

S.No	order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	06.05.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1233/2014</p> <p style="text-align: center;">(Najma Niaz-vs-Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p style="text-align: center;">Counsel for the appellant (Mr. Aslam Khan Khattak, Advocate) and Mr. Usman Ghani, Sr.GP for respondents present.</p> <p>2. Para wise comments from respondent No.5 submitted which is placed on file. Written reply on behalf of the appellant in response to application of private respondent No. 5 for setting aside of the ex-party proceedings against her was also submitted which is placed on file. Arguments heard and record perused.</p> <p>3. This appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is against impugned order dated 09.07.2014 vide which appellant was transferred from Circle Mathra Peshawar to Circle Pabbi Nowshera. In her place of private respondent No.5 was transferred to Peshawar.</p> <p>4. From perusal of the record and in the light of pro & Contra arguments, it was found that appellant has already completed her tenure at Peshawar. It also revealed from record that subsequent to this impugned transfer order, several</p>

other adjustment orders have been issued and the final order in this regard is that of dated 17.09.2014. But these orders have not been challenged by the appellant in any departmental appeal. It also reflected from record that the purpose of these subsequent orders was to adjust the appellant. Therefore, the impugned order is not the result of any malafide. Since appellant has already completed her tenure and it was not shown that her transfer is the result of any political motivation, therefore in the circumstances of the case, we do not find any reason to interfere in the impugned order. The appeal is hereby dismissed. Parties are left to bear their own cost. File be consigned to the record room.



(ABDUL LATIF)
MEMBER

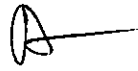


(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
06.05.2016

18.11.2015

Counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.), Inayatullah, ADO alongwith Usman Ghani, Sr.GP for official respondents No. 1 to 4 and counsel for private respondent No. 5 present. Counsel for private respondent No. 5 submitted application for setting aside ex-parte proceedings against respondent No. 5, copy whereof handed over to learned counsel for the appellant. To come up for reply/arguments on application on 15-12-2015,



MEMBER



MEMBER

15.12.2015

Counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Inayatullah, ADO alongwith Kabirullah Khan Khattak, Assistant AG for official respondent No. 1 to 4 and counsel for private respondent No. 5 present. The learned Member (Judicial) is on leave therefore, case is adjourned to 3.2.2016.

03.02.2016

Clerk to counsel for the appellant and Mr. Inayatullah, ADO alongwith Addl: AG for official respondents and counsel for private respondent No. 5 present. Arguments could not be heard due to learned member (Executive) is on official tour to Swat. Therefore, the case is adjourned to 6.5.16 for arguments.



MEMBER



MEMBER

8. 13.03.2015

Counsel for the appellant, M/S Mosam Khan, AD for respondent No. 2 and Inayatullah, ADO for respondents No. 4 alongwith Addl: A.G for official respondents No. 1 to 4 present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments as well as reply to application on 24.3.2015 before S.B.


Chairman

9. 24.03.2015


Counsel for the appellant, M/S Khurshid Khan, SO for respondent No. 1 and Mosam Khan, AD for respondent No. 2 alongwith Addl: A.G for official respondents No. 1 to 4 present. None present for respondent No. 5. Proceeded ex-parte. Written reply submitted on behalf of official respondents No. 1 to 4. The appeal is assigned to D.B for rejoinder and final hearing for 2.10.2015.


Chairman

02.10.2015

Clerk to counsel for the appellant and Addl: AG for respondents present. Rejoinder received on behalf of the appellant copy of which is on file. Arguments could not be heard due to general strike (2.10.2015). Arguments on 02.10.2015 by _____ Husband of the appellant and Asst: AG for the respondents present. Arguments could not be heard due to paucity of time. To come up for arguments on 8-3-16


Member



Member

Appeal No. 1233/2014
Mr. Naeem Ali

6. 23.01.2015


Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 09.07.2014, vide which the appellant was transferred from Circle Mathra, Peshawar to Circle Pabbi Nowshera. Against the above referred impugned order appellant filed departmental appeal on 10.07.2014 which was not responded within the statutory period of 90 days, hence the instant appeal on 14.10.2014. Counsel for the appellant has also filed an application alongwith the appeal for suspending the operation of order dated 09.07.2014. Notice of application should also be issued to the respondents for reply/arguments.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on main appeal as well as reply/arguments on application on 16.02.2015 before the learned Bench-III.


Member

7. 16.02.2015

Counsel for the appellant and Mr. Kabirullah Khattak, Asst: AG for the respondents present. Written reply/comments have not been received on behalf of the respondents. Notices be issued to the respondents for submission of written reply/comments as well as reply/arguments on application on 13.03.2015.


Member

Appellant Deposited
Security & Process Fee
Rs. 400/- Bank
Receipt is Attached with File.


Sy

3,

Reader Note:

25.11.2014

Counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 18.12.2014 for the same.


Reader

4,

Reader Note:

18.12.2014


Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 16.01.2015 for the same.


Reader

5

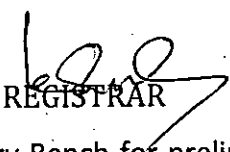
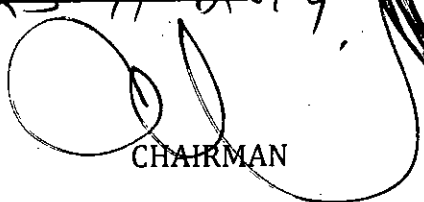
16.01.2015

Counsel for the appellant present, and requested for adjournment due to General Strike of the Bar. To come up for preliminary hearing on 23.01.2015.


Member

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 1233/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/10/2014	<p>The appeal of Mst. Najma Niaz presented today by Mr. Aslam Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 25-11-2014</p> <p style="text-align: right;"> CHAIRMAN</p>
2	16-10-2014	

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1933 of 2014

Najma Niaz ASDEO (F) Circle Appellant

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Peshawar & others
..... Respondents

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memo of appeal along with application for suspension of impugned order dated 09/07/2014 along with relevant orders connected therewith, with affidavit		1-8
2.	Copy of impugned order dated 09/07/2014	"A"	9
3.	Copy of departmental appeal dated 10/07/2014	"B"	10
4.	Copy of order dated 04/08/2014	"C"	11
5.	Copy of order dated 08/08/2014	"D"	12
6.	Copy of order dated 29/08/2014	"E"	13
7.	Copy of order dated 17/09/2014	"F"	14
8.	Copy of service Certificate of appellant's husband	"G"	15
9.	Copy of policy of posting of serving husband /wife in the same station	"H"	16-17
10.	Valakalat Nama	-	-

Dated 13/10/2014

Qin

Appellant

Through

Aslam

Aslam Khan Khattak
Advocate, Peshawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1233 of 2014

Najma Niaz ASDEO (F) Circle Pabbi Nowshera.

..... Appellant

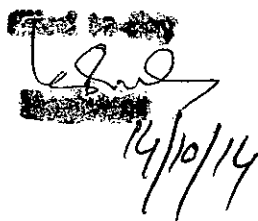
VERSUS

K.W.P. Peshawar
 No. 1256
 Dated 14/10/2014

- 1- Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
- 2- Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3- District Education Officer (F) Peshawar.
- 4- District Education Officer (F) Nowshera.
- 5- Mst: Shagufta Nureen ASDEO (F) Circle Mathra Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 09/07/2014 VIDE ANNEXURE "A" ALONG-WITH ALL THE RELEVANT ORDERS CONNECTED THEREWITH THROUGH WHICH THE APPELLANT HAS BEEN TRANSFERRED FROM CIRCLE MATHRA PESHAWAR TO CIRCLE PABBI NOWSHERA AND RESPONDENT NO.5 HAS BEEN ADJUSTED AGAINST HER POST AT MATHRA PESHAWAR.


 14/10/14

Prayer:

On acceptance of appeal, the impugned dated 09/07/2014 vide Annexure "A" along-with all the relevant orders connected therewith in respect of appellant and respondent No.5 may be set aside to enable the appellant for service at Circle Mathra Peshawar to meet the ends of justice.

Respectfully Sheweth:

Brief facts leading to the instant appeal are as under:

- 1- That the appellant while serving as ASDEO (F) Circle Mathra Peshawar has been transferred to as ASDEO (F) Circle Pabbi Nowshera vide impugned order dated 09/07/2014 at Annexure "A".
- 2- That the appellant has submitted her representation dated 10/07/2014 vide Annexure "B" to respondent No.1.
- 3- That thereafter the respondent No.5 has been adjusted as ASDEO (F) Circle Chughal Pura Peshawar vide order dated 04/08/2014 at Annexure "C".
- 4- That vide order dated 08/08/2014 at Annexure "D" the appellant has been adjusted as ASDEO (F) Circle Peshawar Cantt and respondent No.5 as ASDEO (F) Mathra Peshawar.

- 5- That vide order dated 29/08/2014 at Annexure "E" the appellant's service has been placed at the disposal of respondent No.2.
- 6- That now the appellant has been adjusted as ASDEO (F) Circle Pabbi Nowshera vide Annexure "F".
- 7- That the appellant has so far not received any response to her departmental appeal and 90 days have been elapsed and hence this appeal inter-alia on the following grounds:

GROUND:

- A) That there is no complaint against the appellant and her repeated transfer orders within short span of time has adversely effected the efficiency of appellant and therefore, is liable to be set aside.
- B) That the instant transfer order of appellant has effected her family life and particularly education of her two children who are at the ages of 10&5 years. This should be discouraged as the same is violative of the principles of policy as enshrined in the constitution which enjoin the state to protect the marriage, family, the mother and the children. It is further submitted that her transfer to Pabbi Nowshera has also created problems as regards security of her life. So the impugned order dated 09/07/2014 along-with all the relevant orders

connected therewith may be cancelled to meet the ends of justice.

- C) *That the husband of the appellant is serving an employee of Benevolent Fund Cell, Establishment and Administration Department and he is serving as caretaker Benevolent Fund Building Peshawar vide Annexure "G" and so the appellant is entitled for serving at Peshawar in view of the policy of posting of serving Husband / wife in the same station vide Annexure "H". So the appellant's transfer order to Pabbi Nowshera is illegal and may be set aside.*
- D) *That the stay of respondent No.5 at Circle Pabbi Nowshera is only 6 months and she was got her transfer to Peshawar through political influence. Therefore, the impugned order dated 09/07/2014 at Annexure "A" along with all the relevant orders connected therewith are illegal and may be set aside.*
- E) *That the appellant is the permanent resident of Gulabad Union Council Raniza which is the part and parcel of Mathra Circle Elementary & Secondary Education Peshawar. So the appellant may be allowed to serve as ASDEO (F) Mathra Circle Peshawar.*
- F) *That the impugned order dated 09/07/2014 at Annexure "A" along with all the relevant orders*

connected therewith are illegal, malafide, without jurisdiction and without lawful authority and are liable to be set aside.

G) That the appellant seeks leave of this Hon'ble Tribunal to rely on additional grounds at the time of arguments.

It is, therefore, prayed that on acceptance of appeal, the impugned order dated 09/07/2014 at Annexure "A" along with all the relevant orders connected therewith in respect of appellant and respondent No.5 ~~therewith~~^{as} may be set aside and the appellant may be allowed to serve as ASDEO (F) Circle Mathra Peshawar to meet the ends of justice.

Dated 13/10/2014

Obn
Appellant
Through
asl
Aslam Khan Khattak
Advocate, Peshawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No. _____ of 2014

Najma Niaz ASDEO (F) Circle Appellant

VERSUS

*Govt of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Peshawar & others
..... Respondents*

**APPLICATION FOR SUSPENSION OF
IMPUGNED ORDER DATED 09/07/2014 AT
ANNEXURE "A" ALONG WITH ALL
RELEVANT ORDERS CONNECTED
THEREWITH TILL FINAL DISPOSAL OF
APPEAL.**

Respectfully Sheweth:

- 1- *That the applicant is filing the instant application for suspension of impugned order dated 09/07/2014 at Annexure "A" along with all relevant orders connected therewith till final disposal of appeal on the following grounds:*

Grounds:

- A) *That the grounds of appeal may be treated as the integral part of this application for suspension of impugned order dated 09/07/2014 along with all the relevant orders connected therewith which make out an excellent prima facie case in favour of the applicant.*

B) That the balance of convenience also lies in favour of the applicant.

C) That the applicant will suffer an irreparable loss in case if the impugned order dated 09/07/2014 along with all the relevant orders connected therewith ^{are} not suspended.

It is, therefore, prayed that on acceptance of this application, the impugned order dated 09/07/2014 along with all the relevant orders connected therewith may be suspended till final disposal of appeal.

Dated 13/10/2014

AK

Applicant /appellant

Through

Aslam

Aslam Khan Khattak

Advocate, Peshawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No. _____ of 2014

Najma Niaz ASDEO (F) Circle **Appellant**

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Peshawar & others
..... **Respondents**

AFFIDAVIT

I, Najma Niaz ASDEO (F) Circle Pabbi Nowshera
do hereby solemnly affirm and state on oath that all
contents of the application for suspension of impugned
order dated 09/07/2014 at Annexure "A" along with all
the relevant order connected therewith are true and
correct to the best of my knowledge and belief and
nothing wrong has been stated by me in the matter.

Om

DEPONENT

ATTESTED



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR.**

NOTIFICATION

The transfer order of the following ADEOs (Female) are hereby ordered on their own pay & BPS in the interest of public service with effect from the date of their taking over charge.

S.#.	Name & Designation	From	To	Remarks
1	Mst. Shagufta Noreen ADEO (F)	Circle Pabbi Nowshera	ADEO (F) Circle Mathra Peshawar	Vice S.No.02
2	Mst. Najma Niaz ADEO (F)	Circle Mathra Peshawar	Circle Pabbi Nowshera	Vice S.No.01

- Note: -
1. Charge report should be submitted to all concerned.
 2. No TA/DA etc are allowed.

**DIRECTOR
ELEMENTARY & SECY; EDUCATION
KHYBER PAKHTUNKHWA**

Endst: No. 1525-54 / F.No. 2/Vol-I/A-17/F/ Nowshera

Dated: 8/17/2014

Copy of the above is to the:-

1. District Education Officer (F) Nowshera & Peshawar.
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. District Account Officers Nowshera.
4. ADEO (F) concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. M/File.

ATTESTED

AS

[Signature]
Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

To,

THE SECRETARY
ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

Subject: DEPARTMENT APPEAL AGAINST THE IMPUGNED ORDER DATED 09-07-2014 WHEREBY I BEEN TRANSFERRED TO CIRCLE PABBI NOWSHERA.

Sir,

I HAVE THE HONOUR TO SUBMIT THAT I HAVE BEEN TRANSFERRED TO CIRCLE PABBI NOWSHERA FROM CIRCLE MATHRA PESHAWAR AND I REQUEST THAT THE SAME MAY BE CANCELLED IN VIEW OF THE FOLLOWING GROUNDS:-

GROUNDS

- a. That my husband Salar Muhamad is serving as care taker in Benevolent fund building in Establishment and administration department circle of KPK. His service certificate is enclosed herewith. It is very important to mention here that the husband and wife shall be posted at one station under the law. To this effect my transfer order has illegally been issued and is liable to be cancelled.
- b. That I have two children whose ages are 10 years and 5 years and my instant transfer order will spoil their education as well as their safety due to present situation in KPK.
- c. That there is great danger to my honour and safety due to daily going to place of duty and then coming Back to home.
- d. That Mst. Shagufta Noreen's tenure in circle pabbi Nowshera is only 6 months and her transfer to my place of duty is also illegal.

It is, therefore, prayed that on acceptance of this departmental appeal, my transfer order dated 09-07-2014 may be cancelled to meet the ends of justice.

Date 10-07-2014

Your Most Obedient Servant

@

NAJMA NIAZ ASDEO (F)
CIRCLE MATHRA PESHAWAR

STICSED

as

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR**

NOTIFICATION

Impartial modification of this Directorate notification issued under endorsement No. 1529-34/F.No.2/Vol-1/A-17/F/Nowshera dated 09-07-2014, the following posting/transfer of ASDEO (F) are hereby ordered in their own Pay & BPS in the interest of public service with immediate effect.

S#	Name & Designation	Where adjusted as	Remarks
1	Mst. Shaghufra Noreen ASDEO (F) Circle Pabbi Nowshera (under transfer)	ASDEO (F) Circle Chughul Pura Peshawar	Vice S.No.2
2	Mst. Maryam Rashid ASDEO (F) Circle Chughul Pura Peshawar	ASDEO (F) Circle Pabbi Nowshera	Vice S.No.1

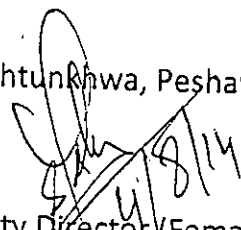
Endst: No. 4332-37 / F.No.2/Vol-1/A-17/F/Nowshera

DIRECTOR

Dated Peshawar the 4/8 2014.

Copy of the above is to the:-

1. District Education Officers (F) Peshawar & Nowshera.
2. District Accounts Officer Peshawar & Nowshera.
3. SDEO (F) Peshawar & Nowshera.
4. Officials concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. Master File.


Deputy Director (Female)

Elementary & Secondary Education K.P.

ATTESTED
as

**DIRECTORATE OF ELEMENTARY AND SECONDRY EDUCATION KHYBER
PAKHTUNKHW, PESHAWAR.**

NOTIFICATION

In continuation of this Directorate Notification No. 4332-37 dated 04-08-2014, the following postings/transfers of ADOs (Management cadre) Women Section are hereby ordered in their own pay & BPS in the interest of public service with immediate effect.

S#	Name & Designation	Where adjusted as	Remrks
1	Mst. Shaghufra Noreen ASDEO (F) Circle Pabbi Nowshera (Under transfer)	ASDEO (F) Circle Mathra Peshawar	Vice # 2
2	Mst. Najma Niaz ASDEO (F) Circle Mathra Peshawar (Under transfer)	ASDEO (F) Circle Peshawar Cantt.	Vice # 3
3	Mst. Nizakat Tabassum ASDDEO (F) Circle Peshawar Cantt	ASDEO (F) Pabbi Circle Nowshera	Vice # 1
4	Mst. Maryam Rashid ASDEO (F) Circle Chughul Pura Peshawar (Under transfer)	ASDEO (F) Circle Chughul Pura, Peshawar	Already occupied

Note:-

1. Charge report should be sent to all concerned.
2. NO TA/DA etc are allowed.

DIRECTOR

Endst: No. 5251-57 /F.No.02/A-17/SST (F) Transfers

Dated Peshawar the 08/08 2014

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. District Education Officers (Female) Peshawar & Nowshera.
3. District Accounts Officer Nowshera.
4. Sub Divisional Education Officer (Female) Peshawar & Nowshera.
5. Officials concerned.
6. PA to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
7. Master File.

Deputy Director (Female)
Elementary & Secondary Education,
Khyber Pakhtunkhwa.

ATTESTED

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Annexure E

(13)

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR.**

NOTIFICATION

In continuation of this Directorate Notification No.5251-57 dated 8/8/2014, the following postings/transfers of ASDEOs (Female) Management cadre are hereby ordered in their own pay & BPS in the interest of public service with immediate effect as desired by the Honourable Minister for Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

S.No.	Name & Designation	To	Remarks
1	Mst. Nizakat Tabassum ASDEO (F) (under transfer to Circle Pabbi Nowshera)	ASDEO (F) Circle Peshawar Cantt	Retain on her original position
2	Mst. Najma Niaz ASDEO (F) (under transfer to Circle Peshawar Cantt)	-	Her services placed at the disposal of Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar till further order

- Note: -
1. Charge report should be submitted to all concerned.
 2. No TA/DA etc are allowed.

**DIRECTOR
ELEMENTARY & SECY: EDUCATION
KHYBER PAKHTUNKHWA**

3152-58
Endst: No. _____ / F.No.2/Vol-I/A-17/SST/F/Transfer Nowshera Dated: 29/08/2014.

Copy of the above is to the:-

1. District Education Officer (F) Nowshera.
2. District Education Officer (F) Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. District Accounts Officer concerned.
5. SDEO (F) concerned.
6. ASDEO (F) concerned.
7. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
8. M/File.

ATTESTED

29/8/14
Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

Mst. Najma Niaz ASDEO (F) Circle Mathra Peshawar (Management cadre) at the disposal of this Directorate is hereby adjusted against the vacant post of ASDEO (F) Circle Pabbi Nowshera in her own pay & BPS in the interest of public service with immediate effect.

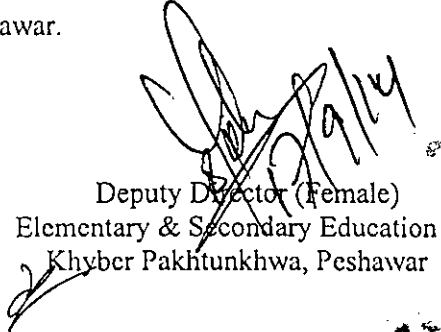
- Note: - 1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed.
3. The DEO (F) concerned is directed to check her original service documents before making payment of her salary.

DIRECTOR
ELEMENTARY & SECY; EDUCATION
KHYBER PAKHTUNKHWA

Endst: No. 6072-78 F.No.2/Vol-I/A-17/SST (F) Transfer Nowshera Dated 17/9/2014

Copy of the above is to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (F) Peshawar & Nowshera.
3. District Accounts Officer Nowshera.
4. SDEO (F) Peshawar & Nowshera.
5. ASDEO concerned.
6. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
7. M/File.


Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

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ash

Amnesti W. G.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BENEVOLENT FUND CELL, ADMINISTRATION DEPARTMENT

Dated Peshawar the 09/07/2014

SERVICE CERTIFICATE

Certified that Mr. Salar Mohammad S/O Late Mr. Misal Khan is an Employee
of Benevolent Fund Cell, Establishment & Administration Department and he
is serving as Caretaker Benevolent Fund Building.

M. M. M.
ASSISTANT SECRETARY (E&A)
BENEVOLENT FUND CELL

Assistant Secretary
Govt. of Khyber Pakhtunkhwa
BFC Administration Department

ATTESTED

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Copy of letter No: SOH-I(SGAD) 1-1/85(Vol. I) dated 11.2.1998 received from Section Officer (Reg-I), SGAD, Govt. of MP and was addressed to all concerned.

Subject: - POLICY ON POSTING OF SERVING HUSBAND/WIFE IN THE SAME STATION.

In continuation of this department's circular letter of even number, dated 20.5.98, I am directed to say that the following policy of the Federal Govt with regard to the posting of husband and wife at one station of duty, has been adopted by the Provincial Govt of N-WFP in respect of its employees working in Govt Departments, autonomous and Semi-Autonomous bodies in the N-WFP:-

(1) Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.

(ii) If a request involves temporary deputation to another deptt. it may be processed in consultation with the concerned deptt. and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.

(iii) When a request is made for permanent transfer to/absorption in another department/agency, the request may be processed in consultation with the department concerned, subject to the condition that in the event of permanent transfer, seniority shall be determined in accordance with Section-8 of the N-WFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

(iv) If there is a tie between two or more Govt Servants for posting at the same station in the same department/unit of an organization, the Govt servant with greater length of service may be preferred.

(v) Request for posting by a spouse facing serious medical problems may be accorded highest priority.

(vi) Spouses already posted at one station, including those posted on deputation beyond the prescribed maximum period may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.

The above guide-line are subject to the following conditions:-

(1) Posting of husband and wife at the same station should not be made by dislocation of any Government servant already serving at a particular station unless his transfer is necessitated by compelling reasons of public interest or within the frame work of General policy of postings and transfers.

(ii) The prescribed selection authority should be consulted in each case.

Contd/...2

ATTESTED
28/2

Approved by
16/11/98

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(17)
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I am, therefore, directed to request you to please follow the above policy strictly in letter and spirit.

Sd/XXXXXXX
(GHULAM JILLANI ASIF)
Deputy Secretary (Reg: I)

GOVERNMENT OF N.W.F.P.
EDUCATION DEPARTMENT.

Endst:No:SOG/EDU/6-147/96-97/Vol-II, dated 27.7.1998

Copy forwarded for information and necessary action to the:-

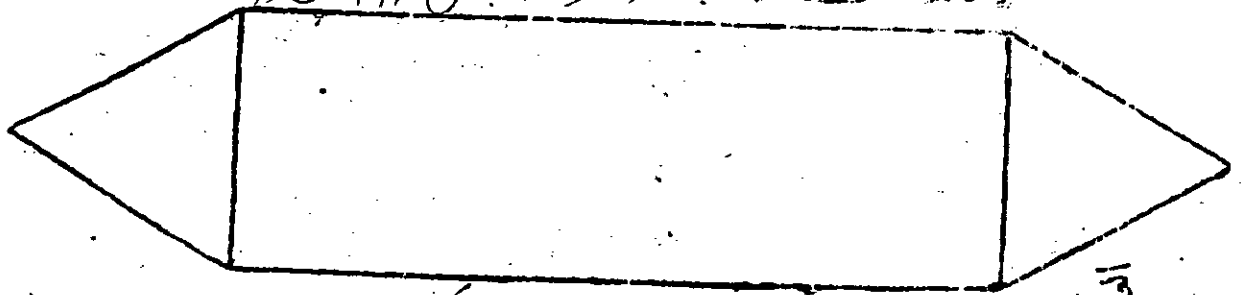
1. All Directors of Education in NWFP.
2. All Additional Secretaries in Education Department.
3. All Vice Chancellors of Universities in NWFP.
4. All Section Officers in Education Department NWFP.
5. All Chairmen of BISE in NWFP.
6. The Chairman Board of Technical Education NWFP.
7. The Chairman NWFP Text Book Board Peshawar.

(Signature)
(MUHAMMAD WALLI)
SECTION OFFICER (GENERAL)

ARSHAD/

750
at

بابت ضابطہ سرور سٹریٹس ٹریڈنگ کمپنی (KPK) 13



13 اکتوبر 2014ء منجانب ایسٹریٹس
بنام سیکرٹری ایسٹریٹس سیکرٹری
ایسٹریٹس سیکرٹری

موزع
مقدمہ
دعوی
جزم

سرور سٹریٹس

باعث تحریر اہلک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و عمل
کاڑوائی مستاتہ آن مقام لیس اور کے لئے اسلم جان صلک اہلک و کھل
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز
دکیل صاحب کو کرنے راضی نامہ و تقررات و فیصلہ برطرف دینے جواب دہی اور اقبال دعوئی اور
بصورت دگری کرنے اجراء اور دسولی چیک و روپیہ اور مرضی دعوئی اور درخواست جزم کی تصدیق
نہ اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا دگری یکطرفہ یا اسل کی برائگی اور مرضی
نیز دگری کرنے اسل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور دکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی جیلے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جلد مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ
پیداختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو فریڈ و برعایت اتوائے مقدمہ کے سبب سے ہوگا۔
اسکے مستحق دکیل صاحب موصوف ہوں گے۔ نیز بقایا و زچہ کی ذمہ داری کرنے کا بھی اختیار ہوگا۔ اگر
کوئی تاریخ پیشی مقام ددرہ پید ہو یا حد سے باہر ہو تو دکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا کات نامہ لکھ دیا کہ سند ہے۔

13 اکتوبر 2014ء

المترجم

ashm

دکھانہ

مقام لیس اور کے لئے منظور ہے۔
Attested & accepted
ashm

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No: 1233/2014

Mst: Najma Niaz ASDEO(F) District Nowshera.

.....Appellant

Versus

Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, & others.

.....Respondents

PARAWISE COMMENTS FOR AND ON BEHALF OF THE RESPONDENTS No: 1-4.

Respectfully Sheweth :-

The Respondents Submit as under :-

PRELEMENARY OBJECTIONS.

- 1 That the instant appeal is badly time barred.
- 2 That the appellant has got cause of action/locus standi.
- 3 That the appellant has not come to this Honorable Tribunal with clean hands.
- 4 That the appeal is not maintainable in its present form.
- 5 That the appellant has concealed important material facts from this Honorable Tribunal.
- 6 That the appellant has filed this appeal with malafide motives .
- 7 That the instant appeal has been filed to pressurize the respondents.
- 8 That the present appellant is bad for non joinder/ mis joinder of necessary parties.
- 9 That the appellant is not competent to file the instant appeal against the respondents.
- 10 That the appellant is not entitled for the relief she has claimed.
- 11 That the order dated 09/7/2014 is legally competent & is liable to be maintained.
- 12 That under Section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973. "Every civil Servant shall be liable to serve any where within the Province, including the appellant.
- 13 That a civil servant can hold a post during the pleasure of the competent authority.
- 14 That the appellant want to stick to the post of ASDEO (F) post and thus pursuing posting of the choice in violation of the provisions, contained in the Khyber Pakhtunkhwa Civil Servant (Appointments / Promotion & Transfer) rules, 1987 and posting transfer policy of the Provincial Government.
- 15 That the post of ASDEO(F) is Provincial Cadre and also not a tenure oriented post.
- 16 That the appellant has completed her normal tenure in the office of the Respondent No: 3.
- 17 The appeal of the appellant has be come anfractuious as vide order dated 08/8/2014 the appellant was transfer back to District Peshawar.

Handwritten notes: 9, 27.03.14, and a signature.

ON FACTS

- 1 That Para-1 is correct that the appellant has been transferred from District Peshawar to District Nowshera vide order dated 09.7/2014 on completion of her 3-years tenure against ASDEO(F) Peshawar. The appellant had been adjusted in the office of the Respondent No: 3 against the ASDEO(F) post on 19/2/2011 in spite of the facts that the appellant belongs to District Swabi as per available record in the office of Respondent No: 2, whereas the Respondent No: 5 belongs to District Peshawar & was posted against ASDEO(F) post vide order dated 11/5/2011 at District Swabi & then Nowshera. Meaning thereby both the appellant & Respondent No: 5 have completed their respective tenure of 3-years at the stations as mentioned above, hence the transfer order dated 09/7/2014 is in accordance with law, rules & Relevant policy.
- 2 That Para-2 needs no comments being pertains to the office record of the Respondent No: 1.
- 3 That Para-3 is correct that the Respondent No: 5 has been adjusted in district Peshawar against the ASDEO(F) post in response to her application for transfer dated 05/3/2014 with the contentions that she is working against the said post since 18/5/2011 & has almost completed her 3-years tenure at out district instead of her original district of Peshawar (copies of her application, adjustment order, domicile & CNIC are attached as Annexures A to E).
- 4 That Para-4 is incorrect, the appellant is a permanent resident of district Swabi as per recommendations of Khyber Pakhtunkhwa, Public Service commission, whereas the Respondent No: 5 is a permanent resident of Peshawar, hence she has been adjusted against the ASDEO(F) post in district Peshawar.
- 5 That Pra-5 is correct that the services of the appellant has been placed at the disposal of the Respondent No: 2 for the purpose of her drawl of her monthly salary & proper posting as per facts of the case. However the order dated 29/8/2014 being a fresh order has not been challenged by the appellant before any forum.
- 6 That Para-6 is also correct that the appellant has been adjusted against ASDEO (F) post at District Nowshera which is adjacent to her original District Swabi. Further submitted that the transfer order dated 17/9/2014 has been issued by the competent authority but the same order has not been challenged before any forum, hence the instant appeal has be come anfractuous on this score two.
- 7 That Para-7 is incorrect to the extent that no departmental appeal has been filed by the appellant before the Respondent No: 2 nor any such record is available in the office, however the Respondents further submit on the following grounds inter alia:-

ON GROUNDS

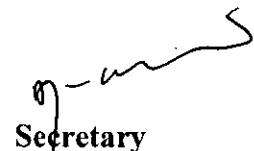
- A That ground A is incorrect & denied. The mentioned order dated 09/07/2014 is legal duly issued by competent authority in the light of the facts and circumstances of the case, hence is liable to be maintained in favour of the respondents because the appellant as a permanent resident of district Swabi & has completed her normal tenure of 3-years here in district Peshawar, hence the above said transfer order.
- B That ground-B is incorrect & not admitted. The ASDEO(F) post is one of the Management Cadre in the Elementary & Secondary Education Department under5 which a civil servant is bound to serve any where in the Province wherever her services are required but in spite of that fact, the appellant has been adjusted in district Nowshera which is adjacent to her own district Swabi.
- C That the ground-C is incorrect and not admitted, reply to this has been given in ground-B & other paras, hence no further comments.

- D That ground-D is incorrect and not admitted. The order dated 30.5.2014 is legally competent in public interest & is liable to be maintained in favour of the respondents.
- E That ground-E is incorrect and not admitted. The statement of the appellant in this para is false, baseless against law, rules, facts manufactured one, without any legal proof & support, based on malafide motives and even against the norms of natural justice. Hence denied.
- F That ground F is incorrect & denied, the transfer order dated 09/07/2014 is legally competent & liable to be maintained in favour of the Respondent department.
- G That ground-G needs no comments, however the Respondents seek leave of this Honorable Tribunal to submit additional grounds & record at the time of arguments.

In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favor of the respondents Department.



Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.



Secretary
Elementary & Secondary Education
Department / Khyber Pakhtunkhwa,
Peshawar.