

**BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.412-A/2024**

Mahroof Khan.....**Appellant**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar & Others.

**PARA WISE REPLY ON BEHALF OF RESPONDENT NO. 2 IN SERVICE APPEAL  
NO:412-A/2024**

**INDEX**

S#	Description	Page No.	Annexure
1	Reply of the Service appeal	01-03	
2	Affidavit	04	
3	Copy of the Notification dated 19-08-2022	05	(Annexure-A)
4	Wakalat Nama	06	(Annexure-B)

**Dated 07.06.2024**

**Respondent No. 2**

**Through**

**Muhammad Arshad Khan Tanoli Advocate  
Supreme Court of Pakistan**

**&**

**Muhammad Ibrahim Khan  
Advocate High Court**

13-06-24

S.B

Peshawar.

**BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No.412-A/2024 <sup>Khyber Pakhtunkhwa</sup> Service Tribunal

Mahroof Khan.....Appellant <sup>Diary No. 13232</sup>

VERSUS

Dated 07.06.2024

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar & Others.
2. Shams ur Rehman, SDEO (Male) Balakot District Mansehra.

**PARAWISE COMMENTS / WRITTEN REPLY ON BEHALF OF RESPONDENTS**

**NO 2 ARE AS UNDER:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appellant has concealed material facts & has not come to this Honorable Tribunal with clear Hands.
2. That the appellant has no locus standi to impugned the posting order dated 06-12-2023.
3. That body of the appeal specially para No. e of the ground shows that there are 03 respondents and para No. 4 shows that there are 04 respondents "but in fact there are 02 respondents in the opening of in the instant appeal. Therefore some paragraph of the appeal are not understandable & the appellant is misleading honorable Tribunal.
4. That the appeal of the appellant is liable to be dismissed on the ground of misjoinder & non-joinder of necessary parties.
5. That as per Section 10/4 of Civil Servant Act any officer could be posted anywhere to streamlining of the offices, due to exigency of service, as well as in the public interest.
6. That August Supreme Court of Pakistan in their latest Judgment held that court should not interfere in the Posting/Transfer of Officers whose transfers is due to emergency of Service and in the public interest. Therefore appeal of the appellant liable to be dismissed.

7. That it is worth mentioning that the appellant was serving as focal person by the Election Commission of Pakistan dated 03/08/2023. Copy of order of letter dated 03/08/2023 is attached. It is further submitted that this fact has been admitted by the appellant in Para No.09 of the appeal filed by him. Now, General Election has been completed by Election Commission of Pakistan, therefore, the appellant has been posted as Deputy District Education Officer (M) Torgarh.

**REPLY OF FACTUAL OBJECTIONS:-**

- 1) *That Para No. 1 is correct, it is further submitted that the entire district Torgarh is backward and less schools to educate the students. Hence, due to the exigency required to District Torgarh, appellant was to cater for the issues of backwardness and backward area.*
- 2) *That Para No. 2 is incorrect and denied as mentioned in para 1 above, the appellant has been posted from District Mansehra to District Torgarh on 06-12-2023 due to exigency of service besides, the government has prerogative to post right officer on the right place where ever public interest is involved.*
- 3) *That Para No. 3 that the appellant after exerting Political pressure got his posting as Deputy DEO (M) Mansehra in place of Raja Babu Jahangior. As a result, the Honorable Service Tribunal suspended the posting order of the appellant.*
- 4) *That Para NO. 4 is correct that said para does not relate to respondent No. 2*
- 5) *That Para No. 5 does not relate to respondent No. 2*
- 6) *That Para No. 6 is incorrect and denied. Respondent NO. 2 was posted as Deputy DEO (M) Mansehra vide Order dated 10-08-2022 against vacant post of Deputy DEO (M) (Copy of order dated 10-08-222 is attached as annexure A)*
- 7) *Para No. 7 that Respondent No. 2 was not made party in service appeal filed before this Honourable Service Tribunal appeal as narrated by the appellant.*
- 8) *Para No. 8 as usual, the appellant got posted on acting charge basis*
- 9) *That Para No. 9 is correct.*
- 10) *That as mentioned proceeding paragraphs it is submitted that the appellant was posted from Mansehra to District Torgarh against the post of Deputy DEO purely to the ex-exigency of service in the public interest. It is further submitted that no*

*one get posting of his own choice as per section 10 (4) of Khyber Pakhtunkhawa Civil Servant ACT 1973.*

- 11) *That Para No.11 is incorrect and denied. Any officer can be posted in any area, his posted with all privileges.*
- 12) *That Para no. 12 needs proof.*
- 13) *That Para 13 is Legal.*

**REPLY ON GROUNDS:-**

- a) Para A is incorrect and denied posting order dated 06-12-2023 has been issued as per law & exigency of service.
- b) Para B is incorrect and denied. The appellant has been posted under Section 10 (4) of Khyber Pakhtunkhawa Civil Servant ACT 1973.
- c) Para No. C is incorrect & Denied. It is submitted that law on the subject has been followed by the department.
- d) Para No. D is incorrect & Denied. The appellant was not posted against the post of DDEO (M) Mansehra, but he was serving as Focal Person of Election Commission of Pakistan.
- e) Para E is incorrect. As per Law no officer can claim his posting on his choice.
- f) Para F is correct. As submitted in the proceeding para the appellant was posted on the basis of service exigencies,
- g) The appellant was posted as per law.
- h) Para No. H is incorrect. The appellant was posted as per exigency of service.
- i) That the appellant has been posted against the post of Deputy District Education Officer (M) Torghar of BPS-18.
- j) That appellant discussed the power of High Court under Article 199 of the Constitution of Islamic Republic of Pakistan 1973 instead of Service Tribunal.

k) Para K is incorrect and denied. The appellant wants to make the Honourable Tribunal as instrument of operation.

l) Para No. L is incorrect and denied.

m) Para M is denied.

In view of the above it is prayed that service appeal of the appellant may be dismissed with cost.

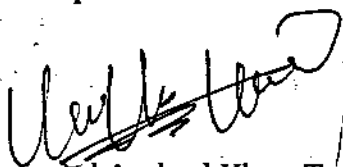
**PRAYER.**

*It is therefore, humbly prayed that on acceptance of the above submissions, the instant service appeal may very graciously be dismissed in the interest of justice.*


Dated 07.06.2024

Respondent No. 2

Through

  
Muhammad Arshad Khan Tanoli Advocate  
Supreme Court of Pakistan

&

  
Muhammad Ibrahim Khan  
Advocate-High Court

**BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR.**

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**Mahroof Khan .....Appellant**

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  2. Shams ur Rehman, SDEO (Male) Balakot District Mansehra.
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**AFFIDAVIT**

I, Shamas ur Rehman, respondent No. 2 Deputy DEO (M) Mansehra hereby solemnly affirm and declare that the content of the reply of the comments in the above service appeal No. 412-A/2024 Titled as Mahroof Khan versus Govt: of Khyber Pakhtunkhwa and others are true to the best of my conviction knowledge and belief and nothing has been concealed from this Hon' able Tribunal.



DEPONENT \_\_\_\_\_

07 JUN 2024

Annex 'A'



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Peshawar, Khyber Pakhtunkhwa

Dated Peshawar the August 10<sup>th</sup> 2022

**NOTIFICATION**

**NO. SO(MC)E&SED/4-16/2021/POSTING/TRANSFER/MC:** The following posting / transfers of Male Management Cadre Officers are hereby ordered with immediate effect in the best public interest as stop gap arrangement till further orders:

Sr. No	Name of officer	From	To
1	Mr. Shams ul Rehman (MC BS-17)	SDEO (Male) Abbottabad	Deputy DEO (Male) Mansehra in OPS (AVP)
2	Mr. Insan Ullah (MC BS-17)	SDEO (Male) Land Kotal Khyber	Deputy DEO (Male) Mohmand in OPS (AVP)

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

Ends: of even No. & date:

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education Officers (Male) Abbottabad and Khyber.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. District Accounts Officers Abbottabad and Khyber
6. PS to Minister E&SE Khyber Pakhtunkhwa.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. Officers concerned.
9. Master file

(NASEER ABBAS KHALIL)  
SECTION OFFICER (Management Cadre)

*[Handwritten signature and date]*  
10.08.22

## بعدالت

KP Service Tribunal Peshawar

Respondent No 2

2 منجانب

مورثہ

معروف خان vs گوہٹ آڈیٹر محترم خواہ وغیرہ بنام

مقدمہ

دعویٰ سروس اپیل

جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام پشاور کیلئے محمد رشید خان تنولی، محمد ابراہیم خان ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیار حاصل ہوں گے  
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائہ التوائے مقدمہ ہوں گے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔  
کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20ء

06

المرقوم 07-06-2024

واہ العبد  
محمد ابراہیم خان ایڈووکیٹ

محمد رشید خان تنولی  
ایڈووکیٹ سپریم کورٹ

محمد رشید خان تنولی  
Respondent No 2.