

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

SA. Appeal No. 1865/2024

Muhammad Noor Sultan Appellant

VERSUS

Government of Khyber Pakhtunkhwa etc

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Deponent

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1865/2024

Diary No. 17546

Muhammad Noor Sultan (Appellant) dated 04/11/24

VS

Government of KPK (Respondent)

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 03

Preliminary objections

- 1) That the appeal is not maintainable and incompetent in the eyes of Law in the present form.
- 2) That the appellant is estopped due to his own conduct to file this appeal.
- 3) That the appellant has got no cause of action and locus standi to file instant appeal as appellant was appointed against BS-18 post on Own Pay and Scale basis, as there is no provision in law (APT Rule 1989) regarding appointment on Own Pay and Scale basis.
- 4) That the appellant has not come to the Tribunal with clean hands and has suppressed all relevant facts.
- 5) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- 6) That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form as appellant is aggrieved from the transfer order dated 28.06.2024 and whereas private respondent No. 03 was transferred vide order dated 19.07.2024.
- 7) That as per Section 10 of Civil Servants Act, 1973, every Civil Servant shall be liable to serve anywhere within or outside the province.
- 8) That the Order Impugned has been acted upon and compliance has been made, therefore, the instant appeal is in-fructuous. The Private Respondent No. 03 has already assumed charge at the new place of duty within the stipulated time and his pay has been active from the new station of duty i.e Dy: DEO(M)DIKhan.
- 9) That the private respondent No. 03 was nominated as Returning Officer for Local Government Election by the Election Commission of Pakistan.

Respectfully Sheweth

- 1) This para pertains to the address of parties and services of appellant as SDEO(M) (BS-17) Management Cadre in the respondent department.
- 2) That the appellant was posted as SDEO (Paharpur) District DIKhan and was transferred to Sub-Division Alai District Batagram vide order dated 03.01.2022. The appellant was aggrieved from his transfer and then he filed Service Appeal No. 76/2022 before this Honourable Tribunal, which was decided vide judgment dated 05.07.2022. Hence the judgment dated 05.07.2022 does not have any concerned

with the present service appeal. It is further added that this judgment does not concern with the appointment order of the Private respondent No. 03.

- 3) This para is related to the EP No. 223/2023 on the judgment in Service Appeal No. 76/2022. The judgment in this service appeal is the past and closed transaction and does not relate with present service appeal.
- 4) This para is related to the EP No. 558/2023 on the judgment in the Service Appeal No. 76/2022. The judgment in this service appeal is the past and closed transaction and does not relate with present service appeal. It is further added that the said Executions Petitions and Service appeal does not have any concern with the appointment of private respondent No. 03.
- 5) That the appellant is BS-17 Officer and was working as SDEO(M)DIKhan and he was authorized look after charge of the post of Dy: DEO(M)DIKhan vide order dated 27.09.2023 and then he was posted as Dy: DEO(M)DIKhan on Own Pay and Scale (OPS) basis vide Notification dated 01.12.2023. The posting/transfer on Own Pay and Scale is against the law, rule and policy of the Government. The present appellant is the blue eye child of the respondent department, therefore he was authorized to hold BS-18 post of Dy: DEO(M)DIKhan. The Appointment Promotion & Transfer Rule 1989 does not have any section/provision for appointment against the Own Pay & Scale (OPS) basis. Hence the transfer order dated 27.09.2023 was against the law. The respondent department rightly transferred the appellant from the post of BS-18 and he was directed to report to the Directorate of E&SE KP Peshawar.

That the August Supreme Court of Pakistan discussed the matter of posting / transfer on Own Pay and Scale (OPS) Basis. The August Courts had considered the issue of Own Pay & Scale (OPS) in several cases, in *Province of Sindh and others v. Ghulam Fareed and others* (2014 SCMR 1189), while dealing with a case under the Sindh Civil Servants Act 1973, which is analogous to the PCS Act, the Supreme Court stated:

"We have inquired from the learned Additional Advocate General to show us any provision of law and or rule under which a civil servant can be appointed on higher grade/post on OPS basis. He concedes that there is no specific provision in the law or rule which permits appointment on OPS basis. He, however, submitted that in exigencies, the Government makes such appointments as a stop-gap arrangement. We have examined the provisions of Sindh Civil Servants Act and the Rules framed there under. We do not find any provision which could authorize the Government or Competent Authority to appoint any

officer on a higher grade on "Own Pay and Scale Basis." Appointment of the nature that, too, of a junior officer causes heart burning of the senior officers within the cadre and or department. This practice of appointment on OPS basis to a higher grade has always been discouraged by this Court, as it does not have any sanction of law, besides it impinges the self-respect and dignity of the civil servants who are forced to work under their rapidly and unduly appointed fellow officers junior to them. Discretion of the nature, if allowed to be vested in the Competent Authority, will offend valuable rights of the meritorious civil servants besides blocking promotions of the deserving officers."

- 6) This para is related to the Service Appeal No. 2586/2023 of the private respondent No. 03 which was dismissed by this Honourable Tribunal vide judgment dated 12.02.2024. The present appellant filed EP No. 775/2022 on the said judgment which was dismissed by this Honourable Tribunal vide order dated 09.10.2024. Hence the matter in the said service appeal is the past and closed transaction. The observation of the Honourable Tribunal in para 02 are reproduced as under;
- "Petitioner through instant petition seeks implementations of the judgment dated 12.02.2024 passed in service appeal No. 2586/2023. Perusal of judgment reveals that appeal of the appellant (present private respondent) was dismissed with observation that appellant be posted on position of Principal. For execution of judgment there must be decree in favor of the petitioner but in the instant case no such order was passed in the favor of petitioner, rather appeal of the appellant was dismissed and no relief was granted to any of the parties. Under Section 10 of the Civil Servant Act 1973, posting of such a civil servant to post is the prerogative of the authority, who after considering all the factors and suitability of the civil servant post him to a post upon which he can perform efficiently in the large public interest. Therefore, in my humble view, the petitioner has no locus standi to file present application for implementation of the judgment, wherein no executable order has been passed by this Tribunal, hence the same is hereby dismissed"
- (Annexure A)
- 7) As discussed above in the para No. 06.
- 8) As discussed above in the para No. 06.
- 9) That the appellant was illegally posted as Dy: DEO(M)DIKhan on Own Pay and Scale against the law as there is no provision in the APT Rule 1989. Therefore, the respondent department rightly transferred him from the post of Dy: DEO(M)DIKhan vide Notification dated 28.06.2024. The appellant is aggrieved from his transfer

order dated 28.06.2024 and therefore he filed departmental appeal before the Secretary E&SE KP Peshawar on 29.06.2024. Through instant departmental appeal the appellant requested to the Secretary E&SE KP Peshawar to withdraw the transfer order dated 28.06.2024 and whereas the private respondent No. 03 was appointed as Dy: DEO(M)DIKhan vide Notification dated 19.07.2024 against the vacant post on stopgap arrangement in the light of Service Rules of Management Cadre. The appellant also filed departmental appeal against this order as appellant does not have any concern with this transfer order of private respondent No. 03 (dated 19.07.2024).

- 10) Incorrect / not admitted. The appellant has got no cause of action/locus standi. The appellant was appointed on Own Pay and Scale (OPS) as Dy: DEO(M)DIKhan as he is officer of BS-17 and he was posted on the post of Dy: DEO(M)DIKhan BS-18 post being blue eyed child of the respondent department. Therefore, the respondent No. 02 rightly transferred him from the post of Dy: DEO(M)DIKhan being BS-17 officer. The service appeal of the appellant is an exercise in futility. Further proceeding in this regard would bear no fruit. It is, therefore, requested to this Honourable Tribunal to dismiss the Service Appeal of the appellant with cost.

Objections on Grounds

- A. Incorrect / not admitted. The act of the respondents was according to law, rule, based upon the natural principle of justice. The appellant worked as SDEO in the District DIKhan since Aug 2020 to June 2024 (04 years). In this tenure he got transfer from one Sub-Division to other within the District DIKhan being blue eyed child of the respondent department. The post of SDEO BS-17 is Provincial Cadre post and in District DIKhan appellant served as 04 year hence it is submitted before this Honourable Tribunal that the appellant completed his normal tenure in the District DIKhan hence present service appeal is liable to be dismissed with heavy cost.
- B. Incorrect and not admitted. Strongly denied. The stance of the appellant is having no truth and is totally false and fictitious. This act of the respondents cannot be declared against the law on any ground whatsoever but the straight away rejection of present Service Appeal. That in the impugned notification dated 28.06.2024, the present appellant was transferred from the post of Management Cadre and his services were placed at Directorate of E&SE KP Peshawar (Management Cadre Office) whereas the private respondent No. 03 was posted as Dy: DEO(M) as stopgap arrangement vide Notification dated 19.07.2024. The private respondent assumed the charged of the post of Dy: DEO (M) DIKhan and he is regularly performing his duty and the high-ups are satisfied. The present appellant did not

concern with the posting of private respondent No. 03. It is further submitted that the private respondent No. 03 was nominated as Returning Officer for the by Election of Local Government for District DIKhan.


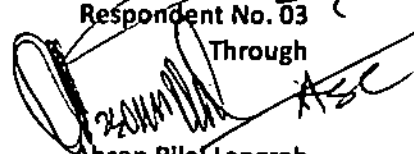
- C. Incorrect/not admitted and strong denied. The impugned order was issued in best public interest as the appellant is BS-17 officer and he was posted as Dy: DEO(M)DIKhan (BS-18 post) against the law. The private respondent No. 03 is BS-18 officer therefore he was rightly posted as Dy: DEO(M)DIKhan. The respondent department is required to appoint the present appellant against the post of BS-17 according to law, rule and policy of the Government.
- D. Incorrect/ not admitted and strongly denied. The Appellant is Management Cadre Officer of BS-17 and was transferred to the Management Cadre post (Directorate of E&SE) in the best public interest by the Competent Authority after fulfilling all legal and codal formalities; therefore, the appellant has got no cause of action or locus standi to file the present service appeal for his grievancès before this Honourable Tribunal. Whereas the private respondent No. 03 was appointed as stopgap arrangement against the vacant post. He was appointed in the light of Elementary & Secondary Education Department Notification No. SO(SM)E&SED/3-2/2016/SSRC of M.C dated 27-03-2019 notified for Management Cadre of E&SE Department. The ibid Service Rules reflects that the posts of Management Cadre Officers from (BPS-17) to (BPS-20) shall be filled from the Management Cadre Officers, "*provided that if no suitable officers is available from Management Cadre Officers then by transfer of officer from teaching cadre*".
- E. Incorrect / not admitted. The appellant raised this issue earlier before this Honourable Tribunal in EP No. 775/2024 and this Honourable Tribunal was pleased to dismissed the said Execution Petition vide order dated 09.10.2024. Hence appellant had no right to raise this issue once again before this Honourable Tribunal.
- F. Incorrect / not admitted. The stance of the appellant in EP No. 775/2024 was dismissed by this Honourable Tribunal. In the instant Execution Petition the appellant challenged the appointment order dated 19.07.2024 of the private respondent No. 03 and this Honorable Tribunal was pleased to dismissed the Execution Petition of the appellant vide order dated 09.10.2024. It is, therefore, requested to this Honorable Tribunal to dismiss the present service appeal of the appellant with cost as appellant already knocked the door of this Honourable Tribunal on same grounds.

G. Incorrect / not admitted. The respondent No. 02 is working as per law, rule and policies of the Government. The respondent No. 02 is law abiding citizen of the Islamic Republic of Pakistan. In the light of Elementary & Secondary Education Department Notification No. SO(SM)E&SED/3-2/2016/SSRC of M.C dated 27-03-2019 notified the service rules for Management Cadre of E&SE Department. The ibid Service Rules reflects/permit that the posts of Management Cadre Officers from (BPS-17) to (BPS-20) shall be filled from the Management Cadre Officers, "provided that if no suitable officers is available from Management Cadre Officers then by transfer of officer from teaching cadre". The teaching cadre's incumbents are posted against the Management Cadre posts as stopgap arrangement. The incumbents of Teaching Cadre against the Management Cadre Officers will be replaced as and when Management Cadre Officers become available.

H. The counsel for respondents may kindly be allowed to raise additional grounds at the time of arguments.


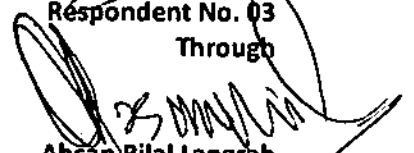
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It is, further, requested to this Honourable Tribunal to dismiss the Service Appeal of the appellant with cost.


 Dr. Assim Saeed
 Dy: DEO(M)DKhan
 Respondent No. 03
 Through

 Ahsan Bilal Langrah
 Advocate Supreme Court of Pakistan

Affidavit

I, Dr. Assim Saeed do hereby solemnly affirm and declared on oath that the content of above mentioned para wise comments are true and correct to the best of my knowledge and nothing had been concealed from this Honourable Tribunal.


 Dr. Assim Saeed
 Dy: DEO(M)DKhan
 Respondent No. 03
 Through

 Ahsan Bilal Langrah
 Advocate Supreme Court of Pakistan



BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Execution petition No: 775/2024

Khyber Pakhtunkhwa
Service Tribunal

In Service Appeal No.2586 /2023

Diary No: 14470

Dated 24-07-2024

Muhammad Noor Sultan, Deputy DEO (Male) (Management Cadre)
District Dera Ismail Khan

.....**PETITIONER**

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Dr. Asim Saeed, (BPS 18) (Teaching Cadre) Education Department D.I.Khan

.....**RESPONDENTS**

EXECUTIVE/ IMPLEMENTATION PETITION UNDER
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 (AS AMENDED) FOR IMPLEMENTATION THE
JUDGMENT DATED 12.02.2024, PASSED BY THIS
HONOURABLE TRIBUNAL IN SERVICE APPEAL
NO.2586/2023, TITLED AS DR. ASIM SAEED VS GOVT. OF
KPK ETC".

Respected Sheweth:-

BRIEF FACTS:-

The petitioner respectfully submits as under:-

1. That, present petitioner was respondent No.4 in above titled service appeal.

2. That, the present petitioner is serving as DDEO (Male) in Education Department. previously he was authorized to look-after the charge of post of DDEO (Male) vide notification dated 27.09.2023 and subsequently was posted as DDEO (Male) DIKhan vide Notification dated 01.12.2023 (Copy of Notification dated 27.09.2023 & 01.12.2023 are Annexed as A&A1)

That, being dissatisfied with Notification dated 27.09.2023 & 01.12.2023, the present respondent No.2 (Dr. Asim Saeed) filed service appeal No.2586/2023 before this Hon'ble Tribunal against respondent department as well as against present petitioner which

ATTESTED

21-10-23

was dismissed with some observations vide Judgment dated 12.02.2024, which is reproduced as under:-

"With observation to post the appellant on the position of Principal for which he was appointed" same was submitted to respondent no.1 vide dated 16/03/2024. (Copy of Judgment dated 12.02.2024 & application dated 16/03/2024 are annexed as B & B1).

4.

That, during the proceeding of the above said appeal, this Hon'ble Tribunal observed that present respondent No.2 belong to Teaching cadre whereas the post of DDEO (Male) is administrative post and also into consideration of his appointment order according to which he was appointed as Principal and being school specific post, he could not be transferred to any other position, not even any other post of teaching cadre. While issuing the impugned order dated 27.09.2023, this fact was not kept in view, in our opinion, it would have been in the fitness of mater to post the appellant on the position i.e Principal for which he was appointed. (Copy of Appointment Notification dated 25.08.2015 is annexed as C)

5.
6.

That, vide judgment dated 12.02.2024, this Hon'ble Tribunal was pleased to direct the official respondents to post the appellant on the position of Principal for which he was appointed.

That, petitioner were transferred and directed to report to Directorate of E&SE vide Notification dated 28.06.2024 and subsequently very surprisingly Dr. Asim Saeed Teaching cadre (Appellant in Service Appeal No.2586/2023, which was dismissed vide Judgment dated 12.02.2024), again has been appointed/posted as DDEO (Male) DIKhan vide Notification dated 19.07.2024, in gross violation of the verdict of the judgment dated 12.02.2024 of this Hon'ble Tribunal. The said Dr. Asim Saeed (respondent No.2) is Principal and belongs to teaching cadre whereas the petitioner is Management cadre. The act of the respondent department is not only against the mandate of the judgment of this Hon'ble Tribunal but also contemptuous one as this Hon'ble Tribunal clearly directed the respondents to post the respondent No.2 on the position of Principal for which he was appointed. Copy of Notifications dated 28.06.2024 & 19.07.2024 is enclosed as Annexure "D-D1".

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Jm
EXAMINER
Khyber Pakhtunkhwa
Education Department
Peshawar

7.

That, Dr. Asim Saeed (respondent No.2) is Principal belongs to teacher cadre and prior to the judgment dated 12.02.2024, he has

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been appointed as Teacher. Whereas this Hon'ble Tribunal also directed the respondent department to post the appellant on the position of Principal for which he was appointed. The petitioner also made representation to the official respondents regarding the appointment of Respondent No.2 (teaching cadre) against administrative post, but of no avail and respondent No.2 being Principal of teaching cadre is again appointed as DDEO (Male) DIKhan vide Notification dated 19.07.2024 which is also clear violation of the judgement of this Hon'ble Tribunal (Copy of representation dated 11.07.2024 of the petitioner is enclosed as Annexure "E").

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8. That, the acts of official respondents is clear violation of the judgment dated 12.02.2024, of this Hon'ble Tribunal and contemptuous of the judgment of this Hon'ble Tribunal.

In view of the above noted facts and circumstances this Honourable Tribunal will be pleased to direct the official respondent to implement the judgment dated 12.02.2024, of this Hon'ble Tribunal in letter and spirit and recall the transfer order of the teaching cadre (respondent No.2) from the post of Management cadre and be appointed as Principal and petitioner be restored to his post as DDEO (Male) DIKhan.

Dated: 20/07/2024

Your Humble Petitioner

ATTACHED

Muhammad Noor Sultan
Through Counsel

Khalid Mahmood
Advocate High Court DIKhan
0336-4330001

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

Execution petition No: /2024

In Service Appeal No.2586 /2023

Muhammad. Noor. Sultan, Deputy DEO (Male) (Management Cadre)
District Dera Ismail Khan

PETITIONER.

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
- 2. Dr. Asim Saeed, (BPS-18) (Teaching Cadre) Education Department D.I.Khan

RESPONDENTS

AFFIDAVIT

I, Muhammad Noor Sultan, Deputy DEO, Petitioner do hereby solemnly affirm and declare on oath that the para-wise contents of the instant Execution-Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Identified by Counsel

[Signature]

Khalid Mahmood
Advocate High Court DIKhan
0336-4330001



11/20/7/24

Deponent

[Signature]

12103-1489991-7

Certified to be true copy

EX-PARTNER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

21-10-24

Khyber Pakhtunkhwa Services Tribunal, Peshawar	214	21-10-24
Application No.		
Name of Applicant	Asim Saeed	
Number of Words/Pages	9-p	
Copying Fee	20/-	
Administrative	5/-	
Total	25/-	
	25/-	21-10-24
		21-10-24

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BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA

CM Petition No. _____ /2024

In Execution Petition No. _____ /2024

In line with Service Appeal No.2586 of 2023

Muhammad Noor Sultan, Deputy DEO (Male) (Management Cadre)
District Dera Ismail Khan

.....PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Dr. Asim Saeed, (BPS 18) (Teaching Cadre) Education Department D.I.Khan

.....RESPONDENTS

APPLICATION WITH THE REQUEST TO SUSPEND THE OPERATION OF NOTIFICATION No. SO(MC)E&SED/4-16/2024/ PT/DDEQ/DIK DATED: 19-07-2024 AS WELL AS NOTIFICATION DATED 28.06.2024 ISSUED BY RESPONDENT NO 1, TILL FINAL DECISION OF EXECUTION PETITION AND IN THE MEANWHILE RESPONDENT MAY ALSO BE ABSATINED FROM TAKING ANY ACTION DETRIMENTAL TO THE SERVICE CAREER OF THE PETITIONER.

Respectfully Sheweth,

1. That, Execution Petition is being filed before this Honorable Tribunal and grounds of same may please be considered as an integral part of the subject petition.
2. That, petitioner transferred from Deputy DEO(M) DIKhan to Directorate and Respondent No. 2 (Teaching Cadre) appointed as Deputy DEO (M) DIKhan against management cadre post vide notification dated 19.07.2024 which is clear cut violation of the judgements of High Court as well as this Honorable Tribunal dated 12.02.2024.
3. That the petitioner has got a good prima facie case on law as well as on facts and there is every likelihood of the success of the Execution Petition. Hence balance of convenience tilts in favor of Petitioner.

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- 4. That the Notifications are on the basis of nepotism and favoritism, because the tenure of petitioner has not been completed; therefore in case of non-suspension of notifications, the petitioner will suffer an irreparable loss.

It is, therefore, humbly prayed that on acceptance of the present CM petition, the operation of Notification dated 19.07.2024 as well as notification dated 28.06.2024 may please be suspended and respondents may please be desisted from taking any action detrimental to the service career of petitioner till decision of service appeal.

3

Yours Humble Applicant

M. Sultan
Muhammad Noor Sultan

Through Counsel

Dated 20/07/2024

Khalid Mahmood

Khalid Mahmood,
Advocate High Court
Stationed at D I Khan.
0336-4330001

6

AFFIDAVIT

I, Mr. Muhammad Noor Sultan, DDEO (Male) (Management Cadre) do hereby solemnly affirm and declare on oath that all the Para-wise contents of this CM are true and correct to the best of my knowledge and nothing has been concealed deliberately from this Honorable Court.

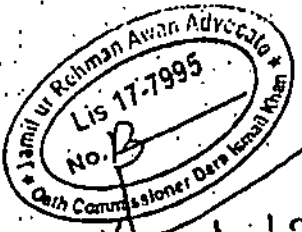
Khalid Mahmood

Identified by Counsel:
Khalid Mahmood
Advocate High Court
Stationed at D.I.Khan

Déponent

M. Sultan

12103-1489991-7



11/20/7/24



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
 Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
 Phone No. 091-9210626

Dated: 27th September, 2023

NOTIFICATION

NO. SO/MC/E&SE/D/2-3/2022/Promotion/MC/Asim Saeed/DDEO(M); Due to administrative exigencies Mr. Asim Saeed, (TC BS 18), Deputy DEO (Male) D.I.Khan is hereby transferred posted as Subject Specialist (Islamiyat BS-18) GHSS Ramak D.I.Khan against the vacant post, with immediate effect.

2. Consequent upon the above, Muhammad Noor Sultan SDEO (M) D.I.Khan is hereby authorized to hold the Look After charge for the post of Deputy DEO (Male) D.I.Khan, in addition to his own duties, as stop gap arrangement, purely on temporary basis, till the arrival of regular officer, in the best public interest.

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

1st of even No. & date:

Copy forwarded for information to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. Section Officer (School Male) E&SE Department.
5. District Education Officer (Male) D.I.Khan.
6. District Accounts Officer D.I.Khan.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. Officers concerned.
9. Master file.

(Signature)
 Distt. Education Officer
 (Male) D.I.Khan

(Signature)
 SECTION OFFICER (Management Cadre)

ATTESTED

(Signature)
 KHALID
 Advocate High Court
 Stationed at D.I.Khan

ORDER

09.10.2024

1. Learned counsel for the petitioner present. Mr. Shah, Assistant Advocate General alongwith Dr. Litigation officer for the respondents present.



2. Petitioner through instant petition seeks implementation of the judgment dated 12.02.2024 passed in service appeal No. 2586/2023. Perusal of judgment reveals that appeal of the appellant (present private respondent) was dismissed with observation that appellant be posted on position of Principal. For execution of judgment there must be decree in favour of the petitioner but in the instant case no such order was passed in favour of the petitioner, rather appeal of the appellant was dismissed and no relief was granted to any of the parties. Under Section 10 of a civil servants Act 1973, posting of such a civil servant to post is the prerogative of the authority, who after considering all the factors and suitability of the civil servant post him to a post upon which he can perform efficiently in the large public interest. Therefore, in my humble view, the petitioner has no *locus standi* to file present application for implementation of the judgment, wherein no executable order has been passed by this Tribunal, hence the same is hereby dismissed. File be consign to record room.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 9th day of October, 2024.*

Certified to be true copy

MEMBER
Kyber Pakhtunkhwa
Service Tribunal,
Peshawar

Rashida Bano
Member (J)

Kaleemullah

21-10-24