

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

**Service Appeal # 1195/2024**

**Mr. Zakir Ullah .....Appellant.**

**VERSUS**

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

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**Deponent**

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

**In Service Appeal No. 1195/2024**

**Zakir Ullah, Superintendent (BPS-17).....Appellant.**

**VERSUS**

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

**PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NOS. 01&02.**

**Respectfully Sheweth,**

**Khyber Pakhtunkhwa  
Service Tribunal**

**Diary No. 15801**

**Dated 18-09-24**

**Preliminary Objections:**

1. The appellant has not come to this Tribunal with clean hands.
2. The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
3. That the appellant has concealed material facts from this Tribunal.
4. That the appellant is estopped by his own conduct to file the present appeal.
5. That the present appeal is against the prevailing law and rules.
6. That the appellant is not entitled for any relief, he has sought from this Honorable Tribunal.
7. That the present appeal is liable to be dismissed being devoid of any merits.
8. That the present appeal is hopeless time barred, hence liable to be dismissed.
9. That the present appeal is just filed by the appellant to pressurize the respondents for getting illegal and unlawful benefits.
10. That the appellant is just wasting the precious time of this Honorable Tribunal through the instant frivolous appeal.

**On Facts**

- 1 Pertains to record.
- 2 Pertains to record.
- 3 Pertains to record.
- 4 Para 4 Incorrect and denied. The appellant was transferred from Supdtt SDEO (F) Town-I to SDEO Male Town-II Peshawar by the Competent Authority by exercising powers u/s 10 of Civil Servant Act, 1973, which is as under:-

**“10. Posting/Transfer every civil servant shall be liable to serve anywhere within or outside the Province in any post under the Federal Government, or any Provincial Government or local authority, or a corporation or body set up or established by any such Government.**

**Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:**

**Provided further that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of**

service as to his pay shall not be less favorable than those to which he would have been entitled if he had not been so required to serve”

Therefore, in light of Section-10, 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 order, while the civil servant cannot refuse compliance.

It is further added that transfer and posting could not be claimed as matter of right and only 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).

- 5 Incorrect and denied. The appellant does not prefer the departmental appeal to the appellate authority, therefore, the instant service appeal is premature and liable to dismissed.
- 6 Incorrect and denied. The Notification dated 23.07.2024 issued by the Competent Authority, wherein the appellant/petitioner has neither been transferred nor it contains his name, therefore, he has not locus standi or cause of action to impugned the notification in question under the Section-4 of Civil Servant Tribunal Act, 1974, therefore, the present service appeal needs to be dismissed summarily.
- 7 Incorrect & denied. The appellant has not filed any departmental appeal before the appellate authority. The Respondents seeks dismissal of the instant service appeal on the following grounds inter-alia:-

**On Grounds:**

- a. Incorrect & denied. The Notifications dated 25.04.2024 and dated 23.07.2024 are as per Section10 of CSA, 1973, therefore, liable to maintained and the service appeal of the appellant may kindly be dismissed. .
- b. Incorrect & denied. The Notifications dated 25.04.2024 and dated 23.07.2024 are as per Section10 of CSA, 1973 and are issued by the Competent Authority in the best public interest. Moreover, it is the discretion of the Competent Authority to place suitable officers where his/her services required keeping the best interest of the public. Furthermore, the appellant pertains to Provincial Cadre and his services are transferable across the province. It is further clarified that there is no concept of notice prior to

transfer of any officer in the existing service law, therefore, the ground of not treating on the Principles of Natural justice agitated by the appellant is misconceived/misleading and a deliberate attempt for illegal and getting posting of his choice which is against the spirit of Section-10 of CSA, 1973, therefore, the instant service appeal is liable to dismissed.

It is further added that transfer and posting could not be claimed as matter of right and only 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.

C-F. Reply of ground C to F are given as Reply in Ground-B above.

G& H. The Respondents may be allowed to advance any new ground/documents at the time of argument.

**It is therefore, most humbly requested that the appeal in hand being meritless may kindly be dismissed with cost.**

  
(Fiaz Alam)

**Additional Secretary (E), E&SED  
On behalf of  
SECRETARY E&SED  
(Respondent No. 01 & 02)**

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

Service Appeal # 1195/2024

Mr. Zakir Ullah..... Appellant

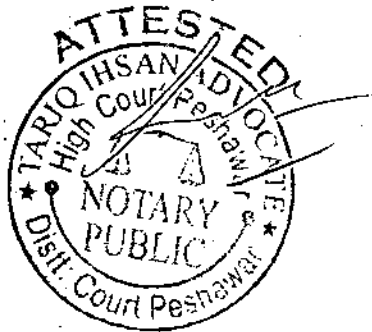
VERSUS

Secretary E&SE Govt. of Khyber Pakhtunkhwa & others..... Respondents

**AFFIDAVIT**

I, **Fiaz Alam**, Additional Secretary (Estab), 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.**



*(Signature)*  
**(Fiaz Alam)**  
**Additional Secretary (Estab)**  
**E&SE Department**  
**on behalf of**  
**SECRETARY E&SED**  
**(Respondent No. 01&02)**



**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 # 1195/2024 Case Titled Mr. Zakir Ullah vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar & Others.**

**(Fiaz Alam)**

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



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

**Block "A" Civil Secretariat, Peshawar**

**Phone No. 091-9211128**

Dated Peshawar, the 27-08-2024.

**NOTIFICATION**

**NO.SO(Lit-II)/E&SED/1-5/2021**, I, Mr. Masood Ahmad, Secretary Elementary & Secondary Education Department is pleased to authorize Mr. Fiaz Alam, Additional Secretary (Establishment) Elementary & Secondary Education Department to sign parawise comments, replies, implementation reports, objection petitions, civil miscellaneous applications etc on my behalf for submission before various courts of law/tribunals in the best public interest.

**(MASOOD AHMAD)  
SECRETARY TO THE  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst: of even No. & date.

Copy forwarded to the:-

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department.
4. Registrar Peshawar High Court Peshawar (with one each Spare copy for the Honorable Judges).
5. Registrar Service Tribunal Peshawar (with one each Spare copy for the Honorable Chairman/Members).
6. All Section Officers (Litigation) E&SE Department.
7. PS to Secretary, E&SE Department.
8. PA to Additional Secretary (General) E&SE Department.
9. PA to Deputy Secretary (Legal-I&II) E&SE Department.

*Attested  
Muz*

**SECTION OFFICER (Lit-II)**