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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 1185/2023

Mst. Bibi Salcha W/O Itehar Ahmad R/O Sawaldher Tehsil and District Mardan.
(Appellant)

Versus

The Govt Of KPK through Secretary (E & SE) Education Peshawar & Others.
(Respondents)

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~~Respondents~~

District Education Officer
Female Mardan

16/9/23

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No: 1185/2023

Mst. Bibi Saleha W/O Iftehar Ahmad R/O Sawaldher District Mardan.

(Appellant)

Versus

The Govt Of KPK through Secretary (E & SE) Education Peshawar & Others.

(Respondents)

Para Wise Comments on behalf of Respondents

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant Service appeal.
2. That the instant Service appeal is badly time barred.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant is estopped by his own conduct.
5. That the appellant has concealed the material facts from this Honorable Tribunal, hence the Service appeal is liable to be dismissed.
6. That the instant Service appeal is liable to be dismissed for non-joinder / mis-joinder of unnecessary parties.
7. That the instant appeal is based on malafide intention, hence liable to be dismissed.
8. That the honorable Tribunal has got no jurisdiction in the matter of up gradation.

FACTS:

1. Para No 1 is correct.
2. Para No 2 is correct.
3. Para No 3 is correct.
4. Para No 4 is correct; however the appellant has not submitted charge report to the respondent office i-e (DEO Female Mardan)..
5. Para No 5 is correct.
6. Para No 6 is **Incorrect, & Not admitted.** As the appellant has submitted her promotion file to the office of the respondent department, and she is waiting for her promotion. The husband of the appellant has visited to the office of DEO(Female) Mardan and asked/ inquired about the promotion

Secretary (E & SE) Education Peshawar

Office No. 7666

Dated: 19/09/23

order. The adjustment order of the appellant shared on internet, hence denied.

7. Para No 7 is **Incorrect, & Not admitted**. As the appellant is fully aware from her promotion order. The appellant failed to submit her **Charge Report** to the respondents and the appellant has not taken over charge on the GGHS Mohib Ullah Banda Mardan in the post of Senior -PET, BPS-16 and the appellant is not attending/ teaching at GGHS Mohib Ullah Banda Mardan as a Senior -PET, BPS-16, hence she is not entitled for promotion from the date of 06/09/2017, hence denied.

8. Para No 8 **Incorrect, & Not admitted**. As the recommendation of Departmental Promotion Committee(DPC), the answering Respondents promoted the appellant to the post of S-PET (BPS-16) vide Order No 549-55 dated 05-09-2017, who is place on Serial No 71 in the Promotion Order. It is the duty of the appellant to aware herself from her promotion order and obeys the promotion order but the appellant has not interested in her promotion, hence denied. **(Copy of Promotion Order is attached as Annex-A)**

9. Para No 9 **Incorrect, & Not admitted**. As the appellant is communicated through Internet which is admitted by the appellant in the instant Para, of the service appeal, hence denied.

10. Para No 10 is correct.

11. Para No 11 is correct.

12. Para No 12 is correct.

13. Para No 13 is correct.

14. Para No 14 is correct.

15. Para No 15 **Incorrect, & Not admitted**. As the regretted Departmental appeal is legal and is not against the law and is not liable to be set aside.

GROUND:

A. Para A is correct.

B. Para B is **Incorrect, & Not admitted**. As the appellant has submitted her documents for promotion and from time to time visited to the office of DEO (Female) Mardan regarding her promotion and the appellant along with other Promoters have well known about the promotion order. The respondent has affixed the promotion order on Notice Board in the Office of

(4)

DEO (Female) Mardan, at Public Place, and also shared on the internet, hence denied.

(Copies of Promotion & adjustment Orders is as Annexure -A &B)

- C. Para C is correct.
- D. Para D is **Incorrect, & Not admitted.** As the School of the appellant namely GGMS Shekray Baba is not at 10 minute distance from GGHS Mohib Ullah Banda, hence denied.
- E. Para E is correct.
- F. Para F is correct.
- G. Para G is **Incorrect, & Not admitted.** As The appellant failed to submit her **charge Report** to the respondents and the appellant has not taken over charge on the GGHS Mohib Ullah Banda Mardan in the post of Senior-PET, (BPS-16) and the appellant is not attending/ teaching at GGHS Mohib Ullah Banda Mardan as a Senior -PET, BPS-16, hence denied.
- H. Para H is **Incorrect, & Not admitted.** As the respondent promoted the appellant to the post of S-PET vide Order No 549-55 dated 05-09-2017, who has placed on Serial No 71 in the Promotion Order, but the appellant has not taken over charge on the said post, hence denied.
- I. Para I is **Incorrect, & Not admitted.** As the respondent promoted the appellant to the post of S-PET BPS-16 but the appellant has failed to submit charge report, and her name is remain in the seniority list, hence denied.
- J. Para J is **Incorrect, & Not admitted.** As the appellant did not interest her promotion and has not taken over charge of the said post, hence denied.
- K. Para K is **Incorrect, & Not admitted.** As the appellant is not attending/ teaching at GGHS Mohib Ullah Banda Mardan as a of Senior -PET, (BPS-16), and the appellant is not entitled for promotion from the date 06/09/2017, hence denied.
- L. Para L is **Incorrect, & Not admitted.** As the appellant has submitted her documents for promotion and from time to time visited to the office of DEO (Female) Mardan regarding her promotion and the appellant along with other Promoters have well known about the promotion order. The respondent has affixed the promotion order on Notice Board in the Office of DEO (Female) Mardan, at Public Place, and also shared in the internet, hence denied.

(5)

per condition No 4 the appellant did not submit her Charge Report to the all concerned, hence denied.

- O. Para O is **Incorrect, & Not admitted**. As the appellant granted promotion to the Post of SPET (BPS-16) but the appellant has not interested her promotion and has not taken over charge of the post and the appellant has not worked in same post because there is no post of SPET (BPS-16) at GMS Shekray Baba, hence denied.
- P. Para P is Correct; however the appellant takes monthly salary, hence denied.
- Q. Para Q is **Incorrect, & Not admitted**. As the cogent reason is that the appellant is performing her duty in (BPS-15) at GGMS Shakiray Baba Mardan and She is not attending/ teaching at GGHS Mohib Ullah Banda Mardan as Senior-PET, BPS-16, and furthermore there is no post of Senior PET (BPS-16) at GMS Shekray Baba therefore the respondents **are not** legally liable to fix the salary of the appellant according to her promotion of (BPS-16) from the relevant date and **the appellant is not entitled financial benefits**, because the appellant has not obeyed her promotion order vide No 9640-43 dated 23/09/21, hence denied.
- R. Para R is **Incorrect, & Not admitted**. As the appellant is working as PET (BPS-15) until now, hence denied.
- S. Para S is **Incorrect, & Not admitted**. As the appellant is responsible to visit and inquire her promotion but the appellant interested to remain as PET (BPS-15) for the entire service, hence denied.
- T. Para T is **Incorrect, & Not admitted**. As the notification dated 09/05/2023 is legal, justice and has not based on malafide, hence denied.
- U. Para U is **Incorrect, & Not admitted**. As the appellant has own choice to accept the promotion OR does not accept but the appellant is performing her duty in her School and she is not absent from duty, so there is no need to issue show cause notice, hence denied.
- V. Para V is **Incorrect, & Not admitted**. As the respondent department has not taken action against the appellant and the appellant has promoted from PET to SPET but the appellant has not taken over charge as a SPET, hence denied.

W. Para W is **Incorrect, & Not admitted.** As the appellant has provided opportunity of personal hearing, hence denied.

X. Para X is legal, No Comments.

Y. Para Y is **Incorrect, & Not admitted.** As the notification is legal, the appellant has not taken over charge of the SPET post, it means the appellant has denied for promotion, hence denied.

Z. Para Z is **Incorrect, & Not admitted.** As the appellant is eligible for promotion and the appellant has promoted but the appellant has not taken over charge of the SPET post, hence denied.

AA. Para AA is **Incorrect, & Not admitted.** As the appellant has promoted, hence denied.

BB. Para BB is **Incorrect, & Not admitted.** As the appellant has not been discriminated and her other colleagues has already joined their SPET post which is not against Article 25 & 27 Constitution of Pakistan 1973, hence denied.

CC. Para CC is **Incorrect, & Not admitted.** As the appellant has been dealt accordance with law and the respondents have not been violated Article 4 of the Constitution of Pakistan 1973, hence denied.

DD. Para DD is **Incorrect, & Not admitted.** As the appellant has submitted her documents for promotion and from time to time visited to the office of DEO (Female) Mardan regarding her promotion and the appellant along with other Promoters well known about the promotion order. The respondent has fixed the promotion order in Notice Board in the Office of DEO (Female) Mardan, at Public Place, and also shared in the internet, hence denied.

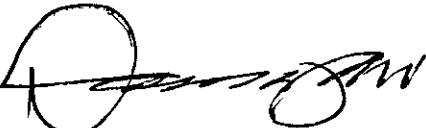
EE. Para EE is **Incorrect, & Not admitted.** As the appellant has not taken over charge of the SPET post, it means the appellant has denied for promotion, hence denied.

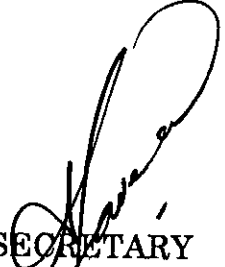
FF. Para FF is **Incorrect, & Not admitted.** As the appellant has not taken over charge of the SPET post which has proved her refuse and dis-obey the order of the respondent, hence denied.

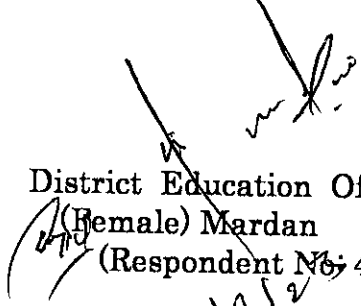
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The respondents seek permission to raise additional grounds at the time of arguments.

Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.


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


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


District Education Officer
(Female) Mardan
(Respondent No: 4)

16/9/2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 1185/2023

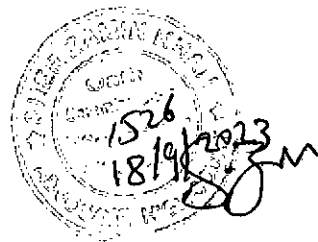
Mst. Bibi Saleha W/O Iftehar Ahmad R/O Sawaldher Tehsil and District Mardan.
(Appellant)

Versus

The Govt Of KPK through Secretary (E & SE) Education Peshawar & Others.
(Respondents)

AFFIDAVIT

I, Mr Sajid Khan Legal representative Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honourable 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

Sajid Khan

16101-6005318-5

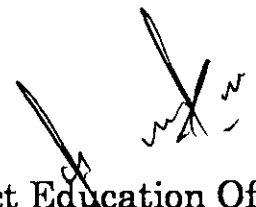


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**DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN**

AUTHORITY LETTER

I, District Education Officer (Female) Mardan do hereby authorized Mr.Sajid Khan ,Legal Representative of District Education Office (Female) Mardan, to deal with the issues regarding litigation, represent, submit comments/ Reply of the Service Appeals and attend the KPK Honorable Service Tribunal, Peshawar.


District Education Officer
(Female) Mardan

16/9/23

Annexure A (10)

PET (F) Mardan. 1 1/6



Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar

PH No. 091-9225340- 9225341,

9225338, 9225339

Fax 091-9225345

E-mail rafiq_kk851@yahoo.com

Annexure - B

Attest

ATTESTE

Notification

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Notification No.SO(B&A)/1-18/E&SE/2012 dated 11.07.2012 and Final Department Endorsement No SO(FR)/FD/10-22(E)/2010 dated 16.07.2012, the following Female PETs B-15 are hereby promoted to the post of Senior PET BPS-16(Rs. 18910-15264510) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, on the terms and condition given below with immediate effect and further they will be posted in the Government Higher Secondary /High Schools the District Education Officers concerned against the newly upgraded Senior PET BPS posts, they will be posted by the District Education Officer concerned.

Total No. of sanctioned posts of PETs	194
1/3 share of Sr. PET posts	65
Sr. PETs Posts filled by Promotion	51
Sr. PET posts available vacant	14
Posts available for Promotion	14
Promoted to the post of Senior PET B-16 in this order	13

S. No.	Sn No.	Name of Official	Date of Birth	Date of Appointment; as Regular PET	Remarks	
1	66	Fahmeeda Yasmeen	Gghs Dheri Katlang	15/09/1985	10/02/2005	Services placed at the disposal of DEO (F) Mardan for further posting.
2	67	Shabina Rahman	Gghs Likpani	06.04.1978	11/02/2005	-----do-----
3	68	Shehnaz Begum	Ggms Khan Pur	02/01/1979	22/02/2005	-----do-----
4	69	Shazia Rani	Ggms Samar Qand Kor;	15/04/1973	15/12/2005	-----do-----
5	70	Laila Khalid	Gghs Kot Jungara	20/04/1986	31/03/2007	-----do-----
6	71	Bibi Saliha	Ggms Shikray Baba	02/02/1980	04/08/2007	-----do-----
7	72	Toseef Begum	Gghs Sheikh Yousaf	06/03/1982	03/09/2007	-----do-----
8	73	Afshan Akbar	Gghss Sokai	27/01/1987	02/02/2008	-----do-----
9	74	Salma Naheed	Ggms Nodeh	23/08/1979	02/02/2008	-----do-----
10	75	Tabassum Begum	Gams Nasir Killi	26/08/1979	24/02/2008	-----do-----

ATTESTED

District
(Female) Mardan

P.T.O

Terms and Conditions

- 1 They would be on probation for a period of one year extendable for another one year.
- 2 They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 3 Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be preceded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 Their Inter-Se- seniority on lower post will remain intact.
- 6 No TA/DA is allowed for joining his duty.
- 7 They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he is wrongly promoted he will be reversed.

(Muhammad Rafiq Khattak)

Director

Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: No. 549-55 / File No.1/Promotion Senior PET B-16: Dated Peshawar the 08/08/2017.

Copy forwarded for information and necessary action to the: -

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officers (F) Mardan.
3. District Accounts Officer Mardan.
4. Official Concerned.
5. PS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
6. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar.
7. M/File

J. J. Khan
05/09/2017
Dy: Director Estab (Female)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

/Noor/

[Signature]
District Education Officer
(Female) Mardan

Annexure B-12

~~Annexure B-12~~

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address: cmismardan_deofemale@yahoo.com

Annexure - 6

ADJUSTMENT ORDER.

Consequent upon the promotion for PETs (Female) to Senior PETs BPS-16 vide Director of Elementary & Secondary Education Khyber Pakhtun Khwa Peshawar Notification issued under Endst No.549-55/File No.1/Promotion Senior PETs B-16 dated Peshawar the 06.09.2017 and Finance department Endst No SO (FR)/FD/10-22(E)/2010 dated 16.07.2012 the following (Female) PETs B-15 are hereby Promoted Senior PETs BPS-16@ (18910-1520-64510) plus usual allowances and adjusted in the High/Higher Schools as noted against each from the date of issue of above Notification in the interest of public service on the terms and condition as noted below with immediate effect.

A T T E S T E

S.No	Sen #	Name of official	Present place of duty	Adjusted at	Remarks
1.	66	Fahmeeda Yasmeen	GGHS Dheri Katlang	GGHS Dheri Katlang	Already Occupied
2.	67	Shabina Rahman	GGHS Lakpani	GGHS Dheri Lakpani	Already Occupied
3.	68	Shehnaz Begum	GGMS Khan Pur	GGHSS Khazana Dheri	AVP
4.	69	Shazia Rani	GGHS Samar Qand Koroona	GGHS Samar Qand Koroona	Already Occupied
5.	70	Laila Khalid	GGHS kot Jungara	GGHS Ward No 4 T,Bhai	AVP
6.	71	Bibi Saliha	GGMS Shikray Baba	GGHS Mohib Ullah Banda	AVP
7.	72	Toseef Begum	GGHS Sheikh Yousaf	GGHS Slekh Yousaf	Already Occupied
8.	73	Afshan Akbar	GGHSS Sokai	GGHSS Sokai	Already Occupied
9.	74	Salma Naheed	GGMS Nodeh	GGHSS No 1 Mardan	V.S.No 16
10.	75	Tabassum Begum	GGMS Nasir Killi	GGHS Qazi Abad	V.S.No 16
11.	76	Nayab	GGMS Mehtar Ghundi	GGHS Jalala	AVP
12.	77	Sumaira	GGMS Shah Zaman Qala	GGHSS Kot Jungara	V.S.No 5
13.	78	Sara Khan	GGHS Takht Bhai	GGHS Takht Bhai	Already

CONSEQUENTIAL POSTING TRANSFER

14	Neelum PET	GGHS Qazi Abad	GGHS Chill Banda	AVP
15	Kousar Naz PET	GGMS China Rustam	GGHS Muhammad Ali Killi	AVP
16	Hayla SPET	GGHS No1	GGHS Manga	AVP

Terms and condition.

1. They would be on probation for a period of one year extendable for another one year.
2. They will be governed by such rules and regulations as may be issued from time to time by the Govt'.
3. Their Service can be terminated at any time, in case her performance is found unsatisfactory during probation period in case of misconduct, They will be precoded under the rules framed from time to time.
4. Charge report should be submitted to all concernd.
5. Their inter District Seniority on lower post will remain intact.
6. No.TA/D is allowed for joining his duty.
7. They will give on under taking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he is wrongly promoted he will be reversed.

(SAMINA GHANI)


DISTRICT EDUCATION OFFICER
(FEMALE)MARDAN.

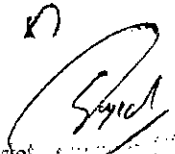
Dated Mardan the 23/11/2017

Endst/No. 9640-43 /P.File Promotion PETS

Copy forwarded for information and necessary action to the:-

1. Director (E&SE)Khyber Pakhtun khwa Peshawar
2. District Accounts office Mardan.
3. Principal/Head Mistress Concerned .
4. Official concernd
- 5.
- 6.


 DISTRICT EDUCATION OFFICER
(FEMALE)MARDAN


 District Education Officer
(Female) Mardan