

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL # 1759/2023

Mr Sajad Rasheed ASDEO (MC BPS-16).....Appellant

VERSUS

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

INDEX

S#	Description of Documents	Annex	Pages
1	Affidavit	A	01
2	Authority Letter	B	02
3	Para-wise comments/reply	C	03-04
4	Copy of Transfer Notification	D	5


Deponent

R-

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 1759/2023

Mr Sajad Rasheed ASDEO (MC BPS-16).....Appellant

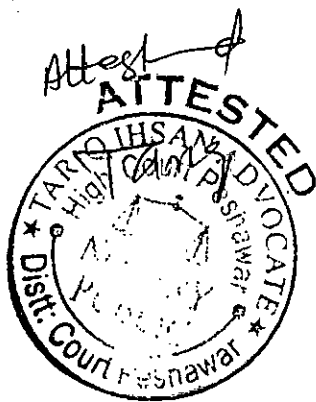
VERSUS

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.

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



DEPONENT


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




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 Ullah, Legal Representative (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit parawise comments on behalf of Secretary Elementary & Secondary Education Department Peshawar in Service Appeal No. 1759/2023 Case Titled, **Sajad Rasheed ASDEO (Bps 16) District Education Officer, Peshawar** vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.


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

THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 1759/2023

Mr. Sajjad RasheedAppellant.

VERSUS

Chief Secretary to Govt of KPK Peshawar..... Respondents.**PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01, 02 & 03**

Respectfully Sheweth,

Khyber Pakhtunkhwa
Service TribunalDiary No. 8281Dated 13-10-23**Preliminary Objections:**

1. That the appellant has got no cause of action against the respondents.
2. That the appellant is just wasting the precious time of this Honorable Tribunal.
3. That the appeal in hand is just filed to pressurize the respondents for getting unfair and undue service advantages.
4. That the appellant is estopped by his own conduct to file the present appeal.
5. That the appellant basically belongs to Teaching Cadre and is in BPS-16, while he has been placed in Management Cadre (OPS) in the best of public interest. As far as the private respondent No. 5 is concerned, he is senior and (BPS-17), possess the required qualification for the post of SDEO (BPS-17) in the current situation, therefore is placed on the said impugned post in the best of public interest.
6. That the appellant concealed material facts from this Honorable Tribunal, therefore not entitle for any relief.
7. There are various complaints, against the appellant for misuse of his post/duties.
8. That the Central Administrative Tribunal Delhi in the case of Sh Jawahar Thakur vs Union of India held on 19th June, 2015 that is more than stare decisis that transfer is an incidence of service and it is for the Executive/Administration to decide how to and where to use its employees subject to the condition of their appointment in the best interest of the organization and public service. It is not always possible and feasible to record strong reasons for allowing an officer to continue at a particular station for a few years or more or less. (F/A)
9. That the need of experienced staff at the respective places, the transfer order cannot be said to be arbitrary. Therefore, services of the appellant is needed by the authority at the new place of posting.
10. That in case Mst. Parveen Begum vs Government Service Appeal No 1678/2022 decided on 05-01-2023 in DB of this Honorable Tribunal the same nature case has been dismissed.
11. That according to section-10 desired posting is not perpetual right of a civil servant and department concerned can transfer any civil servant to serve at the given place as mention in the transfer/posting order, while the civil servant cannot refuse compliance.

9

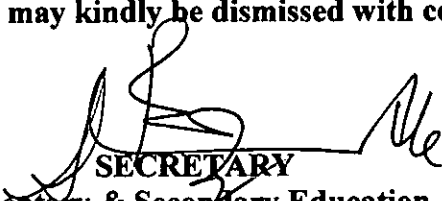
On FACTS

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Incorrect, the notification dated 11-05-2023 is in accordance with law. The appellant is actually BPS-16 while the post in question is SDEO (BPS-17) for which now suitable person/respondent No. 04 has been posted.
5. Pertains to record. However appellant is not an aggrieved person.
6. Para-06 alongwith all the grounds of appeal are totally incorrect.

On Grounds:

- A. Incorrect, the notification dated 11-05-2023 is in accordance with law and natural justice.
- B. Incorrect, the appellant is treated as per law & rules and nothing has been done in violation of any legal right or constitution.
- C. Incorrect, there is no malafide & arbitrary Act on the part of respondent.
- D. Incorrect, the respondents have acted in accordance with law and posted a suitable person on the disputed post.
- E. Incorrect, hence denied. Nothing is unlawful in notification dated 11-05-2023.
- F. The respondents also seeks permission to advance other points at the time of arguments.

It is therefore, requested that the appeal in hands may kindly be dismissed with cost.


SECRETARY
Elementary & Secondary Education,
(Respondent Nos. 01, 02 & 03)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated: 11th May, 2023

NOTIFICATION

NO.SO(MC)E&SED/4-16/2023/Posting/Transfer/MC/TC: The following postings/transfers are hereby ordered with immediate effect, in the best public interest: -

Sr#	Name & Designation	From	To	Remarks
1	Mr.Sajjad Rashid MC BS-16	SDEO (Male) Town-III Peshawar in OPS	ADEO (P&D) Hassan Khel Peshawar	AVP
2	Mr. Habib Ullah MC BS-17	Under transfer to Assistant Director, Directorate of E&SE Peshawar	SDEO (Male) Town-III Peshawar	V.S.No.1

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. District Education Officers (Male), Concerned.
5. District Accounts Officer Concerned.
6. Additional Director General (Election-1) Election Commission of Pakistan, Islamabad
7. PS to Advisor to Chief Minister for E&SE Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

Naseer
11.05.23
(NASEER ABBAS KHALIL)
SECTION OFFICER (Management Cadre)

M. H. Khan

~~Section Officer (Management-III)
Elementary & Secondary Edu. Deptt.
Govt. of Khyber Pakhtunkhwa~~

M. H. Khan
11.05.23