

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

SERVICE APPEAL NO. 1805/2023

Diary No. 3796

Dated 2/14/23

Sumaira Bibi, Deputy Public Prosecutor (BP-18).

Appellant.....


VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Govt. of Khyber Pakhtunkhwa.
2. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General Prosecution, Khyber Pakhtunkhwa, Peshawar
4. The Deputy Director Administration, Prosecution Department, Khyber Pakhtunkhwa, Peshawar.

Respondents.....

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Muhammad Gulzar Ali
(Superintendent)
Directorate of Prosecution,
Khyber Pakhtunkhwa

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1805/2023

Mst.Bibi Sumaira, Deputy Public Prosecutor (BPS-18), District Mansehra, under transfer to District Haripur.

.....APPELLANT

VERSUS

1. **The Government** of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Prosecutor, Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Director Administration, Prosecution Department, Khyber Pakhtunkhwa, Peshawar.

..... RESPONDENTS

Comments On Behalf Of Respondents No.1 to 4.

PRELIMINARY OBJECTIONS:

1. That the instant Service Appeal is not maintainable in the eyes of law.
2. That the Appellant has got no Cause of Action.
3. The Appellant has 07 years of service in Directorate of Prosecution and she remained posted/served in District Mansehra during all this period/tenure. The Appellant was posted to District Torghar for one year where she was posted at Tehsil Ogi, (situated at District Mansehra) for her convenience. Hence, during her entire service, for the first time she is posted outside of District Mansehra.
4. A proper sanction/NOC was obtained for the subject transfer/posting from Election Commission of Pakistan and after getting approval from the competent authority (Chief Minister) her transfer order was notified.
5. That the Appellant has concealed material facts from this Honourable Tribunal.
6. That the Appellant is estopped by her own conduct to bring the present Appeal before this Honourable Tribunal.
7. That the instant Appeal is embodiment of falsehood and misrepresentation, hence, bad in law and facts both.

PARAWISE REPLY:-**Respectfully Sheweth,**

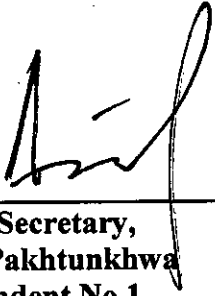
1. Pertains to record.
2. Pertains to record. However, it is submitted that after her appointment in the year 2016, she remained posted at District Mansehra for about five years.
3. Pertains to record. However, it is clarified that the Courts of District Torghar are situated at Tehsil Ogi of District Mansehra. Thus, during her posting at District Torghar, she performed her duties in District Mansehra.
4. Pertains to record. However, the astonishment, as expressed by the Appellant is incomprehensible as for the first time she was posted outside District Mansehra.
5. Pertains to record.
6. Pertains to record. However, it is submitted that the Departmental Appeal was filed on cogent grounds and a speaking order was passed, encompassing all relevant reasons and circumstances. (copy annexure-A).
7. Pertains to record. However, it is explained that the Appellant was delaying to comply with orders of the Competent Authority therefore, the relieving order was issued and she took the charge of post of Deputy Public Prosecutor at District Haripur.
8. No comments.

GROUND

- A. This Para needs detailed reply. The Appellant joined Directorate of Prosecution in the year 2016 and was posted at District Mansehra, where she remained posted for almost 05 years, continuously, till 15.01.2021. She was transferred to District Torghar, where she remained posted for one year at Tehsil Ogi. Pertinent to mention here is the fact that courts of District Torghar are situated at Tehsil Ogi, District Mansehra. Thus, for the first time during her entire service, she is posted outside of District Mansehra.
- B. Incorrect, hence denied.
- C. Incorrect, hence denied.
- D. Incorrect, hence denied.
- E. Incorrect, hence denied. In fact a proper sanction/NOC was obtained for the subject transfer/posting from Election Commission of Pakistan and after getting approval from the competent authority (Chief Minister), her transfer order was notified.
- F. Irrelevant, baseless and incorrect, hence denied.
- G. The Appellant has not submitted any medical certificate to this effect till date. Hence, this ground cannot be taken into consideration.
- H. The respondents also seek permission to raise other grounds at the time of full hearing.

PRAYER:

In light of the above facts and circumstances of the case, the Service Appeal is devoid of any merit and legal substance; therefore, the same may kindly be dismissed with special cost, please.



Chief Secretary,
Khyber Pakhtunkhwa
Respondent No.1



Secretary Home & Tribal Affairs
Department
Respondent No.2



Director General Prosecution
Khyber Pakhtunkhwa
Respondent No.3



Deputy Director Administration,
Directorate of Prosecution,
Khyber Pakhtunkhwa
Respondent No.4



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar, the 5th September, 2023

ORDER

NO.SO(Pro)/HD/1-2/2023(Postings/transfers): WHEREAS, the honorable Peshawar High Court Peshawar in Writ Petition NO.952-A/2023 has directed the respondent department on 17.07.2023 to decide the departmental representation of the petitioner (Ms. Bibi Sumaira, Deputy Public Prosecutor (BS-18), Mansehra) within the prescribed period of Law

2. **AND WHEREAS**, the departmental representation of Ms. Bibi Sumaira, Deputy Public Prosecutor (BS-18), Mansehra for cancellation of her posting/transfer from District Mansehra to District Haripur notified on 21.07.2023, received in Home and Tribal Affairs Department vide Directorate of Prosecution letter No.DP/E&A/PF/9712 dated 03.08.2023 for consideration.

3. **AND WHEREAS**, Ms. Bibi Sumaira remained posted in District Mansehra through-out her service career as per the following details:

S#	Place of posting	Period
1	District Public Prosecutor Mansehra	25.05.2016 to 15.01.2021
2	Senior Public Prosecutor (OPS) Torghar stationed at Tehsil Ogi District Mansehra	01.02.2022 to 21.07.2023

3. **AND WHEREAS**, the request of Ms. Beenish Gul, Deputy Public Prosecutor (BS-18), Haripur for transfer to District Mansehra under spouse policy was processed under the posting/transfer policy of the provincial government and after getting proper NOC from Election Commission of Pakistan and approval accorded by the competent authority (Chief Minister, Khyber Pakhtunkhwa), her transfer was notified.

4. **NOW THEREFORE**, the Competent Authority after having considered her representation and evidence on record has been pleased to file the representation of Ms. Bibi Sumaira, Deputy Prosecutor (BS-18), Mansehra having no solid grounds for cancellation of her transfer order.

**SECRETARY
HOME DEPARTMENT**

Endst: No. & date as above.

Copy forwarded to:-

1. The Registrar, Peshawar High Court, Peshawar.
2. The Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
3. The District Public Prosecutor, Haripur & Mansehra.
4. Officer concerned through Directorate of Prosecution.
5. PS to Secretary, Home Department, Khyber Pakhtunkhwa.


(Muhammad Israr)

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

SERVICE APPEAL NO. 1805/2023

Sumaira Bibi, Deputy Public Prosecutor (BP-18).

Appellant.....

VERSUS

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3. Director General Prosecution, Khyber Pakhtunkhwa, Peshawar
4. The Deputy Director Administration, Prosecution Department, Khyber Pakhtunkhwa, Peshawar.

Respondents.....

AFFIDAVIT

I, Muhammad Gulzar Ali, Superintendent, Directorate of Prosecution, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the Service Appeal No. 1805/2023, are true and correct to the extent of office record and nothing has been concealed from Service Tribunal Khyber Pakhtunkhwa. It is further stated on oath that in this Appeal the answering respondents have neither been placed ex-party nor their defense struck off.


Deponent

CNIC No: 17301-1440140-1

Cell No: 0332-9279260

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**SERVICE APPEAL NO. 1805/2023****Mst. Bibi Sumaira**, Deputy Public Prosecutor (BPS-18), District Mansehra, under transfer to District Haripur.

.....APPELLANT

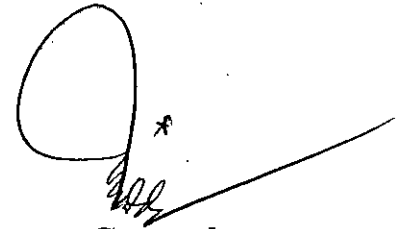
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..... RESPONDENTS

AUTHORITY LETTER

Muhammad Gulzar Ali, Superintendent, Directorate of Prosecution Khyber Pakhtunkhwa, is hereby authorized by the undersigned to submit para wise comments before the Khyber Pakhtunkhwa Service Tribunal, Peshawar, on behalf of Directorate of Prosecution, in Service Appeal No. 1805/2023.



Director General
Directorate of Prosecution
Khyber Pakhtunkhwa
Peshawar

ATTESTED
Miss Rozina
Director
Prosecution
Peshawar

02 - 11 - 2023