

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Service Appeal NO. 1629/2022

Sadia Bibi.....APPELLANT

VERSUS


Govt of KPK & OthersRESPONDENTS

SERVICE APPEAL

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 05

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District Education Officer (F)
Torghar
(Respondent No. 01)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Service Appeal No. 1629/2022

Sadia BibiAppellant

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

Joint Parawise Comments on behalf of Respondents No. 01 to 05

Respectfully Sheweth:

Para wise comments on behalf of respondent are submitted as under:

PRELIMINARY OBJECTIONS:-

1. That the appellant has no cause of action to file the instant service appeal.
2. That the appellant has no locus standi to file the instant service appeal.
3. That the appellant did not come to this Honorable Tribunal with clean hands.
4. **That as per Terms & Conditions No. 12 of appointment order dated 11-03-2015. The service of appellant is not transferrable to any other station & appellant did not challenge the said Terms & Conditions before the proper forum.**
5. That the appellant concealed and distorted the material facts from this Honorable Tribunal.
6. That the present service appeal has been filed just to pressurize the respondents.
7. That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) imposed complete ban on Inter-Districts transfer in all the departments vide Endst: No. SO (Policy) (E&AD) 1-4-2023 dated 29-05-2023. Hence, the instant service appeal is against the ibid Notification of Khyber Pakhtunkhwa Government.
8. That as per Section 10 of Civil Servant Act 1973, every Government Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard.
9. That as per section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 the instant service appeal is not maintainable in its present form as no

departmental appeal was preferred by the appellant in the instant service appeal.

Factual Objections:-

1. That the Para No. 01 of the Service Appeal relates to record.
2. That Para No. 2, of the instant service appeal is correct.
3. That Para No. 3, of the instant service appeal relates to record.
4. That Para No. 4, of the service appeal as composed is incorrect hence, denied. As per Terms & Conditions No. 12 of appointment order dated 11-03-2015. The service of appellant is not transferrable to any other station & appellant did not challenge the said Terms & Conditions before the proper forum. (Copy of appointment order dated 11-03-2015 is already annexed as Annexure "A" with Service Appeal at page No. 14 & 15)
5. That Para No. 5, of the service appeal is subject to the cogent / plausible proof.
6. That Para No. 6, of the service appeal is correct to the extent of transfer order dated 13-08-2018 while rest of the Para as composed is incorrect hence, denied.
7. That the Para No. 7, of the service appeal as composed is incorrect hence, denied. Furthermore, as per Terms & Conditions No. 12 of appointment order dated 11-03-2015. The service of appellant is not transferrable to any other station & appellant did not challenge the said Terms & Conditions before the proper forum.
8. That the Para No. 8, of the service appeal is correct to the extent that appellant is working at GGPS Savay Naranj as a single teacher while rest of the Para as composed is incorrect hence, denied. As per staff statement of GGPS Savay Naranj total sanctioned posts of teaching staff are 02 and the post of appellant as a PST (BPS-12) is filled and 01 post of PSHT (BPS-15) is lying vacant. If the appellant is transferred, future of the innocent students will be ruined and consequently school will be closed. (Copy of Staff Statement is annexed as **Annexure "A"**)
9. That the Para No. 9, of the service appeal as composed is incorrect hence, denied. As per Section 10 of Civil Servant Act 1973, every Government

Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard.

10. That the Para No. 10, of the service appeal is premature hence, need no comment as no service record/ transfer order of appellant's husband is available on file.
11. That the Para No. 11, of the service appeal as composed is incorrect hence, denied. As per Govt of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide No. SOR-VI/E&AD/1-4/2010 dated 07-08-2012 both husband and wife must be serving in the same department but appellant did not annex the service record of her husband. (Copy of the Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide No. SOR-VI/E&AD/1-4/2010 dated 07-08-2012 is annexed as **Annexure "B"**)
12. That the Para No. 12, of the service appeal as composed is incorrect hence, denied.
13. That the Para No. 13, of the service appeal as composed is incorrect hence, denied. Appellant did not file departmental appeal before the appellate authority hence, instant service appeal is not maintainable in its present form and same is liable to be dismissed on this score alone. Furthermore, appellant did not annex the copy of departmental appeal as well as postal receipt.
14. That the Para No. 14, of the service appeal as composed is incorrect hence, denied. If the departmental appeal is rejected by the appellate authority than appellant should have annexed the copy of rejection letter but appellant neither annexed the copy of rejection letter nor impugned the same in the instant service appeal. Hence, instant service appeal is filed without filing of departmental appeal therefore service appeal in hand is not maintainable under section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974.
15. That the Para No. 15, of the service appeal as composed is incorrect hence, denied as the appellant cannot invoke the jurisdiction of this Honorable Tribunal as instant service appeal is not maintainable in its present form.

GROUND:-

- 1 That the ground 01, of the instant service appeal as composed is incorrect hence, denied and not admitted.
 - a. That the ground a, of the instant service appeal as composed is incorrect hence, denied. Comprehensive reply has already been given in preceding Paras.
- 2 That ground 02, of the instant service appeal as composed is incorrect hence, denied. As per Govt of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide No. SOR-VI/E&AD/1-4/2010 dated 07-08-2012 both husband and wife must be serving in the same department but appellant did not annex the service record of her husband.
- 3 That the ground 3, of the instant service appeal as composed is incorrect hence, denied and not admitted. Comprehensive reply has already been given in Para No. 11 of the factual objections.
- 4 That the ground 04, of the instant appeal as composed is incorrect hence, denied and not admitted.
- 5 That the ground 05 of the instant appeal as composed is incorrect hence denied. As per Govt of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide No. SOR-VI/E&AD/1-4/2010 dated 07-08-2012 both husband and wife must be serving in the same department but appellant did not annex the service record of her husband.
- 6 That the ground 06, of the instant appeal as composed is incorrect hence, denied.
- 7 That the ground 07, of the instant appeal as composed is incorrect hence, denied.
- 8 That the ground 08, of the instant appeal as composed is incorrect hence, denied.
- 9 In reply to ground 09, of the instant appeal it is submitted that wedlock/spouse policy is not applicable in the instant case. Brief reply has already been given in Para No. 11 of the factual objections.
- 10 That ground 10, as composed is incorrect hence, denied. Comprehensive reply has already been given in preceding Paras.
- 11 In reply to ground 11, of the instant service appeal it is submitted that Govt of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide No. SOR-VI/E&AD/1-4/2010 dated 07-08-2012 is not applicable in the instant case.

12 That the respondents seek permission of this Honorable Tribunal to advance further grounds/ points during the course of arguments.

It is, therefore, very humbly prayed that in the light of forgoing comments the service appeal in hand may graciously be dismissed with cost throughout.

1 District Education Officer (F)
Torghar
(Respondent No. 01)

2 Deputy District Education Officer (F)
Torghar
(Respondent No. 02)

3 Sub Divisional Education Officer (F)
Torghar
(Respondent No. 03)

4 Director E&SE Khyber Pakhtunkhwa
Peshawar
(Respondents No. 04)

5 Secretary
E&SED Khyber Pakhtunkhwa Peshawar
(Respondents No. 05)

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AFFIDAVIT

I, Mst. Nadia Begum, District Education Officer (F), Torghar of Elementary & Secondary Education Khyber Pakhtunkhwa, do hereby affirm and declare that the contents of forgoing Comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

*Qh
Taro*

DEPONENT

Attest

[Signature]

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Staff Statement of GGPS Savay Naranj Tehsil Hassanzai District Torghar

Detail as under


Total sanction Posts = 2

S. No	Filled	Vacant Posts
1	PST 12	Filled
2	PSHT 15	Vacant

The above mentioned single School teacher working as PST at GGPS Save Naranj District Tor Ghar the remaining posts lying vacant.

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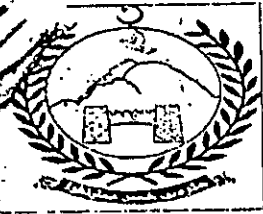
D.E.O (F)
Tor Ghar


NASIRA NASEEM
ASDEO (F)
Assistant Sub-Divisional Education Officer (F)
Hassanzai

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

(REGULATION WING)

No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII
Dated Peshawar, the, 07th August, 2012.

To

3. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject: POSTING OF SERVING HUSBAND/WIFE AT THE SAME STATION OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

I am directed to refer to the subject noted above and to state that keeping in view the Socio economic Problems and hardships faced by husbands and wives in Government Service due to posting at different station of duty, the competent authority has been pleased to prescribe the following guideline to facilitate posting of husband and wife at the same station:-

- i) Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.
- ii) If request involves temporary deputation to another department, it may be processed in consultation with the concerned department and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.
- iii) If there is a tie between two or more Government servants for posting at the same station in the same department/unit of an

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organization, the Government servant with greater length of service may be preferred.

iv) Request for posting by a spouse facing serious medical problems may be accorded highest priority.

v) Spouses already posted at one station, including those posted on deputation may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.

2. Kindly acknowledge receipt.

Yours faithfully,

Naajam
7/8/12

(NAJ-MUS-SAHAR)
SECTION OFFICER (REG:VI)

Endst.No. & date even.

Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Registrar, Peshawar High Court, Peshawar.
4. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. The Director General, Provincial Disaster Management Authority.
6. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Incharge Resource Centre, Estt:&Admn: Department.

Naajam
7/8/12

SECTION OFFICER (REG: VI)

Attested
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10/12