


Cost of Rs. 7050/- received in Service Appeal No. 191/2024

Titled Haji Nawab VS. H. Edu

in the office of Registrar Vide Order 7/Aug/2024

Dated: / /2024.


REGISTRAR
Registrar
Khyber Pakhtunkhwa
Service Tribunal, Peshawar
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A # 191/2024

Haji Nawab..... Petitioner

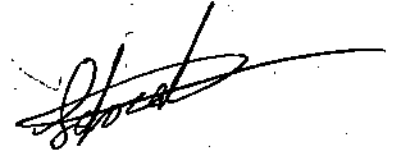
Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary
and others,

Respondents

INDEX

S.No	Description of documents	Annexure	Page No.
1.	Para Wise Comments		1-2
2.	Affidavit		3
3.	Authority letter		4
4.	Letter dated 29/05/2023	A	5



Respondents

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHWAR

S.A # 191/2024

Mr. Haji Nawab.....

Versus

Khyber Pakhtunkhwa
Service Tribunal

Diary No 55/14 Appellant

Dated 22/8/24

Govt. of Khyber Pakhtunkhwa
Through Secretary,
Higher Education Peshawar.....

Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3

Respectfully Sheweth: -

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant Service Appeal.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appellant has not filed any departmental appeal before the department/appellant authority, hence this tribunal lacks jurisdiction under section 4(a) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 to entertain the instant appeal.

Facts:

1. Pertains to record.
2. That the appellant was working as Assistant at Govt. Girls Degree College Daggar Bunner.
3. Correct. Latter on the appellant was transferred to Govt. Degree College Totali, District Buner vide order dated 17.10.2023.
4. Incorrect. Office of the respondents has not received any such appeal regarding the cancellation of the appellants transfer order.
5. As described in the preceding para.

Grounds:

A) Incorrect. The respondents have acted in accordance with the posting transfer policy and order dated 17-10-2023 was passed in public interest. Moreover disposal of the departmental appeal is out of question as no such appeal was received to the respondent against the transfer order.

B) Incorrect. The appellant has not annexed/provided documents showing/imposing ban on transfer, hence the stance of the appellant has no force at all. It is pertinent to mention here that there was no ban on transfer within the district. The ban was only imposed on inter-district transfer as evident from Establishment Department, Khyber Pakhtunkhwa letter dated 29/05/23 (Annex-A).

C) Incorrect. From the bare perusal of the impugned transfer order, it is very much clear that the same has been passed in public interest without any political exertion, thus the impugned transfer order has got sanctity in the eye of law and liable to be upheld.

D) Incorrect. As stated above, the transfer order is according to policy of the provincial government.

E) Incorrect. The transfer order is sustainable being based on the proper application of section 10 of Civil Servant Act, 1973.


F) Incorrect. The transfer order was issued by the competent authority and the appellant was required to have shown discipline and obedience and its noncompliance even disentitles the appellant for relief.

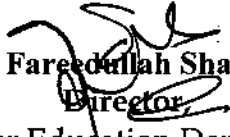
G) Incorrect. As replied above.

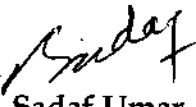
H) That any other ground with the permission of this honourable tribunal will be raised at the time.

Prayer:-

It is, requested prayed that the instant Service Appeal may very kindly be dismissed.


Capt. (Rtd.) Kamran Ahmad Afridi
Secretary,
Higher Department Education
Khyber Pakhtunkhwa
Respondent No. 1


Fareedullah Shah
Director,
Higher Education Department
Khyber Pakhtunkhwa
Respondent No. 2


Sadaf Umar
Incharge Principal
Govt. Girls Degree College,
Daggar, Bunder
Respondent No. 3



Lawrence

50 Litigation

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

SA # 191/2024

Haji Nawab..... Petitioner

Versus


Govt. of Khyber Pakhtunkhwa
Through  Secretary
and others,

Respondents

AFFIDAVIT

I, Fareedullah Shah, Director, Higher Education, Khyber Pakhtunkhwa, do hereby declare and affirm on oath that the contents of parawise comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off.

Identified by:


Deponent
CNIC No. 11101-456092-7
Mobile No. 03339151399



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR**

Tel # 091-2650024 / Fax # 091-2260181

E-mail:- dhekpkesh@gmail.com [Facebook.com/dhekpkesh](https://www.facebook.com/dhekpkesh) [Twitter.com/dhekpkesh](https://www.twitter.com/dhekpkesh)

AUTHORITY LETTER

Mr. Sohrab Khan, Assistant Professor of Law, Government Degree College Matrha, Peshawar is hereby authorised to submit parawise comments in Service Appeal No. 191/2024 titled "Haji Nawab VS Govt. Khyber Pakhtunkhwa" on behalf of respondents.


Director,
Higher Education, Peshawar



Annexure A
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

No. SO (Policy) (E&AD) 2-4/2023
Dated Peshawar, the 29th May, 2023

To

1. Additional Chief Secretary P&D Department Govt. of Khyber Pakhtunkhwa
2. Senior Member Board of Revenue, Govt. of Khyber Pakhtunkhwa
3. Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
4. All Divisional Commissioners in Khyber Pakhtunkhwa
5. All Heads of Attached Departments in Khyber Pakhtunkhwa
6. All Deputy Commissioners in Khyber Pakhtunkhwa

Subject: -
Dear Sir,

BAN ON POSTINGS AND TRANSFERS IN KHYBER PAKHTUNKHWA

I am directed to refer to the above cited subject and to convey that in view of the fragile fiscal position of the Provincial Government, the Hon'ble Chief Minister Khyber Pakhtunkhwa has been pleased to impose ban on inter-district posting and transfers of officers and officials under the Government of Khyber Pakhtunkhwa as per the following:

- i. There shall be complete ban on inter-district transfers in all the departments;
- ii. This ban shall not apply on transfers within the districts and within the Secretariat and Directorates. However, while proposing such transfers of officers/officials within the district, Directorates or the Secretariat, as the case may be, due diligence must be observed and tenure, suitability of the officers/officials for the posts and past performance must be taken into account;
- iii. In cases posting and transfer is necessitated due to some court orders or some administrative exigencies, ban relaxation will be obtained from Chief Minister through summary. For such posting/transfers, departments will put forth sound justifications. Subsequently in cases where NOC from Election Commission is required, cases will be taken up with ECP for ban relaxation by the concerned Administrative Departments.
- iv. This ban shall not apply on filling of vacant posts through recommendations of the Khyber Pakhtunkhwa Public Service Commission as Election Commission of Pakistan has already granted exemption in such cases.

Yours sincerely,

Deputy Secretary (Policy)

ENDSL NO. & DATE EVEN

Copy is forwarded for information to:

1. Principal Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. CSO/PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
4. All Additional Secretaries/Deputy Secretaries/Section Officers in Establishment & Administration Department

Approved

Section Officer (Policy)