

By Post

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

CMA No. _____/2024.

In

Appeal No 394 /2024

Mst. Shamoon Gul

.....**Petitioner**

VERSUS

The Director of Elementary & Secondary Education Govt: of
Khyber Pakhtunkhwa Peshawar etc.**Respondents**

APPLICATION FOR FIXATION OF CMA ON 23.10.2024.

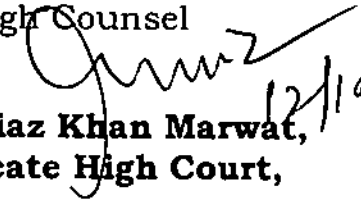
Respected Sir,

1. That the above noted appeal is pending disposal before this learned Tribunal and is fixed for 18.11.2024 at Principal Seat for arguments.
2. That during pendency of appeal, the impugned Notification of granting promotion to the junior teacher has been issued by the respondents which came into knowledge of the petitioner on 10.10.2024 after the admission of appeal by this learned Tribunal on 09.10.2024.
3. That the petitioner is filing the accompanied application for amendment of appeal as well as for suspension of impugned Notification of promotion of junior teacher, therefore, proprietary of justice demand that both the CMAs are to be listed for hearing at an early date.

It is, therefore, humbly prayed that the accompanied CMAs may please be listed for hearing at Principal seat on 23.10.2024 on which date other cases of Counsel for the petitioner are already fixed.

Dated: 12/10/2024

Your Humble Appellant
Through Counsel


Gul Tiaz Khan Marwat,
Advocate High Court,
DIKhan

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

CMA No. _____/2024

In

Appeal No **394** /2024

Mst. Shamoon Gul

.....**Petitioner**

VERSUS

The Director of Elementary & Secondary Education Govt: of
Khyber Pakhtunkhwa Peshawar and an other**Respondents**

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Dated: 12/10/2024

Your Humble Petitioner,
Through Counsel


GUL TIAZ KHAN MARWAT,
Advocate High Court,

D.I.Khan

I

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

CMA No. _____/2024

Khyber Pakhtunkhwa
Service Tribunal

In

Case No. 16697

Appeal No 394 /2024

Dated 14-10-2024

Mst. Shamoon Gul

.....Petitioner

VERSUS

The Director of Elementary & Secondary Education Govt: of Khyber Pakhtunkhwa Peshawar etc.**Respondents**

APPLICATION FORM AMENDMENT OF APPEAL AND TO IMPUGN THE NOTIFICATION BEARING ENDST: NO. 26-28 DATED 19.04.2024 ISSUED BY RESPONDENT NO. 1 VIDE WHICH JUNIOR TEACHER TO PETITIONER NAMELY MST. GUL NAZ PARVEEN HAS BEEN PROMOTED FROM BPS-15 TO BPS-16 AS SST DURING THE PENDENCY OF APPEAL THROUGH WHICH THE PETITIONER HAS ALREADY IMPUGNED THE DISTURBANCE OF SENIORITY OF APPELLANT/PETITIONER IN THE SENIORITY LIST OF THE YEAR 2023.

Respectfully Sheweth

1. That the appellant/petitioner impugned the legality of changing of seniority position in the seniority list issued respondent No. 2 in the year 2023.
2. That the appeal was filed by the petitioner on 29.02.2024 and pre-admission Notice was ordered to be issued to respondents and thereafter the appeal was repeatedly fixed for submission of reply of respondents but the same was not filed and the appeal came up for hearing on 09.10.2024 which was admitted without reply of respondents with fine/cost of Rs. 5000/- due to non-submission of comments by respondents.

3. That the appeal is accompanied by an application for interim relief of suspension of process of promotion to the post of SST (G) but it is very strange and surprising that in spite submitting reply of appeal to this learned Tribunal, the respondents constituted DPC for granting promotion to the teacher who is junior to the petitioner/ appellant and thus finalized the process of promotion and Notification to this effect has been issued vide Endst: No. 26-28 dated 19.04.2024. Copy of Notification is enclosed as **Annexure - A**.
4. That it is an admitted fact proved from record that the petitioner/ appellant had already impugned the seniority of the junior teacher by filing the instant appeal in this learned Tribunal but the respondents due to mala fide had processed the case of promotion of junior teacher in order to defeat the legal rights of appeal filed by petitioner/ appellant which amounts to colourable exercise of powers and jurisdiction.
5. That the impugned action of issuance of Notification of promotion of junior teacher by the office of respondent No.1 is unjustified and against law as it was the legal, ethical and moral obligation of the office of respondent No.1 to lay hands off and not to process the case of promotion of junior teacher during pendency of appeal, the Notices of which have already been served by the respondents.

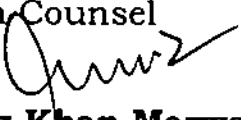
6. That keeping in view the prevailing situation and circumstances as is evident from the conduct and modus operandi amendment of appeal is respectfully solicited so as to implead the promotee/ junior teacher namely Mst. Gul Naz Parveen GGPS Mujahid Nagar D.I.Khan City as a respondent in the appeal.

It is, therefore, humbly prayed that on acceptance this petition this learned Tribunal may very graciously be pleased to grant permission of amendment of appeal.

Your Humble Petitioner


Mst. Shamoon Gul
Through Counsel

Dated: 12/10/2024


Gul Tiaz Khan Marwat,
Advocate High Court,
DIKhan

AFFIDAVIT

I, Mst. Shamoon Gul PSHT Government Girls Primary School Chah Lal Wala, Dera Ismail Khan, the petitioner do hereby solemnly affirm and declare on Oath that the contents of the petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.


DEPONENT



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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

CMA No. _____/2024

In

Appeal No **394/2024**

Mst. Shamoon Gul

.....**Petitioner**

VERSUS

The Director of Elementary & Secondary Education Govt: of Khyber Pakhtunkhwa Peshawar etc.**Respondents**

PETITION FOR INTERIM RELIEF CONTAINING THE REQUEST FOR SUSPENSION OF NOTIFICATION BEARING ENDST: NO. 26-28 DATED 19.04.2024 ISSUED BY RESPONDENT NO. 1 VIDE WHICH JUNIOR TEACHER TO PETITIONER NAMELY MST. GUL NAZ PARVEEN HAS BEEN PROMOTED FROM BPS-15 TO BPS-16 AS SST DURING THE PENDENCY OF APPEAL THROUGH WHICH THE PETITIONER HAS ALREADY IMPUGNED THE DISTURBANCE OF SENIORITY OF APPELLANT/PETITIONER IN THE SENIORITY LIST OF THE YEAR 2023.

Respected Sir,

1. That the appellant/petitioner impugned the legality of changing of seniority position in the seniority list issued respondent No. 2 in the year 2023.
2. That the appeal was filed by the petitioner on 29.02.2024 and pre-admission Notice was ordered to be issued to respondents and thereafter the appeal was repeatedly fixed for submission of reply of respondents but the same was not filed and the appeal came up for hearing on 09.10.2024 which was admitted without reply of respondents with fine/cost of Rs. 5000/- due to non-submission of comments by respondents.

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3. That the appeal is accompanied by an application for interim relief of suspension of process of promotion to the post of SST (G) but it is very strange and surprising that in spite submitting reply of appeal to this learned Tribunal, the respondents constituted DPC for granting promotion to the teacher who is junior to the petitioner/ appellant and thus finalized the process of promotion and Notification to this effect has been issued vide Endst: No. 26-28 dated 19.04.2024.
4. That it is an admitted fact proved from record that the petitioner/ appellant had already impugned the seniority of the junior teacher by filing the instant appeal in this learned Tribunal but the respondents due to mala fide had processed the case of promotion of junior teacher in order to defeat the legal rights of appeal filed by petitioner/ appellant which amounts to colourable exercise of powers and jurisdiction.
5. That the impugned action of issuance of Notification of promotion of junior teacher by the office of respondent No.1 is unjustified and against law as it was the legal, ethical and moral obligation of the office of respondent No.1 to lay hands off and not to process the case of promotion of junior teacher during pendency of appeal, the Notices of which have already been served by the respondents.

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6. That from the conduct and modus operandi of respondents prima facie suggests that the respondents have no respect and regards towards the Courts of Law as they were under legal and moral obligation to submit reply to the appeal of petitioner and wait for its decision and not to process the case of promotion of junior teacher irrespective of the fact that they have Notice of the appeal accompanied by application for maintenance.

In view of submission made above, it is, therefore, humbly prayed that on acceptance this petition, this Honourable Tribunal may very graciously be pleased to suspend the operation of impugned Notification of promotion of junior teacher bearing Endst: No. 26-26 dated 19.04.2024 and to maintain status quo till disposal of appeal.

Your Humble Petitioner

Mst. Shamoon Gul
Through Counsel

Dated: 12/10/2024

Gul Tiaz Khan Marwat,
Advocate High Court,
DIKhan

AFFIDAVIT

I, Mst. Shamoon Gul PSHT Government Girls Primary School Chah Lal Wala, Dera Ismail Khan, the petitioner do hereby solemnly affirm and declare on Oath that the contents of the petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

DEPONENT

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Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

NOTIFICATION

Consequent upon the recommendation of Departmental Promotion Committee in its meeting held on 29-02-2024 and in pursuance of the Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Notification NO:SO(D&A)/1-10/E&SED/2012 Dated 11.7.2012 and Finance Department Endst: No:SO(FR)/FD/10-22(E) 2010 dated 16.7.2012, the following PST SPST PSHT (Female) are promoted to the post of SST (G) SST (B/C) B-16 (Rs 28070-2260-95870) respectively, usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government on the terms & conditions given below with immediate effect.

ITEM NO.1 PROMOTION OF CT/SCT) to SST (G) BPS-16 ON REGULAR BASIS

1	36	Gul Naz Parveen	GGPS Mujhid Nagar	1-3-1990
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ITEM NO:2 PROMOTION ON PST SPST PSHT TO SST (MATHS PHY) BPS -16 ON REGULAR BASIS

1	391	Shazia Yasmin	GGPS Johke Iktultr Kheil	12-12-1980
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Term and Conditions:-

1. They would be on probation for period of one year extendable for another one year.
2. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
3. Their services can be terminated at any time. In case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
4. Charge report should be submitted to all concerned
5. Their inter-se-seniority on lower post will remain intact.
6. No TA/DA is allowed for joining their duty.
7. They will given an under taking to be recorded in their service books to the effect that if any over payment is made to them in the light of this order will be recovered and if they are wrongly promoted they will be reversed.
8. Before handing over charge their documents may be checked, if they have not the required relevant qualifications as per rules, they may not be handed over charge of the post.
9. Any error and omissions will be accepted.

Director
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: 26-20 File No. D-I-Khan /Promotion Senior cadre to SST (B-16) Dated 17/4/2024

Copy forwarded for information and necessary action to the:-

1. Account General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (Female) Dera Ismail Khan
3. District Accounts Officer Dera Ismail Khan
4. Officials concerned
5. PS to Secretary to Govt Khyber Pakhtunkhwa E&SE Department
6. PA to the Director E&SE Khyber Pehlunkhwa Peshawar.
7. M/File.

Deputy Director (Estab./Female)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Attended
Junaid
2024

