

withdrawn. The order dated 13.06.2022 shows that the petitioner was transferred from GGHS No.2 Batkhela to GGCMS Karkani Khar, while private respondent was transferred from GGCMS Karkani Khar to GGHS Jalala against the vacant post. The acceptance of appeal has not affected the place of posting of the petitioner because vide order dated 13.06.2022, private respondent No.4 was transferred to GGHS Jalala against the vacant post, therefore, no prejudice has been caused to the petitioner. Even otherwise when the petitioner herself stated in Para-07 of her petition that on 18.07.2022, she was relieved from her duty with the direction to report to her new place of posting i.e. GGHS Karkani Khar, therefore, her main and sole ground that her official address was wrongly given in the appeal and because of that she had no knowledge of appeal, does not hold any ground. Besides, the judgment does not contain any element of fraud, misrepresentation or jurisdictional error.

7. For what has been discussed above we find no merits in this petition and would dismiss it with costs. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22nd day of January, 2024.*



KALIM ARSHAD KHAN
Chairman



SALAH-UD-DIN
Member (Judicial)

2. According to the petition, the petitioner was transferred from GGCMHS Thana to GGHS Batkhela on 26.02.2019. She was promoted to the post of SST on 09.05.2022 and was adjusted at GGHS Jalala. That, the order dated 09.05.2022 was withdrawn on 11.06.2022 and she was transferred to GGCM Karkani Khar vide order dated 13.06.2022. That, on 18.07.2022, she was relieved of her duty and was directed to report to GGHS Karkani Khar. That, she filed departmental appeal, on which an inquiry was conducted. In the light of inquiry, vide order dated 12.12.2022, the order dated 13.06.2022 was withdrawn. That, private respondent No.4 filed a service appeal before the Tribunal against order dated 12.12.2022, wherein, the address of the petitioner was shown as GGMS Karkani Khar despite the fact that the address of the petitioner was GGHS Jalala. That, private respondent No.4 received the judgment dated 03.10.2023 in her favor and misrepresented the present petitioner committing fraud.

3. The grounds urged in the petition are that the judgment dated 03.10.2023 was obtained by private respondent on the basis of fraud, misrepresentation and collusion. That the judgment was obtained by the private respondent, therefore, false address of the petitioner put forth before the Tribunal.

4. The private respondent has filed reply while the official respondents did not file reply.

5. We have heard the learned counsel for the petitioner, counsel for private respondent No.4 and learned District Attorney for official respondents.

6. Vide judgment dated 03.10.2022, the Tribunal set aside the order dated 12.12.2022, whereby, the order dated 13.06.2022 was withdrawn. The order dated 12.12.2022 shows that the earlier order issued on 13.06.2022 was

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH-UD-DIN ... MEMBER (Judicial)

Petition No.804/2023
In
Service Appeal No.368/2023

Date of presentation of Petition.....01.11.2023
Date of Hearing.....22.01.2024
Date of Decision.....22.01.2024

**Mst. Shabnam Begum, SST (G) (BPS-16), GGHS Jalala,
Malakand.....(Petitioner)**

Versus

- 1. The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
- 2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
- 3. The District Education Officer (F), District Malakand at Batkhela.**
- 4. Mst. Shazia Bibi, D/O Jamil Hussain R/O Thana, Batkhela, District Malakand.....(Respondents)**

Present:

Mr. Noor Muhammad Khattak, AdvocateFor the Petitioner
Mr. Muhammad Jan, District Attorney.....For official respondents
Mr. Muhammad Ayaz Khan, Advocate.....For private respondent

PETITION UNDER SECTION 12(2) OF THE CODE OF THE CIVIL PROCEDURE, 1908 FOR SETTING ASIDE THE ORDER/JUDGMENT DATED 03.10.2023 PASSED BY THIS HONORABLE TRIBUNAL IN SERVICE APPEAL O.368/2023 ON THE BASIS OF FRAUD AND MISREPRESENTATION.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: This is a petition moved under section 12(2) of the Code of Civil Procedure, 1908 for setting aside judgment dated 03.10.2023 passed by the Tribunal in Service Appeal No.368/2023 titled "Shazia Bibi Vs. Director Elementary & Secondary Education, Peshawar and others".

