

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No: 1016/2024

**Muhammad Tariq, Senior Clerk BPS-14, GGSS Dabli Lawanghar
Karak.....Appellant.**

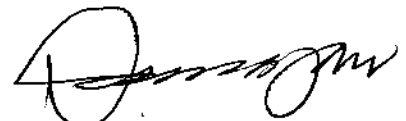
VERSUS

**Director (E&SE) Department, Khyber Pakhtunkhwa &
others.....Respondents**

INDEX SHEET

S/#	Description of document	Annexure	Pages No.
1.	Joint Parawise Comments along with affidavit		1-5
2.	Copy of the order dated 14-12-2023	A	6
3.	Copy of the Notification dated 13-06-2024	B	7
4.	Copy of the appeal dated 24-06-2024	C	8
5.	Copy of the letters dated 01-07-2024, 26-06-2024 and order dated 19-07-2024	D, E & F	9-12
6.	Authority letter		13

**SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR**

E&SE Department Khyber
Pakhtunkhwa, Peshawar

(1)

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

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No: 1016/2024

Diary No. 15200

Dated 27/8/24

**Muhammad Tariq, Senior Clerk BPS-14, GGHSS Dabli Lawanghar
Karak..... Appellant.**

VERSUS

**Director (E&SE) Department, Khyber Pakhtunkhwa &
others..... Respondents**

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No:1-3.

Respectfully Sheweth :-

The Respondents No.1-3 submit as under: -

PRELEMENARY OBJECTIONS.

- 1 **That** the appellant has got no cause of action/locus standi.
- 2 **That** the Appellant is not an aggrieved person within the meaning of Article-212 of the Constitution of Islamic Republic of Pakistan 1973.
- 3 **That** the instant Service Appeal is badly time barred.
- 4 **That** the appellant has concealed material facts from this Tribunal in the instant appeal.
- 5 **That** the instant Appeal is based on mala-fide intentions.
- 6 **That** the appellant has not come to this Tribunal with clean hands.
- 7 **That** the appellant is not entitled for the relief to the extent of cancellation of the transfer orders/Notifications dated 13-06-2024 & 01-07-2024, he has sought from this Honorable Tribunal on the grounds of being legally competent.
- 8 **That** the instant Appeal is against the prevailing law & rules.
- 9 **That** the instant Appeal is not maintainable in its present form.

- 10 That the instant Appeal is bad for mis-joinder & non joinder of the necessary parties.
- 11 That the instant Appeal is barred by law of limitation Act, 1908.
- 12 That transfer & posting a Civil Servant is the discretionary powers of the competent authority under section-10 of Civil Servant Act-1973.
- 13 That the Departmental appeal against the order dated 13-06-2024 has been seen & filed after due process of law by the respondent Department.

ON FACTS

- 1 That Para-1 pertains to the service record of the appellant against the Senior Clerk post in BPS-14 in the Respondent Department.
- 2 That Para-2 is incorrect on the grounds that the appellant was serving against the senior clerk post at GGHSS Dabli District Karak, however, vide order dated 14-12-2023, the appellant was given the additional charge of legal representative for the District Education Officer (F) Karak /Respondent No. 2 with his own pay & scale. ***(Attached as Annex-A)***.
- 3 That Para-3 is correct that vide Notification dated 13-06-2024, the appellant was transferred & posted against the said post in the office of the Respondent No. 3 U/S-10 of Civil Servants Act, 1973 being an employee of Provincial Cadre in the Respondent Department. ***attached as Annex-B.***
- 4 That Para-4 is correct to the extent of filing of Departmental Appeal dated 24-06-2024 against the order dated 13-06-2024 to the respondent No. 2 who was not an appellate authority in the instant case, hence, not decided due to lack of jurisdiction ***attached as Annex-C.***
- 5 That para-5 is correct to the extent of letter dated 01-07-2024, whereby, the Respondent No. 3 was directed to adjust the appellant against the said post in terms of the letter dated 26-06-2024 which was honored by respondent No. 3 vide order dated 19-07-2024, whereby, the appellant was adjusted against the post of lab Supervisor in BPS-14 at GHSS Dara Pezu Lakki Marwat ***attached as Annex-D, E & F.***
- 6 That Para-6 is also incorrect as the appellant is not an aggrieved person within the meaning of Article 212 of the constitution of 1973, therefore, the appeal in hand is liable to be rejected on the following grounds inter alia:-

ON GROUNDS.

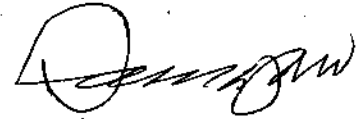
- A. **Incorrect & not admitted.** The order dated 13-06-2024 of the Respondent Department is the result of due process of law & rules and even in the interest of justice, hence, liable to be maintained.
- B. **Incorrect & not admitted.** The plea of the appellant is against the law & rules, hence, liable to be rejected as the act of the Department with regard to the order dated 13-06-2024 is within legal sphere.
- C. **Incorrect & not admitted.** The stand of the appellant is against the facts & circumstances of the case and liable to be rejected.
- D. **Incorrect & not admitted.** The act of the Department with regard to the order dated 13-06-2024 is legal having no illegality on the part of the Department.
- E. **Incorrect & not admitted.** The act of the Department with regard to the order dated 13-06-2024 is legal having no question of discrimination favoritism and nepotism on the part of the Department.
- F. **Incorrect & not admitted.** Detail reply to this ground has already been given, hence, needs no further comments.
- G. **Incorrect & not admitted.** The statement of the appellant is against the law & rules & liable to be rejected.
- H. **Incorrect & not admitted.** The statement of the appellant is against the law & rules & liable to be rejected.
- I. **Incorrect & not admitted.** the order dated 13-06-2024 is legal.
- J. **Incorrect & not admitted.** The statement of the appellant is & liable to be rejected as he has been treated under the Rules by the Department.
- K. **Incorrect & not admitted.** However, the Department is also seek leave of this Honorable Tribunal to submit additional grounds, record & case law at the time of arguments on the date fixed.

PRAYER:

In view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant Service Appeal in favor of the Respondents by maintain the orders dated 13-06-2024 & 01-07-2024 in the interest of justice.

Dated: ____/____/2024

**SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR**

E&SE Department Khyber
Pakhtunkhwa, Peshawar

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 1016/2024

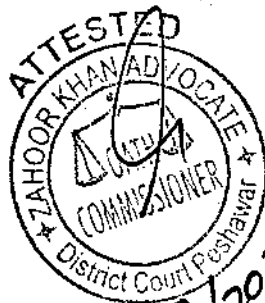
Muhammad Tariq, Senior Clerk BPS-14, GGHS Dabli Lawanghar Karak.....Appellant.

VERSUS

Director (E&SE) Department, Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, Samina Altaf, Director E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Partee nor their defense has been struck off/cost.



2/08/2024

**SAMINA ALTAF
DIRECTOR**

**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar**

(8)

Annex - A

6



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
KARAK

Phone: 0927-291177

Address : KDA

OFFICE ORDER

Mr: Muhammad Tariq Khan S/Clerk GGHSS Dabli Lawaghar is hereby directed to perform his duty at District Education Office (Female) Karak on additional charge of Litigation Officer on his own pay and BPS in the best interest of public service till further order.

- Note: - 1. Charge report should be submitted to all concerned.
2. No. TA/DA is allowed.

(DR. FANDOS JAMAL)
DISTRICT EDUCATION OFFICER
(FEMALE) KARAK.

Endst: No. 1003-04 /

Dated Karak the 14/12 /2023.

Copy of the above for information to the:-s

1. Principal GGHSS Dabli Lawaghar.
2. District Accounts Office Karak.
3. District Monitoring Officer Karak
4. Official concerned.
5. Master file.

[Signature]
DISTRICT EDUCATION OFFICER.
(FEMALE) KARAK

ATTESTED
[Signature]

(e)

7

Annex-B



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**
Phone: 091-9225344 Email: dde@kpk.gov.pk

OFFICE ORDER

Consequent upon approval of the competent authority, the services of **Mr. Muhammad Tariq**, Senior Clerk BPS-11, GGMSS Dabli Lawaghar, Karak are hereby placed at the disposal of District Education Officer (Male) Lakki Marwat for further adjustment.

Note:

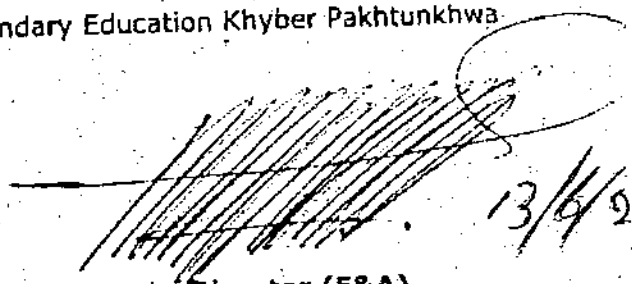
1. Compliance report should be submitted to all concerned.
2. No TA/DA is allowed.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

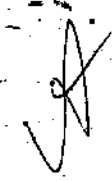
Endst: No. 8645-48 /F.No. A-23/MS/Transfer/Karak Vol-II
Dated Peshawar the 13-6-2024

Copy forwarded to the: -

1. District Accounts Officer, Concerned.
2. District Education Officer (Female) Karak.
3. District Education Officer (Male) Lakki Marwat.
4. Official concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File.


Deputy Director (F&A)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

13/6/24



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(10) 8
Amrwal - C

The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Through District Education Officer
(Female) Karak.

Subject: APPEAL FOR REVIEW OF MY TRANSFER FROM GGHSS DABLI
LAWAGHER / DEO (FEMALE) OFFICE KARAK AND REQUEST FOR
CANCELLATION OF ORDER NO:8645-48/A-23/MS/TRANSFER/KARAK
/VOL. DATED 13.6.2024.

Respected Madam,

I have been working as Senior Clerk in the office of the GGHSS Dabli Lawagher w.e.f 05.12.2023 and also performing additional duty as a Legal Representative (Litigation) for Court Cases at DEO(Female) Office Karak under Endst: No.1003-04 dated 14.12.2023

I have been transferred from DEO (Female) Office Karak to GGHSS Rehmat Abad Vide DEO (Female) Karak office endst: No.5008-09 dated 29.11.2022 On 30.11.2022. I was suddenly received my transfer order No.15-24 date 30.11.2022 showing me on the disposal of the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar. The Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar issued my posting to District Education Officer (Male) Karak for further adjustment. But the DEO (Male) Karak excused due to non-availability of post. The Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar further adjusted at SDEO (Male) Lachi Kohat under endst; No.6977-80/F.No./A-23/MS/G.File /2022 dated 12.01.2023. After one month 12 days once again I have been adjusted at DEO (Female) Office Karak vide Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar endst; No.3614-17/F.No./A-23/MS/G.File/2022 dated 24.2.2023.

R/Madam, I have been transferred to DEO (Male) Lakki Marwat vide Director E & S Education Peshawar KPK under Endst; No. 8645-48/A-23/MS/Transfer /Karak Vol-II dated 13.6.2024, when I approached to DEO (Male) Lakki Marwat for adjustment /Charge assumption. He (DEO Male Lakki Marwat) stated that there is no vacant post available.

R/Madam, I have served with many Principals and in the office of DEO (Female) Karak with previous DEOs (Female) i.e Madam Zaib un Nisa, Madam Sabra Parveen, Madam Parveen Begum and Dr. Fanoos Jamal with their entire satisfaction.

Therefore, very humbly request you to kindly withdraw/Cancelled my transfer order and further retain my Services in the office of the Principal GGHSS Dabli Lawagher (Karak) or District Education Officer (Female) Karak.

I shall be very thankful to you for this act of kindness.

Dated 20/6/2024.

C/No: 03339711006.

Yours Sincerely

Mb. 3385 dt. 24/6/2024
The appeal based on fact, Honest and efficient, hardworker Clerk. Recommended for Cancellation of order.

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TESTED

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(MUHAMMAD YAKUB)

Senior Clerk

O/O the GGHSS Dabli Lawagher
Karak

District Education Officer
(Female) Karak



(12) 9
Almogha - F

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

No 3200 /F.No. 1/A-23/MS/Transfer/Karak/Vol-II

Dated Peshawar the 01-07 2024

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

To

The District Education Officer
(Male) Lakki Marwa.

Subject: **TRANSFER OF MUHAMMAD TARIQ SENIOR CLERK GGHSS DABLI
LAWAGHAR (KARAK).**

Memo:

I am directed to refer to your Office letter No. 4004 dated 26/06/2024 on the subject cited above in respect of **Mr. Muhammad Tariq**, Senior Clerk BPS-14 regarding the subject matter.

You are therefore directed to adjust him against any vacant post of stenographer/any other equivalent post.

Deputy Director (F&A)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. 3201-3

Copy forwarded to the: -

1. **Mr. Muhammad Tariq**, Senior Clerk BPS-14, with reference to his appeal received vide this Office diary No. 1241 dated 24/06/2024.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

Deputy Director (F&A)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

12
2024

ATTESTED



Office of The District Education Officer
Male Lakki Marwat

Ph: (0969)538291 email: emislakki@yahoo.com
www.facebook.com/deomalelakki, www.twitter.com/deo_m_lakki

(10) (117A)

Armal-E

No. 4004

Dated. 26 /06/2024

To

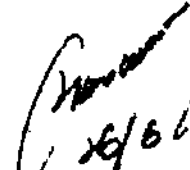
The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject: Transfer of Muhammad Tariq Senior Clerk GGHSS Dabli Lawagher (Karak).

Memo:-

Reference to your office order issued vide No. 6845-48/A-23/MS/ Transfer /Karak Vol-II dated. 13-06-2024, and to state that Muhammad Tariq Senior Clerk approached the undersigned for assumption of charge, but unfortunately there is no vacant post of Senior Clerk BPS-14 under the control of this office in District Lakki Marwat.

Hence it is requested that the above named Senior Clerk may kindly be adjusted anywhere else in province.


26/6/2024
District Education Officer
(Male) Lakki Marwat.

J



Office of The District Education Officer
Male Lakki Marwat

Ph: (0969)538291, (0969)709234, Fax: (0969)538292, email: maleshakki@peshawar.com
www.facebook.com/deo.male.lakki, www.twitter.com/deo_m_lakki

OFFICE ORDER:

No. 4346 Dated 14 / 07 / 2024

In compliance of the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter bearing No. 3200/ File No.1 / A-23/ MS/ Transfer/ Kurak / Vol-2 dated 01-07-2024, the undersigned is pleased to adjust **Mr. Muhammad Tariq Senior Clerk (BPS-14)** against the vacant post of **Lab Supervisor (BPS-14)** at GHSS Dara Pezu in the best interest of public service.

NOTE: - (1) Charge report should be submitted to all concerned.
(2) No TA/DA is allowed.

///
District Education Officer
(Male) Lakki Marwat

Even No & Date:

Copy to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar with reference to his letter No & Dated cited above.
2. District Monitoring Officer Lakki Marwat.
3. District Account Officer Lakki Marwat.
4. Deputy District Education Officer (Male) Lakki Marwat.
5. Principal GHSS Dara Pezu.
6. AD DEMIS Local Office.
7. Official Concerned.

///
District Education Officer
(Male) Lakki Marwat
///

ATTESTED
///

**OFFICE OF THE PRINCIPAL GOVT: HIGHER SECONDARY SCHOOL
DARA PEZU (LAKKI MARWAT).**

ARRIVAL REPORT.

In compliance to the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar transfer order under Endst: No. 8645-48 /A-23/MS /Transfer/ Karak Vol-II dated 13.6.2024, and further posted by DEO (Male) Lakki Marwat office order No. 4346 Dated 19/7/2024. I beg to submit my arrival report unwillingly against the Post of Lab Supervisor BPS-14 at GHSS Dara Pezu Lakki Marwat today on 20-07-2024(A. N).

Dated: 20/7/2024.



**Muhammad Tairq
Senior Clerk/Lab Supervision BPS-14
GHSS Dara Pezu Lakki Marwat.**

Copy to the: -

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. DEO (Male) Lakki Marwat.
3. District Account Office Lakki Marwat.





13

**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.**

AUTHORITY LETTER

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Muhammad Rizwan, Assistant Director (Litigation-II) of this Directorate for submission of Joint Parawise Comments in **Service Appeal No. 1016/2024 case titled Muhammad Tariq, Senior Clerk BPS-14, GGSS Dabli Lawanghar Karak Vs Government of Khyber Pakhtunkhwa & others,** hence, an authority letter is hereby issued in favor of the above-named officer.

**SAMINA ALTAF
DIRECTOR**

**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar**



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION

I, Samina Altaf, Director Elementary & Secondary Education Department Khyber Peshawar do hereby authorize, Mr. Abdus Sammad, Deputy Director (Legal) Directorate of Elementary & Secondary Education to sign parawise comments, replies, implementation report, objection petitions, civil miscellaneous application etc on my behalf for onward submission before the courts of law/tribunals as the case may be, with immediate effect in the interest of public service.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. No. 2633-413 /F.No. AD(Lit-II)/E&SED/Office Correspondence/Vol-II/2024
Dated Peshawar the 26/07/2024.

Copy of the above is forwarded for information & n/action to the:

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department Khyber Pakhtunkhwa.
4. Learned Registrar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Learned Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members).
6. All Section Officers E&SE Department Khyber Pakhtunkhwa, Peshawar.
7. All District Education Officer (Male/Female) Khyber Pakhtunkhwa.
8. PS to Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar.
9. PA to Additional Secretary (General) E&SE Khyber Pakhtunkhwa, Peshawar.
10. PA to Director E&SE Department Khyber Pakhtunkhwa, Peshawar.
11. Master File.


(SAMINA ALTAF)
DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar