

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1889/2024

Muhammad Shamroz Khan.....Appellant.

VERSUS

Govt: of Khyber Pakhtunkhwa & others.....Respondents.

INDEX

S#	Description of Documents	Annex	Pages
1.	Para-wise comments/reply		1-3
2.	Affidavit		4
3.	Authority Letter		5
4.	Annexures	A	6-9


Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 1889/2024

Muhammad Shamroz Khan (BPS-17)Appellant.

VERSUS

Secretary E&SED & Others..... Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENT No.1 Khyber Pakhtunkhwa Service Tribunal

Respectfully Sheweth,

Diary No. 17858

Preliminary Objections:

Dated 22-11-24

1. That the appellant filed Civil Suit before the Civil Judge-III Bannu and impugned the transfer order dated 20.09.2024. As the appellant already impugned the same transfer in the Civil Court as well as also filed the instant service appeal. In light of this instant service appeal is liable to be dismissed. **While it is pertinent to mention here that the appellant submitted/annexed an Affidavit 08.10.2024 with the instant service appeal by stating that "I, Muhammad Shamroz Khan SS Statistics (BS-17), Government Higher School, Mamash Khel , Bannu (Appellant) do hereby solemnly affirms and states on oath that the content of complying appeal or true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. (Annex-A).**

The appellant deliberately /intentionally concealed in order to mislead this Honorable Tribunal for illegal and unlawful gains judgements in his favour. The act of the appellant and submission of false Affidavit, this Honorable Service Tribunal is requested to dismiss the instant service appeal and take appropriate action against him.

2. That the appellant on the same casus of action filed Civil Suit as well as instant Service Appeal which is against the Law on the subject. On this ground the instant service appeal is liable to dismissed.
3. That the competent authority/respondent is empowered u/s 10 of Civil Servant Act, 1973 to place the service of the appellant, anywhere throughout the province in the best public interest
4. That the appellant has concealed the material facts from this Honorable Tribunal.
5. That the appellant has not approached to this Honorable Tribunal with clean hands.
6. That the appellant has filed this appeal just to pressurize the respondents for gaining illegal service benefits.
7. That the appeal is liable to be dismissed summarily along with the compensatory cost.
8. That the need of experienced staff at the respective places, the transfer order cannot be said to be arbitrary. Therefore, services of the appellant is needed by the authority at the new place of posting.

9. That according to section-10 desired posting is not perpetual right of a civil servant and department concerned can transfer any civil servant to serve at the given place as mention in the transfer/posting order, while the civil servant cannot refuse compliance.
10. The appellant is not aggrieved within the meaning of Article 212 of Constitution read with Section-4 of Civil Servant Act, 1974 and has no locus standi to file the instant Service Appeal.

On FACTS

1. Para-1 Pertains to record.
2. Para-2 is incorrect and denied. Elementary & Secondary Education Department received a complaint logged by ex-Minister for Transport and Mass Transit Department , Khyber Pashtunwali regarding for tempering with the papers, interfering with the secrecy of voting and blatantly violated their official duty in connection with the affairs of Election for the General Seat of PK-101 Bannu-III during the polls held on 08.02.2024.. However, probing the allegations leveled against the appellant is the domain of Election Commission of Pakistan and the answering respondents has not transferred the appellant on the basis of the said complaint /political victimization.
3. Para-3 pertains to the appellant and Ex-Minister for Transport and Mass Transit Department, Khyber Pakhtunkhwa, the answering official respondents has no concern with the same. The appellant was transferred by the Competent Authority under Section -10 of Civil Servant Act from GHSS Mama Khail Bannu to HM GHS Nayan Banda Hangu in the best public interest.
4. **Para-4/N is incorrect and denied. Reply as per para-2 & 3.**
5. Para-5 is incorrect and denied. The departmental appeal of the appellant was regretted by the Competent Authority being devoid of merit.
6. Para-6 is incorrect and denied. The appellant was transferred /treated by the competent authority as per the relevant Law/Rules/Policy in vogue, therefore, the service appeal of the appellant being devoid of merit may kindly be dismissed on the following grounds inter-alia:-

On Grounds:

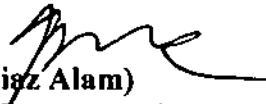
- A. Incorrect & Denied. The appellant was treated/transferred in light of the provisions Civil Servant Act, 1973, APT Rules, 1989 and Khyber Pakhtunkhwa Posting/Transfer Policy, hence, the instant service appeal is not-maintainable and liable to dismissed.
- B. Incorrect & denied. As per reply at Paras-2 & 3above (Facts).
- C. Incorrect & denied. As per reply at Paras-2 & 3above (Facts).
- D. Incorrect & denied. The appellant was treated/transferred in light of the provisions Civil Servant Act, 1973, APT Rules, 1989 and Khyber Pakhtunkhwa Posting/Transfer Policy.
- E. Incorrect & denied. The appellant was transferred by the Competent Authority under Section-10 of Civil Servant Act, 1973 in the best public interest.
- F. Incorrect & denied. As per Ground-E above.

3

- G. Incorrect & denied. The appellant was not punished or penalty imposed by the Competent Authority. Posting/Transfer is the discretion of the Competent Authority under Section-10 of Civil Servant Act. Moreover, as per Section-10 Civil Servant cannot opt /have the right to serve against the station of his choice.
- H. Incorrect & denied. The appellant is SS (BPS-17) which is provincial cadre post, which is transferable across the province.
- I. Incorrect & denied. As per Ground-G &H.
- J. That on permission of this Honorable Service Tribunal, the answering respondents may be allowed to advance any, other grounds/submit documents at the time of arguments.

PRAYER.

It is therefore, most humbly requested that the appeal in hands may kindly be dismissed with cost.


(Fiaz Alam)
Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01)

9

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1889/2024

Muhammad Shamroz Khan.....Appellant.

Versus

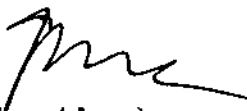
Chief Secretary to Govt of KPK Peshawar..... Respondents.

AFFIDAVIT

I, **Fiaz Alam**, Additional Secretary (Estab), Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.




(Fiaz Alam)
Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01)

5



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Muhammad Shah, Superintendent (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit parawise comments on behalf of **Respondent No. 01 in Service Appeal No. 1879/2024 Case Titled Muhammad Shamroz Khan vs Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar & Others.**


(Fiaz Alam)

**Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01)**

6

4

Annexure - A

BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT PESHAWAR.

Service Appeal No. _____ / of 2024

Muhammad Shamroz Khan

Appellant.

VERSUS

Secretary of E & SE & Others

Respondents.

AFFIDAVIT

I, Muhammad Shamroz Khan SS Statistics (BS-17), Govt Higher Secondary School, Mamash Kheil, Bannu (Appellant) do hereby solemnly affirm and states on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

[Handwritten signature]

Deponent.

Dated: 08/10/2024

*Attested
Amir*

MUHAMMAD ABU BAKAR
Commissioner
Advocate High Court Peshawar
8/10/2024

7

BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT PESHAWAR.

C.M No. _____/2024

IN

Service Appeal No: _____ / of 2024

Muhammad Shamroz Khan.....VS.....Secretary E & SE & Others

Application For Suspension of Operation of the Impugned transfer/posting order dated:20-09-2024 of the appellant till the final disposal of the above mentioned appeal.

That the petitioner/appellant respectfully submits as under.

1. That the petitioner is filling the above-mentioned Service appeal before this Hon able Tribunal, where date of hearing is not fixed.
2. That the appellant filed the above titled appeal against the impugned order date: 20-09-2024, whereby the appellant has been transfer from GHSS Mamash Khel, Bannu as SS Statistics and posted at GHS Naya Banda, Hangu.
3. That all the three ingredients of prima facie good case, irreparable loss and balance of connivance lies in favor of the appellant.
4. That the Impugned transfer & posting order of the appellant is based on political victimization and in utter disregard of law & rules and if the operation of the impugned order of the appellant dated: 20-09-2024 has not been suspended the instant appeal will lost its effect.

It is therefore humbly prayed that on acceptance of this application the operation of the impugned transfer & posting order dated: 20-09-2024 of the appellant may kindly be suspended till the final disposal of instant service appeal.

APPELLANT/PETITIONER

Dated: 28-10-2024

Through:-



(Farhan Ullah Shahbanzai)
Advocate High Court,
PESHAWAR

8/10/2024

AFFIDAVIT.

I, Muhammad Shamroz Khan (Appellant), do hereby solemnly affirm and state on oath that the contents of accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

Deponent:

BEFORE THE HONOURABLE SENIOR CIVIL JUDGE

BANNU

Civil Suit No. _____/2024

Muhammad Shamroz Khan and others

... Plaintiffs

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary
Peshawar and others

... Defendants

AFFIDAVIT:

It is affirmed on oath that all the contents in the instant plaint are true and correct to the best of my knowledge and nothing is concealed from this Honourable Court.

Dated: 30/9/2024

PLAINTIFF No. 01  17301-14375-86-9

MUHAMMAD SHAMROOZ KHAN

PLAINTIFF No. 02  111N-11917-85-1

IRFAN ALI SHAH

PLAINTIFF No. 03  11101-3760398-1

MUHAMMAD KHALID KHAN


30/9/2024
Shah Aman Khan
Q. No. 1, Chak No. 10
G. T. Road, Peshawar
District Peshawar

Attested
Mushfiq



Handwritten notes:
Attor
28/10/24

Signature:
Mubammad Imlaz
CJ-III, Bannu.

As the main case is fixed for order on maintainability.
Therefore, put up with main file on 13-11-24.
Respondent no. 4 through representative present.
Petitioner through counsel Advocate Usman Khan present.

Order-05
30.10.2024

In the Court of Mubammad Imlaz, CJ-III, Bannu.
Case titled "Shamoor etc Vs KP Govt."
Petition No. 97 / 6 of 2024

(9)

