

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 440/2024

Mst. Shamshad BegumAppellant.

VERSUS

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

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Deponent

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 440/2024

Mst. Shamshad BegumAppellant.

VERSUS

Secretary E&SE & Others..... Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NOS. 01 & 02.

Respectfully Sheweth,

Preliminary Objections:

Khyber Pakhtunkhwa
Service Tribunal

Case No. 14166

Dated 11-07-24

1. That the appeal is not maintainable and incompetent in the eyes of Law in the present form.
2. That the appellant is estopped due to his own conduct to file this appeal.
3. That the appellant has got no cause of action and locus standi to file instant appeal.
4. That the appellant has not come to the Tribunal with clean hands and has suppressed all relevant facts.
5. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
6. That the appeal filed by the appellant is pre-mature and the appellant has concealed the material facts from Honorable Tribunal.
7. That the Honorable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
8. That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present form and context, and is liable for rejection.
9. That the appeal weak having no force, fabricated, fictitious, based on ill will, malafide and having no footings in the eyes of law.
10. That as per Section-10 of Civil Servant Acts, 1973 every Civil Servants shall be liable to serve anywhere within or outside the Province.
11. That the order impugned has been acted upon and compliance has been made therefore, the instant appeal is infructuous.
12. That private respondent has already assumed charge at the new place of duty within the stipulated time and his pay has been active from the new station of duty.
13. That proceeding with the instant appeal would be futile exercise and just wastage of the precious time of this Honorable Tribunal.
14. That as stated in the objection supra, the appeal is bereft of cause of action and is liable for dismissal.
15. That the same transfer orders have been discussed and decided by this Honorable Tribunal in Execution Petition. No. 963/2023, which was dismissed by this Honorable Tribunal vide order dated 14-02-2024 therefore, the instant appeal has liable to be dismissed.

On Facts

1. Pertains to record. However, the same is a past and closed transaction.
2. Pertains to record. However, the answering respondents always remained obedient to this Honorable Tribunal.
3. Incorrect, hence denied. Moreover, the orders mentioned in this para are past and closed transaction and are not subject before this Honorable Tribunal.
4. Incorrect, hence denied upto any alleged violation on the part of answering respondent in the past. Furthermore, some facts pertains to official record.
5. Pertains to record. Once again stated that the same is past and closed transaction, which are just repetition of facts in order to constitute a false story to gain sympathy of this Honorable Tribunal.
6. Pertains to record.
7. Pertains to record. However, the same orders are not subject of the present appeal.
8. Pertains to record. However, stated again that the respondent has always acted in accordance with law and as per directions of this Honorable Tribunal.
9. Pertains to record. However, the same orders have been discussed and decided by this Honorable Tribunal in Execution Petition. No. 963/2023, which was dismissed by this Honorable Tribunal vide order dated 14-02-2024 therefore, the instant appeal has liable to be dismissed. **(Annexure-A)**
10. Pertains to record. Furthermore, the facts mentioned till this para in the appeal are irrelevant in the present appeal.
11. The former part of this para pertains to record. However, the later part of this para is denied. The appellant is duty bound to serve anywhere throughout the province wherever she might be given the task.
12. This para totally pertains to official record. However, it is pertinent to mention here that the competent authority has the right u/s 10 CSA to distribute the responsibilities amongst the civil servants by posting and transferring them in best public interest where there should be no discrimination of very long and some short tenure.
13. Pertains to record.
14. Incorrect, hence denied alongwith all the grounds for appeal.

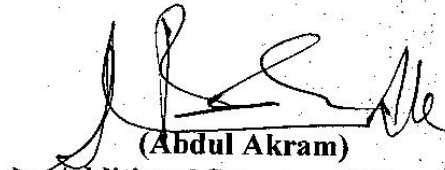
On Grounds:

- A. Incorrect, hence denied. The respondents has acted in accordance with law.
- B. Incorrect, hence denied. The appellant has completed her normal tenure. There is no disobedience to the direction of this Honorable Tribunal.
- C. Incorrect, hence denied in toto. As stated above the respondents has obeyed the direction of this Honorable Tribunal and appellant has completed her normal tenure as per report of District Account Officer DI. Khan. **(Annexure-B)**

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- D. Incorrect, hence denied. The respondents always remained a rolling stone due to the various judgment obtained by appellant and many others civil servants and in compliance to all those issues the answering respondent has obediently performed his duties in compliance of this Honorable Tribunal judgments and directions.
- E. Incorrect, hence denied, the act of the respondent is in accordance with law and rules.
- F. Incorrect, hence denied in toto. The appellant has already completed her normal, tenure, therefore, was transferred u/s 10 CSA, 1973.
- G. Incorrect, hence denied. There is nothing unlawful in the transfer order dated 05-12-2023.
- H. The respondents seeks permission for additional points as the time of arguments.

It is therefore, most humbly requested that the applicant being non-maintainable may kindly be dismissed with cost.


(Abdul Akram)
Additional Secretary (General)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)

(4)

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 440/2024

Mst. Shmashad Begum..... Appellant

VERSUS


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

AFFIDAVIT

I, **Abdul Akram**, Additional Secretary (General), 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.




(Abdul Akram)
Additional Secretary (General)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01)




GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Mr. Sajid Ullah, 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 # 440/2024 Case Titled Mst. Shamshad Begum vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.**


(Abdul Akram)
Additional Secretary (General)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&2)



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
 Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
 Phone No. 091-9210626

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Annex - C

NOTIFICATION

Dated: 21st August, 2023

34 (6)

O.SQ/MC/E&SED/4-16/2023/Posting/Transfer/MC/DIK: Consequent upon the Execution of Order No. 493/2023 in Service Appeal No. 137/2022 filed by Mst. Shamshad Bibi Vs Govt Khyber Pakhtunkhwa. This Department's Notification of even number dated 26-05-2023 regarding posting / transfer Notification to the extent of Mst. Shamshad Bibi (MC BS-17), appearing at Sr. No-2 is hereby withdrawn/Cancelled.

No TA/DA is allowed.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
 E&SE DEPARTMENT

Copy of even: No. & date:

Copy forwarded for information to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. Section Officer (Lit-II) E&SE Department.
5. District Education Officer (Female) D.I.Khan.
6. District Accounts Officers D.I.Khan.
7. PS to Advisor to Chief Minister on E&SE Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

Handwritten signature

IMRAN ZAMAN
 SECTION OFFICER (Management Cadre)

ATTESTED

Handwritten signature
 KHALID MEHMOOD
 Advocate High Court
 Stationed at D.I.Khan

Handwritten signature
 Attested

Handwritten signature
 Section Officer (Management Cadre)
 Elementary & Secondary Edu. Deptt.
 Govt. of Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

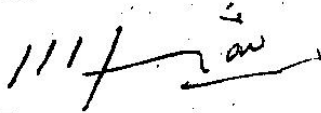
No. SO(MC) E&SED/4-16/2024/SDEO(F)/Paharpur/Shamshad Bibi
Dated: 5th January, 2024

To
The District Accounts Officer
D.I.Khan.

Subject: **VERIFICATION OF SALARY DRAWN BY MST. SHAMSHAD BIBI
SDEO (F) PAHARPUR.**

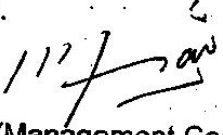
I am directed to refer to the subject noted above and to state that Mst. Shamshad Bibi was posted as SDEO (Female) Paharpur vide this department notification dated 07.10.2021 and worked on the same post up to 05.12.2023. It is mention here that she was transferred from Paharpur to District Tank dated 12.01.2022 while the order was withdrawn on 22.02.2022.

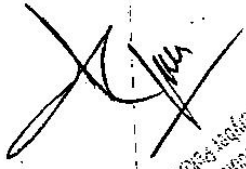
Now your are requested to apprise this department as to whether she draw her salary continued form 07.10.2021 to 05.12.2023 or otherwise.



SECTION OFFICER (Management Cadre)

Encl: as above.
Cc to the: -

- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.


SECTION OFFICER (Management Cadre)


Section Officer (Management Cadre)
Elementary & Secondary Education
Govt. of Khyber Pakhtunkhwa

Attended


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Annex - E



OFFICE OF THE
DISTRICT ACCOUNTS OFFICER
DERA ISMAIL KHAN

No. Admn/DAO-DIK/2023-24/ 10737

Dated. 08/01/2024.


To,

✓ The Section Officer (Management Cadre),
Elementary & Secondary Education
Govt of Khyber Pakhtunkhwa, Peshawar.

SUBJECT: VERIFICATION OF SALARY DRAWN BY MST. SHAMSHAD BIBI EX-SDEO (F) PAHARPUR.

Memo;

Kindly refer to your letter No. SO (MC) E&SED/4-16/2024/SDEO (F)/Paharpur/Shamahad Bibi dated 05.01.2024 and to state that the monthly salary SAP System generated report in respect of above officer drawn at DDO Code DI6216 wef 01.11.2021 to 30.11.2023 is enclosed as desired please.


District Accounts Officer
Dera Ismail Khan


District Account Officer
D.I.Khan



Annex - E-II

Selection
 Personnel numbers
 all results from

Personnel numbers selected

RG	Pers No	Name
01	188304	SHAMSHAD BIBI

Payroll Results SHAMSHAD BIBI / Other Countries

Start P	P	End of M P	Date	Time	OC Paym	Void date	Void
01.06.2021	TK	30.08.2021	27.06.2021	10:45:38			
01.07.2021	TK	31.07.2021	14.07.2021	18:25:02			
01.08.2021	TK	31.08.2021	30.08.2021	12:06:20			
01.09.2021	TK	30.09.2021	29.09.2021	11:58:21			
01.10.2021	TK	31.10.2021	28.10.2021	16:08:23			
01.11.2021	DI	30.11.2021	24.11.2021	11:39:52			
01.12.2021	DI	31.12.2021	19.12.2021	21:27:58			
01.01.2022	DI	31.01.2022	24.01.2022	20:27:24			
01.02.2022	DI	28.02.2022	21.02.2022	16:50:58			
01.03.2022	DI	31.03.2022	23.03.2022	16:47:18			
01.04.2022	DI	30.04.2022	20.04.2022	04:53:53			
01.05.2022	DI	31.05.2022	26.05.2022	20:01:55			
01.06.2022	DI	30.06.2022	22.06.2022	19:01:30			
01.07.2022	DI	31.07.2022	26.07.2022	16:21:09			
01.08.2022	DI	31.08.2022	28.08.2022	15:55:38			
01.09.2022	DI	30.09.2022	29.09.2022	20:47:49			
01.10.2022	DI	31.10.2022	27.10.2022	17:14:25			

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Annex - E iii

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Personnel number		Personnel name		Payroll Results SHAMSAD BIB / Other Countries		Start Date	End of Period	Date	Time	OC Payme	Void date	Void
R	188304	SHAMSAD BIB		01.07.2022	DI	31.07.2022	26.07.2022	16:21:09				
				01.08.2022	DI	31.08.2022	28.08.2022	15:55:38				
				01.09.2022	DI	30.09.2022	29.09.2022	20:47:49				
				01.10.2022	DI	31.10.2022	27.10.2022	17:14:25				
				01.11.2022	DI	30.11.2022	29.11.2022	18:27:08				
				01.12.2022	DI	31.12.2022	28.12.2022	16:52:47				
				01.01.2023	DI	31.01.2023	27.01.2023	17:53:36				
				01.02.2023	DI	28.02.2023	26.02.2023	20:45:18				
				01.03.2023	DI	31.03.2023	30.03.2023	11:36:55				
				01.04.2023	DI	30.04.2023	16.04.2023	15:55:14				
				01.05.2023	DI	31.05.2023	28.05.2023	21:19:10				
				01.06.2023	DI	30.06.2023	23.06.2023	08:47:16				
				01.07.2023	DI	31.07.2023	26.07.2023	19:34:24				
				01.08.2023	DI	31.08.2023	28.08.2023	12:10:54				
				01.09.2023	DI	30.09.2023	27.09.2023	00:28:54				
				01.10.2023	DI	31.10.2023	28.10.2023	14:57:14				
				01.11.2023	DI	30.11.2023	27.11.2023	21:35:09				

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E.P. No. 963/2023
Ghamshad Bibi vs Govt

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14.02.2024



1. Mr. Aftab Hussain, Advocate Proxy on behalf of learned counsel for the petitioner present. Mr. Habib Anwar, Additional Advocate General for official respondents present. Learned counsel for private respondent No. 8 also present.

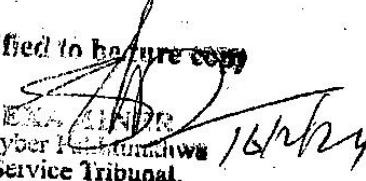
2. Learned Additional Advocate General stated at the bar that the petitioner has already completed her normal tenure of posting and the judgment of this Tribunal dated 30.09.2022 has been implemented, therefore, the execution petition may be filed. Since the judgment of this Tribunal has been complied with, therefore, the instant execution petition is filed.

3. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal on this 14th day of February, 2024.


(Muhammad Akbar Khan)
Member (E)

Kourasallid

Date of Presentation of Application 16/2/2024
Number of Words 17
Copying Fee 5/-
Urgent 5/-
Total 10/-
Name of Copyist _____
Date of Completion of Copy 16/2/2024
Date of Delivery of Copy 16/2/2024

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar



(12)

Service Appeal No.137/2022 titled "Shamshad Bibi- vs-Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar and others" ,decided on 30.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah- Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT D.I.KHAN.**

**SCANNED
KPST
Peshawar**

BEFORE: KALIM ARSHAD KHAN --- CHAIRMAN
SALAH UD DIN --- MEMBER(J)

Service Appeal No.137/2022

Mst. Shamshad Bibi, SDEO (Female) Paharpur, Education Department, D.I.Khan.

.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
2. Chief Secretary, to government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar.
3. Secretary, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
4. Director Education, Department (E&SE) Khyber Pakhtunkhwa Peshawar.
5. District Education Officer (Female), Dera Ismail Khan.
6. District Education Officer (Female), Tank.
7. District Account Officer, D.I.Khan.
8. Mst. Sonia Nawaz, SDEO, (Female), Tank.

.....(Respondents)

Present:

Mr. Ahmad Ali,
Advocate.....For appellant.

Mr. Muhammad Adcel Butt,
Additional Advocate General.....For official respondents.

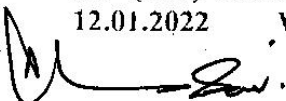
Mr. Noman Ali Bukhari,
Advocate.....For private respondent No.8

Date of Institution.....31.01.2022

Date of Hearing.....30.09.2022

Date of Decision.....30.09.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AIMED AGAINST THE IMPUGNED NOTIFICATION BEARING NO. SO (MC)/E&SED/4-16/2021/POSTING/TRANSFER/MC DATED 12.01.2022 WHEREBY THE APPELLANT WAS

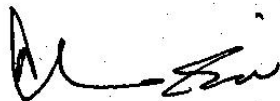


TRANSFERRED TO DISTRICT TANK, WHEREAS RESPONDENT NO.8 ON THE BASIS OF FAVOURITISM, WAS BROUGHT TO PAHARPUR, D.I.KHAN IN VIOLATION OF LAW, RULES AND POLICY IN VOGUE BY THE PROVINCIAL GOVERNMENT.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts, to the extent necessary, are that the appellant is serving as Sub-Divisional Education Officer (SDEO) (Female) in the Education Department, Khyber Pakhtunkhwa and previously, she was posted as such at Munda, District Dir Lower vide notification dated 21.02.2019; that vide notification dated 09.08.2019, the petitioner was transferred from the post of SDEO(F) Munda Dir Lower to the post of SDEO(F) Tank; that thereafter on 07.10.2021, the appellant was transferred from the post of SDEO(F) Tank to the post of SDEO(F) Paharpur, District D.I.Khan; that, just after three months of transfer of the appellant to Paharpur, D.I.Khan, the respondents issued another impugned transfer notification dated 12.01.2022, vide which the appellant was transferred back to District Tank whereas private respondent No.8 was transferred in her place at Paharpur District D.I.Khan; that the appellant felt herself aggrieved from the order dated 12.01.2022 and filed departmental appeal, which was not responded and the appellant then filed this appeal in this Tribunal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing reply/comments mainly on the grounds that under section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, every civil servant was liable to serve anywhere within or outside the province; that the



(14)

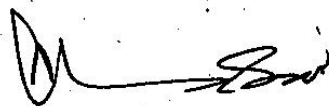
Service Appeal No137/2022 titled "Shamshad Bibi- vs-Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar and others" ,decided on 30.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah- Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

impugned order was acted upon, therefore, the appeal had rendered infructuous; that the private respondent No.8 was posted back to Paharpur on acceptance of her representation and totally on humanitarian grounds. The defence setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant, learned Additional Advocate General for official the respondents and counsel for private respondent No.8.

04. Learned counsel for the appellant argued that the appellant was transferred back to the District Tank and consequent thereof respondent No.8, on the basis of favoritism, was brought back to the Paharpur D.I.Khan is against the law, rules and regulations framed there-under, thus is not maintainable and is liable to be declared void ab-initio. Learned counsel further argued that the impugned transfer order is pre-mature and against the posting/transfer policy of the Provincial Government. He contended that the impugned order is based on malafide and is due to the political victimization. At the end he requested that the impugned order is set aside the appellant might be allowed to complete her normal tenure as per policy.

05. Learned Additional Advocate General contradicted the arguments of learned counsel for the appellant and raised preliminary objection on the maintainability of the service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. He further argued that as per Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, every civil servant shall be liable to serve anywhere within or outside the province. He requested that the appeal might be dismissed with cost.



(5)

Service Appeal No 137/2022 titled "Shamshad Bibi vs Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar and others", decided on 30.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Chauri Dera Ismail Khan.

06. Learned counsel for private respondent No.8 submits that the instant appeal is not maintainable under Section-4 of the Service Tribunal Act 1974 on the ground that the statutory period of ninety days was not lapsed, hence premature which should be rejected. He further contended that the appellant has been treated in accordance with law and rules, therefore, the instant appeal is being devoid of merit might be dismissed.

07. In order to streamline and regulate the postings and transfers of the Civil Servants, the Government of Khyber Pakhtunkhwa introduced a posting/transfer policy. Main conditions of the same relevant to the instant appeal are as under:-

i. All the postings /transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants.

iv. The normal tenure of posting shall be three years subject to the condition that for the officers /officials posted in unattractive areas, the tenure shall be two years and for hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.

08. It is observed at the very outset that the reply of the official respondents has urged that the private respondent No.8 was transferred back on humanitarian grounds on acceptance of her departmental representation but neither such humanitarian ground was explained nor any public interest or exigency was stated in the reply of the respondents in transferring back the private respondent No.8.

09. The posting and transfer policy specifically fixes a normal tenure for the civil servants. In the case in hand it is two years but just in three months of the transfer of the appellant she was re-transferred to the previous place of posting without allowing her to complete normal tenure as per the Government's own decision found in the above policy.



(16)

Service Appeal No137/2022 titled "Shamshad Bibi vs Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar and others", decided on 30.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

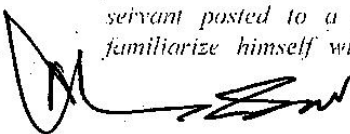
10. Tenure was originally created to give teachers academic freedom. Civil Servants do not have stability of tenure, particularly and especially in the Education Department where transfers and postings are made frequently at the whims and fancies of the executive head for political and other considerations, and not in the public interest; a fixed minimum tenure would not only enable Civil Servants to achieve their professional targets, but also help them function as effective instruments of public policy; repeated shuffling/transfer of officers is deleterious to good governance; minimum assured service tenure ensures efficient service delivery, and increased efficiency; and Civil Servants can also prioritize various social and economic measures intended to implement for the poor and marginalized sections of society.

11. In 2018 S C M R 1411 titled "Khan Muhammad Versus Chief Secretary, Government of Balochistan Quetta and others", the august Supreme Court of Pakistan was pleased to have found as under:---

18. Under section 10 of the Act a civil servant cannot insist to be posted or transferred to a particular post but this does not mean that a civil servant can be made to serve under a subordinate. Moreover, while section 10 does not prescribe a minimum period during which a civil servant must serve at his post it does not mean that the Government without assigning any reason can move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time because this would amount to punishing him. Such postings also adversely affect the public interest and result in the wastage of scarce resources and constitute bad governance.

19. The Rules designate certain posts as 'tenure posts' (rule 22 read with Schedule IV of the Rules) and prescribe a period of three years for an incumbent to serve on such posts. Such prescribed tenure may therefore be categorized as the ideal duration for which a civil servant should serve at a particular post. The post of Divisional Director however is not a tenure post but the principle of serving for a particular duration at this post should be followed. In the present case the petitioner was posted for a little over a month when he was again posted. Any civil servant posted to a particular post requires some time to familiarize himself with the workings of the office and the

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(17)

Service Appeal No 137/2022 filed "Shamshad Bibi-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar and others", decided on 30.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Dera Ismail Khan.

requirements of the post whereafter he will be best placed to acquit himself of the responsibilities of the post. However, a one month posting, as in the case of the petitioner, would not serve the interest of the people."

12. The upshot of the above discussion is that impugned order dated 07.10.2021 was not issued in public interest or exigencies of service and as such is not tenable in the eyes of law. Pre-mature transfer is clear violation of Clause I and IV of Posting and Transfer Policy notified by the provincial government. It is also violative of instructions circulated vide letter dated 27.02.2013 pertaining to tenure in posting/transfer. Ordinary tenure for posting has been specified in the law or rules made there-under, such tenure must be respected and cannot be varied, except for compelling reasons. It should be recorded in writing and are judicially reviewable.

13. As a sequel to the above, the service appeal is allowed with the directions to the respondent-department to allow the appellant to continue on her present station of posting till completion of her normal tenure. The appeal is accepted in the above term. Costs shall follow the event. Consign.

14. *Pronounced in open Court at Camp Court D.I.Khan and given under our hands and the seal of the Tribunal on this 30th day of September, 2022.*



KALIM ARSHAD KHAN

Chairman

Camp Court D.I.Khan



SALAH UD DIN

Member Judicial

Camp Court D.I.Khan.



(18)

ORDER

30th Sept, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for official respondents and counsel for private respondents No. 8 present.

2. Vide our detailed judgement of today placed on file (containing 06 pages), the service appeal is allowed with the directions to the respondent-department to allow the appellant to continue on her present station of posting till completion of her normal tenure. The appeal is accepted in the above term. Costs shall follow the event. Consign.

3. *Pronounced in open court at D.I.Khan and given under our hands and seal of the Tribunal on this 30th day of September, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan



(Salah Ud Din)
Member(Judicial)
Camp Court D.I.Khan