



BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 1490/2023

Syed Ihsan Ali Shah

VERSUS

Secretary Elementary & Secondary Education KPK Peshawar
and Others

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

NO.1, 2 & 3 ARE AS UNDER:

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DISTRICT EDUCATION OFFICER
(FEMALE) MANSEHRA

17-10-23

Peshawar

BEFORE THE HONOURABLE KPK SERVICE TRIBUNAL PESHAWAR
CAMP COURT ABBOTTABAD.

Service Appeal No.1490/2023

Syed Ahsan Ali Shah.....APPELLANT.

VERSUS

1. Secretary Elementary & Secondary Education KPK Peshawar.
2. Director Elementary & Secondary Education KPK Peshawar.
3. District Education Officer (Female)
Mansehra.....**RESPONDENTS.**

8277
12-10-23

PARAWISE COMMENTS / ON BEHALF OF RESPONDENTS

NO 1, 2 & 03 ARE AS UNDER:-

Respectfully sheweth that the respondent as under

PRELIMINARY OBJECTIONS:-

1. That the appellant has got no cause of action locus standi.
2. That the appellant has concealed material facts from his Honorable Tribunal in the instant service appeal. Hence not entitled for any relief and appeal is liable to be dismissed without any further proceeding.
3. That the instant service appeal is based on malafide intentions.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is not entitled for the relief he has sought from this Honorable Tribunal.
6. That the instant service appeal is against the prevailing law and rules.
7. That the appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
8. That the instant service appeal is not maintainable in its present form.
9. That the appeal is liable to be dismissed for non-joinder /mis-joinder of necessary parties.
10. That the appellant has filed the instant appeal on a malafide motive.
11. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
12. That the honorable court has no jurisdiction to adjudicate the present appeal.
13. That the instant appeal is premature.
14. Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973 empowered the competent authority regarding posting/transfer of civil servants to anywhere in the province or outside the province including the appellant

FACTUAL OBJECTIONS:

1. Para No.1 pertains to record.
2. Para is incorrect that the appellant was appointed as a Junior Clerk at GGHSS Oghi vide dated 17-12-2019, Whereafter he submit application on 12-09-2021 for adjustment at the office of DEO(Female) Mansehra, in the light of application the appellant was transfer from GGHSS Oghi to DEO(Female) Mansehra vide Endst No.11003-11010 dated 22-09-2021(Tenure was 01 year 9 months), whereas the appellant was transferred and adjusted at GGHS Narbeer near to his home station vide Endst No.5563-65 dated 18-05-2023(Tenure was 01 year 8 months) issued by Director Elementary and Secondary Education Department Peshawar.
3. Para is incorrect and misleading the appellant was transferred from GGHS Narbeer Mansehra near to his home address vide direction of Director Elementary and Secondary Education Department Peshawar, whereas respondent No.04 working as a junior Clerk at GHS Kotli Bala Mansehra and got NOC from the office submitted to the respondent No.02 for adjustment to near to his home address and the tenure was (2 years 2 months),whereas in the light of application alongwith NOC from the DEO (M) Mansehra respondent No.02 issued transfer order of the appellant and respondent No.04 vide dated 18-05-2023 whereafter in Compliance of the order of Director Elementary and Secondary Education Peshawar, Mr. Usama Qazi submitted arrival report vide Endst No.6625 dated 19-05-2023 in the office of DEO(Female) Mansehra and took over Charge at office of DEO (Female) Mansehra and handed over documents/official secret record by the DEO(F) Mansehra vide No.7000-3 dated 14-06-2023 and relieved Mr,Ahsan Shah from his duty vide dated 14-06-2023 and directed to report his next assignment as a JC at GGHS Narbeer Mansehra, whereas the appellant submitted appeal before respondent No.02,in the light of appeal the transfer order issued vide Endst No.5563-65 dated 18-05-2023 is hereby cancelled from Director E & SE Peshawar vide Endst No.251-56 dated 01-06-2023.whereas respondent No.04 namely Mr.Usama Qazi filed appeal before the Director Elementary and Secondary Education Peshawar vide dated 05-06-2023,whereas in the light of appeal Director E&SE decided the appeal and order issued vide Endst No.5563-65 dated 18-05-2023 is hereby restored vide order No.2070-74 dated 13-06-2023.whereas respondent No.04 namely Mr. Usama Qazi working in the office of DEO(F) with zeal and zest and draw his salary at DDO Code 6317 office of DEO(F) Mansehra and Mr Ahsan Shah active his salary from the concern school. whereas the appellant filed departmental appeal before the respondent No.02 on 22-05-2023 and returned from the Director E&SE Peshawar and ask DEO (F) Mansehra to inform the concerned junior Clerk for

compliance of this office order, if refused by the him then proceed him under E & D Rule, 2011. Whereas the order of the Competent authority implemented by both the official with letter and spirit.

(Copy of Transfer order dated 18-05-2023, Cancellation order dated 01-06-2023, restored order dated 13-06-2023, are annexed as annexure A, B & C).

4. Para No.04 is correct to the extent that the appellant again filed departmental appeal by the respondent No.02 and the appeal by rejected/seen and filed by the Director E & SE Peshawar on 13-07-2023. whereas the appellant filed service appeal 1490/2023 before the Honourable Service Tribunal Peshawar in early date of hearing order dated 27-07-2023 in Para 2 "an application for suspension of operation of impugned order dated 18-05-2023 shall remain suspended to the extent of appellant till the date fixed. If not acted upon earlier. In the light of the court order the order issued vide Endst No.5563-65 dated 18-05-2023 is hereby suspended by Director E & SE Peshawar vide dated 10-08-2023. whereas the order issued on 18-05-2023 is implemented by both the junior Clerk vide dated 14-06-2023 and get their salary from the concerned DDO Code.

(Copy of Suspension order is annexed as annexure D)

5. That the appellant is not aggrieved person in the meaning of service rule and policy in the following grounds.

GROUND:-

- a. Incorrect and denied, the transfer order of appellant was issued on acceptance of appeal of private respondent (Usama Qazi) hence the transfer order is lawful and in according with the rules and policy in vogue by the Provincial Government.
- b. Incorrect and misleading respondent No.04 taken NOC from DEO (M) Mansehra and submitted application for transfer to near to his home address on humanitarian grounds due to severe illness of his mother and serve the department at GHS Kotli Bala w.e.f 23-03-2021 to 18-05-2023 far flung area of District Mansehra.
- c. Para is incorrect and misleading the transfer order issued by the Director Elementary and Secondary Education Peshawar on the basis of application filed by the respondent No.04.
- d. Para is incorrect and misleading when any applicant taking NOC from the department, and willing to serve the other department the order issued from the Competent authority i.e Respondent No.02.

- e. Para is incorrect and misleading the transfer order issued on 18-05-2023 on the basis of appeal filed by the respondent No.04, whereas the order was withdrawn by the respondent No.02 on the basis of appeal filed by the appellant.
- f. Incorrect and misleading the appellant was transferred from DEO (F) Mansehra to his residence, and posted at GGHS Narbeer Mansehra and both the officials implement the order of the Competent authority with letter and spirit.
- g. Incorrect and misleading, respondent department issue order after observing all codal formalities, Respondents Department are bound to exercise his power justly fairly honestly in the light of rules and policy of the Government.
- h. Para is incorrect and misleading respondent department cannot think any violation under articles of Islamic Republic of Pakistan, Respondent department exercise his power justly fairly honestly in the light of rules and policy of the Govt not whim and wishes of any body.
- i. Para i is incorrect and denied, as per rules and policy prevailing by the Government the officials of any cadre is bound to obey the order of Competent Authority and posted where the authority assign the duty for performing.
- j. Respondents Department are bound to exercise his power justly fairly honestly in the light of rules and policy of the Government.
- k. Para is incorrect and misleading respondent department cannot think any violation under articles of Islamic Republic of Pakistan, Respondent department exercise his power justly fairly honestly in the light of rules and policy of the Govt not whim and wishes of any body.
- l. Incorrect and misleading the transfer order issue by the competent authority after observing all codal formalities.
- m. Incorrect hence denied, respondents department cannot think any violation under articles of Islamic Republic of Pakistan, Respondent department exercise his power justly fairly honestly in the light of rules and policy of the Govt not whim and wishes of any body.
- n. Incorrect hence denied, detail reply has already been given in above foregoing Paras.
- o. Incorrect and misleading that respondent department issue transfer order due to ban relax from Government of KPK vide letter NoF.10 (1)/2023 dated 28/02/2023.

(Copy of Notification is annexed as annexure E)

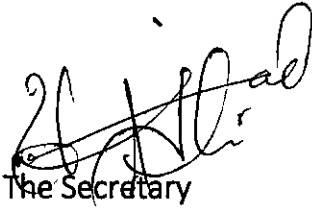
- p. Incorrect hence denied.
- q. Para is correct, detail reply has already been given in above foregoing Paras.
- r. Incorrect hence denied that respondents are bound to exercise his power as per law rules and policy of the Government.
- s. Para is incorrect and misleading respondent department cannot think any violation under articles of Islamic Republic of Pakistan, Respondent department exercise his

power justly fairly honestly in the light of rules and policy of the Govt not whim and wishes of any body.

- t. That the respondents will raise more facts/grounds with the permission of this Honourable Court at the time of Arguments. the stand of appellant is incorrect he is not liable any kind of remedy.

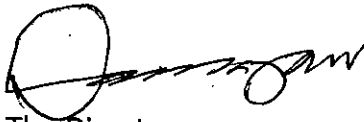
PRAYER:

In the view of above factual position it is humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department in the interest of justice.



The Secretary

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.



The Director,

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar



The District Education Officer,
(Female) Mansehra

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 1490/2023

Syed Ihsan Ali Shah

VERSUS

Secretary Elementary & Secondary Education KPK Peshawar
and Others

AFFIDAVIT

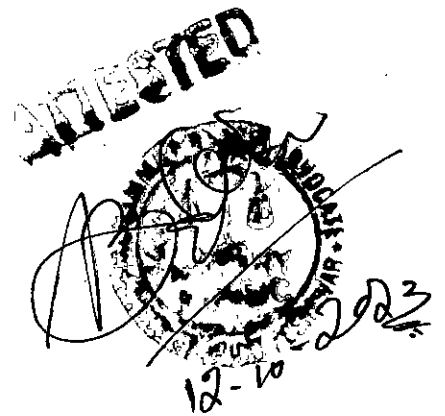
I, Muhammad Usman S/o Abdul Rasheed R/o Mohallah Akbar Abad Mansehra (Representative), do hereby solemnly affirm and declare on oath that all the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court. It is further stated on oath that in this appeal the answering respondents have neither been place ex-parte, nor their defense has been struck off.

Deponent

CNIC: 13503-0610670-5

Identified By:-

Advocate High Court
Peshawar



Annexure A



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
Phone: 091-9225344 Email: ddadmin.ese@ gmail.com

(7)

OFFICE ORDER

The Posting/Transfer in respect of the following Ministerial Staff is hereby ordered in their own pay and BPS in the interest of public service with effect from the date of their taking over charge.

S. #	Name/Design:	Present Posting	Adjusted at	Remarks
1	Mr. Ahsan Shah J/C	DEO Female Manshehra	GGHS Narbeer	AVP
2	Mr. Usama Qazi J/C	GHS Kotli Hala	DEO Female Manshehra	Vice S.No.1

Note:-

1. Compliance report should be submitted to all concerned.
2. No TADA etc is allowed.
- 3.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 5563-65 F.No. /A-23/MS/G.File/2023. Dated 25/5 /2023
Copy forwarded to the:-

1. District Education Officer (M/F) Manshehra.
2. District Account Officer Manshehra.
3. Principal/Headmistress concerned.
4. Official concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File.

Ahsan Shah
M. Qazi

Attested
M. Qazi

District Education Officer (M/F)
Manshehra

P
B and *15/5/2023*
Assistant Director (Admin)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

E:\Admin\Ishad A.M.S\Group And Multiple Transfer\Ahsan Ullah Usama Qazi Manshehra.Doc

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddadm.ose@gmail.com

OFFICE ORDER

(Annexure B)

The office order issued under this office Endst: No. 5563-65 dated 18-05-2023 is hereby cancelled.

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DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

251-56

Endst: No. _____/F.No./A-23/MS/G.file/2022
Copy of the above is forwarded to the: -

Dated Peshawar 1/6/2023.

1. District Education Officers (M/F) Manshra
2. District Account Officer Manshra.
3. Principal/HM concerned
4. Officials concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File

Assistant Director (ADMN)
Directorate E & SE Khyber Pakhtunkhwa
Peshawar.

1/6/2023

AGL
M B



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
Phone: 091-9225344 Email: ddadmn.es@gmail.com

(Annexure C)
(8)

OFFICE ORDER

The office order issued vide this office, under Endst: No. 5563-65 dated 18-05-2023 is hereby **restored**.

Note: - The Cancellation order issued vide this office Endst. No.251-56 dated 01-06-2023 is hereby withdrawn.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 2070-74 /F.No./A-23/MS/G.file/2022
Dated Peshawar the 13/06 /2023

Copy forwarded to the: -

1. District Education Officer Male Mansehra.
2. District Education Officer Female Mansehra
3. District Accounts Officer concerned.
4. Headmaster/Headmistress Concerned.
5. Official Concerned.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. Master file.

12/6/2023
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar



**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION**

KHYBER PAKHTUNKHWA PESHAWAR

Phone: 091-9225344

Email: ddadm.esc@gmail.com

(Annexure D)

OFFICE ORDER

The Posting/transfer order issued vide this office under Endst: No. 5563-6S dated 18/05/2023 is hereby **suspended**, in the light of Khyber Pakhtunkhwa Service Tribunal Peshawar order sheet dated 27-07-2023, till the date fixed.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst. No. 231-34 /F.No. /A-23/MS/Gen. file/2022

Dated Peshawar the 10/08/ /2023

Copy forwarded to the: -

1. District Education Officer (Female) Mansehra.
2. Headmistress GGHS Narbeer Mansehra
3. District Account Officer concerned.
4. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
5. Official Concerned.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. Master file.

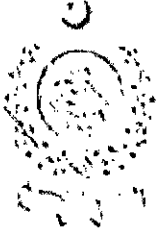
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Amro
M. B.

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No. F.10(1)/2023-Elec-II
ELECTION COMMISSION OF PAKISTAN (Annexure E)

"Secretariat
Constitution Avenue, G-5/2
Islamabad, the 28th February, 2023
E-Mail: assistantdirectorlec2@gmail.com



To.

The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

Subject: NOC FOR TRANSFER/POSTING.

Dear Sir,

I am directed to state that the Hon'ble Commission has taken a decision that the posting/transfer below BPS-16 may be done by the Care taker Government of Khyber Pakhtunkhwa, under the Law.

2. You are hereby informed accordingly.

Yours sincerely,

[Signature]
28/2/2023
(Syed Nadeem Haider)
Additional Director General (Elec-I)

[Signature]
[Signature]