

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

SA No.998/2024

Mst. Zahida Azeem D/o Azeem Afridi PSHT GGPS Tamar Khel
Akhurwal TSD Darra Kohat.....Appellant.

Versus

Director Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar & others.....Respondents

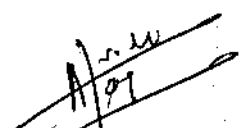
INDEX

S #	Description of Documents	Annex	Pages
1.	Copy of Parawise Reply	"A"	1-2
2.	Affidavit	"B"	3
3.	Copies of orders and application are attached	"C"	4-11

Dated: 03-10-2024

Appellant

Through


Muhammad Afaq Afridi
Advocate High Court
Peshawar.

①

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 998/2024

Mst Zahida Azeem D/O Azeem Afridi PSHT GGPS Tamar Khel Akhurwal TSD Darra Kohat
..... **Appellant**

VERSUS

Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar & others
..... **Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 3.

Respectfully Sheweth,

The Respondent as under.

Khyber Pakhtunkhwa
Service Tribunal

Case No. 16252

Dated 03/10/2024

PRELIMINARY OBJECTIONS.

- 1 That the appellant has got no cause of action locus standi.
- 2 That the instant Service appeal is badly time barred.
- 3 That the appellant has concealed material facts from the Hon'ble Tribunal in the instant service appeal.
- 4 That the instant service appeal is against the relevant provisions of law.
- 5 That the appellant has not come to this Hon'ble Tribunal with clean hands.
- 6 That the instant appeal is liable to be dismissed for mis-joinder & non-joinder of the necessary parties to the present appeal.
- 7 That the appellant is estopped by his own conduct to file the instant appeal.
- 8 That the instant service appeal is not maintainable in the present form & circumstances of the case.

FACTS.

1. That Para No: 1 of the fact is pertain to record.
2. That Para No: 2 of the fact is pertains to record.
3. That Para No; 3 of the fact is pertain to record. Furthermore on dated 21/09/2023 an application was submitted by respondent no 3 against the vacant post PSHT in GGPS Tamar khel and in this respect sub divisional education officer issued transfer proposal on dated 9/10/2023 in favor of respondent no03 due to her serious health issues. Surprisingly transfer order dated 25/10/2023 in respect of petitioner was illegally, unlawfully issued by DEO (female) without any plausible reason, in favor of her and later on, Meanwhile temporary transfer orders were issued in favor of respondent no 03 dated 11/03/2024. It is pertinent to mention here that on application of respondent no 03 an inquiry was initiated against the illegal unlawful transfer order of petitioner, resultantly the same was cancelled by the competent authority. Later on, E&SE issued directions to the concerned

DEO to act as per law. The concerned DEO issued permanent orders in favour of respondent no 03 on the basis on seniority and health issues.

(copy of applications and transfer orders attached)

4. That Para No: 4 of the of the fact is pertain to record where a mandatory enquiry was also conducted mentioned therein, in the appellant's transfer order clearly mentioned (Copy of transfer order is attached)
5. That Para No: 5 of the fact is pertain to record and also explain vide para No: 4.
6. That Para No: 6 of the fact is legal.

GROUND S: -

- A. That para No: A of the ground is incorrect, the appellant was treated in accordance with law/policy in vogue.
- B. That Para No: B of the ground is incorrect the action of the respondent department is legal, lawful in accordance with law.
- C. That Para No: C of the ground is incorrect, the appellant was treated in accordance with law, that transfer/positing is a not a vested right of an individual.
- D. That Para No: D of the ground is incorrect; the transfer order on dated 03.07.2024 is legal in accordance with law.
- E. That Para E of the ground is incorrect, the appellant was junior amongst other, and therefore the order was modified. As already mentioned in above para No 4 of the fact.
- F. That Para No: F of the ground is pertaining to record. But it is not necessary to transfer any Government servant on the basis of completing tenure, but the same will be decided on merit/need basis where ever is deemed appropriate.
- G. That Para No: G of the ground is pertaining to record, but each and every government servant is duty bound to perform his/her duty station where needed.
- H. That Para H of the ground is incorrect. Furthermore applicant was well aware of cancellation orders and inquiry initiated against the vacant post which was personally joined by the applicant and the same fact was in knowledge of her.

PRAYER

In the light of above material facts, it is humbly prayed that the appeal may graciously be dismissed with cost please.

Dated : 03/10/2024

Respondent no 03
through
Muhammad Afaq Afridi
Advocate high court
Peshawar.
Cell No: 0334-9116138

Nusrat Afzal G.G.Ps TAMAR
Khe/

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SA No.998/2024

Mst Zahida Azeem D/o Azeem Afridi PSHT GGPS Tamar Khel
Akhurwal TSD Darra Kohat.....Appellant.

Versus

Director Elementary & Secondary Education Khyber Pakhtunkhwa
Peshawar & others.....Respondents

A F F I D A V I T:-

I, Muhammad Afaq Afridi, Advocate High Court Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Appeal, are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable Tribunal.

Dated: 03-10-2024

Afaq Afridi
ADVOCATE
CNIC: 17301-2121103-1
Mob: 0334-9116138

03 OCT 2024



4

Annexed 'B'

DEO (F)
Please look into the
matter. Advise Justice
as he rule.

Recd
6/3/24

DO NOT WRITE IN THESE SPACES

~~RECORDED~~
~~INDEXED~~
~~FILED~~

THE A. DEO (Female)
TSD Darra Kohat

Subject: Transfer from GGS Mageed Khel
TSD Darra Kohat to GGS Temar Khel
TSD Darra Kohat

Madam,

With due respect I beg to state that
I have been working as PSHT at
GGS Mageed Khel for the past several
years, while I am living in Peshawar.
Unfortunately, I have been suffering from
Asthma for the past three years.

Hence, my present station of duty is
proving extremely difficult for me due
to the following reasons:

- ① Traffic problems in reaching the station.
- ② My health condition can't afford to travel
for longer journey to far off areas.
After all, after serving for 28 years, such
health weaknesses are natural.

Hence, I request you to be kind enough as
to accord my transfer from GGS Mageed-
Khel to GGS Temar Khel.

I'll be beholden to you for this favour and kindness.

Dated 21/09/2023 Yours obediently,

Nusrat Afzal PSHT
GGS Mageed Khel
TSD Darra Kohat.

DEO female
Bahar
Adjust as requested

06/03/24

5

Annex B



Office Of The
Sub Divisional Education Officer
(Female) SD Darra Kohat



No. 694

Dated 09/10/2023

To

The District Education Officer
(Female) Kohat.

Subject: **TRANSFER PROPOSAL**

Memo:

It is stated for your kind information that an application is received for transfer of Mst: Nusrat Afzal PSITT GGPS Mazid Khel SD Darra Kohat to GGPS timer Khel SD Darra Kohat.

In this regard remarks of ASD:O concerned is obtained the post of PSITT is lying vacant at GGPS Timer Khel. So therefore Mst: Nusrat Afzal PSITT may be transferred to GGPS Timer Khel

Report is submitted for further order and consideration.

Sub Divisional Education Officer
(Female) SD Darra Kohat

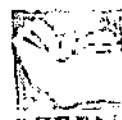
Attended
to be
694

(5)

Annexed B



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(FEMALE) KOHAT



OFFICE ORDER

Mst: Zahida Azeem PSHT GGPS Germany Kally TSD Darra is hereby transferred to GGPS Tamar Khel Akhurwal TSD Darra on her own request in the best interest of public service.

Note: Charge Report should be submitted to all concerned in duplicate.

No TA/DA is allowed.

District Education Officer
(Female) Kohat

Encls. No. 7173-76

Dated 25/10 /2023

Copy of the above forwarded to:

- 1 DMO Kohat
- 2 District Accounts Officer, Kohat
- 3 SDEO (FTSD) Darra Kohat.
- 4 Accountant Local Office
- 5 official concerned

Attached

[Signature]
District Education Officer
(Female) Kohat

(7)

Annexed B



**Office of The
District Education Officer (Female)
District Kohat**

OFFICE ORDER:

Consequent upon approval of the competent authority the services of Mst: Nusrat Afzal PSHT GGPS Mazid Khel SD Darra District Kohat is hereby temporary adjusted at GGPS Taimar Khel SD Darra District Kohat w.e.f 11/03/2024 to 11/05/2023 (2 months) on her own pay and scale in the best public interest.

[Signature]
District Education Officer (Female)
District Kohat

Dated Kohat the 11/03/2024

Endst: No. 2157-61 /

Copy forwarded for information to the:

1. District Account officer Kohat.
2. District Monitoring officer Kohat.
3. SDEO (F) SD Darra Kohat.
4. Official Concerned.
5. Office Copy.

[Signature]
District Education Officer (Female)
District Kohat

Attached

8

Annexure B

To

The Distinct Education Officer(Female)
District Kohat.

**Subject: Application To Defend Nusrat Afzal Rights Based On SDEO's
Proposal Letter on dated 09-10-2023.**

Respect Maim

It is respectfully submitted that My sister **Nusrat Afzal** has been serving as PSHT in the GGPS Mazeed Khel Sub-Division Darra for the Past several years now her health is also weakened and her husband is also suffering form Paralysis .

For a vacant post in GGPS Tamar Khel Sub- Division Darra **Nusrat Afzal** Had Applied , Keeping in mind that SDEO (Female) had also issued a proposal letter for **Nusrat Afzal** as PSHT on dated 09-10-2023 but this proposal was rejected in DEO's office and on dated 25-10-2023 DEO (Female)office issued direct transfer letter of **Zahida Azeem** to GGPS tamar khel and Gave Temporary transfer to **Nusrat Afzal** for 2 months Only .

After doing my personal information , I find out that an employee of this office **computer operator Rashid** has an important role in the unethical and illegal transfer of **Zahida Azeem**.

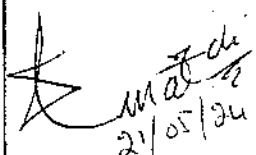
As a DEO, take strict action against the employee Named Rashid and Defend **Nusrat Afzal** Rights Based on SDEO's Proposal letter , ignoring it will be show that SDEO (Female) proposal Letter has no importance , we will inform our regional leaders (Masharan) on this issue and will raise our voices on every legal Plat form for our regional rights because this will not be just **Nusrat Afzal's** Problem anymore.

Rather it will be the problem of the teachers of the entire sub division darra .

Kindly as a DEO Defend **Nusrat Afzal's Rights** Based on SDEO's Proposal Letter .

I shall be very thank full to you .

Best Regards
Sincerely


21/05/24

Attested

Malak Shakir Adam Khel
Chairman FATA Grand Alliance .
Dated:21-05-2024

Copy to.

1. Additional Secretary
2. Director Education
- 3: Deputy Commissioner Kohat

9

Annexed B

**Office Of The
Sub Divisional Education Officer
(Female) SD Darra Kohat**



No. 1090

Dated 31/1/2024

To

The District Education Officer
(Female) Kohat.

Subject: INQUIRY REPORT OF GGPS TIMER KHEL.

Memo:

The conflict between the two teachers is on single vacant post of PSHT in GGPS Timer khel.

The both teachers were enquired one by one in a friendly environment. It came to my notice that both the teachers have serious health and family issues. Due to which both of them desire to be transferred to the nearest station to their home. But the vacant post is only one at this time. The undersigned tried to convince them that one should surrender for the other and wait for the next vacancy. But none of them was ready to do so.

Recommendations

As both teachers are equally eligible for the said vacant post and transfer of one will be injustice with another one. So it is suggested that the already issued transfer order may be withdrawn and none of them should be transferred on the said post.

Meher Un Nisa

Meher Un Nisa
Assistant Sub Divisional Education Officer
(F) SD Darra Kohat

Affected



10
Annex B

Office of The
District Education Officer (Female)
District Kohat

No. 86831-

Dated Kohat the 23/06/2024

To

The Director,
E&SE Khyber Pakhtunkhwa Peshawar.

Subject: APPLICATION FOR TRANSFER
Memo:

Reference an application of Mst Zahida Azeem PSHT GGPS Tamar Khel Darra duly marked by your goodself dated 06/03/2024 on subject noted above and to submit a detail history of the case as mentioned below.

An application of Mst: Nusrat Afzal PSHT GGPS Mazeed Khel was received through SDEO(F) SD Darra Kohat vide No.594 Dated:09/10/2024 meanwhile another application received from the complainant/Zahida Azeem PSHT which neither marked by the undersigned nor Dy:DEO(F) Kohat. However Dealing Assistant concerned put up her application 1st for transfer, instead of Nustrat Afzal which detected later on through Nusrat Afzal who appeared herself before the undersigned alongwith another application duly marked by your goodself, so the transfer order of Mst: Zahid Azeem PSHT cancelled, as Mst:Nusrat Afzal temporary adjusted and facilitated her due to her Severe health issues and her husband is also paralyzed and complete on bed permanently.

After then Mst: Zahida Azeem PSHT visited your goodoffice with written complaint which also marked by your goodself and also telephonically asked to me to resolve the matter as her old age father was also accompanied with her during her visit to your goodoffice.

Therefore, the undersigned constituted a committee consisting of two officers to prob into the matter and report but both the inquiry officers submitted their different recommendations, however recommendation of ASDEO(F) concerned i.e member of the said committee is received an favor of Nusrat Afazal PSHT for which the SDEO(F) Darra is also agreed.

In view of the above Mst: Nusrat Afzal PSHT is recommended for her transfer on humanitarian ground as the teacher concerned and her husband have severe health issue. However, if it is not possible then both the teachers may be allowed for transfer to different schools/stations and no one of them should be transfer to the school already disputed by them please.

A. H. H. H.

[Signature]
District Education Officer (Female)
District Kohat

19

Annex B.



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(FEMALE) KOHAT

Consequent upon the transfer proposal received from the SDEO(F) TSD Dara Kohat vide No 694 dated 9.10.2023 in respect of Mst: Nusrat Afzal PSHT GGPS Majeed Khel to GGPS Timar Khel, latter on another application in respect of Mat: Zahida Azeem PST for transfer to the same school, received directly to the Dealing Clerk and he put up its first instead of he should put up application of Nusrat Afzal already proposed by the SDEO(F) concerned and Transfer of Mat: Zahida Azeem PSHT GGPS Germany Killay to GGPS Timar Khel ordered vide this office endst: No 7173-36 dated 25.10.2023 due to which Mst: Nusrat Afzal lodged a complaint that she was submitted application through proper channel for transfer but she ignored, therefore temporary adjustment / transfer of Mat: Nusrat Afzal ordered vide this office endst: No 2157-61 dated 11.03.2024 and transfer order of Zahida Azeem cancelled vide 9392-95, dated 20.12.2023 & but she did not complied this order and continued her attendance at GGPS Timar Khel. Furthermore, both the teachers Insisted for transfer on the same station i.e. GGPS Timar Khel Dara Kohat. Meanwhile both the teachers approached to the Directress E&SE Department Peshawar and both their application marked to the undersigned back. Hence the under signed constituted an inquiry committee of two officer to prob into the matter and report. Unfortunately, both the inquiry officers submitted their different report so their case along with complete history re-submitted to the Directress for proper decision but received back with the remarks embodied by the worthy Directress that "To decide the matter on your own level"

1. Whereas the application of Mst: Nusrat Afzal PSHT was received 1st in this office through proper channel while another application of Mst: Zahida Azeem received latter and directly.
 2. Whereas Transfer order of Zahida Azeem PSHT was cancelled but she did not obey and ignored this office order.
 3. Whereas an inquiry was conducted regarding the matter but both the inquiry officer submitted their different suggestions/ recommendations.
- In view of the above detail the under signed being a competent authority is please to order the transfer of the following for compliance.

S. No	Name of Teacher	School	Transferred to	Remarks
1.	Nusrat Afzal PSHT	GGPS Majeed Khel	GGPS Timar Khel	A.V.P
2	Zahida Azeem PSHT	GGPS Germany	GGPS Bazi Khel	A.V.P

(MST: BIBI RIZWANA)
District Education Officer
(Female) Kohat

Endst: No. 8914-17 / T-2/DM transfer/2023 Dated Kohat the 11 / 06 / 2024

Copy of the above is forwarded for information and necessary action to:

1. Director E&SED KP, Peshawar.
2. District Monitoring Officer Kohat.
2. SDEO(F) TSD Dara Kohat.
3. S:PA to DEO (F) Kohat

District Education Officer
(Female) Kohat