

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No 1195/2024

Zakir UllahAppellant.

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 15996

Govt. & Others.....Respondents

D. 23-09-24

Reply on behalf of impleaded private respondent, No 3

Respectfully Submitted:

Preliminary Objections

1. That the appellant has no Locus Standi and cause of action to file instant appeal, as the appellant is not aggrieved by any order.
2. That the appeal is not maintainable in its present form.
3. The appeal is barred by law and limitation.
4. This honorable Tribunal has got no jurisdiction to entertain the titled appeal, as the appellant wants posting against the post of his choice.
5. That the appellant is estopped by his conduct to file instant appeal.
6. That the appellant has not come to this honorable Tribunal with clean hands, having suppressed material facts.
7. That the appeal is bad for misjoinder and non-joinder of necessary parties.

PARAWISE REPLY/COMMENTS ON FACTS:

1. Para No 1 pertains to record.
2. Para under rely is correct.
3. Para under reply is incorrect, as after issuance of Notification dated 21-03-2024, irregularities, favor and disfavor were reported to the competent authority, and in order to redress the grievances of aggrieved officers, an inquiry Committee was constituted wherein irregularities were surfaced so, the Corrigendum dated 25-04-2024 was issued whereby the appellant was posted to the Office of SDEO (M) Town-II Peshawar while the replying respondent was posted to the office of SDEO (F) Town-I Peshawar, where consequent the appellant also took charge of his post at SDEO (M) Town-II Peshawar, on 30-04-2024. It is worth to mention that the appellant has

challenged the Corrigendum which in fact is not final Order rather issued for correction, thus too the appeal is not tenable.

4. Detailed reply has been given in above para.
5. Para under reply pertains to record.
6. Para under reply pertains to record however it is added that the Notification dated 23-07-2024 is mutual transfer/posting, and the same cannot be challenged by the appellant, further the same has not been agitated before the departmental authority, hence on this score too instant appeal is liable to be dismissed. It is also worth to note that after Notification dated 23-07-2024, the appeal has become infructuous and not entertain-able. Even the impugned Corrigendum dated 25-04-2024 is no more in field.
7. Para under reply is legal and pertains to record, however after the Notification dated 23-07-2024, the service appeal is not tenable and liable to be dismissed.

REPLY TO GROUNDS:

- A. Para under reply incorrect as the impugned Notifications are in accordance with law, rules and principles of natural justice and no right of the appellant has been violated hence he has got no cause of action.
- B. Para under reply is incorrect, as the impugned Notifications have been issued by the authority in accordance with law and rules.
- C. Para under reply is incorrect, as explained above, the Corrigendum dated 25-04-2024 is issued for correction only which even otherwise is no more in field, hence appeal of the appellant is not tenable in the eyes of law.
- D. Para under reply is incorrect, as nothing has been done in violation of law and rules.
- E. Incorrect, as explained above the appellant being Civil Servant is even otherwise is liable to serve anywhere, as per the discretion of the

authority, as per section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973.

- F. Incorrect the Notification and Corrigendum are in accordance with law and rules.
- G. The replying respondent also seek leave of this honorable Tribunal to raise additional points at the time of hearing of titled appeal.
- H. As detailed in preceding para

It is therefore prayed that appeal of the appellant may kindly be dismissed with heavy costs.

Dated:-05-09-2024

Through



Respondent No 3


Fazal Shah Mohmand

Advocate,

Supreme Court of Pakistan
&

Ibad Ur Rahman Khalil &

Baseer shah

Advocates High Court


AFFIDAVIT

I, Marifat Shah, Superintendent (BPS-17) Office of District Education Officer (Female), Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.





DEPONENT

ENIC 17301-1386281-1