be dealt in accordance with the same but this right of the appellant has been infringed by the respondents in a sheer malafide manner.

- k. That, the law imposed sacred duty upon the public functionaries to exercise their powers in accordance with the law on the subject whereas the impugned orders have been passed without jurisdiction hence, it warrants interference by this Honourable Tribunal.

.....**PRAYER**.....

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned orders dated 31.07.2019 issued by respondent No.3 may please be declared as wrong, illegal, against the law and facts, against the relevant law, rules and regulations on the subject, based on malafide, politically motivated, against the E-transfer policy regarding posting and transfer of teachers in Elementary and Secondary Education Department launched on

01.08.2019 by Chief Minister Khyber Pakhtunkhwa hence be set aside and the respondent No.3 may please be directed to adjust/transfer the appellant at GGHSS No.1 Mansehra on the post which was vacant on 30.07.2019 or any other relief as this Honourable Tribunal, deems fit and appropriate in the circumstances of the case, may also be issued/passed.

Dated 15.11.2019

Mst. Farhat Naz
...Appellant

Through

[Signature]
NAJEEM-UL-HASSAN KHAN,
Advocate High Court,
Mansehra.

(14) (21)

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

Service Appeal No. _____ of 2019

Mst. Farhat Naz:.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar etc.
.....Respondents

SERVICE APPEAL

AFFIDAVIT.

I, Mst. Farhat Naz wife of Mohsin resident of Mohallah Jabri Mufti Abad, Tehsil and District Mansehra presently SST (Bio/Chemistry), Govt. Girls Higher Secondary School Murad Pur, Tehsil and District Mansehra, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing Service appeal are true and correct and nothing has been concealed from this Honourable Court.

Dated 15.11.2019


**Mst. Farhat Naz
(DEPONENT)**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

ANNEXURE B

Service Appeal No.1555/2019

BEFORE: **MRS. ROZINA REHMAN** ... **MEMBER(J)**
MISS FAREEHA PAUL ... **MEMBER(E)**

Mst. Farhat Naz wife of Mohsin resident of Mohallah Jabri Mufti Abad, Tehsil and District Mansehra presently SST (Bio/Chemistry), Government Girls Higher Secondary School Murad Pur, Tehsil and District, Mansehra. (*Appellant*)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer, Elementary and Secondary Education (Female) Mansehra.
4. Mst. Tayyaba Yousaf, SST, Government Girls Higher Secondary School No. 1, Mansehra.
5. Mst. Sidra Hussain, SST (Bio-Chemistry) Government Girls Higher Secondary School No. 1, Mansehra.(*Respondents*)

Mr. Najem-ul-Hassan Khan, Advocate	...	For appellant
Mr. Muhammad Jan, District Attorney	...	For official respondents
Mr. Abdul Wahid Tanoli, Advocate	...	For private respondent No. 4.
Mr. Muhammad Shafique Awan, Advocate	...	For private respondent No. 5.

Date of Institution.....15.11.2019
 Date of Hearing.....24.01.2023
 Date of Decision.....24.01.2023

ATTESTED

[Signature]
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

JUDGMENT


FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service

[Signature]

Tribunal Act, 1974 against the office order bearing No. 12051-54 dated 31.07.2019 and office order bearing No. 12162-70 dated 31.07.2019 issued by respondent No. 3 whereby respondents No. 4 & 5 were transferred against the posts at GHSS No. 1 Mansehra while the appellant was refused transfer from Government Girls High School Murad Pur to Government Girls High School No. 1, Mansehra against vacant post. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and respondent No. 3 be directed to adjust/transfer the appellant at GGHSS No. 1 Mansehra on the post which was vacant on 30.07.2019 or any other relief as this Tribunal deems fit and appropriate in the circumstances.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed in Education Department as SST (Bio-Chemistry) on 16.01.2012 and was adjusted at GGHSS Oghi against the vacant post. Later on she was transferred to GGHSS Murad Pur on 12.03.2012 where she was performing her duties since then to the entire satisfaction of her superiors. During the whole service period, she remained far away from her home station despite the fact that she was married at Mohallah Mufti Abad, Mansehra and residing with her husband permanently who was also a Government servant. Government Girls High School Murad Pur was a very far flung station and the appellant had to suffer difficulties to proceed there for duty and had to change three vehicles on daily basis which amounted to physical and mental agonies for her. She came to know that some posts of SST (Bio-Chemistry) were vacant at

ATTESTED
 EXAMINER
 Ghulam Durrani
 Ghulam Durrani
 Ghulam Durrani
 Ghulam Durrani

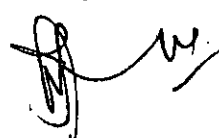


GGHSS No. 1 Mansehra and duly submitted an application on 01.07.2019 to respondent No. 3 for her adjustment/transfer there. As that application of the appellant remained unattended, therefore, she moved another application to respondent No. 3 for her transfer/adjustment against the vacant post at GGHSS No. 1 Mansehra from GGHS Murad Pur and in both the applications, the appellant brought her difficulties in the notice of the respondent No. 3. Both the applications were recommended by the concerned MPA and also by the Advisor to the Chief Minister Khyber Pakhtunkhwa. On 01.08.2019, Honourable Chief Minister launched e-Postings/Transfers policy for the teachers in Education Department of Khyber Pakhtunkhwa and it was clearly mentioned in that policy that all transfers should be made on merit basis. It was also clearly mentioned in e-Postings/Transfers Policy that minimum tenure for transfer would be three years in a school in plain area and 1.5 years in hard area school. In spite of clear cut direction in e-Postings/Transfers policy, the respondent No. 3 illegally, unlawfully and with malafide intention and on mere political influence transferred/adjusted respondents No. 4 & 5 in GGHSS No. 1 Mansehra whereas refused the transfer/adjustment to the appellant at vacant post at GGHSS No. 1, Mansehra by way of impugned orders dated 31.07.2019. Appellant being aggrieved preferred a departmental appeal/representation to respondent No. 1 which was not decided within the statutory period; hence the instant service appeal.

3. Respondents were put on notice. Official respondents No. 1 to 3 submitted joint written replies/comments on the appeal, while private

ATTESTED

 ADVISOR
 Khyber Pakhtunkhwa
 Service Tribunal



respondents No. 4 & 5 submitted separate replies/comments through their respective counsels. We have heard the learned counsel for the appellant, the learned District Attorney for the official respondents as well as learned counsels for the private respondents No. 4 & 5 and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the details of the case and contended that the impugned orders passed by the respondent No. 3, whereby the respondents No. 4 & 5 were transferred/adjusted, were based on malafide intentions, politically motivated and against the e-Postings/Transfers Policy regarding posting and transfer of teachers in Elementary & Secondary Education Department dated 01.08.2019. He further contended that as per the said policy, minimum three years tenure of posting was determined for plain areas and 1.5 years was for hard areas whereas in the case in hand, private respondent No. 4 was transferred from GGHSS Shinkiari to GGHSS No. 1 Mansehra on 31.07.2019 whose tenure was hardly two years at GGHSS Shinkiari whereas the respondent No. 5 was transferred from GGHSS Doga to GGHSS No. 1 Mansehra on 31.07.2019 who also did not complete her tenure at Doga. He further contended that the appellant was serving for the last 07 years at GGHS Murad Pur and despite completion of her posting tenure, she had not been transferred/adjusted in GGHSS No. 1, Mansehra against the vacant post. He further contended that impugned orders were against the tenure policy of the government and were also in violation of the principles of natural justice and law. He further contended that the public representatives had

ATTESTED

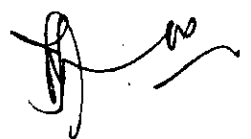
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

nothing to do with the affairs of the Education Department while respondent No. 3 issued the impugned orders only on the behest of the public representatives which was not permissible under the law. He further contended that the impugned orders issued by respondent No. 3 offended all norms of justice, fair play, equity and good conscience which was also against the constitutionally guaranteed rights of the appellant. He requested that the appeal might be accepted as prayed for.

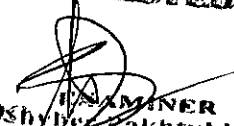
5. The learned District Attorney while rebutting the arguments of the learned counsel for the appellant contended that the appellant was posted within the district and her place of posting was not away from her residence. He further contended that she did not forward her applications through her Principal which meant that NOC was not issued to the appellant by the Principal of concerned school where she was serving. As far as involvement of local MPAs in the matter was concerned, he argued that it was the appellant who got her application recommended from the local MPA, who was not the competent authority whereas the transfer/posting orders of private respondents No. 4 & 5 were issued strictly on merit basis and there was no violation of law/rules on the subject. He referred to Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973 according to which a civil servant was liable to serve anywhere in the province. Learned counsels for private respondents No. 4 & 5 relied on the arguments advanced by the learned District Attorney.

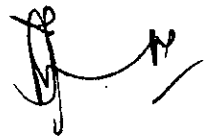
6. Record and arguments presented before us reveal that the appellant was appointed as SST, on the recommendation of Khyber Pakhtunkhwa

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Dera Ismail Khan



Public Service Commission, in December, 2011 in the Elementary and Secondary Education Department and was adjusted at GGHS Oghi in January, 2012. In March 2012, through an order of the office of Executive District Officer (E&SE) Mansehra, she was transferred to GGHS Murad Pur. She stayed in Murad Pur for more than seven years and came to know about a vacant post in GGHS Mansehra in July 2019 and requested the D.E.O Mansehra for her transfer on that post. Three applications available on record indicate that she got two of them recommended by two Ministers and the third one by Advisor to Chief Minister. The DEO Mansehra did not consider her request, instead through two different orders, two SSTs (respondents No. 4 & 5) were transferred to GGHS No. 1 Mansehra. On that transfer, the plea taken by the learned counsel for appellant did not appear to be tenable because based on the record presented before us, Mst. Tayyaba (respondent No. 4) was posted in Shinkiari in May 2017 and Mst Sidra (respondent No. 5) was posted in Dogha in December 2015, which indicates that both of them had completed their tenures at their respective positions under the normal posting/transfer policy of the provincial government before they were transferred, and that was the plea taken by the learned District Attorney also read with Section 10 of Civil Servants Act. Even if the e-Transfer policy is applied on the respondents No. 3 & 4, it is noted that they were short of few months of their tenure as per that policy. However, a point that was noted in case of the appellant was that she had been posted in Murad Pur for more than ten years. A question that arises here is that why no heed was given to her in the light of e-Transfer policy

ATTESTED

EXAMINER
 Shyba Akhtokhwa
 District Education Officer
 Mansehra



where posting tenure is specifically defined? Why SSTs (respondents No. 4 & 5) with less tenure than the appellant were transferred and the appellant who had spent more than ten years at one school/station was left unattended despite her repeated requests? A point raised by the respondents that the appellant had not obtained NOC from the Principal of the school is not a strong reason for not considering her request; a period of more than ten years spent by her at one school/station was enough reason for considering her request of transfer.

7. In the light of above discussion, we are of the view that tenure in posting/transfer of officers should be given due consideration. In case of present appeal, it is felt that the appellant has spent enough time at one school and station and there is every reason to transfer her from her current position. Keeping this scenario in view, the appeal is disposed of with the directions to the respondents to transfer the appellant to a school/station that is near to her home so that she may be compensated to some extent of her overstay at GGHSS Muradpur. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court at camp court, Abbottabad and given under our hands and seal of the Tribunal this 24th day of January, 2023.*

(FAREEHA PAUL)

Member (E)

(Camp Court, A/Abad)

(ROZINA REHMAN)

Member (J)

(Camp Court, A/Abad)

Certified to be true copy
 MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar



2022-23

GENERAL SECRETARY
District Bar Association
Manshera

12686

(29)

S.No

Fee Rs. 200/-

DBAM No.

210

BC No.

10-2830

Name of Advocate

سید محمد حسن

وکالت نامہ

بعدالت: حیدر خٹون خواہ سرس رائیون کیم کورٹ ایٹ ایلا

عنوان: اسماء و صہتا ناز: بنام: حکومت خیر خٹون خواہ

منجانب: ایلا: نوعیت مقدمہ: Implementation Application

باعث تحریر آنکہ

دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی و جواب دہی بمقام سید محمد حسن / ایٹ ایلا کے لئے

محمد الحسن خان ایڈووکیٹ ہائی کورٹ

کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ پکھری کے علاوہ کسی اور جگہ سماعت ہوا یا پکھری کے اوقات کے آگے پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ دار نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست بیان حلفی و تصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور قسم کاروپہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپر دثالی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار بھی ہوگا بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ قبل از ڈگری اجراء ڈگری بھی وکیل موصوف کو بشرط ادائیگی علیحدہ محتاتانہ ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدوراء مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا بیرسٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے وکیل موصوف کو اور اگر پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پرداخت وکیل موصوف مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے اور دستخط / انگوٹھا ثبت کر دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے۔

مورخہ 20

ACCEPTED

اسماء و صہتا ناز