

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

Service Appeal # 1890/2024

Mr. Irfan Ali Shah .....Appellant.

**VERSUS**

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

**I N D E X**

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

  
**Deponent**

①

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

**In Service Appeal No. 1890/2024**

**Mr Irfan Ali Shah (BPS-18).....Appellant.**

**VERSUS**

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

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

**Respectfully Sheweth,**

Diary No. 17859

**Preliminary Objections:**

Dated 12-11-24

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appellant is wasting the precious time of this Honorable Tribunal.
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 Central Administrative Tribunal Delhi in the case of Sh Jawahar Thakur vs Union of India held on 19<sup>th</sup> June, 2015 that is more than stare decisis that transfer is an incidence of service and it is for the Executive/Administration to decide how to and where to use its employees subject to the condition of their appointment in the best interest of the organization and public service. It is not always possible and feasible to record strong reasons for allowing an officer to continue at a particular station for a few years or more or less.
9. 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.
10. 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.
11. 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 Bannue-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 GHS No.2 Bannu City to GHS Nagri Totial in the best public interest. **It may kindly be noted that the appellant was posted as Principal at GHS No.2 Bannu vide Notification dated 07.06.2021 (Annex-A) and his normal posting tenure of 02-years as envisaged in the posting/transfer policy of Khyber Pakhtunkhwa was matured on 07.06.2023.**
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, It may kindly be noted that the appellant was posted as Principal at GHS No.2 Bannu vide Notification dated 07.06.2021 (Annex-A) and his normal posting tenure of 02-years as envisaged in the posting/transfer policy of Khyber Pakhtunkhwa was matured on 07.06.2023.
- E. Incorrect & denied. As per reply at Ground-D above.

3

- F. Incorrect & denied. The appellant was transferred from the post of V/Principal at GHS No.2 Bannu after more than three years after completion of normal tenure of two years as envisaged in posting transfer policy vide impugned notification dated 20.09.2024.
- 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 Principal (BPS-18) which is provincial cadre post, which is transferable across the province.
- I. Incorrect & denied. As per ground-H above.
- 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)

4

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1890/2024

Mr. Irfan Ali Shah .....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.**



*(Signature)*  
**(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. 1890/2024 Case Titled Mr. Irfan Ali Shah 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

Annexure - A

4

**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.

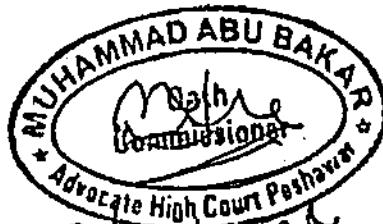
**AFFIDAVIT**

I, Muhammad Shamroz Khan SS Statistics (BS-17), Govt Higher Secondary School, Mamaash Khel, 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.

*[Signature]*

Deponent.

Dated; 08/10/2024



*Attested  
NSB*

67

**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 filing 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.

Dated: 28-10-2024

APPELLANT/PETITIONER

Through:-



(Farhan Ullah Shahbanzai).  
Advocate High Court,  
PESHAWAR

8/10/2024

**AFFIDAVIT.**

I, Muhammad Shamroz Khan (Appellant), do hereby solemnly affirm and states 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 Sharmozkhan 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: 30/9/24

*[Signature]*  
PLAINTIFF No. 01

173014375865

MUHAMMAD SHAMROOZ KHAN

PLAINTIFF No. 02

IRFAN ALI SHAH

111111917851

30/9/24  
Sh. Irfan Khan  
Office: Peshawar  
District & Sessions Court

PLAINTIFF No. 03

MUHAMMAD KHALID KHAN

111013763981

*[Signature]*  
Attested

Muhammad Imiaz  
C-III, Danna.

Attended  
Ourselves

As the main case is fixed for order on maintainability:  
Therefore, put up with main file on 13-11-24.

Petitioner through counsel Advocate Usman Khan present.  
Respondent no. 4 through representative present.

Order-05  
30.10.2024

In the Court of Muhammad Imiaz, C-III, Danna.  
Case titled "Shamuz et al vs KP Govt."  
Petition No. 07/10 of 2024

(9)