

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.1766 of 2023

Syed Hasnain Kazmi Deputy Director, Directorate General LG&RDD, Hayatabad, Peshawar.....**Appellant.**

VERSUS

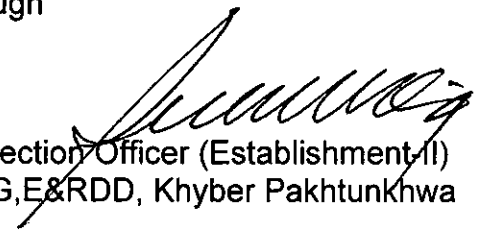
1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa.
2. Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer (E-II), Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.....**Respondents.**

INDEX

S. #.	Description of Documents	Annexure	Page No.
1	Joint Parawise Comments & Affidavit	-	1-4
2	Copy of leave orders	A	5-6
3	Arrival Report	B	7
4	Section 10 of Civil Servant Act, 1973	C	8-9
5	Authority letter	-	10

Respondents

Through


Section Officer (Establishment-II)
LG,E&RDD, Khyber Pakhtunkhwa

15-1-24
Peshawar.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No.1766 of 2023

Diary No. 10521

Syed Hasnain Kazmi Deputy Director, Directorate General LG&RDD, Hayatabad, Peshawar.....**Appellant.**

Date: 11-1-2024

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa.
2. Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer (E-II), Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.....**Respondents.**

JOINT PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 1 TO 4.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS:

- i. The Appellant has no locus standi and cause of action.
- ii. The Appellant has not come to the Service Tribunal with clean hands.
- iii. The Appellant has submitted incorrect & irrelevant documents and concealed the facts & truth from the Honorable Service Tribunal.
- iv. The Appeal is barred by law and limitation.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Incorrect. The appellant remained abroad from 20th March, 2011 to 19th March, 2016 (5 years) on extraordinary leave and returned on 05-07-2017 i.e. 16 months after expiry of his legitimate leave. The appellant defended his unauthorized leave through litigations. The episode came to an end vide the judgment mentioned in the para. The appellant never remained serious towards his job. (Copy of leave orders and Arrival Report attached as **Annexure-A & B**)

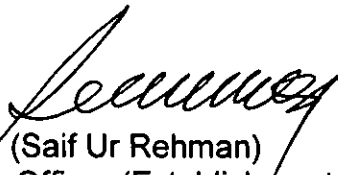
- 4. Pertains to record.
- 5. Pertains to record.
- 6. Incorrect, there was no political involvement whatsoever in the posting/transfer of the Assistant Directors LG&RDD and other allied staff. The Administrative Department and the attached Directorate, working thereunder, sometimes make such postings/transfers, keeping in view the needs of the hour and also to benefit from the experience and wisdom of senior officers by posting them in the Directorate General LG&RDD.
- 7. No comments.


ON GROUNDS:

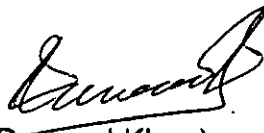
- A. Incorrect, the posting/transfer of government functionaries is a routine matter and is carried out by the Provincial Government in the larger public interest. In the instant case, the appellant had spent a substantial period as Assistant Director LG&RDD, Haripur. As explained above, his services were placed in the Directorate General LG&RDD to improve the quality of responsiveness and service delivery.
- B. As explained above.
- C. That as per Section 10 of Civil Servants Act 1973, the competent authority may transfer the appellant anywhere in the province. (Annexure-C)
- D. Incorrect, as explained above.
- E. Incorrect, as explained above.
- F. Incorrect, as explained above.
- G. Subject to proof.
- H. That the appellant treated as per law and rules.
- I. Incorrect.
- J. Incorrect.
- K. Incorrect.

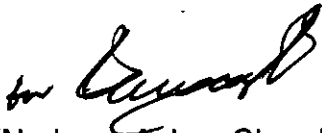
PRAYER:

It is, therefore, humbly prayed that the instant Service Appeal being devoid of merit may be dismissed with cost please.


(Saif Ur Rehman)
Section Officer (Establishment-II)
LG, E&RDD, Khyber Pakhtunkhwa
Respondent No.4


(Iftikhar Alam)
Director General
LG&RDD, Khyber Pakhtunkhwa
Respondent No.3


(Dawood Khan)
Secretary LG, E&RDD
Khyber Pakhtunkhwa
Respondent No.2


(Nadeem Aslam Chaudhry)
Chief Secretary
Khyber Pakhtunkhwa
Through:
(Dawood Khan)
Secretary LG E & RDD
(Respondent No. 1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.1766 of 2023

Syed Hasnain Kazmi Deputy Director, Directorate General LG&RDD, Hayatabad, Peshawar.....Appellant.

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa
2. Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
4. Section Officer (E-II), Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.....**Respondents.**

AFFIDAVIT

I, Saif Ur Rehman Section Officer (Establishment-II), Local Government, Elections & Rural Development Department, do hereby solemnly affirm and declare on oath that Para wise reply in **Service Appeal No.1766 of 2023 Syed Hasnain Kazmi versus Government of Khyber Pakhtunkhwa** are true and correct to the best of my knowledge & belief and nothing has been intentionally concealed from this Honorable Tribunal. It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off.


Respondent No.4

CNIC #. Saif Ur rehman

Cell #. Respondent No-4

Identified By

**Advocate General
Khyber Pakhtunkhwa**



GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

ORDER

(Dated Peshawar the 13th June, 2011)

~~No. DO(LG-1)10-430/93.~~ The Competent Authority is pleased to accord sanction to the grant of extension in Extra-Ordinary Leave (Leave without pay) for a further period of one year (365 days) in favour of Syed Hasnain Kazmi, Assistant Director, LG&RDD with effect from 20-03-2011 subject to title.

SECRETARY TO GOVT. OF KHYBER
PAKHTUNKHWA, LG&RDD

Endst. Even No. and Date.

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The PS to Senior Minister for LG&RD, Khyber Pakhtunkhwa, Peshawar.
3. The Officer concerned.
4. The PS to Secretary, LG&RDD.
5. Office order file.


(SHAHID KHAN)
SECTION OFFICER (ESTAB)

Section Officer
L.G. And R.D.D.
K. P. K. Peshawar.

Attested

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT**

ORDER

(Dated Peshawar the 22nd May, 2012)

No.SO(LG-T)10-430/93.- Sanction to the grant of extension for a further period of four years Ex-Pakistan Extra-ordinary Leave (Leave without pay) as per provision of Rule-12 of the NWFP Civil Servants (Revised) Leave Rules, 1981 is hereby accorded in favour of Syed Hasnain Kazmi, Assistant Director, LG&RDD with effect from 20-03-2012 subject to title.

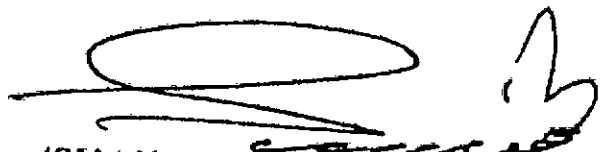
Attested

**SECRETARY TO GOVT.OF KHYBER
PAKHTUNKHWA, LG&RDD**

Endst. Even No. and Date.

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The PS to Senior Minister for LG&RD, Khyber Pakhtunkhwa, Peshawar.
3. The Officer concerned.
4. The PS to Secretary, LGE&RDD.
5. Office order file.


(SHAHID KHAN)
SECTION OFFICER (ESTAB)

Syed Hasnain Kazmi
Assistant Director LGRDD

The pay order of the file 2309

The Secretary
Local Government, Election & Rural Development Department
Civil Secretariat Peshawar.

Dated: 05th July 2017

(7)

Subject: Arrival Report

Respected Sir,

This is in continuation to my charge assumption report dated 30/06/2017 (AN), I submit my arrival report for duties w.e.f. 30/06/2017(AN) as advised by the Director General LGRDD KPK Peshawar on 05/06/2017.


Syed Hasnain Kazmi
Assistant Director LGRDD

Cc:

1. Accountant General KPK Peshawar.
2. Director General LGRDD Peshawar with reference to telephonic discussion dated 05/07/2017.
3. Section Officer (Establishment) LGRDD Peshawar for information and necessary action.

Attested


Syed Hasnain Kazmi
Assistant Director LGRDD

O.A
P.u - 
10/7

D. No. 4243
DATED 07/07/2017
DG LOCAL GOVERNMENT

ATTA
Neither charge
was assumed nor
given as he is not
at the strength of
this Directorate. Please
convey the position
to SA (LGRDD)

Dir CA/HR

07/07/2017


5/7/17

Civil Servants Act, 1973 (Act No. LXXI of 1973)

An Act to regulate the appointment of persons to, and the terms and conditions of Service of persons in, the service of Pakistan.

WHEREAS it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons, in the service of Pakistan, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. Short title, application and commencement.-(1) This Act may be called the Civil Servants Act, 1973.

(2) it applies to all civil servants wherever they may be.

(3) It shall come into force at once.

2. Definitions.-(1) In this act, unless there is anything repugnant in the subject or context,-

(a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;

(b) "civil servant" means a person who is a member of an All-Pakistan Service or of a civil service of the Federation, or who holds a civil post in connection with the affairs of the Federation, including any such post connected with defence, but does include-

(i) a person who is on deputation to the Federation from any Province or other authority;

(ii) a person who is employed on contract, or on work-charged basis or who is paid from contingencies; or

(iii) a person who is "worker" or "workman" as defined in the Factories Act, (XXV of 1934), or the Workman's Compensation Act, 1923 (VIII of 1923):

(c) "initial appointment" mans appointment made otherwise than by promotion or transfer.

(d) "pay" means the amount drawn monthly by a civil servant as pay and includes technical pay, special pay, personal pay and any other emoluments declared by the prescribed authority to be pay;

(e) "permanent post" means a post sanctioned without limit of time;

(f) "prescribed" means prescribed by rules;

Attested

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

9. Promotion - (1) A civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs:

"Provided that the posts of -

- (a) Additional Secretary and Senior Joint Secretary may, in the public interest, be filled by promotion from amongst officers of regularly constituted Occupational Groups and services holding, on regular basis, posts in Basic Pay Scale 20; and
- (b) Secretary may, in the public interest, be filled by promotion from amongst officers of regularly constituted Occupational Groups and services holding, on regular basis, posts in Basic Pay Scale 21, in such manner and subject to such conditions as may be prescribed."

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotions shall be made as may be prescribed-

- (a) in the case of a selection post, on the basis of selection on merit; and
- (b) in the case of a non-selection post, on the basis of seniority-cum-fitness.

(3) Promotion to posts in basic pay scales 20 and 21 and equivalent shall be made on the recommendations of a Selection Board which shall be headed by the Chairman, Federal Public Service Commission.

Attested

10. Posting and transfer.- Every civil servant shall be liable to serve anywhere within or outside Pakistan, in any equivalent or higher post under the Federal Government, or any Provincial Government, or local authority, or a corporation or body set up or established by any such Government;

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favorable than those to which he would have been entitled if he had not been so required to serve.

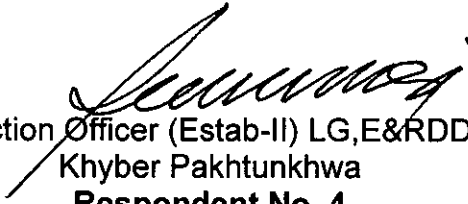
11. Termination of service.- (1) The service of a civil servant may be terminated without notice-



**DIRECTORATE GENERAL
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT KHYBER PAKHTUNKHWA**

AUTHORITY LETTER

Mr.Azaz-UI-Hassan, Assistant Director Litigation (BPS-17) in Directorate General Local Government & Rural Development, Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit Parawise Comments in **Appeal No.1766 of 2023 Syed Hasnain Kazmi VS Government of Khyber Pakhtunkhwa** in the Khyber Pakhtunkhwa, Service, Tribunal Peshawar on behalf of respondent No.1 to 4.


Section Officer (Estab-II) LG,E&RDD
Khyber Pakhtunkhwa
Respondent No. 4