

21-6-2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 61/4

Dated 20/6/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1002/2023

Muhammad Arshad khan SDEO BPS 17.....Appellant.

VERSUS

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

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Respondent

Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

COC 341/2023

in

Service Appeal #1002/2023

Muhammad Irshad khan SDEO (BPS-17).....Appellant

VERSUS

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

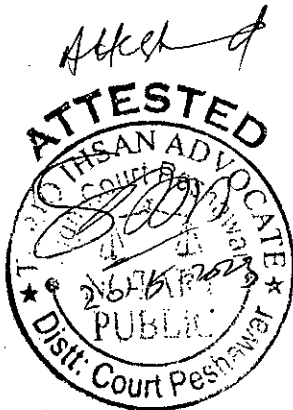
AFFIDAVIT

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.

DEPONENT



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



It is further stated that on oath that in this appeal the answers of ~~defendant~~ Respondent have neither been placed ~~ex-~~ ~~parte~~ nor their defence has been struck off

AM
20-6/2023



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 COC #341/2023 in Service Appeal No. 1002/2023 Case Titled Muhammad Irshad Khan vs Govt of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

A handwritten signature in black ink, consisting of several loops and a vertical stroke, positioned above the printed name.

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

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

COC. # 341/2023.

Khyber Pakhtunkhwa
Service Tribunal

In

Diary No. 6114

Service Appeal # 1002/2023

Dated 20-06-23

Muhammad Arshad Khan, SDEO (BPS-17) BannuAppellant.

VERSUS

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

REPLY TO THE COC APPLICATION ON BEHALF OF THE RESPONDENTS.

Respectfully Sheweth,

The Respondents submit as under:-

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi for filing of this COC application as there is no irregularity or non-compliance on the part of the respondents.
2. That the instant application is bad in its present form, therefore, liable to be dismissed summarily.
3. That the applicant has concealed the material facts from this Hon'ble Tribunal, hence the instant application is not maintainable.
4. That the applicant has not come to this Hon'ble Tribunal with clean hands.
5. That the applicant has filed the instant application with malafide intention just to pressurize the Respondent for gaining illegal service benefits.
6. That the instant application is against the prevailing law, hence not maintainable.
8. That the applicant is estopped by his own conduct to file the instant application.
9. That the instant application is not maintainable in the present circumstances of the issue.
10. That the Notifications dated 14-03-2023 & 23.05.2023 of the Respondent are competent and in accordance with existing law/rules, therefore, liable to be maintained.

FACTS.

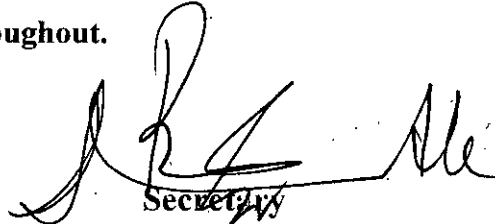
1. That Para-I needs no reply.
2. That Para-2 is correct and the answering respondents were directed for suspending the Notification dated 14.03.2023 and for the compliance of the same another Notification dated 16.05.2023 was issued in light of the Order dated 10.05.2023.
3. That Para-3 is incorrect & denied. The real situation after Notification dated 14.03.2023 was that the Private Respondent No.4 has already assumed the Charge of SDEO Male Bannu on 15.03.2023 (**Annex-I**) which fact was concealed by the applicant from this Honorable Tribunal and got suspension order dated 10.05.2023 in which this Honorable Tribunal expressly embargoed with condition for suspension of the Notification dated 14.03.2023 with wording "**if not already acted upon**".
4. That Para-4 is incorrect, false & against the real facts, hence denied in toto. The real situation after Notification dated 14.03.2023 was that the Private Respondent No.4 has already assumed the Charge of SDEO Male Bannu on 15.03.2023 which fact was

(8) (4)

concealed by the applicant from this Honorable Tribunal and got suspension order dated 10.05.2023 in which this Honorable Tribunal expressly embargoed with condition for suspension of the Notification dated 14.03.2023 with wording "if not already acted upon". So the allegation of applicant are baseless and liable to be turned down.

5. In response of Para-5 it is stated that after consultation with District Education Officer concerned who informed the Respondent No.2 that the Private Respondent No.4 has already assumed the charge on 15.03.2023 after relieving the applicant and as per directions of this Honorable Tribunal the Notification dated 14.03.2023 about posting /transfer of the applicant was acted upon in accordance with law and procedure , therefore, the operation of the order dated 10.05.2023 was not applicable in its true sense.
6. Para No.6 is totally incorrect and against the real facts as has already explained before this Honorable Tribunal in foregoing paras.

In view of the above submissions, it is, therefore, most humbly requested that this Honorable Tribunal may very kindly turned down the instant COC Application alongwith imposition of Special Compensatory Costs throughout.



Secretary

**Elementary & Secondary Education Department.
(Respondents No.1, 2 & 3)**

(15)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. ALO(OP-I)/LD/5-9/2022/KL
DATED: PESH: THE 02nd DEC, 2022

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

Attention: Section Officer (Management Cadre)

Subject: LEGAL OPINION.

Dear Sir,

I am directed to refer to your Department's letter No. SO (MC) E&SED/4-16/2022/Deptt Appeal dated 02-12-2022, on the subject noted above and to state the Service Tribunal vide order dated 29-11-2022 has granted interim relief to the petitioner. The concluding Para reproduced in the letter under reference is as under:-

"the operation of impugned order dated 20-10-2022 to the extent of appellant, shall remain suspended, if not acted upon earlier".

2. Law Department is of the view that the order of the Tribunal ibid does not affect the actions taken in pursuance of the impugned Notification NO.SO (MC) E&SED/4-16/2022/PT/TC dated 20-10-2022 prior to 29-11-2022,

Yours Faithfully,

Assistant Law Officer (OP-I)

Endst: of even No. & date.

Copy is forwarded to the:-

1. PS to Secretary Law, Department.
2. Master File.

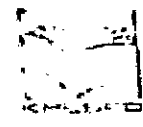
Assistant Law Officer (OP-I)

6



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Phone No: 0928 647015 Fax No: 0928-660382 Email Id: bannu_dio@pk.gov.pk



CHARGE ASSUMPTION REPORT

Consequent upon the Notification issued by the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department Peshawar under No. SO (MC) E&SED-4-10/2022/posting/transfer MC dated: 14/03/2023, I Riaz Khan MC assumed the charge of post of Sub Divisional Education Officer (Male) Bannu today on 15-03-2023 (A.N).

Riaz Khan
15/3/23
RIAZ KHAN

SUB DIVISIONAL EDUCATION OFFICER (MALE) BANNU

Dated: 15/11/2023 (A.N)

Encl. No: 3161-70 /Charge Report

Dated: 16 /03/2023

Copy for information to The :

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Director E&S Education Khyber Pakhtunkhwa Peshawar.
3. PS to Minister E&S Education Khyber Pakhtunkhwa Peshawar.
4. PS to Secretary E&S Education Khyber Pakhtunkhwa Peshawar.
5. Section Officer (MC) E&S Education Khyber Pakhtunkhwa Peshawar.
6. District Accounts Officer Bannu.
7. DMO (EMA) Bannu.
8. Deputy DEO (Male) Bannu.
9. Manager NBP Main Branch Railway Road Bannu.
10. Office record..

Attended
Said

Riaz Khan
15/3/23
DISTRICT EDUCATION OFFICER
DISTRICT EDUCATION OFFICER
OFFICE (MALE) BANNU



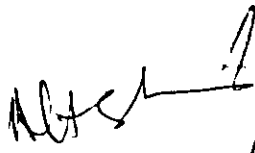
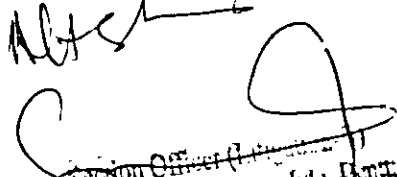
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated: 19th December, 2022

NOTIFICATION

1. **NO.SO(MC)E&SED/4-16/2022/Posting/Transfer/MC:** WHEREAS, Elementary & Secondary Education, Department, issued Notification No. SO (MC) E & SED/4-16/2022/PT/TC dated 20-10-2022, wherein, Mst. Fanoos Jamal (MC/BS-19) District Education Officer (Female) Khyber was posted as DEO (F) Karak and Mst Parveen Begum (MC/ BS-19)(a.c.b), District Education Officer (Female) Karak was posted as DEO (Female) Upper Kohistan and she was relieved from the post of District Education Officer (Female) Karak on 24.10.2022 at 10:00 Am.
 2. And whereas, as Fanoos Jamal assumed charge as DEO (Female) Karak on 24.10.2022 and started working and drew her salary for the month of November-2022 while the salary of Ex-DEO (Female) Mst Parveen Begum was stopped
 3. And whereas, feeling aggrieved Mst Parveen Begum (MC/ BS-19), filed Service Appeal No 1678/2022 with the prayer that *"(i)declare the impugned order of the Respondent No.2 Endst No. SO (MC) E & SED/4-16/2022/PT/TC dated 20-10-2022 as illegal, unlawful, without lawful authority, against the posting transfer policy of Government of Khyber Pakhtunkhwa and set aside the same (ii) Direct the respondents to allow the appellants to serve as a District Education Officer (F) Karak till the completion normal tenure as per posting transfer policy of Government Khyber Pakhtunkhwa"*
 4. And whereas, Mst Fanoos Jamal (MC/BS-18) District Education Officer (Female) Karak took over / assumed the charge of the post of District Education Officer and submitted the charge report to this office while Mst Parveen Begum not only failed to assume the charge but also remained absent from duty for more than one month without any intimation to the department and disciplinary proceeding were initiated against her on 23.11.2022
 5. And whereas, the Honorable Service Tribunal, Khyber Pakhtunkhwa vide Order Sheet dated 28-11-2022 directed that *"the operation of the impugned order dated 20-10-2022 to the extent of appellants, shall remain suspended, if not acted upon earlier"*
 6. And whereas, the Elementary & Secondary Education Department also sought guidance / legal opinion regarding the effect and maintainability of the order sheet dated 29-11-2022 upon the Notification 20-10-2022 dated from Law Department, Khyber Pakhtunkhwa vide letter SO (MC) E & SED/4-16/2022/dept appeal dated 2-12-2022 The Law Department Khyber Pakhtunkhwa granted legal opinion / guidance vide letter No ALO/ (OP-1)/LD/5-9/2022/kc dated 2-12-2022 that- *"Law Department is of the view that the order of the Tribunal ibid does not affect the action taken in pursuance of the Impugned notification No. SO (MC) E & SED/4-16/2022/PT/TC dated 20-10-2022 prior to 29-11-2022"*.
4. NOW, THEREFORE, Competent Authority is pleased to regret the appeal in hand being devoid of merit.

SECRETARY, EDUCATION DEPARTMENT



Section Officer (Administration)
Elementary & Secondary Edu. Deptt.
Govt. of Khyber Pakhtunkhwa

Scanned with CamScanner



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Endet: of even No. & date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Deputy Commissioner Karak with the request to resolve the issue of office occupat amicably.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director EMIS, E&SE Department with the request to upload the same on the offic website of the department.
5. District Education Officer (Female) Kohistan/Karak.
6. District Accounts Officer Kohistan/Karak.
7. PS to Minister E&SE Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Master file.

(Handwritten signature)
19/12/22
(NASEER ABBAS KHALIL)
SECTION OFFICER (Management C)

(S)



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU
Outside Muzan Gate Bannu Khyber Pakhtunkhwa, Pakistan.

No. 20757/2023 /Guidance

Dated 20/05/2023

The Secretary,
E&SED Khyber Pakhtunkhwa Peshawar.
Through proper channel

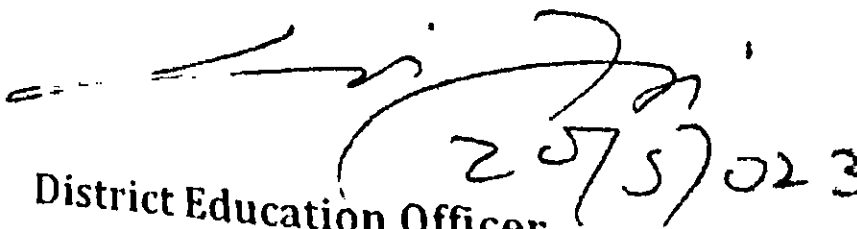
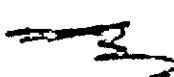
Subject GUIDANCE REGARDING HANDING TAKING OF CHARGE OF SDEO'S.
Memo


Reference to your Notification No.SO,(MC),E&SED/4-16/2022/
Posting/ transfer/MC,Dated.16-May,2023 & reference of the honorable
Service Tribunal order dated.10-05-2023.in service appeal 1001&
1002/2023 as it has been ordered in the judgment of service tribunal, "as to
the application for suspension of the operation of service tribunal, "as to
dated 14-03-2023,it has been directed that the operation of the impugned
order shall stand suspended to the extent of appealant if not already acted
upon".

Sir,the incumbents transter/ posting of Mr.Irshad Khan Ex-SDEO(M)
Bannu & Mr.Ilam Din Ex-SDEO (M) SDW Bannu has been relieved and the new
incumbents i.e. Mr.Riaz Khan SDEO(M) Bannu & Mr.Ibrar SDEO (M) SDW
Bannu has took over charge on 15-03-2023

Copy attached for clarification

In this regard your good office has requested that the undersigned
may please be guide in taking over charge to Mr.Irshad Khan SDEO (M) Bannu
and Mr.Ilam Din SDEO (M) SDW Bannu as per your notification or otherwise
please.


20757/023
District Education Officer
(Male) Bannu 


E&SED Khyber Pakhtunkhwa Peshawar





OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
BANNU

Phone No: 0928-660005 Fax No: 0928-660346
Email Id: bannuedo@yahoo.com



CHARGE ASSUMPTION REPORT

Consequent upon the Notification issued by the Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department Peshawar under No. SO(SM)E&SED/4-16/2022/Posting/Transfer/MC dated; 14-03-2023, we the undersigned respectively made over and received charge, Office of the Deputy District Education Officer (Male) Bannu.

Confidential & secret Government documents handed/Taken over accordingly.

CHARGE HANDED OVER

(RIAZ KHAN)
EX-DDEO(MALE)BANNU.
Dated: 15-03-2023 (A.N)

CHARGE TAKEN OVER

(MUHAMMAD TARIQ)
DDEO(MALE) BANNU
Dated; 15-03-2023 (A.N)

Endst: No. 2967-75 / Charge report DDEO Dated: 15-3-2023.

Copy for information & N/A to the:-

- 1- Accountant General Khyber Pakhtunkhwa.
- 2- Director E&S Education Khyber Pakhtunkhwa.
- 3- PS to Minister E&S Edu: Khyber Pakhtunkhwa
- 4- PS to Secretary E&S Edu: Department Khyber Pakhtunkhwa
- 5- Section Officer (MC) E&SED Khyber Pakhtunkhwa.
- 6- District Monitoring Officer Bannu.
- 7- District Account Officer Bannu.
- 8- Manager National Bank of Pakistan Railway Road Bannu City.
- 9- Office Record.

15/3/2023
DISTRICT EDU: OFFICER
(MALE) BANNU

District Officer (M)
Elementary & Secondary Edu
Bannu

Section Officer (Litigation-M)
Elementary & Secondary Edu Dept
Govt. of Khyber Pakhtunkhwa