

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

**Service Appeal No. 7458/2021**

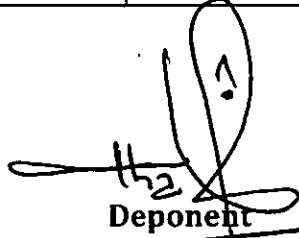
**Jamil Khan**

**VS**

**Government of KPK**

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**Deponent**

**Dr. Khalid Saeed Akbar**

**Divisional Litigation Officer**

**Secretariat & Directorate of E&SE KP Peshawar**

**BEFORE THE HONOURABLE SERVICE TRIBUNAL  
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**Service Appeal No. 7458/2021**

**Jamil Khan VS Government of KPK**

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS**

**Preliminary objections**

- 1) That the appellant is not an aggrieved person under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974.
- 2) That the appellant has not come to this Honourable Tribunal with clean hands rather the instant appeal is mainly based on malafide intension and just to put the pressure on the respondents department for illegal adjustment.
- 3) That the service appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.
- 4) That the appellant has got no cause of action / locus standi.
- 5) That the appellant has filed the instant appeal on malafide objectives.
- 6) That the instant appeal is against the prevailing law and rule.
- 7) That the instant appeal is against the facts and on grounds circumstances.
- 8) That the appeal filed by appellant was not decided by the worthy Chief Minister and appellant filed present appeal before this Honourable Tribunal.

**Respectfully Sheweth**

- 1) Para pertains to the appointment of appellant as Subject Specialist H/Civics (BS-17) vide Notification dated 02.04.2019, hence no comments.
- 2) This para is related to the posting of appellant as Head Master GHS Hakim Haved Bannu vide order dated 19.04.2019, hence no comments.
- 3) Incorrect / not admitted. The Notification Dated 24.08.2021 the Government of Khyber Pakhtunkhwa raised the issue of wrong posting. The E&SE Department vide Notification Dated 24.08.2021 announced that the entire wrongly adjusted officer may apply for their respective post through E-Transfer computer application. Most of the Subject Specialists were wrongly adjusted as Head Master BS-17 and vice versa. The present appellant being Subject Specialist (H/Civics) was wrongly adjusted against the post of Head Master. Therefore, the respondents department issue Notification of E-Transfer regarding wrong posting of officers. It is an admitted fact that the post of Head Master and Subject Specialist are two different cadres. The responsibility of Head Master is look after of the school (Administrative job) whereas, the responsibility of the Subject Specialist are to teach their respective subject to the classes of FSc/FA (intermediate classes). Due to non availability of Subject Experts in the Govt Higher Secondary Schools students are suffering a lot. Therefore, the

Notification Dated 24.08.2021 is justified in eye of law. (Service Rules of SS & HM are annexed as **annexure A**)

- 4) Incorrect / not admitted. Appellant filed departmental appeal against the Notification dated 24.08.2021 of the worthy Secretary E&SE Department on 01.09.2021. The appellant filed departmental appeal before the Honourable Chief Minister Khyber Pakhtunkhwa Peshawar on 01.09.2021, the Honourable Chief Minister is not competent forum, the competent forum against the Notification issued by worthy Secretary E&SE Department is the worthy Chief Secretary Khyber Pakhtunkhwa Peshawar. Hence the present appeal does not confer any useful right to the appellant. The appellant did not wait for the decision of appeal for 90 days, appellant filed present appeal just after 18 days (18.09.2021). Hence the present service appeal is not maintainable in eye of law and liable to be dismissed with heavy cost.
- 5) Incorrect/not admitted and strongly denied. Present appellant is not an aggrieved person. The service appeal of the appellant is an exercise in futility. Further proceeding in this regard would bear no fruit. It is, therefore, requested to this Honourable Tribunal to dismiss the Service Appeal of the appellant with cost.

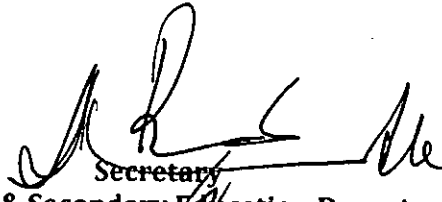
**Objections on Grounds**

- 1. Incorrect / not admitted. The act of the respondents was according to law, based upon the natural principle of justice. No discrimination had been made with the present appellant.
- 2. Incorrect and not admitted. Strongly denied. The Subject Specialist and Head Master both are different cadres and both have different job responsibilities. Therefore, it will be injustice to say that Subject Specialist and Head Master both is same cadre. It is further added that the respondent department had initiated working regarding separation of seniority of both cadres and in near future the seniority of both cadres will be separated being different job responsibilities. It is further added that the Head Master BS-17 will be promoted to the post of Principal BS-18 and whereas Subject Specialist BS-17 will be promoted to the post of Senior Subject Specialist BS-18. Hence the claim of the appellant is against the law.
- 3. This para is correct, that in Notification Dated 24.08.2021 the officers of BS-18 were exempted because office of the respondent No. 1 will make adjustment of officer of BS-17 on the basis of wrong posting and in the next step the office of the respondent No. 1 will make adjustment of wrongly adjusted officers of BS-18 and 19, hence the plea of the appellant is against the law and policy of the government.
- 4. Incorrect / not admitted. All the wrongly adjusted officers of the respondents department will be adjusted according to their respective designation. No one will be allowed to work against the wrong post in the best public interest.
- 5. The counsel for respondents may kindly be allowed to raise additional grounds at the time of arguments.

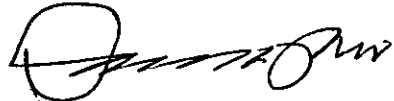
Officers of BS-18  
Head Master of

**Pray**

*Therefore, it is, requested to this Honourable Tribunal to dismiss the Service Appeal of the appellant because the Service Appeal of the appellants is only an exercise in futility because original post of appellant is Subject Specialist and he is working against the wrong post of Head Master.*



Secretary  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar



Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar



District Education Officer  
(M) Dera Ismail Khan

Division Officer  
Dera Ismail Khan

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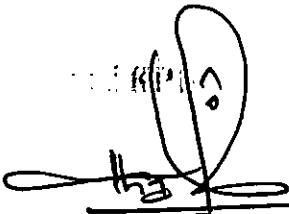
**VS**

**Government of KPK**

**Affidavit**

I, Dr. Khalid Saeed Akbar Divisional Litigation Officer DII Khan Division do hereby solemnly affirm and declared on oath that the contents of above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

**ATTESTED**  
*Noah*  
[Faint signature and stamp]

  
**Deponent**  
**Dr. Khalid Saeed Akbar**  
**12101-0899674-5**

[Faint text, possibly a date or reference number]

**Deponent**  
**Dr. Khalid Saeed Akbar**  
**12101-0899674-5**

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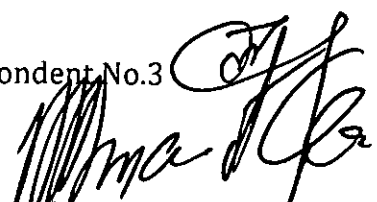
**VS**

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**Authority**

I, District Education Officer (M) Dera Ismail Khan Respondent No. 3 do hereby authorized Dr. Khalid Saeed Akbar Divisional Litigation Officer DIKhan Division to attend this Honourable Service Tribunal KPK Peshawar on behalf of respondents in connection with submission of para wise comments and till the decision of the service appeal.

Respondent No.3

  
**District Education Officer**  
**(Male) Dera Ismail Khan**

Respondent No. 3 do

District Education Officer

on behalf of

respondents and till the

**Batter copy**

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE  
SCHOOL AND LITERACY DEPARTMENT

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**NOTIFICATION**

Peshawar dated the April 09, 2004

No.SOG/S&LD/1-28/2003/Vol.II. The appendix attached with this Department Notification No. SOG/S&LD/1-28/2003/VOL.II dated 30.03.2004 is hereby substituted with the final / revised appendix dated 08.04.2004 and shall always be deemed to have been so substituted.

Secretary to Govt of NWFP  
School and Literacy Department

Ends No. SOG/S&LD/1-28/2003/Vol.II

Dated April 09, 2004

A copy is forwarded to;

1. All administrative secretaries to Govt: of NWFP
2. Secretary to Governor NWFP
3. Secretary to Chief Minister NWFP
4. Chairman Public Service Commission NWFP Peshawar
5. All Directors in School & Literacy Department in NWFP
6. All District Coordination Officers in NWFP
7. All Executive District Education Officer in School & Literacy Department in NWFP
8. Director Information NWFP with the request to give wide publicity
9. The Manager Govt Printing Press Peshawar for Publication in the next issue of Govt Gazette
10. PS to Minister for Education NWFP
11. PS to Secretary to Govt NWFP School & Literacy Department
12. PS to additional Secretary / Deputy Secretary S&L Deptt NWFP
13. All Section Officers / Planning Officer S&L Dpett Govt of NWFP

(NEK NAWAZ KHAN)  
Section Officer (General)

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Nomenclature of Post	Required Qualification	Age limit	Procedure
Head Master Government High School and other equivalent post in the Teaching Cadre	Master Degree with BEd/MEd/MA (Education) or equivalent qualification from a recognized university and <u>five years teaching experience in High/Middle Schools owned or recognized by the Government</u>	25-40 years	(a) Eighty Percent by promotion on the basis of seniority cum fitness from amongst the Senior English Teacher with five year service as such and  (b) Twenty percent by initial recruitment
Subject Specialist Government Higher Secondary Schools/ Government Comprehensive High Schools and other equivalent posts in the Teaching Cadre	(i) Master degree in relevant subject with Bachelor of Education or MEd or Master of Education (industrial Art or Business Education) or MA Education or equivalent qualification from a recognized university Or (ii) If no suitable candidate possessing the above qualification is available, a candidate possessing Master Degree in the relevant subject may be appointed as Subject Specialist subject to the condition that he shall acquire the requisite qualification as specified above within three years from the date of his appointment failing which his services will be terminated without notice irrespective of any provision of the rules for the time being enforce <b>Note:</b> The person appointed as Subject Specialist shall be transferable only to the post relevant to his subject	25-40 years	By initial recruitment