

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Appel No 368/23 and 804/12(2)

Mst. Shabnam begum.....APPLICANT/JUDGEMENT

DEBTOR

Versus

Secretary E&SE Department

& Others .....RESPONDENTS

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 9659

Dated 04-12-23

REPLY ON BEHALF OF THE RESPONDENTS NO. 04 (THE DECREE HOLDER)  
REJECTION OF THE 12(2) APPLICATION.

Respectfully Sheweth:

Preliminary Objections:

- (i) **THAT** the Applicant neither has the *locus-standi* nor the *cause of action* to object to the Decreedated 03.10.2023. The 12(2) Application, as framed, is *misconceived*, bad in law and facts both.
- (ii) **THAT** the 12(2) application is not maintainable in the present form as the respondent No. 04 was transferred against the vacant post.
- (A) **THAT** the purported 12(2) Application is *misleading* in material particulars.
- (iii) **THAT** The Hon'ble Tribunal has got no Jurisdiction.

BRIEF FACTS:

1. Needs No Reply.
2. Needs no comments.
3. Needs no comments.
4. Needs No Reply.
1. Needs no comments.
2. Needs no Comments. However, with the operation of the same notification the respondent No. 04 was transferred to GGHS Jalala From GGMS karkaniKhar against vacant Post.
3. Needs No Comments.
4. Wrong and Deceitful. The applicant had filed the departmental appeal against the wrong NOC issued by the DEO female Malakand.
5. Needs no Comments.

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6. Needs no Comments.
7. The withdrawal of the order dated 12.12.2022 is illegal,unlawful and against the policy of posting and transfer\_\_\_\_\_ and based on poltical influence since the respondent No. 04 did not complete her period,required for transfer under the policy of posting and transfer\_\_\_\_\_ at GGHS Jalala which is minimum two years. Also the respondent No. 04 had earlier filed an application for transfer to GGHS Jalala against a vacant postas the respondent No. 04 has a disabled child at her house causing hardships while delivering her services at GGCMS karkanikhar. The application for transfer was accepted and the respondent No. 04 was transferred accordingly.
8. **INCORRECT/DECEITFUL AND UNTENABLE.** The judgement debtor was well aware and duly notified of the suit and its proceedings.
9. **Incorrect /deceitful and untenable.** Details is mentioned in the above para.
10. **THAT** for the grounds aforementioned and various other *legal infirmities* in the 12(2) Application renders as absolutely *incompetent, not maintainable and liable to summary rejection.* The grounds *raised are misconceived, misleading and deceptive. The same requires no serious consideration. Thus liable to be strike down as such.*

**GROUNDS:**

1. **THAT** the grounds *A to E* are *false, inapt, irrelevant, misleading and unlawful.* The Applicant/JD was well aware of the case. In addition, it is submitted thatapart from the facts of the case, the instant 12/2 application is *incompetent, inoperative and not maintainable.* The Applicant/ *JD* is *precluded andestopped* by law and its own conduct to file the *deceptive* objections.The instant 12/2 application has been moved in *bad faith.*

**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of this application, the Hon'ble court may be pleased to dismiss the instant *frivolous* 12(2) Application with costs.

Through  Respondents no.4/Decree Holders  
Muhammad Ayaz Khan

Dated: 04/12/2023

Advocate High court

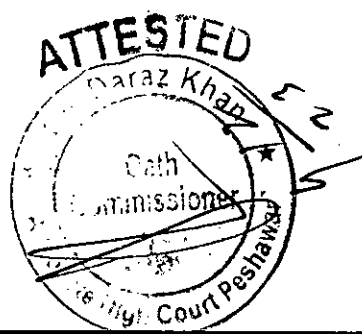
  
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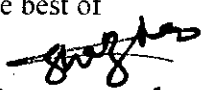
And

Advocate,Peshawar.

**AFFIDAVIT**

I,Mst. Shaziabibi w/o jamil Hussain R/o Thana , Batkhela district malakand, do hereby solemnly declare and affirm that the contents of the application above are true and correct to the best of my knowledge and belief.



  
Deponent



favour to file the present application and the instant application is liable to dismissal, balance of convenience also lies in favour of the answering respondent.

4. That Para 5 of the application is incorrect, hence denied. Furthermore respondent No.4 has nothing to do with the applicant, as she was transferred upon the vacant post.

**It is, therefore, most humbly prayed that on acceptance of this reply, the application filed by the applicant may graciously be dismissed.**

Respondent No.4.

Through

  
**Muhammad Ayaz Khan**

&

  
**Israr Iqbal**  
Advocates, Peshawar

Date: 04/12/2023

### **AFFIDAVIT**

As per information furnished to me by my client, the contents of the **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
**ADVOCATE**

