

REGISTERED



ORDER

GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT
31-Sher Shah Block New Garden Town, Lahore

No. SO(Estt.)36-237/18. WHEREAS, Mr. Waqar Ahmad, Junior Special Education Teacher (Mentally Challenged Field / BS-16), Govt. Special Education Centre, Wazirabad ('petitioner') filed Writ Petition 66537/2024 before Lahore High Court, Lahore with following prayer:

"In view of above submissions, it is, therefore, respectfully prayed that instant petition may kindly accepted and the impugned transfer letter dated 21.10.2024 may kindly be declared illegal, unlawful, void, ab-initio and the petitioner may graciously be transferred from Special Education Center Wazirabad to Special Education Center Nishter Town Lahore, in the larger interest of justice, equity and fair play.

Any other relief which this Honorable Court deem fit and proper may also be awarded to the petitioner."

The instant Writ Petition was **disposed of** by the Honorable Lahore High Court, Lahore vide order dated **05.11.2024** with following directions:

*"xxx.4. When confronted with the query that as to why the above application is hanging fire, learned Law Officer states that he has no objection if a direction is issued to respondent No.2 for early decision of the same. Consequently, this petition is **disposed of** with the direction to the said respondent to ensure decision of the aforesaid application with specific reference to Notification dated 25.10.2024, in accordance with law, relevant rules, policies applicable thereto after hearing the petitioner through a speaking order according to Section 24-A of the General Clauses Act, 1897 **expeditiously** from the receipt of certified copy of this order under intimation to this Court through Deputy Registrar (Judl.)."*

2. **AND WHEREAS**, in compliance with the directions of the Hon'ble Lahore High Court, Lahore, the Secretary Special Education being Competent Authority referred the matter to already constituted Grievance Redressal Committee vide notification dated 25.10.2024 to afford the petitioner an opportunity of personal hearing and submit recommendations accordingly. The Committee after granting hearing to the petitioner in presence of all concerned, submitted report wherein it was stated that during the course of hearing, the petitioner while reiterating the arguments presented in his Writ Petition and pending application, *inter alia*, contended that he had been posted at the Government Special Education Centre, Wazirabad, since November 2018 and had accrued five years and nine months of service at his current posting. On this basis, he claimed eligibility for the award of 10 marks under the "far-flung area" category, as stipulated in the Transfer Policy 2022. Lastly, he requested that his application be accepted and he may be transferred at Lahore.

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3. **AND WHEREAS**, after considering / examining the record pertaining to the case and scrutinizing the petitioner's application for transfer, the Committee has observed that the petitioner submitted a request for transfer to Lahore through the e-portal during the Summer Session of 2024 as per Transfer Policy, 2022 of Special Education Department. However, as per available records, he was directed to report to his current place of posting at the Government Special Education Centre, Wazirabad on 25.08.2023, vide order dated 25.08.2023. Consequently, his tenure at his current posting was less than three years, which rendered his transfer ineligible under Clause 2 of the Transfer Policy – 2022.

4. **AND WHEREAS**, all the available record, including application filed by the petitioner, request made by the petitioner on e-portal and report of Committee has been taken into consideration and it has been noted that the petitioner submitted a transfer request through e-portal during the Summer Session of 2024, seeking transfer to Lahore and as per the available records, the petitioner was directed to report to his current posting at the Government Special Education Centre, Wazirabad, on **25.08.2023**, vide order No. SO(ESTT.)20-7/2008. Clause 2 of the Transfer Policy – 2022 of Special Education Department provides that minimum tenure of three years at one place of posting shall be observed. Therefore, the petitioner's tenure at his current posting is less than three years, which is a mandatory requirement under Clause 2 of the Transfer Policy – 2022 for eligibility for transfer, therefore his application was not proceedable. It is further submitted that while the petitioner has claimed entitlement to far-flung area marks under the Policy, his shorter tenure at the current place of posting supersedes such claim in terms of transfer eligibility because Clause 3 of Transfer Policy-2022 provides as under;

i) **Service in far-flung area (Maximum Marks = 30)**

The marks shall be awarded on yearly basis in accordance with the distance (one side) as given below:

a. Upto 25 km	no marks.
b. From 26 to 50 km	2 marks per year.
c. From 51 to 100 km	3 marks per year.
d. From 101 km and beyond	5 marks per year.

A complete one year shall be considered for awarding of marks and no marks shall be awarded for first three years after recruitment or promotion.

On the touchstone of the aforementioned clauses of the Transfer Policy 2022, it is pertinent to note that, as per settled principles of law, the standard tenure of posting prescribed by law or policy must ordinarily be adhered to. Transfers of civil servants should only be undertaken based on considerations of public convenience, institutional betterment, or the overarching public interest. It is imperative to allow civil servants to serve their designated tenure at a post, as stipulated in the applicable law or policy, to ensure operational autonomy within the framework of rules and regulations. Such adherence fosters professionalism, enhances efficiency, and promotes good governance. Moreover, when the ordinary tenure for a posting is

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prescribed by law or policy, it must be respected and not altered arbitrarily. It is equally well-established in law that transfer cannot be claimed as a matter of right.

5. **NOW THEREFORE**, the light of above stated facts, I, **Saima Saeed**, Secretary Special Education / Respondent No.2, after having considered all the aspects, material related to the case and report of the Grievance Redressal Committee constituted vide notification dated 25.10.2024 conclude that the petitioner's transfer request does not comply with the eligibility criteria outlined in the Transfer Policy – 2022. Accordingly, the request of the petitioner is hereby **rejected** being devoid of merits. The order dated 05.11.2024 passed by the Hon'ble Lahore High Court, Lahore in Writ Petition No.66537/2024 is complied with in the above stated manner.



(SAIMA SAEED)

SECRETARY

GOVT. OF THE PUNJAB

SPECIAL EDUCATION DEPARTMENT /

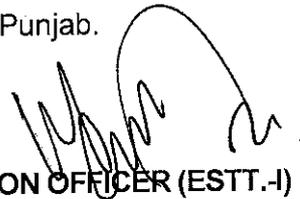
RESPONDENT NO. 2

Dated Lahore, the
28th November, 2024

No. & Date Even:

A copy is forwarded for information and necessary action to:-

1. Deputy Registrar (Judicial), Lahore High Court, Lahore in compliance with the order dated 05.11.2024 passed in Writ Petition No. 66537/2024.
2. Director General, Special Education Punjab, Lahore.
3. District Education Officer (Special Education), Gujranwala to ensure delivery of this order to the petitioner under intimation to this department.
4. Headmistress, Govt. Special Education Centre, Wazirabad District Gujrat.
5. Petitioner concerned / **Mr. Waqar Ahmad**, Junior Special Education Teacher (MC Filed / BS-16), Govt. Special Education Centre, Wazirabad.
6. PS to Secretary Special Education Department, Punjab.



SECTION OFFICER (ESTT.-I)

SPECIAL EDUCATION DEPARTMENT