

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

Service Appeal No: 994/2024

Islam Gul, SST (M/P) (BPS-16) GHS Osakai Dir Lower.....
.....Appellant

VERSUS

Secretary E&SE Department & others..... Respondents.

INDEX

S/#	Description of document	Annexure	Pages No.
1	Joint Para Wise Comments		1-3
2	Reply to the application for suspension operation of orders dated 23-04-2024 & 20-06-2024 for vacating the order dated 01-08-2024.		4
3	affidavit		5
4	Copy of the Notification dated 19-03-2024.	A	6
5	Copy of the office order dated 23-04-2024.	B	7
6	Copies of the Departmental appeal dated 30-05-2024 & Letter dated 24-06-2024	C & D	8 & 9
7	Authority letter		10

**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: 994/2024

Islam Gul, SST (M/P) (BPS-16) GHS Osakai Dir Lower.....
.....Appellant

VERSUS

Secretary E&SE Department & others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1-2.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi to file instant appeal.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the appellant has concealed material facts from the ambit of this Honorable Tribunal.
- 4 That the appellant has not come to this Honorable Tribunal with clean hands as the appellant is an SST in BPS-16 & seeking his posting of his choice in the Respondent Department against the Rules & Policy.
- 5 That the appeal in hand is based on mala fide intentions for gaining illegal service benefits from the Department to the extent of his posting in violation of the Rules.
- 6 That the appeal in hand is barred by law and limitation.
- 7 That the appeal in hand is bad for mis-joinder and non-joinder of the necessary parties.
- 8 That the impugned Notifications dated 23-04-2024 & 20-06-2024 of the Respondent Department are legal & liable to be maintained.
- 9 That aggrieved from the above Notification dated 23-04-2024, the appellant has filed a Departmental appeal to the Respondents which was also regretted vide order 24-06-2024.
- 10 That transfer & posting policy of the appellant is the competency & jurisdiction of the Respondents under Section-10 of Civil Servants Act, 1973.

ON FACTS.

- 1 That Para-1 pertains to the service record of the appellant against the SST (M/P) in BPS-16 post in the Respondent Department.

- 2 That Para-2 is correct that vide order dated 19-03-2024 (*Annex-A*), the appellant was posted at GHS Dapoor Dir Lower to GHS Osakai Dir Lower.
- 3 That Para-3 is correct to the extent of withdrawal of the order dated 19-03-2024 vide order dated 23-04-2024 under the provision of Section-21 of General Clauses Act, 1897 by the Respondent No. 2 being a competent authority *attached as Annex-B*
- 4 That Para-4 is correct that Departmental appeal dated 30-05-2024 was filed by the appellant against the order dated 23-04-2024 before the Respondent No.1 which was rejected vide order dated 24-06-2024 by the Respondent No. 1 under the Rules & Policy being an appellate authority in the titled case *attached as Annex-C & D*
- 5 That Para-5 is incorrect that the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973 has got no cause of action to approached this Honorable Tribunal in the titled appeal against the Respondents, therefore, the case in hand is liable to dismissed on the following grounds inter alia: -

ON GROUNDS.

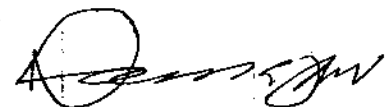
- A. Incorrect & not admitted. the appellant has been treated as per law & rules by the Respondent Department vide orders dated 23-04-2024 & 26-06-2024 by the Respondents, hence, the claim of the appellant is illegal.
- B. Incorrect & not admitted. The stand of the appellant is against the facts of the case, therefore, the order dated 23-04-2024 is legal & liable to be maintained.
- C. Incorrect & not admitted. the appellant has been treated as the order dated 19-03-2024 has correctly been cancelled under the Rules, moreover, no Notice is required prior to the issuance of transfer order of a Civil Servant under the Law as cited above.
- D. Incorrect & not admitted. The act of the Respondent Department with regard to the afore-said orders is legal, whereby; he has been adjusted against his original post of SST in BPS-16 by the competent authority.
- E. Incorrect & not admitted. The order dated 23-04-2024 is legal & liable to be maintained.
- F. Incorrect & not admitted. The act of the Department with regard to the cited order is legal as similar nature cases have been dismissed by tis Honorable Tribunal on the grounds of right man for right job.
- G. Incorrect & not admitted. The stand of the appellant is illegal as the act of the Department with regard to the cited orders is legally competent.
- H. Incorrect & not admitted. as replied above.
- I. Incorrect & not admitted. The stand of the appellant is without legal justification & liable to be rejected.
- J. Incorrect & not admitted. The act of the Department is in accordance to the clause of I-IV & XIII of KP transfer/posting policy.

- (2)
- K. Incorrect & not admitted, as replied in Para-J by the Department.
- L. Incorrect & not admitted, the act of the Department with regard to the cited orders is legal.
- M. Incorrect & not admitted, as replied above.
- N. Incorrect & not admitted, The cited case titled Aneeta Turab VS Govt: decided on 27-02-2013 is not applicable upon the case of the appellant being different in both question of law & facts of the case.
- O. Incorrect & not admitted, The act of the Department with regard to the said orders is in accordance with the provision of Article-24-A of General Clauses Act, 1897.
- P. Incorrect & not admitted, The cited case titled Miskeen VS Irrigation Department: decided on 27-02-2013 is not applicable upon the case of the appellant being different in both question of law & facts of the case.
- Q. Incorrect & not admitted, The post of the appellant is a Provincial Cadre Post, hence, he is liable to serve anywhere in KP, wherever, his services as SST is required by the Respondent No. 2.
- R. Incorrect & not admitted, as replied above.
- S. Incorrect & not admitted, The appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973 However, the Respondents also seek leave to this Learned Bench to submit additional grounds record & case law at the time on date of hearing.

Therefore, in view of the above made submissions, the appeal in hand may kindly be dismissed by maintain the orders dated 23-04-2024 & 26-06-2024 in favor of the Respondent Department in the interest of justice.

Dated: ____/____/2024

SAMINA ALTAF
DIRECTOR



AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar

MASOOD AHMAD
SECRETARY



AUTHORIZED OFFICER
FAIZ ALAM

✓ ADDITIONAL SECRETARY (G)
E&SE Department Khyber
Pakhtunkhwa, Peshawar

(4)

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

Application No. _____ /2023 in Service Appeal No: 994/2024

Islam Gul SST (Math's Physics) GHS Osakia Dir
Lower.....Applicants.

VERSUS

1. The Secretary E&SE Department, Khyber Pakhtunkhwa
2. Director E&SE KP Peshawar & others.....Respondents

**REPLY TO THE APPLICATION FOR SUSPENSION OPERATION OF
ORDER DATED 23-04-2024 & 20-06-2024 FOR VACATING THE
ORDER DATED IN FAVOR OF THE RESPONDENTS.**

Respectfully Sheweth :-

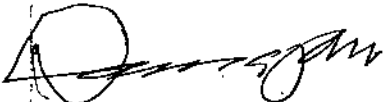
The Respondents submit as under: -

1. **That** para-1 pertains to the record of this Honorable Tribunal.
2. **That** para-2 is incorrect, as all the ingredients are in favor of the Respondents instead of in favor of the appellant
3. **That** Para-3 is also incorrect, however, the grounds and facts taken by the respondents in reply to the titled appeal may kindly be treated as part & parcel of the instant reply to the titled application.
4. **That** para-4 is incorrect as the orders dated 23-04-2024 & 20-06-2024 are legal & liable to be maintained in favor of the Department on the grounds that balance of convenience lies in favor of the Department instead of the appellant in the titled appeal.
5. **That** para-5 is also incorrect, hence, denied on the grounds that if the operation of the orders dated 23-04-2024 & 20-06-2024 is not maintained, then the Respondents shall suffer huge losses.

In view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to vacate the status quo order 01-08-2024 along with the dismissal of the instant appeal & application by maintaining the orders dated 24-04-2024 & 20-06-2024 in favor of the Respondents in the interest of justice.

Dated ____ / ____ /2024.

SAMINA ALTAF
DIRECTOR



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

(5)

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

Service Appeal No: 994/2024

Islam Gul, SST (M/P) (BPS-16) GHS Osakai, Dir Lower.....
.....Appellant

VERSUS

Secretary E&SE Department & 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-Parte nor their defense has been struck off/cost.



3/9/24

DEPONENT
SAMINA ALTAF
DIRECTOR

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



Muzamil A (9) A

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

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

NOTIFICATION:

Consequent upon approval of the Competent Authority (Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar), the transfer/posting of the following officers/officials are hereby ordered in their own pay & scales with immediate effect in the best interest of public service.

S#	Name & Designation	From	To (posted as)	Remarks
1	Mr. Islam Gul SST (M/P)	GHS Dapoor	GHS Osakai	AVP
2	Muhammad Usman SST	SST (M/P) GHS Jawzo Dir Lower	GHS Dapoor /	Vice S.No.1

TERMS & CONDITIONS:

1. Charge Report should be submitted to all concerned.
2. No TA/DA is allowed.

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 1519-22 F.No.19/ADEOs/Transfer/Dir Lower

Dated. 19-3-2024

ATTESTED

Copy forwarded to the:

1. District Education Officer (M) Dir Lower.
2. District Accounts Officer Dir Lower.
3. Officers Concerned.
4. PA to Director E&SE KPK Peshawar
5. Master Copy

Muzamil A 19/3/2024
Assistant Director (Estab M-D)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR
Phone: 091-9225344 Email: establishment@dees@pk.gov.pk

C - (11)

OFFICE ORDER:

Consequent upon approval of the Competent Authority (Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar), the order issued vide this Directorate bearing Notification Endst: No. 1519-22 dated 19-03-2024 in respect of the following SSTs is hereby recalled/withdrawn from the date of its issuance in the best interest of public service.

1. Mr. Islam Gul SST (M/P) BPS-16
2. Muhammad Usman SST (M/P) BPS-16

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. 993-96 / N.No. 19/ADEOs/Transfer/Dir Lower Dated 23-4-2024

Copy of the above is to the:-

1. District Education Officer (M) Dir Lower.
2. District Accounts Officer Dir Lower.
3. Teachers/Officers concerned.
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
5. Master File.

ATTESTED

Assistant Director (Estab-M1)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

*... ..
through what app on
30/5/24*

6

12

"D"

To
The Secretary,
Elementary & Secondary Education,
Khybe Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23/04/2024, COMMUNICATED ON 29/05/2024 THROUGH HEADMASTER

Respected Sir,

1. That I am the employee of your department, and since appointment I am working with zeal and zest.
2. That the respected Director of Peshawar has transferred me from Dapoor (GHS), Lower Dir to Osakai, on 19/03/2024. (Copy attached)
3. That on 23/04/2024, the above mentioned order was withdrawn by the Director. (Copy attached)
4. That the withdrawal order was communicated to the appellant on 29/05/2024, through principle of GHS, Dapoor, on Whatsapp.
5. That the order of withdrawal is based on political basis, interference, and the appellant has not completed his normal tenure on the said post.
6. That tenure of employee must be respected.
7. That the said school is about 130 Km away from residence of the appellant.

So (P/M)
Ministry Process
and ask for report?
Div. E & S E (Kpk)
and put up in
file for appropriate
order of withdrawal
pd
29/5/2024

ATTESTED

It is, therefore, respectfully requested that withdrawal order dated 23/04/2024 may kindly be set aside.

Dated:- 30/05/2024

Islam Gul
 S.S.T, P/M
 G.H.S, Osakai,
 Cell No. 0344-5186516

2298
 30/5/24



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9223587)

E (13)

No.50 (Primary-M)/E&SED/5-1/G. Misc/Mr. M. Usman & Islam Gul/SST/Dir Lower/2024
Dated Peshawar 24th June. 2024

To,

1. Mr. Muhammad Usman SST (M/P)
GHS Dapoor Dir Lower.
2. Mr. Islam Gul SST (M/P)
GHS Osakai Dir Lower.

Subject: - DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23-04-2024.

I am directed to refer to the subject noted above and to enclose herewith a copy of letter No. 281/F.No.19/ADEO (M)/Transfer/Dir Lower dated 20-06-2024 received from Directorate of E&SE Peshawar being Competent Authority has regretted your appeal.

(REHMAN GUL)

SECTION OFFICER (PRIMARY MALE)

Endst: of even No. & Date:-
Copy forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa, Peshawar w/r to his letter cited above.
2. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)

ATTESTED

[Handwritten signature]



**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. 994/2024 case titled Islam Gul SST (M/P) GHS Osakai Dir Lower 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.**