

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1769/2023

**SCANNED
KPST
Peshawar**

Mr. Falak Naz, Instructor Physical Education (BPS-18).....Appellant.

30/10/23

VERSUS

Chief Secretary, Govt: of Khyber Pakhtunkhwa & others.....Respondents.

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BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 1769/2023

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VERSUS

Govt. of Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, **Motasim Billah Shah**, Secretary, 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.

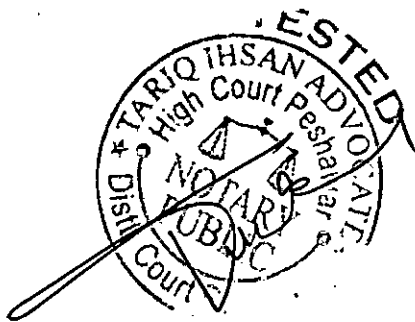
It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.

DEPONENT


Motasim Billah Shah

**Secretary
E&SE Department Peshawar**

Respondent no-2





GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT


Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Mr. Amjad Ali Section officer (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. 1769/2023 Case Titled Mr. Falak Naz BPS-17), vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.**


Mr. Motasim Billah Shah
Secretary

 E&SE Department Peshawar.

Response No-2

(3)

SCANNED
KPST
Peshawar
30/10/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 1769/2023

Mr. Falak Naz, (BPS-17)Appellant.

VERSUS

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 8679
20-10-23
Dat Respondents.

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

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01, 02 & 03

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

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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.

On FACTS


1. Pertains to record.
2. Pertains to record.
3. Pertains to record. However, the competent authority can transfer every Civil Servant to anywhere throughout the Province u/s 10 of Civil Servant Act, 1973 in public interest.
4. Pertains to record.
5. In response of para-5, it is stated that the 17-03-2023 & 17-04-2023 are in accordance with law and there is nothing unlawful in the above orders. 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 order, while the civil servant cannot refuse compliance.
6. Para-06 alongwith all grounds of appeal are incorrect, hence denied.

On Grounds:


- A. Incorrect, the order dated 17-03-2023 & 17-04-2023 are in accordance with law and u/s 10 of civil servant act, 1973.
- B. Incorrect, there is not violation of constitution nor any legal right of the appellant.
- C. Incorrect, hence denied in toto, as replied above.

- D. Incorrect, according to 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 in the public interest.
- E. Incorrect, hence denied, as replied above.
- F. The respondent also seeks permission to advance any other grounds at the time of regular hearing.

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



Dr Muhammad Iqbal
Director Elementary & Secondary
Education Khyber Pakhtunkhwa
(Respondent No 3)



Motasim Billah Shah
SECRETARY
Elementary & Secondary Education,
(Respondent No.02)

6



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Block-"A" Opposite MPA's Hostel, Civil Secretariat, Peshawar
Phone No. 091-9223633 Email: sschoolmale@gmail.com

2-9

B-6

Peshawar, Dated: 15th March 2023

NOTIFICATION

NO.SO(S/M)E&SED/5-17/2022/PT/SS:

Mr. Falak Naz, IPE (BS-17) GHSS Lachi Kohat

is hereby posted/adjusted at GHSS Mama Khel Bannu, against the vacant post, with immediate effect, in the best public interest.

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT**

Endst: of even No. & Date

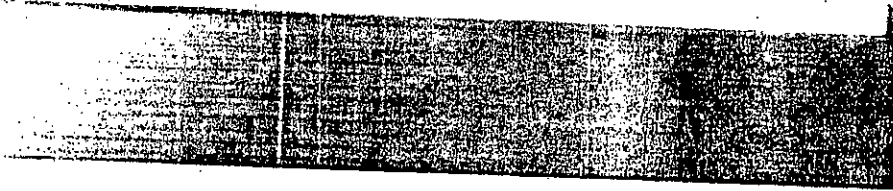
Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Lakki Marwat.
5. District Accounts Officer Lakki Marwat.
6. Principal Concerned.
7. PS to Minister for E&SE Department.
8. PS to Secretary E&SE Department.
9. PA to Deputy Secretary (Estab) E&SE Department.
10. Officer Concerned.
11. Office order file.

(TAJ MUHAMMAD)

SECTION OFFICER (SCHOOLS MALE)

Handwritten signature and a circular stamp of the Department of Elementary & Secondary Education, Peshawar.

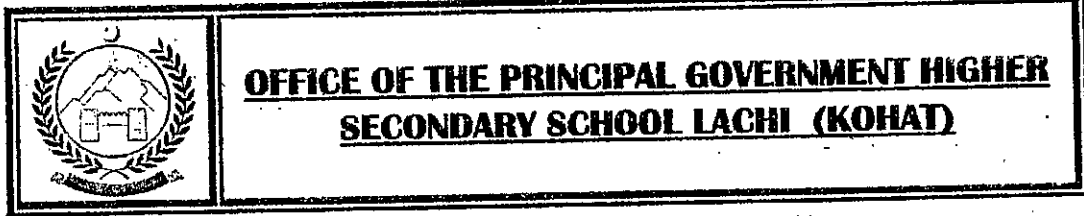


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RELIEVING CHIT

In compliance of/Transfer order issued under Notification No.SO(S/M) E&SED/5-17/2022/PT/SS: Secretary E&SED KPK Peshawar Dated 15.03.2023. Mr.FALAK NAZ IPE (BPS 17) is hereby relieved of his duties on this day i.e. 16-03-2023 (FN) and he is directed to report to the office of Principal GHSS Mama Khel Banochi Bannu,

sd Principal,
GHSS Lachi Kohat

Endst: 1201-06 Dated: 16/03/2023.

Copy for information to the:-

1. Secretary E&SED KPK Peshawar
2. Director E&SED KPK Peshawar
3. District Account Officers Concerned.
4. District Education Officers (M) Concerned.
5. Principal GHSS Mama Khel Banochi Bannu.
6. Principal GHSS Lachi Kohat.

sd Principal,
GHSS Lachi Kohat
16/03/23

sd

sd

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CERTIFICATE OF TANSFER OF CHARGE

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In compliance of Notification issued by Section Officer (Schools Male) vide No. SO(S/M)E&SED/5-17/2022/PT/SS: Dated 15th March 2023, I. Mr. Falak Naz Khan IPE hereby assume the charge of the post of Instructor Physical Education at GHSS Mamma Khel Banochi Bannu today on 16-03-2023 please.

Relieved by _____

Dated: 16-03-2023

[Handwritten signature]

Relieving *[Signature]*
Falak Naz Khan IPE BS-17
GHSS Mamma Khel Banochi Bannu

[Signature]
PRINCIPAL
GHSS Mamma Khel Banochi
BANNU

Ehdst: No. 94
Copy forwarded to the:

Dated: 16-03-2023
PRINCIPAL
GHSS Mamma Khel Banochi Bannu

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Peshawar.
3. Director, EMIS E&SE KPK Peshawar.
4. District Education Officer (M) Bannu.
5. District Accounts Officer Bannu.
6. Principal concerned.
7. PS to Minister E&SE KPK Peshawar.
8. PS to Secretary E&SE KPK Peshawar.
9. PA to Deputy Secretary (Estab) E&SE KPK Peshawar.
10. Officer concerned.
11. Office order file.

[Signature]
PRINCIPAL
GHSS Mamma Khel Banochi
BANNU
PRINCIPAL
GHSS Mamma Khel Banochi Bannu

[Signature]



(10)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533 Email: sschoolmale@gmail.com

NOTIFICATION

Peshawar, Dated: 11th April 2023

NO.SO(SM)E&SED/5-17/2023/PT/PRINCIPAL: This Department's Notification of even Number dated 17.03.2023 is hereby withdrawn ab-intio, in r/o Mr. Falak Naz IPE (BS-17) appearing at Sr. No.02, in the best public interest.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer (Concerned).
6. PS to Advisor to CM, E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Principal concerned.
10. Officer Concerned.
11. Office order file.

(MUHAMMAD ISHAQ) 11/4/23
SECTION OFFICER (SCHOOLS MALE)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block 'A' Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 921-9223433 Email: eschoolmale@gmail.com

Peshawar, Dated: 17th April 2023

NOTIFICATION

NO.SO/(SME&SED)/5-17/2023/PT/PRINCIPAL: This Department's Notification of even Number dated 17.03.2023 is hereby restored, in r/o Mr. Falak Naz IPE (BS-17), in the best public interest.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer (Concerned).
6. PS to Advisor to CM, E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Principal concerned.
10. Officer Concerned.
11. Office order file.

NOTIFICATION

(MUHAMMAD ISHAQ) 17/4/23
SECTION OFFICER (SCHOOLS MALE)

ATTACHED