

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Service Appeal No. 1496/2023

Mst. Syeda Anjum

.....Appellant.

VERSUS

Chief Secretary to Govt of KPK Peshawar..... Respondents

I N D E X

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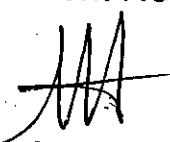
Dated: 07/11/2023


Shahida Parveen

Private

Respondent No. 05

Through:


Mukhtar Ahmad Maneri
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Office # 4, 2nd Floor, Juma Khan
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Service Appeal No. 1496/2023

Khyber Pakhtunkhwa
Service Tribunal

Case No. 8901
Date: 7-11-2023

Mst. Syeda Anjum

....Appellant.

VERSUS

Chief Secretary to Govt. of KPK Peshawar..... Respondents

PARAWISE COMMENTS ON BEHALF OF THE ANSWERING
RESPONDENT NO. 84 *Rhs*

Respectfully Sheweth,

Preliminary Objections:

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appellant has just wasting the precious time of this Honorable Tribunal.
3. That the appeal of the Appellant is pre mature under the Statutory period thus liable to be dismissed.
4. That the competent authority/respondent is empowered u/s 10 of Civil Servant Act, 1973 to place the service of the appellant, anywhere throughout the province in the best public interest.

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5. That the appellant has concealed the material facts from this Honorable Tribunal.
6. That the appellant has not approached to this Honorable Tribunal with clean hands.
7. That the appellant has filed this appeal just to pressurize the respondents for gaining illegal service benefits.
8. That the appeal is liable to be dismissed summarily along with the compensatory cost.
9. 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. **(Copy of judgment attached)**
10. 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.

11. 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.
12. 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.

On FACTS:

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Para No. 4 is only to this extend is correct that through notification dated 14-04-2023 the appellant is transferred from DEO (F) DL. Khan to Directorate of Khyber Pakhtunkhwa Elementary and Secondary Education Department, Peshawar, Rest of this para is totally incorrect and denied the appellant has acted under Section-10 of Civil Servant Act, 1973 issued the above notification in the best public interest.
5. Incorrect, the appellant has been transferred in accordance with law and as she is not an aggrieved person, therefore she is not entitled for

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any relief and her departmental representation was also having no force. The answering Respondent subsequently promoted by the order of Authority.

6. Incorrect, a Civil Servant cannot mingle their domestic life with her service. One has to obey the government while assigned with duties as a civil servant.

7. Para No. 7 alongwith all the grounds of appeal are totally incorrect.

On Grounds:

- A. Incorrect, order dated 14-04-2023 is in accordance with law.

- B. Incorrect, according to Section-10, Civil Servant Act, desired posting is not the perpetual right of a Civil Servant and the department concerned can transfer any Civil Servant to serve at the given place as mentioned in the transfer/posting orders, while the Civil Servant cannot refuse compliance.

- C. Incorrect, there is no political interference in the order dated 14-04-2023. Actually transfer of appellant is an incidence of service and it is for the executive to decide how to and where to use its employees subject to the conditions of their appointment in the best of public interest and service.

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- D. Incorrect, according to the judgment of the Central Administrative Tribunal held on 19-06-2015. It is not always possible and feasible to record strong reasons for allowing a Civil Servant to continue at a particular station for a few years or more or less.
- E. Incorrect, it is the discretion of the competent authority that for the exigency and public interest, they can exercise the powers of the authorities vested in them under Section-10 of Khyber Pakhtunkhwa Civil Servant Acts, 1973.
- F. Incorrect, the order dated 14-04-2023 is in accordance with law and nothing is illegal in it, totally based on public interest and service.
- G. Incorrect council for Respondents also seeks permission for additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of their parawise comments the appeal in hand may be dismissed with cost.

Dated: 07/11/2023


Shahida Parveen

Respondent No. 04

Through:


Mukhtar Ahmad Maneri

Advocate Supreme Court

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Plaza, Opposite Super Gas
CNG, Warsak Road, Peshawar.

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5/A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
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In Service Appeal No. 1496/2023

Mst. Syeda Anjum

....Appellant.

VERSUS

Chief Secretary to Govt of KPK Peshawar..... Respondents

Affidavit

I, Shahida Perveen District Education officer (Female) BPS-19 District DI Khan,(Private Respondent No.4) do hereby solemnly declare and affirm on oath that all the contents of accompanying this **Service Appeal** are true and correct and nothing has been intentionally concealed from this Hon'ble Court.



Deponent

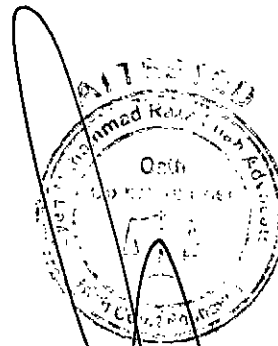
CNIC: 12101-6879401-0

Mobile No. 0303-2180513

Identified By



Mukhtar Ahmad Maneri
Advocate Supreme Court



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**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

NO. SO(PSB)ED/1-4/2023/P-239
Dated Peshawar the 01.11.2023

To

✓ The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD
HELD ON 19.09.2023.

PROMOTION OF MANAGEMENT CADRE OFFICERS (FEMALE) BS-18
TO THE BS-19 IN E&SE DEPARTMENT

Dear Sir,

I am directed to refer to E&SE Department letter No. SO(MC)E&SED/2-3/2023/Promotion/MC BS-18-19/Female dated 05.09.2023 on the subject and to forward herewith an extract of Agenda Item No (01) of the minutes/recommendations of the meeting of Provincial Selection Board held on 19.09.2023 as well as copy of approved summary wherein the Chief Minister, Khyber Pakhtunkhwa being competent authority in terms of Rule 4 (1) (a) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989 has approved the recommendations of the PSB, for further necessary action.

Yours faithfully,

[Signature]
SECTION OFFICER (PSB) 1/11/23

Encl: As Above.

S
✓
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SECRETARY DIARY
No. 3865
Dated 2/11/23

[Signature]
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PSB meeting 19.09.2023

ITEM NO. (01)

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

(Meeting of PSB held on 19.09.2023)

SUBJECT:- PROMOTION / APPOINTMENT OF DEPUTY DISTRICT EDUCATION OFFICER/ DEPUTY DIRECTRESS BS-18 TO THE POST OF DISTRICT EDUCATION OFFICER/ ADDITIONAL DEPUTY DIRECTRESS BS-19.

Secretary Elementary & Secondary Education apprised the Board that due to creation, retirement, death, reduction to lower grade and deputation; ten (10) posts of District Education Officer / Additional Director BS-19 are lying vacant.

2. According to service rules the post is required to be filled as under:-

"By promotion on the basis of seniority-cum-fitness from amongst the Deputy District Education officers and Deputy Directors (Male & Female) with at least seven years' service in BPS-18 or twelve years' service in BPS-17 and above and such officers shall undergo six week post promotion training in the following modules namely:

I. Financial Management.

II. HR Management.

III. Information Technology.

Provided that if no suitable officer is Available for promotion then by transfer of BS-19 officers".

3. The service record of the officers included in the panel was discussed as follows:

S#	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1.	Mst. Shafqat Rahman	Her date of birth is 15.04.1970. She joined government service on 01.03.1992 in BS-17. She was appointed to BS-18 on 30.05.2011. She has completed prescribed length of service for promotion. According to the department, she is on study leave w.e.f. 31.01.2022 to 31.01.2024. According to Para IV (a) of Promotion Policy 2009, the officer will be considered for promotion after she earns one calendar PER after expiry of leave. The Board recommended to defer her promotion.
2.	Mst. Zubaida Hanif <i>Attested Rijaz PSB</i>	Her date of birth is 12.03.1976. She joined government service on 30.05.2011 in BS-18. She has completed prescribed length of service for promotion. The Board was informed that her enquiry under KP Govt Servants (E & D) Rules, 2011 has not yet been finalized. According to the Para V (a) (i) of Promotion Policy 2009, the officer against whom inquiry is pending will be deferred. The Board recommended to defer her promotion.

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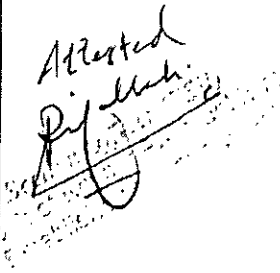
CONFIDENTIALPSB meeting 19.09.2023

3.	Mst. Sumera Sheraz	<p>Her date of birth is 07.01.1976. She joined government service on 21.02.2012 in BS-17 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has already been appointed in BS-19 on acting charge basis. She has not yet completed prescribed length of service for promotion.</p> <p>The Board did not consider her promotion and she will continue working in BS-19 on acting charge basis.</p>
4.	Mst. Rehana Yasmin	<p>Her date of birth is 04.05.1967. She joined government service on 19.04.1993 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 49 and the Board awarded her 12 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>
5.	Mst. Shahida Parveen	<p>Her date of birth is 13.11.1969. She joined government service on 24.06.1997 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 17.08.2021. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 55 and the Board awarded her 12 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>
6.	<p>Mst. Nighat Bibi</p> <p><i>Attested</i> <i>Pijush</i> <i>(PSB)</i></p>	<p>Her date of birth is 07.12.1977. She joined government service on 26.12.2009 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 52 and the Board awarded her 12 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>

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Attested

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7.	Mst. Nargis Jabeen	<p>Her date of birth is 15.02.1975. She joined government service on 21.02.2012 in BS-17. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 55 and the Board awarded her 12 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>
8.	Mst. Laila Ali	<p>Her date of birth is 05.04.1979. She joined government service on 03.01.2011 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 55 and the Board awarded her 12 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>
9.	Mst. Mehrun Nisa	<p>Her date of birth is 04.02.1980. She joined government service on 21.02.2012 in BS-17. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 57 and the Board awarded her 13 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>
10.	Mst. Fanoos Jamal <i>Attested</i> 	<p>Her date of birth is 05.01.1977. She joined government service on 22.11.1999 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 57 and the Board awarded her 13 out of 30 marks.</p>

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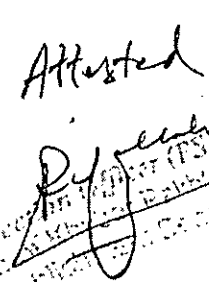
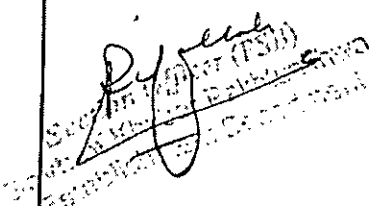
PSB meeting 19.09.2023

Mst. Hussan Ara	The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.
<p>Attested</p> <p><i>[Signature]</i></p> <p><i>[Stamp]</i></p>	<p>Her date of birth is 10.02.1970. She joined government service on 01.03.1998 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 55 and the Board awarded her 12 out of 30 marks.</p> <p>The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.</p>

[Signature]

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PSB meeting 19.09.2023

	The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.
Mst. Hussan Ara Attested  	Her date of birth is 10.02.1970. She joined government service on 01.03.1998 and was appointed in BS-17 on 21.02.2012 in Management Cadre. She was promoted to BS-18 on 27.05.2019. She has not yet completed prescribed length of service for promotion. No enquiry is pending against her. Her PER dossier is complete. Her service record upto 2022 is generally good. Her quantified score is 55 and the Board awarded her 12 out of 30 marks. The Board recommended the Officer for appointment to the post of District Education Officer/Additional Director (Female) BS-19 on acting charge basis.

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