

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1232/2024

Mst. Farhat YasmeenAppellant.

VERSUS

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

INDEX

S#	Description of Documents	Annex	Pages
1.	Para-wise comments/reply	—	1-2
2.	Affidavit		3
3.	Authority Letter		4
4.	Annexures	—	—


Deponent

(A)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1232/2024

Farhat YasmeenAppellant

VERSUS

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

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01 & 02.

Respectfully Sheweth,

Preliminary Objections:-

- Khyber Pakhtunkhwa
Service Tribunal
Date: 15.7.23
Date: 12-09-24
1. That the Respondent has adopted the proper law and procedure by exercising powers u/s 10 of Civil Servant Act, 1973, which is as under:-
“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”
 2. The appellant has not come to this Tribunal with clean hands.
 3. The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
 4. That the appellant has concealed material facts from this Tribunal.
 5. That the appellant is estopped by his own conduct to file the present appeal.
 6. That the present appeal is against the prevailing law and rules.
 7. That the appellant is not entitled for any relief, he has sought from this Honorable Tribunal.
 8. That the present appeal is liable to be dismissed being devoid of any merits.
 9. That the present appeal is hopeless time barred, hence liable to be dismissed.
 10. That the present appeal is just filed by the appellant to pressurized the respondents for getting illegal and unlawful benefits.
 11. That the appellant is just wasting the precious time of this Honorable Tribunal through the instant frivolous appeal.

Reply on Facts.

1. Pertains to service record of the appellant.
2. Pertains to Private Respondent No.4, hence needs no comments.
3. Para -03 is incorrect and denied. The transfer notification dated 16.05.2024 is bases under Section 10 of Civil Servant Act, 1973, which is as under:-

“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

2

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

4. Para-4/N is incorrect and denied. The departmental appeal of the petitioner was filed being devoid of merit.

On Grounds:

- A. Incorrect and denied. That the impugned transfer order dated 16.05.2024 has been issued under the Section-10 of Civil Servant Act, 1973 by the Competent Authority. The previously mentioned transfer order is legal and in accordance with relevant Laws/Rules/Policies of the provincial government. Moreover, the petitioner is Provincial Cadre employee and can be posted across the province, wherever, her services was required according to the needs and public interest.
- B. Incorrect and denied. The transfers of the petitioner has been made under Section-10 of CSA, 1973 in the best interest of public by the Competent Authority.
- C. Incorrect and denied. The petitioner has not annexed/produced any material, which substantiate the claims in respect of Respondent No.4 due to which she succeeded to manure her transfer at her choice place of posting.
- D. Incorrect and denied. In the referred judgement of service appeal no directions was issued to respondents regarding the appellant regarding completion of two years tenure.
- E. Incorrect and denied. Reply as per ground-B above.
- F. Incorrect and denied. Reply as per ground-D above.
- G. Incorrect and denied. The impugned order dated 16.05.2024 bases upon Section-10 of CSA, 1973 and no malafide is involved and liable to retained.
- H. That respondents seek permission of advancing other grounds and to submit additional documents at the time of arguments.

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

(Fiaz Alam)

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

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 1232/2024

Mst. Farhat Yasmeen..... 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.

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



4



**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 # 1232/2024 Case Titled Mst. Farhat Yasmeen 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.

SECTION OFFICER (Lit-II)