

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 2033/2024

Mst. Nasreen BegumAppellant.

VERSUS

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

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Deponent

03 copies submitted
01 copy of AAG by hand to be submit.



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 2033/2024

Mst. Nasreen BegumAppellant.

VERSUS

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

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENT NO. 01 & 02. Khyber Pakhtunkhwa
Service Tribunal

Respectfully Sheweth,

Diary No. _____

Preliminary Objections:

Dated _____

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 19th 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 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.

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On FACTS

1. Para-1 Pertains to record.
2. Para-2 is incorrect hence denied. That the appellant was on leave for a period of 60 days and the Headmaster post is Administrative nature and cannot be remained unfilled. The appellant admitted in the service appeal that she is ill and often takes leave. The Government Girls High School Hayatabad is located at urban area having a huge number of enrollment of students/teaching and non-teaching staff and other allied matters requires supervision/administrative control of energetic/healthy Headmaster/Administrator, therefore, the appellant was replaced by the suitable substitute in the best public interest.
3. Para-3 incorrect hence denied. The appellant was transferred from Government Girls High School Hayatabad due to poor health condition, exhausting of more than seven years beyond the normal tenure of posting of two years as envisaged in Posting/Transfer Policy of Khyber Pakhtunkhwa under the power conferred by the Section-10 of Civil Servant Act, 1973 by the Competent Authority. The appellant was miserably failed to pin-point/annex any documentary evidence to prove any illegality/unlawfully and malafide on the part of official respondents in the impugned order, therefore, the instant appeal is liable to be dismissed summarily. (Annex-A)
4. Para-4/N is incorrect hence denied. The departmental appeal of the appellant was regretted by the competent authority being devoid of merit.
5. Para-5 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 of Civil Servant Act, 1973, APT Rules, 1989 and Khyber Pakhtunkhwa Posting/Transfer Policy. Reasons mentioned in details in Para-2 & 03 (On facts above).
- B. Incorrect & denied. The appellant is HM BPS-17 which is provincial cadre and transferable across the province.
- C. Incorrect & denied. The appellant already been stay over of more than 07-years beyond the normal tenure of two years in light of posting/transfer policy of Khyber Pakhtunkhwa. Furthermore, her services were placed at the disposal of Directorate E&SE for further posting.
- 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, Incorrect & denied. As per reply at Ground-D above.

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- E. Incorrect & denied. Detail Reply already given at Para-2 & 03 (On facts above).
- F. Incorrect & denied. Detail Reply already given at Para-2 & 03 (On facts above)
- G. 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.
- H. Incorrect and denied. The appellant is not aggrieved under Article 212 of the Constitution of Pakistan read with Section-4 of Civil Servant Service Tribunal Act, 1974, therefore, the instant appeal may kindly be dismissed with cost.

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& 02)

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BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2033/2024

Mst. Nasreen BegumAppellant.

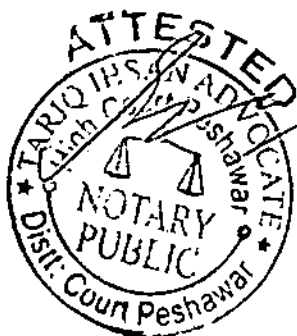
Versus

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&02)**

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**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. 2033/2024 Case Titled Mst. Nasreen Begum vs Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar & Others.**

(Piaze Alam)

**Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)**

