

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No: 1423/2023


Mst. Shabana Mir, SST (G) GGHS Dab Kor Mohmand..... Appellant.

VERSUS

Chief Secretary, Khyber Pakhtunkhwa & others..... Respondents

INDEX

S/#	Description of document	Annexure	Pages No.
1	Joint Para Wise Comments along with affidavit		1-3
2	Copies of the order dated 22-03-2023	A	4
3	Copy of the order dated 30-03-2023	B	5
4	Copy of the Notification dated 27-03-2023.	C	6
5	Copy of the personal hearing dated 07-04-2023 fixed on 12-04-2023	D	7
5	Authority letter		8


Assistant Director (Lit: II)
E&SE Khyber Pakhtunkhwa,
Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR. 26/07/23

Service Appeal No: 1423/2023

Mst. Shabana Mir, SST (G) GGHS Dab Kor Mohmand..... Appellant.

VERSUS

Chief Secretary, Khyber Pakhtunkhwa & others..... Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS No: 953

4

Respectfully Sheweth :-

The Respondents submit as under: -

Preliminary Objections

1. **That** the appellant has got no cause of action/locus standi.
2. **That** the instant Service Appeal is badly time-barred, & liable to be dismissed.
3. **That** the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan 1973.
4. **That** the appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
5. **That** the instant service appeal is against the relevant provisions of law.
6. **That** the appellant has filed the instant appeal on mala-fide intentions just to put extra ordinary pressure on the Respondents for the grant of illegal & even unauthorized service benefits.
7. **That** the appellant has not come to this Honorable Tribunal with clean hands.
8. **That** the instant appeal is liable to be dismissed for mis joinder & non-joinder of the necessary parties to the present appeal.
9. **That** the appellant is estopped by her own conduct to file the instant appeal
10. **That** the instant Service Appeal is not maintainable in its present form.
11. **That** the impugned Notification/order dated 30-03-2023, is legally competent & liable to be maintained in favor of the Respondent in the interest of justice.

12. **That** the appellant has been treated as per law, rules & relevant policy in the instant case.
13. **That** the competent authority has got jurisdiction to transfer & post a regular Civil Servant U/S-10 of Civil Servants Act 1973.
14. **That** the post of the appellant is a Provincial Cadre & he is liable to be serve anywhere in any Province.

ON FACTS.

- 1 **That** Para-1 pertains to the service record of the appellant against the SST (G) post at the above said school in District Mohmand.
- 2 **That** Para-2 is correct that vide adjustment order dated 22-03-2023 the Respondent No. 4 has been pleased to adjust the recommended SSTs by the DSC pursuance to the Notification dated 15-03-2023 of the deferred candidates appointed to the post of SSTs(B/C) BPS-16 under the above cited provision of law **attached as Annex-A** , wherein the Respondent No. 5 was posted at GGHS Elam Kor District Mohmand against the vacant post, however, the said order dated 22-03-2023 was re-called vide an other dated 30-03-2023 , whereby, the appellant was posted against the SST (B/C) BPS-16 at GGHS Elam Kor District Mohmand vide order dated 27-03-2023 **attached as Annex-B & C**.
- 3 **That** Para-3 is incorrect that the orders as cited in para-2 are legal & even in accordance with the referred provision of law & liable to be maintained on the grounds that both the orders dated 27-03-2023 & 30-03-2023 are within legal sphere.
- 4 **That** Para-4 is incorrect, the Respondent No. 4/DEO (F) Mohmand is not competent to transfer & post an officer of BPS-16 TC in view of lake of jurisdiction, hence, the order dated 29-03-2023 is illegal, & was withdrawn by the Respondent No. 3 on dated 30-03-2023 on the grounds of ab-initio. By restoring the order dated 27-03-2023.
- 5 **That** Para-5 is correct that the order dated 29-03-2023 has been re-called by the respondent No. 3 vide order dated 30-03-2023 in terms of his competency & jurisdiction under the relevant rules of business.
- 6 **That** Para-6 is correct that a chance of personal hearing in response to the Departmental appeal of the appellant dated 31-03-2023 against the order dated 30-03-2023 was provided to the appellant by the Respondent No. 2 on 12-04-2023 **attached as Annex-D** but was not attended by the appellant on

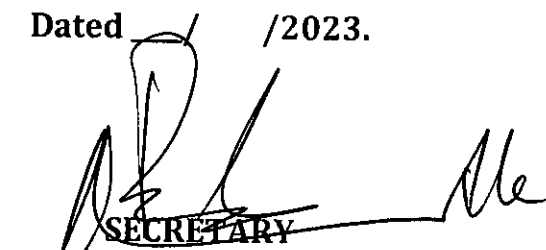
mala fide, hence, the appeal in hand is liable to be dismissed on the following grounds inter alia:-


GROUND.

- a) **Incorrect & not admitted.** The impugned order dated 30-03-2023 is within legal sphere & even in accordance with the law in terms of clause-X of the transfer & posting policy of the Govt; & liable to be maintained in favor of the Respondent Department
- b) **Incorrect & not admitted,** the statement of the appellant is without any cogent reason & record hence liable to be rejected in terms of above made submissions by the Respondents No. 1-4 in the instant reply.
- c) **Incorrect & not admitted.** The stand of the appellant is illegal as no reported judgment has been cited by the appellant in support of her plea regarding disposal of similar nature cases by this Honorable Tribunal
- d) **Incorrect & not admitted.** Hence needs no further comments as reply to this ground has been given in ground C.
- e) **Incorrect & not admitted.** However, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds, record & case law at the time of arguments on the date fixed.

In view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to dismissed the instant Service Appeal by maintaining the order dated 30-03-2023 in favor of the Respondents in the interest of justice.

Dated / /2023.

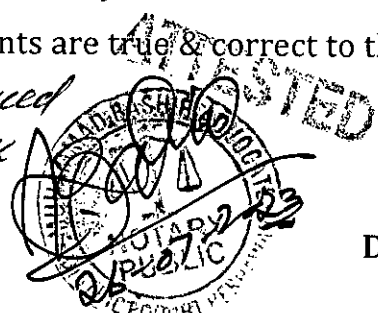

SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2)



DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 3)

AFFIDAVIT

I. Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.

*neither been placed
ex-parte nor their defense struck
off.*




Deponent

2

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.

C M No. ____/2023 in Service Appeal No: 1423/2023

Mst. Shabana Mir, SST (G) GGHS Dab Kor Mohmand.....Appellant.

VERSUS

Chief Secretary, Khyber Pakhtunkhwa & others.....Respondents

REPLY TO THE APPLICATION ON BEHALF OF THE
RESPONDENTS NO: 1-4 FOR VACATION OF STAY ORDER
DATED 10-07-2023 IN FAVOR OF THE RESPONDENTS.

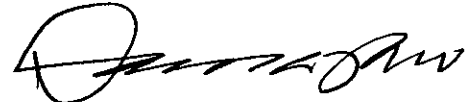
Respectfully Sheweth :-

The Respondents submit as under: -

1. **That** para-1 pertains to the record of this Honorable Tribunal.
2. **That** para-2 is incorrect, however, the facts & grounds as taken by the Respondents No. 1-4 in reply to the titled appeal may kindly be treated as part & parcel of the instant reply to the titled application.
3. **That** para-3 is incorrect as the order dated 30-03-2023 is legal & liable to be maintained in favor of the Department.
4. **That** para-4 is also incorrect, hence, denied on the grounds that balance of convenience lies in favor of the Department instead of the appellant in the titled appeal.

In view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to vacate the status quo order 10-07-2023 along with the dismissal of the instant appeal & application by maintaining the order dated 30-03-2023 in favor of the Respondents in the interest of justice.

Dated ___/ ___/2023.



DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2 & 3)

SECRETARY

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 & 2)

(



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) MOHMAND TRIBAL DISTRICT**

Phone # 0924290302

Email:- deomohmandfemale@gmail.com

(12)



ADJUSTMENT ORDER

Consequent upon the advertisement bearing No. INF(P)3203/21 dated 03-12-2021 & recommendation of Departmental Selection Committee and in pursuance of the notification of Director of Elementary & Secondary Education Khyber Pakhtunkhwa Appointment Endst: No. **17872-79 E-6/SSTs Contract Appointment (FY2022 Dated Peshawar 15-03-2023)**, the following Differed Candidates appointed to the post of SST (Bio/Chem) BPS.16 @ (Rs.28070-2260-05870) @ 28070/- fixed plus usual allowances as admissible under the rules on regular basis under the existence policy of the Provincial Government on the terms and conditions given below are hereby adjusted at the schools noted against their names in the interest of Public with immediate effect

SST (Bio/Chemistry)

S.N	Roll No	Name & Father Name	CNIC	Total Score	Adjusted at	Remarks
1	40435	Ghazala D/O Sher Muhammad	16102-2795378-8	126.30	GGHS Dab kor	Vice No. 1
2	40511	Faiza Zarf D/O Zarif Khan	16102-6075404-4	125.70	GGHS Shalam Salay	Vice No. 2
3	40437	Asma Zeb D/O Alam Zeb	16102-2969198-4	122.36	GGHS Kachkool	AVP
4	40735	Khushnuma Safi D/O Zahir Shah	17102-1972770-0	118.41	GGHS Imdad Ullah	Vice No. 3
5	40814	Tahira Minadar D/O Minadar	21402-622485-4	117.62	GGHS Mia Mandi	AVP

Consiquential Transfer

S.No	Name With Designation	BPS	Present School	Adjusted at	Remarks
1	Nazla Rehman SST (G)	16	GGHS Dab Kor	GGHS Elam kor	AVP
2	Salma SST (G)	16	GGHS Shalam Salay	GGHS Elam kor	AVP
3	Shakeela Hasson SST (P/M)	16	GGHS Imdad Ullah	GGHS Kachkool	AVP

Terms and condition

1. No T/VDA is allowed.
2. Appointment is purely made on temporary basis initially for one year with immediate effect.
3. Their services are liable to termination on one months notice from either side. In case of leaving the department without notice, there one month pay/allowances forfeited, Governmented treasury.
4. They should not be handed over charge if their age exceed 35 years or fall below 18 years of age. Age relaxation case may be submitted to competent authority.
5. If any meritorious candidate is deprived of appointment by this order and the competent authority accept her appeal, appointment order of the low merit candidate will be with drawn and the adjustment order will be received according to the merit.
6. Appointment is subject to the condition that the certificates/Degrees must be verified from the concerned authorities by the DEO (Concerned) any one found producing bogus certificate will be reported to the law enforcing agencies for further action.
7. They will be governed by such rules & regulations issued from time to time by the government.
8. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded under the rules framed from time to time.
9. They will give an undertaking to be recorded in their service Books to the effect that if any overpayment is made to them in light of said notification the same will be recovered and if they are wrongly appointed.
10. Charge report should be submitted to all concerned.
11. Their services are liable to termination on one months notice from either side. In case of leaving the department without notice, there one month pay/allowances forfeited, Governmented treasury.
12. Before handing over charge once again their documents may be checked if they have not the prescribed qualifications as per rules, they may not be handed over charge of the post.
13. The prescribed qualifications/ documents may be verified from the concerned universities/Board by the DEO concerned.

(Abdia Shaheen)

District Education officer (F)
Mohmand Tribal District.

Endst: No. 3812-17 /Adjustment/SST/2022 Dated 22/03/2023.

Copy forwarded for information and necessary action to the:

1. Director E&S Education Khyber Pakhtunkhwa Peshawar
2. District Account's Officer Mohmand Tribal District
3. DMO Education Monitoring Authority, District Mohmand
4. Principal/Head Mistress Concerned
5. Accountant/Pay clerk concerned local office
6. Teachers concerned

17/3/2023

17/3/2023

Allah
28.7.2023

District Education officer (F)
Mohmand Tribal District



B 5

13

Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
PH No. 091-9330242

OFFICE ORDER.

Consequent upon approval of the Competent Authority, the Notification issued by the District Education Officer (Female) Mohmand vide No 3849-56/(Adjustment SST) dated 29.03.2023 is hereby withdrawn from the date of its issuance.


DIRECTOR

Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. 18386-83 / E-6/Nazia Rehman SST Dated Peshawar the 30/3 2023

Copy forwarded for information and necessary action to the:-

1. District Education Officer (Female) Mohmand
2. District Accounts Officer Mohmand
3. Principal Headmistress concerned
4. P.A to Addl; Director (Estab:) local Office


Deputy Director (Estab;)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

*All related
24-07-2023*

66

OFFICE OF THE DISTRICT EDUCATION OFFICER
HEMALI MOHMAND TRIBAL DISTRICT

Phone # 091-7221105

Website: www.mohmandtribaldistrict.gov.af



(HY)

NOTIFICATION

With the approval of the Competent Authority the transfer order in
No. 3812-17 Dated 22-03-2023 in consequential transfer
of Mst. Shabana Mir SSI (G) to GCHS Flam korot her own pay and scale in
effect.

(Abida Shaheen)

District Education officer (F)
Mohmand Tribal District

Order No. 3835-41 Dated 27/03/2023

- 1. To be placed on file.
- 2. To be placed on file.
- 3. To be placed on file.
- 4. To be placed on file.
- 5. To be placed on file.

District Education officer (F)
Mohmand Tribal District

Received
26-7-2023

BETTER COPY

(14)

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) MOHMAND TRIBAL DISTRICT**

Phone: 092429032

NOTIFICATION

Consequent upon the approval of the Competent Authority the transfer order in respect of Mst. Nazia Rehman SST (G) GGHS Dab Kor to GGHS Elam kor Issue vide this office Endst No. 3812-17 dated 22-03-2023 in consequential transfer serial No is hereby withdrawn/ Cancelled and Mst Shabana Mir SST (G) GGHSS Dab Kor is transferred to GGHS Elam Kor on her own pay and scale in the best interest of public with immediate effect.

(Abida Shaheen)
District Education Officer (F)
Mohmand Tribal District

Endst No. 3835-41 Adjustment SST dated 27.03.2023.

Copy forwarded for information and necessary action to the

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Mohmand Tribal District.
3. DMO Education Monitoring Authority District Mohmand
4. Principal/ Head Mistress Concerned.
5. Accountant/ Pay Clerks Concerned local office.
6. Official Concerned
7. Office record

Sd/-
District Education Officer (F)
Mohmand Tribal District

Abida Shaheen
26-7-2023

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT,
CIVIL SECRETARIATE PESHAWAR
(PHONE NO. 091-9223587)

No. SO(P, E&SE)/2-1/Transfer/Shabana Mir/2023
Dated Peshawar the 7th April, 2023

Mrs. Shabana Mir, SST (BPS-17),
GCHS Dab Koh District Mohmand.

Subject: **PERSONAL HEARING**

I am directed to refer to the subject noted above and to state that personal hearing has been fixed on 12th April, 2023 at 11:00 AM in the office of Additional Secretary (Estab), E&SE Department.

You are, therefore, requested to attend the said personal hearing on date, time and venue above.

Wasim
SECTION OFFICER (PRIMARY/F)

Copy forwarded to the:

1. Director, E&SE Khyber Pakhtunkhwa, Peshawar is requested to depute your representative to attend the said personal hearing on date, time & venue as mentioned above (copy attached).
2. District Education Officer (Female), District Mohmand to depute well conversant officer/official to attend the above personal hearing on date, time & venue as mentioned above (copy attached).
3. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
4. PA to AS (Establishment), E&SE Department, Khyber Pakhtunkhwa.

Wasim
SECTION OFFICER (PRIMARY/F)

All call
26-7-2023