

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1572/2024

MR. SHER WALI KHAN ASSISTANT (BPS-16) O/O DISTRICT EDUCATION OFFICE
FEMALE SWABI. **Appellant**

VERSUS

1. THE GOVERNMENT OF KHYBR PAKHTUNKHWA THROUGH CHIEF SECRETARY, KHYBER PAKHTUN KHWA PESHAWAR.
2. THE SECRETARY ELEMENTARY AND SECONDARY EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR.
3. THE DIRECTOR OF ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA.
4. THE DISTRICT EDUCATION OFFICER FEMALE SWABI.
5. MR. NOOR AL AMIN ASSISTANT BPS-16, SDEO FEMALE TOPI SWABI UNDER TRANSFER TO O/O DEO FEMALE SWABI.

..... Respondents

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DEPONENT

Respondent No-4
[Signature]
District Education Officer
(Female) Swabi
Dr. Shamim Akhtar
DISTRICT EDUCATION OFFICER
FEMALE SWABI.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1572/2024

MR. SHER WALI KHAN ASSISTANT (BPS-16) O/O DISTRICT EDUCATION
OFFICE FEMALE SWABI.

Appellant

VERSUS

THE GOVERNMENT OF KHYBR PAKHTUNKHWA THROUGH CHIEF
SECRETARY, KHYBER PAKHTUN KHWA PESHAWAR AND OTHERS

Respondents

PARA WISE COMMENTS ON BEHALF OF THE RESPONDENTS No. 1

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the service appeal is badly barred by time, hence not maintainable.
2. That the service appeal is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication, therefore, the same service appeal is liable to be rejected/ dismissed.
3. That the service appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory cost in favor of respondents.
4. That the appellant has not come to the Court/Tribunal with clean hands.
5. That the appellant has concealed the material facts from this Honorable Tribunal.
6. That the appeal is bad for misjoinder and non-joinder of the necessary party.
7. That the appellant has filed the instant appeal just to pressurize the respondents.
8. That the appellant has no cause of action to file the instant appeal.
9. That the appeal is not maintainable in the eye of law.
10. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
11. That the appellant has no locus standi to file appeal against the respondent.

Facts:

1. That this Para is not related to the respondents hence no comments needed.
2. That the Para is about the promotion of appellant along with others and not related to respondent hence no comments needed.
3. That the appellant is still working at DEO (F) Swabi office. (Pay roll annexed as "A")
4. That the Para is not related to this office hence denied, Moreover DEO (F) Swabi has forwarded a letter no 3112 dated 17/10/2024 Along with complete record and brief history to the competent authority Worthy Director education E&SE for further submission of reply.

17978
23-10-24
District Education Officer
Female Swabi

5. That the Para is incorrect against facts and law hence denied however appellant has not filed any departmental appeal according to law and rules. The appellant namely Sher wali didn't file any appeal against impugned order to the appellate authority hence his service appeal is not maintainable in the eye of law and libeled to be dismissed. (Notification is annexed "B")
6. That the para is incorrect against facts and law hence denied however appellant is not an aggrieved person and totally miss representing the facts as he has never taken over charge their at SDEO TOPI and currently appellant is serving at DEO (F) Swabi. (Pay roll already annexed as "A")

Grounds:

- A. That the Para is incorrect against facts and law hence denied. Moreover as per notification no225-30 Dated 02/02/2024 of KPST the Respondent 4 is not competent authority.(NOTIFICATION ANNEXD "B")
- B. That the Para is against facts and law hence denied the detail report has been given in above Paras.
- C. That the Para not related with respondent No. 4 hence denied.
- D. That the Para not related with respondent No. 4 hence denied.
- E. That the Para is incorrect against facts and law hence denied. The detail report has been given in above Paras.
- F. That the Para is related to record hence denied subject to proof.
- G. That the Para is incorrect against facts and law hence denied. Moreover, respondent no 4 has never violated any fundamental rights of the appellant and never violated any article of constitution of Pakistan.
- H. That the Para is incorrect against facts and law hence denied. Detailed reply has been given above.
- I. That the respondents seek leave to raise additional grounds at the time of arguments..

In view of the above made submissions it is most humbly requested that this honorable Tribunal may very graciously be pleased to dismiss this instant service appeal in favor of the respondent in the interest of justice.

**District Education Officer
(Female) Swabi**


**District Education Officer
(Female) Swabi**

Dr. Shamim Akhtar
District Education Officer
(Female) SWABI
Respondent No.4

AFFIDAVIT

I, Dr. SHAMIM AKHTAR DEO(F) SWABI do hereby solemnly affirm and declare on oath that the contents of the comments submitted by respondent are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal. Our right of defence has not been struck off and no ex parte order issued against us in this service appeal.

Respondent No-4


District Education Officer
(Female) Swabi

Dr. SHAMIM AKHTAR
DISTRICT EDUCATION OFFICER
(FEMALE) SWABI



Dist. Govt. NWFP-Provincial
District Accounts Office Sawabi
Monthly Salary Statement (September-2024)



*Annexure
& A*

Personal Information of Mr SHER WALI KHAN d/w/s of HUKMAT KHAN

Personnel Number: 00452965 CNIC: 1620206688223 NTN:
 Date of Birth: 26.04.1966 Entry into Govt. Service: 21.01.1990 Length of Service: 34 Years 08 Months 011 Days

Employment Category: Active Temporary

Designation: ASSISTANT 80004685-DISTRICT GOVERNMENT KHYBE
 DDO Code: SU6279-District Education Officer (Female) Swabi
 Payroll Section: 003 GPF Section: 001 Cash Center:
 GPF A/C No: Interest Applied: Yes GPF Balance: 382,660.00
 Vendor Number: -
 Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 16 Pay Stage: 16

Wage type		Amount	Wage type		Amount
0001	Basic Pay	64,230.00	1001	House Rent Allowance 45%	4,091.00
1210	Convey Allowance 2005	5,000.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	744.00	2199	Adhoc Relief Allow @10%	535.00
2315	Special Allowance 2021	3,500.00	2341	Dispr. Red All 15% 2022KP	5,787.00
2347	Adhoc Rel AI 15% 22(PS17)	5,787.00	2378	Adhoc Relief All 2023 35%	20,674.00
2393	Adhoc Relief All 2024 25%	16,057.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-4,960.00	3501	Benevolent Fund	-1,500.00
3609	Income Tax	-6,686.00	3990	Emp.Edu. Fund KPK	-170.00
4004	R. Benefits & Death Comp:	-650.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 80,229.53 Recovered till September-2024: 20,058.00 Exempted: 0.22- Recoverable: 60,171.75

Gross Pay (Rs.): 127,905.00 Deductions: (Rs.): -13,966.00 Net Pay: (Rs.): 113,939.00

Payee Name: SHER WALI KHAN
 Account Number: 0090001010025343
 Bank Details: MCB BANK LIMITED, 240900 SWABI SWABI,

Leaves: Opening Balance: Aailed: Earned: Balance:

[Signature]
District Education Officer
 (Female) Swabi

Permanent Address:

City: SAWABI Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address:
 City: Email:

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 225-30 /ST/ Dated 02-10-2024

All communications should be addressed to the Registrar, KPK Service Tribunal and in any official by name.
Ph: 091-9212281
Fax: 091-9213262

Office Order

It is noticed that in the memoranda of appeals, in disregard of the provisions of Sub Rule-(4) of Rule-6 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974, (the Rule) unnecessary parties are also arrayed as respondents, whereas, Rule-6(4) of the Rules requires that the competent authority whose order is challenged, shall be shown as respondent No.1 and every civil servant to whom the relief may effect, shall also be shown as respondent. The subrule is reproduced as under:

"6 (4) In every memorandum of appeal, the competent authority whose order is challenged shall be shown as Respondent No 1 and every civil servant to whom the relief may effect shall also be shown as respondent."

The subrule also excludes, even arraying the appellate authority, if there is no order of the appellate authority, therefore, the office is, henceforth, directed to ensure that only the authority(ies) whose order(s) is/are challenged, shall be arrayed as respondents. Besides, the Civil Servant(s) to whom the relief may effect, shall also be shown as party/parties and all other unnecessary parties shall not be arrayed.

By the Order of Hon'ble Chairman

(PIR MUHAMMAD AFRIDI)
SUPERINTENDENT
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR

Copy forwarded to:-

1. Advocate General Khyber Pakhtunkhwa, Peshawar.
2. All learned Members Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Additional Advocate General, posted at Khyber Pakhtunkhwa Service Tribunal, Peshawar.
4. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department for his information with the request to send copies to other Departments and/Attached Departments etc. for their information.
5. CSO to the Chief Secretary, Khyber Pakhtunkhwa.
6. PA to Chairman Khyber Pakhtunkhwa Service Tribunal, Peshawar.

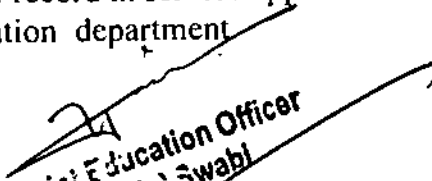

(PIR MUHAMMAD AFRIDI)
SUPERINTENDENT
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR

District Education Officer
(Female), Swabi

Aneema
B 13

Authority letter

It is certified that Mr. Sayyed Basit Muneer Litigation officer DEO (F) Swabi is here by authorized to attend all courts of Pakistan especially K.P Service tribunal Peshawar and he is authorized to submit any kind of record in service appeal 1572/2024 titled SHER WALI Vs Govt on behalf of undersigned/ Education department


District Education Officer
(Female) Swabi
Dr. Shamim Akhtar
District Education Officer
 (Female) Swabi.



DISTRICT EDUCATION OFFICE (FEMALE) SWABI

(Office Phone & Fax No 0938280239, emis_swabi@yahoo.com)



To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

دب
2

Annexure
cc

Subject: **SERVICE APPEAL NO. 1572/2024 TITLED "SHER WALI VS. EDUCATION DEPARTMENT"**

Memo:

Your kind attention is invited to the service appeal no. 1572/2024 under title Sher wali vs. Education Dept., in which the following have been made respondents:

1. THE GOVERNMENT OF KHYBER PAKHTUNKHWA, THROUGH CHIEF SECRETARY.
2. THE SECRETARY ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT KHYBER PAKHTUN KHWA
3. THE DIRECTOR OF ELEMENTARY AND SECONDARY EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR
4. THE DISTRICT EDUCATION OFFICER, FEMALE SWABI.
5. NOOR UL AMIN ASSISTANT BPS-16, SDEO (F) TOPI SWABI UNDER TRANSFER TO O/O DEO (F) SWABI.

In this contention, the facts of the case are as under:

1. The undersigned took over charge as DEO (F) SWABI on 25/07/2024
2. The office order under enddst no 3709-12. Dated on 09/05/2024... has been issued (annexed A), but it is pertinent to mention here that respondent no. 5 Mr. Noor Ul Amin has already been retired on superannuation on..01/10/2024. (Retirement order appended as annexure "B").
3. That the Ibid order has not been yet implemented by both officials, Mr. . Sher Wali Khan Assistant BPS-16 as appellant and Mr. Noor Ul Amin respondent no. 5.
4. That the appellant, Mr. Sherwali, is already working as Assistant BPS-16 at the undersigned office till date, and he is also failing to comply with the mutual transfer order dated 09/05/2024

[Signature]
District Education Officer
(Female) Swabi

That now the appellant filed a service appeal with the request that "on acceptance of this appeal impugned office order 09/05/2024 may kindly be set aside and the appellant may not be transferred from the post of assistant (BPS-16), DEO (F), Swabi till completion of his normal tenure. That the respondents may further be directed to dig out the real culprits involved in the matter. Any other remedy which this august tribunal deems fit that may also be awarded in favour of the appellant."


But it is very much crystal clear that the appellant is still working as Assistant bps-16 in the office of DEO(F) Swabi; he personally failed to obey the order, and now at this juncture, the ibid. order stands infructuous due to the following reasons:.

1. Order dated 09/05/2024 has not yet been implemented.
2. As official/respondent no. 5, Mr. Noor Ul Amin has been retired.
3. The appellant also did not comply with the order and got salary regularly from the office of DEO (F) Swabi. (Pay slip attached as annexure "B")
4. The ibid mutual transfer order does not come under DEO(F) Swabi's purview, with no details on the mutual transfer apart from the said order.
5. That the service appeal is fixed for reply on 24/10/2024 at Honourable Service Tribunal.

That now the details mentioned above, this office is requesting that;

1. As the competent authority, The Director Education's office (respondent no. 3) is required to draft Para-wise comments regarding the appellant's service appeal for submission to the Honourable Service Tribunal Peshawar.

O/C


DR. SHAMIM AKHTAR
District Education Officer
(Female) Swabi


Endst: No. 3112-13

Dated 17 /10/2024

Copy for information is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. Assitant Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar.

O/C


District Education Officer
(Female) Swabi


District Education Officer
(Female) Swabi