

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 873 /2023

Mst; KALSOOM


VS

EDUCATION DEPTT:

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APPELLANT

THROUGH: 
MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 873 /2023

Mst; Kalsoom Begum, PSHT (BPS-15),
GGPS Sifat Mir, Jamrud, District Khyber.....APPELLANT

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (F), District Khyber at Jamrud.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10.01.2023 WHEREBY THE APPELLANT HAS BEEN PRE-MATURELY TRANSFERRED FROM GGPS ABDUR REHMAN, MULAGORI, JAMRUD TO GGPS SIFAT MIR, JAMRUD AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHING THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 10.01.2023 may very kindly be set aside and the respondents please be directed that not to transfer the appellant from GGPS Abdur Rehman, Mulagori, Jamrud till completion of her normal tenure. Any other remedy which your good self deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is the employee of respondent department and is serving as PSHT (BPS-15) at GGPS Sifat Mir, Mulagori, Jamrud quite efficiently and upto the entire satisfaction of her superiors.
- 2- That the appellant while performing her duty as SPST (BPS-14) at GGPS Yar Afzal Kalay, Jamrud was promoted to the post of PSHT (BPS-15) vide Notification dated 05.08.2022 and subsequently posted at GGPS Lal Mat Shah, Jamrud. That in compliance of the Notification dated 05.08.2022 the appellant took over the charge against the post of PSHT (BPS-15) at GGPS Lal Mat Shat and started performing her duty with all zeal zest. Copy of the Notification is attached as annexure.....A.

- 3- That vide order dated 13.08.2022 the appellant was transferred from GGPS Lalmat Shah Killi, Jamrud to GGPS Abdur Rehman Killi, Mulagori, Jamrud District Khyber. That in compliance of the order dated Killi, Mulagori, Jamrud District Khyber. That in compliance of the order dated 13.08.2022 the appellant took over the charge and started performing her duty at new station quite efficiently. Copy of the order is attached as annexure.....**B.**
- 4- That it is pertinent to mention that just after the lapse of 17 days the respondent No.3 issued corrigendum dated 31.08.2022 whereby the appellant was posted at GGPS Baso Ghari, Jamrud while one Mst. Shakila posted against the post of appellant at GGPS Abdur Rehman Killi, Jamrud. Copy of the corrigendum is attached as annexure.....**C.**
- 5- That the appellant feeling aggrieved from the corrigendum dated 31.08.2022 the appellant preferred service appeal No. 7/6/2023 before this Hon'ble Service Tribunal, Peshawar and during the pendency of aforementioned service appeal the respondent No.3 once again issued the impugned transfer order dated 10.01.2023 whereby the appellant has been transferred to the far flung area of district Khyber i.e. GGPS Sifat Mir, Jamrud on administrative ground. Copies of the memo of service appeal and impugned order is attached as annexure.....**D & E.**
- 6- That the appellant feeling aggrieved from the impugned order dated 10.01.2023 preferred departmental appeal and as such withdrawn the previous service appeal pending pending before this august Tribunal being anfractuous vide order dated 30.03.2023. That the appellant waited for ninety days but no reply has been received for from the quarter concerned on the departmental appeal of appellant. Hence the present appeal on the following grounds amongst the others. Copies of the departmental appeal and order sheet dated 30.03.2023 are attached as annexure.....**F & G.**

GROUND:

- A- That the impugned order dated 10.01.2023 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and malafide manner while issuing the impugned order dated 10.01.2023 which is not tenable and liable to be set aside.

- D- That the appellant has been transferred thrice from one station to another in a short span of time by making her a rolling stone, therefore, the impugned order dated 10.01.2023 is not tenable in the eye of law and liable to be set aside.
- E- That the impugned order dated 10.01.2023 is violative of Clause-I and IV of the Transfer/Posting Policy promulgated by the Government of Khyber Pakhtunkhwa. Copy of the Policy is attached as annexure.....H.
- F- That the post of PSIII at GGPS Abdur Rehman Killi, Jamrud is lying vacant due to the retirement of one Mst; Musarat, Ex-PSIII who was posted in place of the appellant.
- G- That the appellant is belonging to District Charsadda and performing duty at Jamrud District Khyber While the present posting at GGPS Sifat Mir, Jamrud is the far flung area of District Khyber and being a female the same not accessible for the appellant, therefore, the impugned order is liable to be set aside.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of appellant may be accepted as prayed for.

Dated: 13.04.2023.

APPELLANT
Kalsoom
KALSOOM

THROUGH: *M. Zaman Safi*
MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

It is, certified that no other earlier appeal was filed between the parties.

M. Zaman Safi
DEPONENT

LIST OF BOOK:

- 1- CONSTITUTION OF PAKISTAN.
- 2- SERVICES LAWS BOOK.
- 3- ANY OTHER CASE LAW AS PER NEEDED.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ /2023

Mst; KALSOOM

VS

EDUCATION DEPTT:

AFFIDAVIT

I, Mir Zaman Safi, Advocate High Court, Peshawar on the instruction and on behalf of my client do hereby solemnly affirm and declare on oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'ble Court.



MIR ZAMAN SAFI,
ADVOCATE
High Court, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2023

Mst; KALSOOM

VS

EDUCATION DEPTT:

APPLICATION FOR THE GRANT OF ANTI-STATUS
QUO IN FAVOR OF THE APPELLANT TILL THE
DISPOSAL OF THE INSTANT SERVICE APPEAL

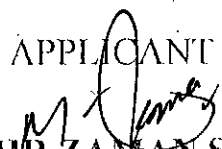
R/SHEWETH:

- 1- That applicant filed the above mentioned service appeal alongwith this application before this Hon'ble Tribunal in which no date has been fixed for hearing yet.
- 2- That applicant filed the above mentioned appeal against the impugned transfer order dated 10.01.2023 whereby the appellant has been transferred from GGPS Abdur Rehman Killi, Jamrud to GGPS Sifat Mir, Jamrud prematurely.
- 3- That the Teacher who was posted vice the appellant at GGPS Abdur Rehman Killi, Jamrud has been retired and the same post is lying vacant till date.
- 4- That, all the three ingredients required for the grant of stay is in favor of the appellant.
- 5- That if this Hon'ble Tribunal granted Anti-Status Quo in favor of the appellant, there is no one will be affected from the same.
- 6- That any other ground would be taken at the time of arguments with prior permission of this Honorable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application the Anti-Status quo may very kindly be granted in favor of the appellant till the final disposal of this service appeal.

Dated: 17.04.2023.

THROUGH:

APPLICANT

MIR ZAMAN SAFI
ADVOCATE



Khyber Pakhtunkhwa Elementary & Secondary Education Department

DISTRICT EDUCATION OFFICE (FEMALE)
DISTRICT KHYBER AT JAMRUD

A-6

11/11/2022

NOTIFICATION:

Consequent upon the recommendation of Departmental promotion committee vide DEO (F) Khyber District No. 2462, dated 14-06-2022 and in pursuance of Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department Notification No. SO(B&A)/1-18/E&SE/2012 dated 11/07/2012, the following Female SPSTs BPS-14 are hereby promoted to PSHTs BPS-15@ (16120-1330-56020) with immediate effect in the public interest and posted at the station noted below:

S.#	S. No.	Name	Present Station	Proposed Place of Posting	Remarks
1	163	Shagufta	GGPS Wali Khel Bara	GGPS Said Malang Killi Bara	Promoted
2	262	Farzana	GGPS Katta Kushta	GGPS Katta Kushta	Promoted
3	265	Hameeda Begum	GGPS Mumtaz Killi	GGPS Zafar Ullah	Promoted
4	274	Anisa Begum	GGPS Khewa Gul Killi Jamrud	GGPS Mina Gul Jamrud	Promoted
5	284	Basra Begum	GGPS Maweez	GGPS Quwat Khan	Promoted
6	304	Noreen Afridi	GGPS Shah Hussain Killi	GGPS Hakim Juma Khan Bara	Promoted
7	321	Kalsoom Begum	GGPS Yar Afzal Killi Jamrud	GGPS Lal Mat Shah	Promoted
8	324	Shazia Ambreen	GGPS Hukam Khan	GGPS Shiekhwal LKL	Promoted
9	325	Sarwat Saeed	GGPS Prang Dara	GGPS Musa Killi LKL	Promoted
10	326	Asmat Bibi	GGPS Mohd: Amin Bara	GGPS Adam Khel Bara	Promoted
11	334	Sajida Ghalib	GGPS Ahmad Jan Killi	GGPS Do Ghundo Fida Killi Jamrud	Conditionally promoted w.e.f. 01.11.2022
12	338	Zainab Shah	GGPS Abdul Karim	Toda Mela Hasham Killi Jamrud	Conditionally promoted w.e.f. 01.11.2022
13	340	Sharafat	GGPS Nazir Shah	GGPS Shah Gulab BQK Bara	Promoted
14	341	Lubna	GGPS Nazar Khan	GGPS Shakirullah Killi Jamrud	Conditionally promoted w.e.f. 01.11.2022
15	343	Naheed Khan	GGPS Sher Badshah kalay	GGPS Abdullah Jan Bara	Promoted

Terms & Conditions:

1. They would be on probation for a period of one year, extendible for another one year.
2. They will be governed by such rules and regulation as may be issued from time to time by the Govt.
3. Their services can be terminated at any time in case her performance is found unsatisfactory during probationary period. In case of misconduct, she shall be proceeded under the rules framed from time to time.
4. Charge report should be submitted to all concerned.
5. No TA/DA is allowed for joining him/her duty.
6. They will give an undertaking to be recorded in their Service Book to the effect that any over payment is made to her in the light this order will be recovered and if she is wrongly promoted, she will be reversed at any stage.
7. Professional and academic degree/ certificate required for promotion will be verified if found bogus she will be reverted and she will be handed over to law & Enforcement Agency.
8. Intra Seniority of PST/ PSHT/SPST will remain intact.

ATTESTED

[Handwritten Signature]

[Handwritten Signature]
ATTESTED

7

CONSEQUENTIAL TRANSFER.

S#	Name	Place of Posting	Remarks
1	Almas PSHT GGPS Shakirullah Killi Jamrud	GGPS Kabal Khan Jamrud	On need-base
2	Khalida PSHT GGPS Said Malang Bara	GGPS Guli Shah Bara	On need-base
3	Abida PSHT GGPS Do-Ghundo Fida Killi Jamrud	GGPS Hayat Khan Tatar Mulogori Jamrud	On need-base
4	Raseeda PSHT GGPS Gulab Killi LKL	GGPS Landi Kotal	On need-base
5	Rozina Begum PST GGPS Quwat Shah	GGPS Abdur Rehman Killi Jamrud	On need-base
6	Farhat Naz GGPS Shah Alam No. 2 Jamrud	GGPS Jamrud	On need-base

(FANOOS JAMAL)
DISTRICT EDUCATION OFFICER
FEMALE DISTRICT KHYBER AT JAMRUD

Endst: No. 5035-40 / PSHT Promotion.

Dated 05 / 08 / 2022.

Copy for information and necessary action is forwarded to the:

- 1 Director Elementary & Secondary Education KPK Peshawar
- 2 Deputy Commissioner Khyber District at Peshawar.
- 3 DMO IMU District Khyber.
- 4 District Accounts Officer Khyber District at Jamrud.
- 5 SDEOs/ ADEOs Concerned local office.
- 6 Individual concerned.

DISTRICT EDUCATION OFFICER
FEMALE DISTRICT KHYBER AT JAMRUD

M. J.



DISTRICT EDUCATION OFFICE
FEMALE DISTRICT KHYBER AT JAMRUD

• Phone No. 091-5820275

B-8

CONSEQUENTIAL TRANSFER.

S#	Name	Place of Posting	Remarks
1	Kalsoom PSHT GGPS Lalmat Killi Jamrud	GGPS GGPS Abdur Rehman Killi Mulagori Jamrud	This office order No. 5035-40, dated 05.08.2022 is hereby withdrawn.
2	Mehnaz Begum PSHT GGPS Sifat Mir Mulagori Jamrud	GGPS Races Khan Mulagori Jamrud.	On need-basc
3	Rozina Begum PST GGPS Abdur Rehman Jamrud	GGPS Yar Afzal Jamrud	This office order No. 5035-40, dated 05.08.2022 is hereby withdrawn.
4	Raseeda PSHT GGPS Landi Kotal	GGPS Zarmali Shah LKL	This office order No. 5035-40, dated 05.08.2022 is hereby withdrawn.
5	Yasmin PSHT GGPS Sadam Jan Bara	GGPS Mughal Baz Bara	Against V post
6	Aneela PST GGPS GGPS Guli Shah	GGPS Sadam Jan Bara	Against V post

(FANOOS JAMAL)
DISTRICT EDUCATION OFFICER
FEMALE DISTRICT KHYBER AT JAMRUD

Endst: No 6066-70 SPSTs(Female) Promotion/
Copy for information and necessary action is forwarded to the:

Dated 13/08/2022.

- 1 Director Elementary & Secondary Education KPK Peshawar
- 2 Deputy Commissioner Khyber District at Peshawar.
- 3 DMO IMU District Khyber.
- 4 District Accounts Officer Khyber District at Jamrud.
- 5 SDEOs/ ADEOs Concerned local office.
- 6 Individual concerned.

DISTRICT EDUCATION OFFICER
FEMALE DISTRICT KHYBER AT JAMRUD

ATTESTED



District Education Office
Female Khyber at Jamrud
Phone. 091-5820275

12A

⑨

CORRIGENDUM

Reference, to this office Notification Endst No. 6066-70, dated 13.08.2022. In partial modification of this department's notification, the place of posting of the following female teacher of Elementary & Secondary Education may be read as noted against their names. The terms and conditions will remain the same as mentioned in the promotion order.

S.No	Name & Design:	Place of posting may be read as	Remarks
1	Rozina SPST GGPS Yar Afzal Killi Jamrud	GGPS Raees Killi Shakas Jamrud.	A.V.P
2	Zeenat Bibi SPST	GGPS Yaqoot Shah Jamrud	A.V.P
3	Balqees SPST	GGPS Jamrud	A.V.P
4	Kalsoom PSHT.	GGPS Baso Ghari Jamrud	A.V.P
5	Shakeela PSHT GGPS Baso Ghari	GGPS Abdur Rehman Mulagori Jamrud	A.V.P
6	Nigat Aman PST GGPS Raees Jam:	GGPS Yar Afzal Killi Jamrud	On need base
7	Jamila Sohail PST GGPS Jamil Killi Bara	GGPS Suitan Muhammad Bara	A.V.P
8	Najida GGPS Iftekhar Killi Jamrud	GGPS Hidayat Killi Shakas Jamrud	A.V.P
9	Najma PSHT GGPS Yaqoot Shah	GGPS Iftekhar Killi Jamrud.	A.V.P

The transfer shall be made on district base by District Education officers.

both the applicant and Shakeela are mentioned in the same notification.

- Note: 1. Charge report should be submitted to all concerned.
2. No TA /DA Allowed.
3. HRIS profile shall be updated

DISTRICT EDUCATION OFFICER
FEMALE KHYBER AT JAMRUD

Endst: No: 6430-35

Dated 31/08/2022

Copy of the above is forwarded to:

1. Director of (E&SE) KPK at Peshawar.
2. DMO (EMA) Khyber at Jamrud.
3. ADEO/SDEOs Female concerned.
4. Individual concerned.
5. HRIS profile shall be updated
6. Master File.

DISTRICT EDUCATION OFFICER
FEMALE KHYBER AT JAMRUD

ATTESTED

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D - 10

(7)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2022

Kalsoom Wife of Akhtar Munir R/o Umarzai, Tehsil and
District Charsadda.....(Appellant)

V E R S U S

1. Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education Department, Civil
Secretariat, Peshawar:
2. Director Elementary and Secondary Education Department,
Khyber Pakhtunkhwa, Hashtnagari, G.T. Road, Peshawar.
3. District Education Officer (Female) District Khyber at
Jamrud.....(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICE TRIBUNAL ACT
1974, AGAINST THE IMPUGNED TRANSFER
ORDER DATED 31/08/2022, BY VIRTUE OF
WHICH THE APPELLANT HAS BEEN
TRANSFERRED FROM GGPS ABDUR
REHMAN KILLI MALAGORI, JAMRUD
(KHYBER) TO GGPS BASO GHARI, JAMRUD
(KHYBER).**

ATTESTED

M. B.

PRAYER IN APPEAL:

By accepting of this Service Appeal, that the impugned transfer order dated 31/08/2022 may kindly be declared as null and void, void-ab-initio and may also be set aside, and the appellant may kindly be allowed to continue his services at GGPS Abdur Rehman Killi Malagori, Jamrud (Khyber) being premature transfer, in the best interest of justice.

Any other relief which has not been mentioned may also be granted in favour of appellant.

Respectfully Sheweth:

1. That the appellant is law abiding citizen of Pakistan and is the permanent resident of Umarzai, Tehsil and District, Charsadda. (Copies of CNIC and Service Card are attached as annexure "A").
2. That initially the appellant was appointed as PST (BPS-14) and thereafter she performed her duty with due deliberation at GGPS Yar Afzal Killi, Jamrud (Khyber).

ATTESTED

M. [Signature]

(12) (8)

3. That thereafter the appellant was promoted to BPS-15 and transferred to GPPS Lal Mat Shah, Jamrud (Khyber) and when she arrived to the school she came to know the school was locked due to law and order situate in the area. (Copy of promotion order is attached as annexure "B").

4. That due to above mentioned reason the respondent No. 3 issue order of transfer dated 13/08/2022 in which the appellant was directed to join her duty at GGPS Abdur Rehman Killi, Malagori, Jamrud (Khyber) and respectively she join and took charge on 05/09/2022. (Copies of transfer order and charge report are attached as annexure "C").

5. That after passing just 15 days in the above said School, the appellant was again transferred through a corrigendum dated 31/08/2022 and another Teacher namely Shakeela was illegally posted at GGPS Abdur Rehman Killi, Malagori, Jamrud (Khyber) which is against the law and rules. (Copy of corrigendum is attached as annexure "C/1").

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(13)

(9)

6. That it is pertinent to mention here that during the 15 days the appellant performed her duties with zeal and devotion, but the respondents transferred the appellant just for to accommodate their near and dear. (Copy of attendance register is attached as annexure "D").

7. That on 14/09/2022 the appellant filed an appeal/representation against the transfer order dated 31/08/2022. (Copy of the appeal/representation is attached as annexure "E").

8. That stipulated period has been passed so far, but the appeal/representation of the appellant has not been decided by the respondent No. 2 and the respondent No. 3 call explanation from the appellant that why she has not joining her duties at GGPS Baso Ghari, Jamrud (Khyber). (Copy of explanation letter is attached as annexure "F").

9. That the appellant having no other adequate alternate remedy, but to approach this Hon'ble Tribunal for redressal of her grievances, on the following grounds:

ATTACHED

M. Javed

GROUNDS:

131A

90

A. That the transfer order of the appellant is premature and against the law and rules, therefore needs interference of this Hon'ble Tribunal.

B. That the act of respondents is illegal, unlawful, without lawful authority, hence the appellant is not binding to obey the same.

C. That the act of the respondents is against the fundamental right and natural justice.

D. That the act of the respondents clear cut shows that the respondents accommodated their blue eyed persons, which is clear cut discrimination on the part of respondents.

E. That Constitution of Islamic Republic of Pakistan, 1973 also give guarantee to all the Citizens of Pakistan shall be treated according to law.

ATTESTED

M. [Signature]

F. That appellant will take other grounds at the time of arguments with the prior permission of this Hon'ble Tribunal.

13/B

It is, therefore, most humbly prayed that by accepting of this Service Appeal, that the impugned transfer order dated 31/08/2022 may kindly be declared as null and void, void-ab-initio and may also be set aside, and the appellant may kindly be allowed to continue his services at GGPS Abdur Rehman Kallay, Malagori, Jamrud (Khyber), being a un-married and disable lady, in the best interest of justice.

Any other relief which has not been mentioned may also be granted in favour of appellant.

Appellant

Through

Dated: 18/10/2022

Zain ul Abideen
Advocate High Court,
Peshawar.

M. Compa



E-14

~~14~~

**DISTRICT EDUCATION OFFICER
FEMALE DISTRICT KHYBER AT JAMRUD.**

Email: deofemalekhyber21@gmail.com

Phone No. 091-5820275

Transfer order.

Consequent upon the inquiry report/proposal of Inquiry officers/SDEO Female concerned on dated 03.01.2023, the following postings/transfers are hereby ordered in their own pay & scales in the best interest of public service with immediate effect with the following terms and conditions:-

S. #	Name & Desig:	From	To	Remarks
1.	Sajida Ghalib PSHT	GGPS Do-ghundo Jamrud	GGPS Yaqut Shah Jamrud	A.V.P on administrative basis.
2.	Shakila PSHT	GGPS Abdur Rehman Mulagori jamrud	GGPS Haji Shah alam Jamrud	A.V.P on administrative basis.
3.	Kulsoom PSHT	GGPS Abdur Rehman Mulagori jamrud	GGPS Sifat Mir Jamrud	A.V.P on administrative basis.
4.	Musarat PSHT	GGPS Haji Shah alam Jamrud	GGPS Abdur Rehman Mulagori jamrud	A.V.P vice No. 03
5.	Humaira Gul PST	GGPS Akhtar Shah Bara	GGPS Doran Gul Bara	On need basis as NOC has already been granted to the school head.

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed.
3. HRIS Profile shall be updated.

**DISTRICT EDUCATION OFFICER
FEMALE KHYBER AT JAMRUD**

Endst.No: 167-72 Dated 10 /01/2023.

Copy of the above is forwarded to the:

1. District Accounts Officer Khyber at Jamrud.
2. DMO (EMA) District Khyber at Jamrud.
3. SDEO Female concerned.
4. Teachers concerned.
5. HRIS Cell DEO Female Khyber.
6. Master File.

ATTACHED

**DEPUTY DISTRICT EDUCATION OFFICER
FEMALE KHYBER AT JAMRUD**

verified
Sumaira
SPEO
Jamrud

M. Qureshi

A. J. Khan
M. Qureshi

To,

The Director, F&SE Department,
Khyber Pakhtunkhwa, Peshawar.

F-15

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 10.01.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM GGPS ABDUR REHMAN, MULAGORI, JAMRUD TO GGPS SIFAT MIR, JAMRUD PREMATURELY AND IN VIOLATION OF THE TRANSFER/POSTING POLICY OF THE PROVINCIAL GOVERNMENT

Respected Sir,

With due apology it is stated that the appellant is the employee of your good self department and is serving as PSIIT (BPS-15) quite efficiently and upto the entire satisfaction of her superiors.

That the appellant while performing her duty as SPST (BPS-14) at GGPS Yar Afzal Kalay, Jamrud promoted to the post of PSIIT (BPS-15) vide Notification dated 05.08.2022. That after promotion the appellant adjusted at GGPS Lal Mat Shah and the appellant properly started performing her duty.

That after the lapse of few days the appellant was transferred from GGPS Lal Mat Shah to GGPS Abdur Rehman Kalay Mulagori, Jamrud against the vacant post vide order dated 13.08.2022. That in compliance of the order dated 13.08.2022 the appellant submitted her charge report and started performing her duty with all zeal and zest.

That astonishingly the District Education Officer (F) District Khyber issued corrigendum dated 31.08.2022 whereby the appellant has been transferred and posted at GGPS Baso Ghari, Jamrud and one Mst; Shakeela, PSIIT (BPS-15) has been posted in place of appellant at GGPS Abdur Rehman Kalay, Mulagori, Jamrud in violation of law and rules in vogue.

That feeling aggrieved from the corrigendum dated 31.08.2022 the appellant preferred departmental appeal followed by service appeal No. ___/2022 before the Khyber Pakhtunkhwa Service Tribunal and during the pendency of above mentioned service appeal the authority concerned issued the impugned order dated 10.01.2023 whereby the appellant has once again transferred from GGPS Abdur Rehman, Mulagori, Jamrud to GGPS Sifat Mir, Jamrud. That in compliance of the order dated 10.01.2023 the appellant submitted his charge report and started performing her duty.

That the authority concerned made the appellant is a rolling stone by transferring her from one station to another in short span of time and without

completing her normal tenure at one station. That the above mentioned act of the authority concerned is against the law and transfer/posting policy.

That the impugned transfer order dated 10.01.2023 is violative of Clause-I & IV of the transfer/posting policy promulgated by the Provincial Government of Khyber Pakhtunkhwa.

That the appellant feeling aggrieved from the impugned order dated 10.01.2023 preferred this departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the impugned order dated 10.01.2023 may very kindly be set aside to the extent of appellant and one Mst; Musarat, PSHT and the authority concerned be directed not to transfer the appellant from GGPS Abdur Rehman, Mulagori, Jamrud till completion of her normal tenure. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 13.01.2023.

Your sincerely

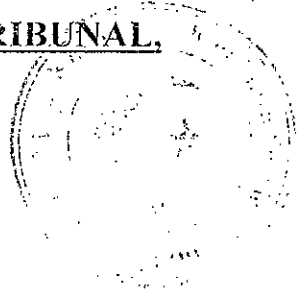
Kalsoom

Mst; Kalsoom, PSHT (BPS-15),
GGPS Abdur Rehman, Mulagori Jamrud
Under transfer to GGPS Sifat Mir, Jamrud

M. Kalsoom

9-17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR



APPEAL NO. 716 /2023

Mst; Kalsoom Begum, PSHT (BPS-15),
GGPS Sifat Mir, Jamrud, District Khyber.....APPELLANT

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
 - 2- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
 - 3- The District Education Officer (F), District Khyber at Jamrud.
-RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10.01.2023 WHEREBY THE APPELLANT HAS BEEN PRE-MATURELY TRANSFERRED FROM GGPS ABDUR REHMAN, MULAGORI, JAMRUD TO GGPS SIFAT MIR, JAMRUD AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHING THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 10.01.2023 may very kindly be set aside and the respondents please be directed that not to transfer the appellant from GGPS Abdur Rehman, Mulagori, Jamrud till completion of her normal tenure. Any other remedy which your good self deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is the employee of respondent department and is serving as PSHT (BPS-15) at GGPS Sifat Mir, Mulagori, Jamrud quite efficiently and upto the entire satisfaction of her superiors.
- 2- That the appellant while performing her duty as SPST (BPS-14) at GGPS Yar Afzal Kalay, Jamrud was promoted to the post of PSHT (BPS-15) vide Notification dated 05.08.2022 and subsequently posted at GGPS Lal Mat Shah, Jamrud. That in compliance of the Notification dated 05.08.2022 the appellant took over the charge against the post of PSHT (BPS-15) at GGPS Lal Mat Shat and started performing her duty with all zeal zest. Copy of the Notification is attached as annexure.....A.

A. No. 716/2023
Kalsoom vs Govt (18)



22.02.2023

Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General alongwith Mr. Munawar Khan, ADEO for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondents requested for time to submit reply/comments. Adjourned. To come up for reply/comments as well as preliminary hearing on 30.03.2023 before S.B.

(Muhammad Akbar Khan)
Member (E)

30th March, 2023

Mr. Mir Zaman Safi, Advocate for appellant present and submitted wakalatnama which is placed on file. Mr. Fazal Shah, AAG for respondents present.

SCANNED
KPST
Peshawar

Counsel for the appellant submitted an application for withdrawal of the appeal due to fresh development with permission to file fresh appeal. Application is placed on file. The appeal is dismissed as withdrawn with permission to file fresh one.

02. Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 30th day of March, 2023.

Certified to be true copy
Khyber Pakhtunkhwa
Shariat Tribunal
Peshawar

(FAREEHA PAUL)
Member (E)



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) {
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- 2 While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast ~~eighteen~~ months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

1 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules.

2 Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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viii) No posting/transfers of the officer's/officials on detailment basis shall be made.

ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.

x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

(xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement. DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat	
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.
In the Secretariat	
1.	Secretaries
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.
3.	Officials up to the rank of Superintendent:

¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

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a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

[Handwritten Signature]

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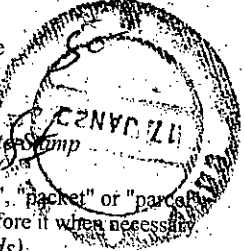
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Name and address of sender } } Grams

WAKALAT NAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2023

Kalsoom

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Kalsoom

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, High Court, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____ / _____ /2023

Kalsoom
CLIENT

M. Zaman
ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

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