

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

Service Appeal # 846/2024

Mst. Shahida Parveen.....Appellant.

VERSUS

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

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Deponent

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

**In Service Appeal No. 846/2024**

**Mst. Shahida Parveen ..... Appellant.**

**VERSUS**

**Chief Secretary to Govt of KPK Peshawar..... Respondents.**

**PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NOS. 01, 02** Khyber Pakhtunkhwa Service Tribunal

**Respectfully Sheweth,**

**Diary No.** 14151

**Preliminary Objections:**

**Dated** 11-07-24

1. That the appellant has got no cause of action and locus standi to file the present appeal. Because the appellant has concealed her transfer order dated 12.06.2024 as Director HR Elementary & Secondary Education Foundation, Which is still in field/ effective & the same has not been challenged in the instant service appeal.
2. That the appellant has just wasting the precious time of this Honorable Tribunal.
3. That the competent authority/respondent is empowered u/s 10 of Civil Servant Act, 1973 to place the service of the appellant, anywhere throughout the province in the best public interest
4. That the appellant has concealed the material facts/ Transfer order dated **12.06.2024(Annex-A)** from this Honorable Tribunal.
5. That the appellant has not approached to this Honorable Tribunal with clean hands.
6. That the appellant has filed this appeal just to pressurize the respondents for gaining illegal service benefits.
7. That the appeal is liable to be dismissed summarily along with the compensatory cost.
8. That the Central Administrative Tribunal Delhi in the case of Sh Jawahar Thakur vs Union of India held on 19<sup>th</sup> June, 2015 that is more than stare decisis that transfer is an incidence of service and it is for the Executive/Administration to decide how to and where to use its employees subject to the condition of their appointment in the best interest of the organization and public service. It is not always possible and feasible to record strong reasons for allowing an officer to continue at a particular station for a few years or more or less.
9. That in case Mst. Parveen Begum vs Government Service Appeal No 1678/2022 decided on 05-01-2023 in DB of this Honorable Tribunal the same nature case has been dismissed.
10. That according to section-10 desired posting is not perpetual right of a civil servant and department concerned can transfer any civil servant to serve at the given place as mention in the transfer/posting order, while the civil servant cannot refuse compliance.
11. That the Notifications dated 10-05-2024 & 11-06-2024 of the Respondents are competent and in accordance with existing law/rules, therefore, liable to be maintained. That the Private Respondent No.3 in the capacity of DEO Female D.I.Khan submitted report to Deputy Commissioner D.I.Khan vide letter No.001-005 dated 15.06.2024 regarding

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untoward situation happened on 15.06.2024 whereof the ex-DEO Female D.I.Khan now appellant entered into the office of DEO Female D.I.Khan forcefully, in the pretext of the aforementioned order of Khyber Pakhtunkhwa Service Tribunal and shouting that she had been restored as DEO Female D.I.Khan and took unto the possession of the all the relevant record from the dealing staff such as the diary/dispatch registers etc (**Annexure-B**). The Elementary & Secondary Education Department vide letter dated 21.06.2024, addressed to Director E&SE to direct the appellant (Shahida Parveen) to refrain from any conduct contrary to the official norms and discipline. (**Annexure-C**).

### **On FACTS**

1. Pertains to record.
1. Pertains to record.
2. Pertains to record.
3. That the appellant has been transferred vide notification dated 10.05.2024 by the competent authority under Section-10 of Civil Servant Act, 1973 in the best public interest. Moreover, desired posting is not perpetual right of a civil servant and department concerned can transfer any civil servant to serve at the given place and the civil servant cannot refuse compliance. It is further added the appellant belongs from Management Cadre & her service is transferable across the province.
4. That the Notifications dated 10-05-2024 & 11-06-2024 of the Respondents are competent and in accordance with existing law/rules, therefore, liable to be maintained.
5. Incorrect, the Respondents also seeks permission for additional grounds at the time of arguments.

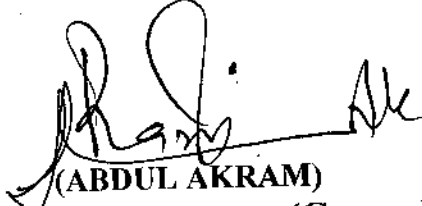
### **On Grounds:**

- A. That the Notifications dated 10-05-2024 & 11-06-2024 of the Respondents are competent and in accordance with existing law/rules, therefore, liable to be maintained. It is further added that the appellant has been posted as a director HR Elementary & Secondary Education Foundation for the period of 3 years by the Competent Authority vide notification No SO(AB)E&SED/15-2/ESEF/2024, Dated 12.06.2024, which is still in field/ effective, which has not been impugned by the appellant in the instant service appeal, hence the service appeal becomes infructuous.
- B. Incorrect, According to Section-10, Civil Servant Act, desired posting is not the perpetual right of a Civil Servant and the department concerned can transfer any Civil Servant to serve at the given place as mentioned in the transfer/posting orders, while the Civil Servant cannot refuse compliance. More over the appellant has been treated according to the article 04 & 25 of the constitution of the Islamic Republic of Pakistan, 1973.
- C. Incorrect, the action of the respondents in accordance with the existing law/rules and polices & as per norms justice.
- D. Incorrect. That as per Section-10 of Civil Servant Act, 1973, the Competent Authority is empowered to transfer the Civil Servant anywhere in province in the best public interest. In light of the ibid Act, the Competent Authority are fully

empowered to transfer a civil servant at any place as and when required, and no one should interfere in their authority as per as such action is taken in the best public interest. Moreover transfer and posting could not be claimed as matter of right and the competent Authority could determine as to which officer was suitable for which place (2013 PLC (CS) 864 and 1991 PLC (CS) 374:) & Civil Servant could not claim posting at a particular station or at the place of his choice (2004 PLC (CS) 705. The Appellant has been posted as a director HR Elementary & secondary Education Foundation for the period of 3 years by the Competent Authority.

- E. Incorrect, it is the discretion of the competent authority that for the exigence and public interest, they can exercise the powers of the authorities vested in them under Section-10 of Khyber Pakhtunkhwa Civil Servant Acts, 1973. therefore the original & appellate order Dated 10.05.2024 & 11.06.2024 is as per law and liable to be maintained.
- F. Incorrect, the Respondents also seeks permission for additional grounds at the time of arguments.

**It is therefore, most humbly prayed that on acceptance of their parawise comments the appeal in hand may be dismissed with cost.**

  
(ABDUL AKRAM)  
**Additional Secretary (General)**  
**E&SE Department**  
**on behalf of**  
**SECRETARY E&SED**  
**(Respondent No. 01&02)**

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**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Service Appeal # 846/2024

Mst. Shahida Parveen..... Appellant

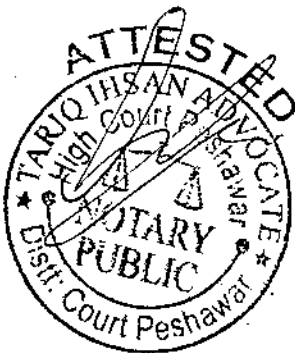
VERSUS

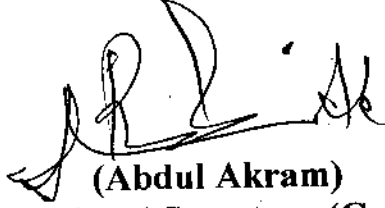
Govt. of Khyber Pakhtunkhwa & others..... Respondents

**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  
(Masood Ahmad)  
SECRETARY E&SED  
(Respondent No. 01)

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**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 # 846/2024 Case Titled Mst. Shahida Parveen 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**  
**(Masood Ahmad)**  
**SECRETARY E&SED**  
**(Respondent No. 01&2)**



(6) (Annex - A)

**GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Elementary & Secondary Education Department**

Block "A" Opposite MPA's Hostel, Civil Secretariat, Peshawar  
Phone: 091-9223530, Fax: 091-9211419

Dated Peshawar the June 12<sup>th</sup>, 2024

**NOTIFICATION**

**No. SO(AB)E&SED/15-2/ESEF/2024:** Mst. Shahida Parveen (MC BS-19 presently waiting for posting in E&SE Department) is hereby transferred/posted against the vacant post of Director (HR/Admin) in Elementary & Secondary Education Foundation, on deputation basis, for a period of three years, with immediate effect.

2- The terms & conditions of deputation of the above officer will be settled in due course of time.

**Secretary to Govt. of Khyber Pakhtunkhwa  
E&SE Department**

**Endst: of even No. & date**

Copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Managing Director, Elementary & Secondary Education Foundation.
3. Director, Elementary & Secondary Education Khyber Pakhtunkhwa.
4. Section Officer (Management Cadre), E&SE Department.
5. PS to Secretary, E&SE Department, Government of Khyber Pakhtunkhwa.
6. PA to Additional Secretary (Estab/Gen), E&SE Department.
7. PA to Deputy Secretary (AB), E&SE Department.
8. Officer concerned.

*12/6/24*

*12/06/2024*

**(QAMAR ABBAS BANGASH)**  
Section Officer (Autonomous Bodies)

*9/2*

Section Officer (Litigation-II)  
Elementary & Secondary Edu: Deptt:  
Govt: of Khyber Pakhtunkhwa

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**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN**

Phone No. 0966-9280133, emisfdikhan@gmail.com

Annex - (B) - 1

To,

The Deputy Commissioner, Dera Ismail Khan.

Subject:

Special Report in Context of Order dated 14.06.2024 Of The Honourable Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.846 of 2024, Shahida Perveen vs Secretary Education etc.

Respected Sir!

The undersigned is officially obliged to inform your good self on the subject mentioned above and to convey an untoward situation happened on 15<sup>th</sup> of June 2024, whereof, the Ex-DEO Female DIKhan, Mrs. Shahida Perveen, entered into office of the DEO (Female) DIKhan forcefully, in the pretext of the aforementioned order of the Honourable KP Tribunal and shouting that she has been restored as DEO Female DIKhan etc. and took unto possession of all the relevant official record from the dealing staff, such as the Diary/ Dispatch registers etc., and further enquired about the Official car of the DEO Female.

It is pertinent to mention that the said order of the Honourable Tribunal was misconceived and misinterpreted by the Predecessor of this office. In this connection, the Operative Para of the same order is reproduced as under:

**2. Along with the appeal, there is an application for suspension of impugned order dated 10.05.2024. Notice of this be issued to respondents. In the meanwhile, operation of impugned order shall remain suspended, if not acted upon earlier. (Annexure A, P: 1-2)**

It is further added that the undersigned has already assumed the charge of the post of DEO (Female) DIKhan on 11<sup>th</sup> of May 2024 vide office order No.5000-09, dated 11.05.2024, under the SO(MC)/E&SED/4-16/2024/DEOs/D.I.Khan, dated 10.05.2024, with a copy endorsed to your good office as well; Salary of the undersigned has already been activated on the Official ID of the DEO (Female) DIKhan, since 11<sup>th</sup> of May 2024. **(Annexure B, P: 3-6)**

Moreover, it is added that undersigned being DEO Female DIKhan, has attended in person the DB in the Honourable Peshawar High Court DIKhan Bench, on 03.06.2024 and 06.06.2024 in many cases in discharge of my official duties. Likewise, many official meetings convened by the District Administration and others line and allied departments regarding the issues of Education Department were graced by the undersigned in public service.

It is not out of place, to mention that the predecessor was initially placed at the Disposal of the Directorate vide the impugned order and later on posted as Director HR, *Elementary & Secondary Education Foundation (ESEF)* vide order No.SO(AB)E&SED/15-2/ESEF/2024, dated 12.06.2024, on deputation for the period of 3 years by the competent authority, knowing that undersigned has taken over charge and started official duties to the best of my abilities. **(Annexure C, P: 7)**

In view of the above, it is clear that the impugned order issued by the competent authority was implemented and complied in letter and spirit. Hence, the order of the Honourable Tribunal is not applicable to the extent of the undersigned because the same was already acted upon.

Therefore, it is requested that; the Ex-DEO, Mrs. Shahida Perveen may be advised to join her duties on her place of posting under the order No. SO(AB)E&SED/15-2/ESEF/2024, dated 12.06.2024, being a civil servant; and not to interfere in the smooth running of the official matters and assignments of this office, so that the undersigned may continue my official responsibilities with peace of mind in the best interest of the government as well the public.

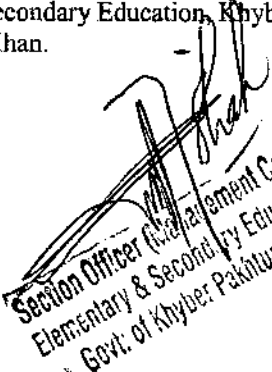
  
DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

Endst: No. 001-005

Dated D.I.Khan The, 20. 06. 2024

Copy of the above is forwarded for information to the:-

1. PS to Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. PA to DEO (Female), DIKhan.
4. Master file.

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

  
DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN





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

B-3



Dated, the Peshawar 10<sup>th</sup> May, 2024

**NOTIFICATION**

**NO.SO(MC)E&SED/4-16/2024/DEOs /D.I.Khan;** The following postings/ transfers of the officers are hereby ordered with immediate effect, in the best public interest.

Sr. No	Name & Designation	From	To
1.	Mst. Syeda Anjum (MC BS-19)	Awaiting Posting	DEO (Female) D.I.Khan Vice.S.No.2
2.	Mst. Shahida Parvaan (MC BS-19 ACB)	DEO (Female) D.I.Khan	Report to Directorate of E&SE Peshawar

**SECRETARY TO THE GOVT: OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT**

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Divisional Commissioner D.I.Khan
4. Deputy Commissioner D.I.Khan.
5. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
6. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
7. District Education Officer (Female) D.I.Khan
8. District Accounts Officer D.I.Khan.
9. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

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

**SECTION OFFICER (Management Cadre)**



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN**  
Phone No. 0966-9280133, emisfdikhan@gmail.com

CS CamScanner

To, **The Secretary**  
Khyber Pakhtunkhwa Elementary & Secondary Education Department  
Peshawar.

Subject: Special Report in Context of Order dated 14.06.2024 in SA No.846 of 2024, Shahida Perveen vs Secretary Education etc.

Respected Sir!

The undersigned is officially obliged to inform your good self on the subject mentioned above and to convey an untoward situation happened on 15<sup>th</sup> of June 2024, whereof, the Ex-DEO Female DIKhan, Mrs. Shahida Perveen, entered into office of the DEO (Female) DIKhan forcefully, in the pretext of the aforementioned order of the Honourable KP Tribunal and shouting that she has been restored as DEO Female DIKhan etc. and took unto possession of all the relevant official record from the dealing staff, such as the Diary/ Dispatch registers etc., and further enquired about the Official car of the DEO Female.

It is pertinent to mention that the said order of the Honourable Tribunal was misconceived and misinterpreted by the Predecessor of this office. In this connection, the Operative Para of the same order is reproduced as under:

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Moreover, it is added that undersigned being DEO Female DIKhan, has attended in person the DB in the Honourable Peshawar High Court DIKhan Bench, on 03.06.2024 and 06.06.2024 in many cases in discharge of my official duties. Likewise, many official meetings convened by the District Administration and others line and allied departments regarding the issues of Education Department were graced by the undersigned in public service.

It is not out of place, to mention that the predecessor was initially placed at the Disposal of the Directorate vide the impugned order and later on posted as Director HR, *Elementary & Secondary Education Foundation (ESEF)* vide order No.SO(AB)E&SED/15-2/ESEF/2024, dated 12.06.2024, on deputation for the period of 3 years by the competent authority, knowing that undersigned has taken over charge and started official duties to the best of my abilities.

In view of the above, it is clear that the impugned order issued by the competent authority was implemented and complied in letter and spirit. Hence, the order of the Honourable Tribunal is not applicable to the extent of the undersigned because the same was already acted upon.

Therefore, it is requested that; the Ex-DEO, Mrs. Shahida Perveen may be advised to join her duties on her place of posting under the order No. SO(AB)E&SED/15-2/ESEF/2024, dated 12.06.2024, being a civil servant; and not to interfere in the smooth running of the official matters and assignments of this office so that the undersigned may continue my official responsibilities with peace of mind in the best interest of the government as well the public.

DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

Endst: No. \_\_\_\_\_

Dated D.I.Khan The 15<sup>th</sup> June 2024

Copy of the above is forwarded for information to the:-

1. PS to Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner DIKhan.
4. PA to DEO (Female), DIKhan.
5. Master file.

Secretary  
Elementary & Secondary Edu. Deptt.  
Govt. of Khyber Pakhtunkhwa

DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

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**ELEMENTARY & SECONDARY EDUCATION FOUNDATION  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Plot No 20, Street No 13, Sector L S, Phase 7, Hayatabad Peshawar 091-9219106, 9219105

Reference No. 3395-99

Date: 26/6/24

To

The Secretary  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa.

**Subject: Report regarding charge assumption of Mst. Shahida Parveen (BPS-19).**

Respected Sir,

In pursuance of the Notification No.SD(AB)E&SED/15-2/ESEF/2024: Dated Peshawar the June 12<sup>th</sup>, 2024, Mst. Shahida Parveen (BPS-19) visited the ESEF Head Office but did not submit her charge assumption report. She attended an introductory meeting with the HR staff and then left the office. Since then, we have no information about her whereabouts. To date, she has not contacted this office regarding her leave or any other matters.


Today on dated 26-06-2024 at 12:30 pm, our Deputy Managing Director Mr. Javed Iqbal personally called her and she refused bluntly that she neither assumed the charge nor attended any official activity.

Report is submitted for your kind perusal please.

  
Managing Director

C.C

- ◆ All Directors ESEF
- ◆ P.S to Managing Director ESEF
- ◆ Officials Concerned
- ◆ Personal File.

  
Managing Director  
Elementary & Secondary Education Foundation  
Government of Khyber Pakhtunkhwa

Managing Director



(11)

Annex - C

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No. SO(MC)E&SED/11-1/2023/DEO (F) DIK/Shahida Parveen

Dated: 21<sup>st</sup> June, 2024

To

The Directress,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

Subject:

**SPECIAL REPORT IN CONTEXT OF ORDER DATED 14.06.2024 IN SA# 846 OF 2024, SHAHIDA PARVEEN VS SECRETARY EDUCATION ETC**

I am directed to refer to the subject noted above and enclose herewith copy of letter dated 15.06.2024 received from DEO (Female) D.I.Khan which is self-explanatory and to convey that the conduct of Mst. Shahida Parveen, Ex-DEO as reported by the DEO (Female) D.I.Khan through letter under reference is not only against the official norms but also inconsistent with the orders of the learned Service Tribunal dated 14.06.2024.

It is therefore, directed that Mst. Shahida Parveen Ex-DEO may be advised to refrain from any conduct contrary to the official norms and discipline, otherwise, the department will be constrained to initiate appropriate legal proceedings.

**Encl: As Above:**

SECTION OFFICER (Management Cadre)

**Endst: Even No. & Date:**

1. Director ESEF, Phase-7 Hayatabad, Peshawar.
2. Deputy Commissioner D.I.Khan
3. Section Officer (AB) E&SE Peshawar
4. DEO (Female), D.I.Khan
5. PS to Secretary E&SED Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (Management Cadre)

SECTION OFFICER (Management Cadre)  
Elementary & Secondary Edu. Deptt.  
Govt. of Khyber Pakhtunkhwa