

E.P No. 293/2024

ORDER

28.06.2024 MRS. RASHIDA BANO, MEMBER (J): Learned counsel for the petitioner present. Mr. Arshad Azam, Assistant Advocate General alongwith Mr. Faheem Khan, Assistant for the respondents present.

2. The petitioner filed instant Execution Petition on the basis of judgment dated 07.08.2019 delivered in service appeal No. 409/2019 titled "*Muhammad Usman Vs. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education*" wherein the petitioner was not a party. The relevant portion of the judgment is reproduced as follows:

"Respondent department was directed to appoint suitable officer belonging to management cadre as ADEO (Sports) District Tank. The posting orders of both the appellant and private respondent No. 7 against the administrative cadre post of ADEO (Sports) Tank shall be treated as cancelled. The respondent department is also directed to forthwith recall, all the transfer orders of the teachers against the administrative post. The present service appeal is disposed of in the above terms."

3. Perusal of judgment dated 07.08.2019 reveals that respondent department was directed to forthwith recall all the transfer orders of teachers made against the administrative posts. It means that all the previous orders of teachers posted upon the administration cadre posts issued before the judgment dated 07.08.2019 were recalled and there is no mention about future orders. Petitioner also not brought on record the details of posting/transfer orders issued before the judgment dated 07.08.2019 and is still in field and teacher belonging



to teaching cadre are still working upon the administrative cadre posts. Moreover, the petitioner filed departmental appeal in representative capacity for others, as she herself is not an aggrieved person as defined in Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, according to which each and every aggrieved civil servant will have to file separate application to the departmental authority for implementation of the order dated 07.08.2019 and if department refuses it, then he could come to this Tribunal for redressal of his grievance. It is also important to mention here that this judgment is not in rem as it refers only to past posting/transfer orders of teaching cadre to management cadre posts, which were issued before 07.08.2019 and not thereafter.

4. For what has discussed above, the instant execution petition is dismissed being not maintainable. File be consign to record room.

5. *Pronounced in open Court at Peshawar and given under my hand and seal of the Tribunal on this 28th day of June, 2024.*


(Rashida Bano)
Member (J)