

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 01/2023

In

12(2) Petition No. 257/2023

Mst. Saima, Principal (BPS 18).....Appellant.

VERSUS

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

INDEX

S#	Description of Documents	Annex	Pages
1.	Affidavit	A	1
2.	Authority Letter	B	2
3.	Para-wise comments/reply	C	3-4
4.	Annexures	D	5-8


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VERSUS

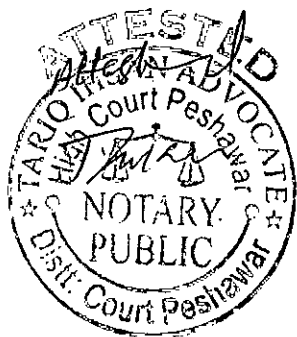
Govt. of Khyber Pakhtunkhwa & others..... Respondents


AFFIDAVIT

I, **Mr. Amjad Ali**, Section Officer (Litigation-II) Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor their defense has been struck off.

DEPONENT




Mr. Amjad Ali
Section Officer (Lit-II)
E&SE Department Peshawar

(2)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Mr. Fahim, Focal person (Litigation-II)** Elementary & Secondary Education Department is hereby authorized to submit parawise comments on behalf of Secretary Elementary & Secondary Education Department Peshawar **12(2) Petition No. 257/2023 in Service Appeal No. 01/2022 Case Titled Mst. Saima vs Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Mr. Amjad Ali
Section Officer (Lit-II)
E&SE Department Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 01/2022

In

12(2) Petition No. 257/2023

Mst SaimaAppellant.

VERSUS

Chief Secretary to Govt of KPK Peshawar..... Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NOS. 02, 03 & 04.

Respectfully Sheweth,

Preliminary Objections:


1. The applicant has not come to this Court with clean hands.
2. The applicant is duty bound to perform her duties throughout the Province, wherever she might be given the task, therefore the new assigned task does not violate any vested rights of the applicant and she is not an aggrieved person.
3. The Respondents have acted as directions of this Honorable Tribunal, therefore nothing is against law & facts.
4. The applicant is estopped by her own conduct to file the present application u/s 12(2) CPC.
5. The present appeal is against the prevailing law and rules hence not maintainable in the eye of law.
6. The applicant is not entitled for any relief, she has sought from this Honorable Tribunal.
7. The present application is liable to be dismissed being devoid of any merits.
8. The applicant is just wasting the previous time of this Honorable Tribunal.
9. The Respondents are empowered u/s 10 of Civil Servant Act, 1973 for placing the service of the applicant throughout the province in the best of public interest.

On Facts

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Para 4 needs no reply on the part of answering Respondent, because role no is given to the answering respondent. The real facts pertain to appeal no 01/2022 with titled Dr. Salma Sami vs Government of Khyber Pakhtunkhwa.

5. Para-5 again concerned with respondent No. 01 and the answering respondents have no concern with this para. However, it is pertinent to mention here that the official respondents being competent authority having power u/s 10 of Civil Servant Act, 1973 for postings/transfers.

It is therefore, most humbly requested that the application being non-maintainable may kindly be dismissed with cost.


SECRETARY
Elementary & Secondary Education,
Department (Respondent No. 02, 03 & 04)

May 2023

5

Representing the
Government of Khyber Pakhtunkhwa

1. Learned counsel for the petitioner submits that while misrepresenting the facts by the parties in appeal No. 01/2022 titled "Dr. Salma Sami vs. Government of Khyber Pakhtunkhwa" a notification dated 14.09.2022 was produced before the Tribunal constraining it to pass an order in view thereof and in the said notification the appellant of the said appeal named Dr. Salma Sami was shown to have been posted at GGHSS Malogo Peshawar against the post of Principal which too was shown to be lying vacant whereas in compliance with an earlier notification No. SO(S/F)E&SED/4-16/2022/posting/Transfer/36 dated 12.08.2022 the petitioner Mst. Saima had already been working on the post of Principal GGHSS Malogo Peshawar and thus the post was not vacant but even then it was shown to be vacant in the notification of 14.09.2022 which fact was also evident from a letter at page-28 addressed to the Secretary (E&SE) Peshawar wherein respondent No.1 Dr. Salma Sami had informed the Secretary that the post was already occupied by Mst. Saima. Learned counsel for the petitioner further referred to the Civil Miscellaneous application for suspending the operation of notification dated 17.04.2023 vide which some transfers were made but with the statement that the transfer order was being made in compliance with the judgment of this Tribunal dated 14.09.2022 and the petitioner Mst. Saima was transferred from GGHSS Malogo Peshawar to GGHSS Mian Gujjar while respondent No.1 was posted at GGHSS Malogo Peshawar. The subsequent notification of 17.04.2023 prima facie supports the contention of the learned counsel for the petitioner that the order dated 14.09.2022 passed by this Tribunal was a result of some misrepresentation made by the parties. Therefore, we would like to issue notice to the respondents to submit a detailed reply on 18.05.2023 before S.B. In the mean time operation of notification dated 17.04.2023 is suspended. P.P given to the petitioner. The respondents be summoned through TCS, the expenses of which be deposited by the petitioner within two days failing which the interim order shall cease to have affected.

(Handwritten Signature)

(Kalim Arshad Khan)
Chairman

ACCEPTED

Adnan Shah, PA

Get this to be true copy

SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 05-05-23
 Number of Page 2
 Copying Fee 10/-
 Urgent 5/5
 Total 15/-
 Name _____
 Date _____
 Date of Delivery of Copy 05-05-23



(6)

14/11/2023

GOVT. OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Email: sectionofficer@kmail.com

091-9223588

Dated Peshawar, April 19th, 2023

RELIEVING ORDER

NO.SO(S/F)E&SED/4-18/2022/Posting/Transfer/: Consequent upon the posting/transfer Notification dated 17.04.2023, Mst. Saima Principal (BS-18) is hereby relieved from GGHSS Malogo Peshawar from the post of Principal (BS-18).

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa for further necessary action.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Peshawar.
4. Director EMIS, E&SE Department for uploading at official website at the earliest.
5. PS to Minister for E&SE Department, Khyber Pakhtunkhwa.
6. PS to Secretary, E&SE Department.
7. Officers/Official Concerned.
8. Office order file.

Mst
Saima

(SHAWANA HALEEM)
SECTION OFFICER (S/F)

ATTACHED

7



GOVT. OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Email: sectionofficersf@gmail.com
091-9223588

Dated Peshawar June 14th, 2023

NOTIFICATION

NO.SO(S/F)E&SED/4-16/2023/Posting/Transfer/: Consequent upon Khyber Pakhtunkhwa Service Tribunal order dated 04.05.2023 this Department's notification of even no. dated 17.04.2023 in respect of Mst. Salma Sami and Mst. Saima Principal is hereby held in abeyance till the decision of Service Tribunal.

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT.**

Endst: of even No. & date:

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officers (Female), Peshawar.
5. Director EMIS, E&SE Department for uploading at official website at the earliest.
6. PS to Secretary, E&SE Department.
7. Principals concerned.
8. Office order file.

Alied
Sami

(SHAWANA HALEEM)
14/6/23
SECTION OFFICER (S/F)



GOVT. OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Email: sectionofficersf@gmail.com
091-9223588

Dated Peshawar the April 17, 2023

NOTIFICATION

IO.SO(S/F)E&SED/4-16/2023/Posting/Transfer: In compliance with Khyber Pakhtunkhwa Service Tribunal Peshawar's Judgment dated 14 09 2022 the following postings/transfers are hereby ordered, with immediate effect

Sr. #	Name/ Designation	From	To	Remarks
1	Mst. Salma Sami Principal (BS-18)	Under transfer	GGHSS Malogo Peshawar	Vice sr. No. 01
2	Mst. Saima Principal (BS-18)	GGHSS Malogo Peshawar	GGHSS Mian Gujar Peshawar	Vice sr. No. 03
3	Mst. Seema Afridi Principal (BS-18)	GGHSS Mian Gujar Peshawar	GGHSS Sahibzada Umer Khan Peshawar	AVP of SSS Home- Economics (BS-18)

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
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7. Officers/Official concerned.
8. Office order file.

[Handwritten Signature]

[Handwritten Signature]
(SHAMANA HALEEM)
SECTION OFFICER (S/F)