


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	28.10.2021	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 7284/2021</p> <p>Muhammad Ashraf S/O Afsar Khan R/o Phase-VI, St#3, F/9 Hayatabad Peshawar. ... (Appellant)</p> <p style="text-align: center;"><u>Versus</u></p> <p>1. Director Elementary & Secondary Education New Merged Area, Khyber Pakhtunkhwa, Peshawar and other. ... (Respondents)</p> <p>Appellant with counsel present. Preliminary arguments heard and record perused. The memorandum of appeal and the record annexed there with have been perused. The appeal is not fit for admission to the regular hearing for the reason to follow.</p> <p>2. The appellant has invoked the jurisdiction of this Tribunal with the prayer that the impugned order dated 09.08.2021 may be set aside and post of the appellant may kindly be converted from Teaching cadre to Management cadre on the ground of his long experience w.e.f 01.06.2017. The impugned order dated 09.08.2021 on its face is a memorandum addressed by the Director E&SE to the appellant meant to communicate him that his appeal dated 02.08.2021 has been rejected. According to copy of the appeal as annexed with the appeal, similar prayer like that referred above from</p>

the service appeal was made on the ground among others that with long experience of the appellant spent on management cadre under additional charge given to him as Assistant Director (litigation), Assistant Director Establishment (female) entitled him for the relief as prayed for. Needless to say that superior courts through various pronouncement have deprecated practice of posting of individuals on the out of cadre posts. Same is the case of the appellant that he was actually possessing the post in Teaching Cadre but was allowed to hold the charge of the post in Administration Cadre against on a wrong post. The experience of work got by the appellant while working on a wrong post does not entitle him to press his case for conversion of his absorption in the administration cadre. Even otherwise, the change of the post in the solicited manner is not permissible under service laws/ Rules. The mode of appointment is a matter of rules. The methods of appointments as defined by the service laws include appointment by promotion, transfer and initial recruitment. The prayer of the appellant is not covered under any of the said modes; therefore, this appeal is dismissed in limine. File be consigned to the record room.

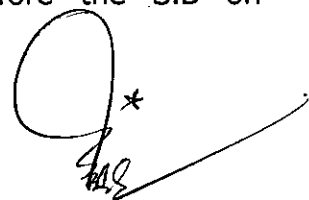

(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
28.10.2021

13.10.2021

Learned counsel for the appellant present.

Learned counsel for the appellant requested for adjournment on the ground that she has not prepared the brief. Adjourned. To come up for preliminary hearing before the S.B on 28.10.2021.





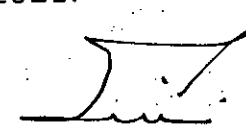
(MIAN MUHAMMAD)
MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7284 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/08/2021	<p>The appeal of Mr. Mohammad Arshaf presented today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar. Notice be issued to appellant/counsel for preliminary hearing to be put up there on <u>08/10/21</u>.</p> <p> CHAIRMAN</p>
08.10.2021		<p>M.S Roeeda Khan, Advocate, for the appellant present and sought time for preliminary hearing. Adjourned. To ^{Come}up for preliminary hearing before the S.B on 13.10.2021.</p> <p> (SALAH-UD-DIN) MEMBER (JUDICIAL)</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Muhammad Ashraf

VERSUS

Director Elementary & Secondary Education New Merged Area
KPK Peshawar & Others

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-5
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3.	Addresses of Parties		7
4.	Application for status quo		8-9
5.	Copy of order dated 17.01.2012	"A"	10
6.	Copy of order dated 10.07.2018	"B"	11
7.	Copies of orders 10.01.2020 & 27.11.2020	"C & D"	12 To 13
8.	Copies of departmental appeal and rejection order	"E&F"	14 To 16
9.	Copies of order	"G&H"	17 To 18
10.	Wakalatnama		

ASMA

APPELLANT

Through


Roeda Khan

Advocate, High Court
Peshawar.

Dated: 20/08/2021

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

7284

In Re S.A No. _____/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7458

Dated 20-8-2021

Muhammad Ashraf S/o Afsar Khan R/o Phase-VI,
St#3, F/9 Hayatabad Peshawar.

Appellant

VERSUS

1. Director Elementary & Secondary Education New Merged Area KPK Peshawar.
2. Secretary to Elementary Secondary Education KPK Peshawar.

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE ORDER DATED
09/08/2021, WHEREBY THE
DEPARTMENTAL APPEAL OF THE
APPELLANT DATED 02.08.2021 FOR
CONVERTING THE POST OF THE
APPELLANT FROM TEACHING CADRE
TO MANAGEMENT CADRE HAS BEEN
REJECTED ON NO GOOD GROUNDS.

Filed to day
Registrar
20/8/2021

(2)

Prayer:-

ON ACCEPTANCE OF THIS SERVICE
APPEAL THE IMPUGNED ORDERS
DATED 09/08/2021 MAY KINDLY BE SET
ASIDE AND THE POST OF THE
APPELLANT MAY KINDLY BE
CONVERTED FROM TEACHING CADRE
TO MANAGEMENT CADRE ON THE
GROUND OF LONG EXPERIENCE W.E.F
01.06.2017 ALONG WITH ALL BACK
BENEFITS.

Respectfully Sheweth.

1. That the appellant has been initially appointed as SST on 01.01.2009 and after appointment the appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant as well as appointed as AAEO on 17.01.2012 to 31.05.2017. (Copy of order is attached as annexure "A").
2. That due to unblemished record the appellant has been promoted from SST to, SS on 31.05.2017, promoted Head Master on 10.07.2018. (Copy of order is attached as annexure "B").

3)

3. That the appellant has been handed over to the charged of Additional DEO NWTD with effect from 29.02.2019 to till 14.09.2019 while given to charge of Assistant Director M&E on 15.09.2019 by the Respondent department till now.

4. That the long experience of the appellant on management cadre has also been clarified from the Additional Charges given to the appellant as Assistant Director AD Litigation on 10.01.2020 and Additional charges of AD Establishment Female has also been handed over to the appellant on 27.11.2020 by the respondent department. **(Copies of orders are attached as annexure "C & D")**.

5. That the appellant submitted departmental appeal on 02.08.2021 which has been rejected on 09.08.2021 on no good grounds. **(Copies of departmental appeal and rejection order are attached as annexure "E&F")**.

6. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

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GROUNDS:-

- A. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- B. That the impugned order date 09.08.2021 is void because it was not a speaking order.
- C. That the appellant has been entitled of converting the post of the appellant from teaching cadre to management cadre on the ground of long experience spent in management cadre.
- D. That discrimination has been committed by the respondent Department as such the service of other employees has been converted from teaching cadre to management cadre and from management cadre to teaching cadre. **(Copies of order is attached as annexure "G & H")**.
- E. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

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It is therefore, most humbly prayed that on acceptance of this Service Appeal the impugned orders dated 09/08/2021 may kindly be set aside and the post of the Appellant may kindly be converted from teaching cadre to management cadre on the ground of long experience w.e.f 01.06.2017 along with all back benefits.

ASul

APPELLANT

Through



Roeeda Khan

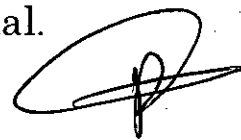
Advocate, High Court

Peshawar.

Dated: 20/08/2021

NOTE:-

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Muhammad Ashraf

VERSUS

Director Elementary & Secondary Education New Merged Area
KPK Peshawar & Others

AFFIDAVIT

I, Muhammad Ashraf S/o Afsar Khan R/o Phase-VI, St#3,
F/9 Hayatabad Peshawar, do hereby solemnly affirm and
declare that all the contents of the instant appeal are true and
correct to the best of my knowledge and belief and nothing has
been concealed or withheld from this Hon'ble Court.

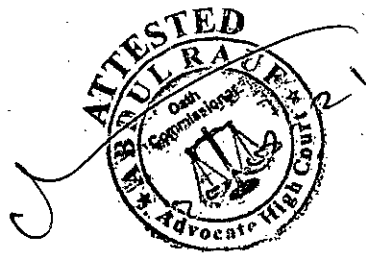
Ashraf

DEPONENT

Identified by:

Roeeda Khan

Roeeda Khan
Advocate High Court
Peshawar.



(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Muhammad Ashraf

VERSUS

Director Elementary & Secondary Education New Merged Area
KPK Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER.

Muhammad Ashraf S/o Afsar Khan R/o Phase-VI,
St#3, F/9 Hayatabad Peshawar.

ADDRESSES OF RESPONDENTS

1. Director Elementary & Secondary Education New Merged Area KPK Peshawar.
2. Secretary to Elementary Secondary Education KPK Peshawar.

ASU

APPELLANT

Through



Roeda Khan
Advocate, High Court
Peshawar.

Dated: 20/08/2021

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Muhammad Ashraf

VERSUS

Director Elementary & Secondary Education New
Merged Area KPK Peshawar & Others

.....Respondents

APPLICATION FOR GRANTING STATUS QUO
FOR NOT TO DISTURBED TO SERVICE OF THE
PETITIONER/APPELLANT FROM MANAGEMENT
CADRE TILL FINAL DECISION OF THE INSTANT
SERVICE APPEAL.

Respectfully Sheweth:

1. That the petitioner/appellant is filing the accompanying service appeal, the contents of which may kindly be considered as integral part of the instant service appeal.
2. That the petitioner/appellant has got a good prime facie case and is pertinently sanguine of its success.
3. That balance of convince also lies in favour of the petitioner/appellant.
4. The petitioner/appellant shall suffer irreparable loss if the status quo as prayed for is not granted.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the service of the

9

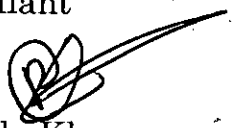
petitioner/appellant may kindly not to be disturbed from management cadre till final decision of the instant service appeal & the status quo as prayed for may be granted till the final decision of the case.

Dated: 20/08/2021

Asu

Appellant

Through



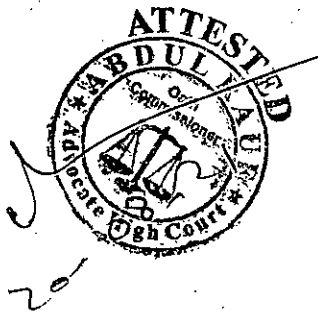
Roeeda Khan
Advocate, High Court,
Peshawar.

AFFIDAVIT:

I, the petitioner / plaintiff do hereby solemnly affirm and declare that the contents of the petition are true & correct to the best of my knowledge and belief and nothing has been concealed of this Hon'ble Court.

Asu

DEPONENT



(A) (10)

DIRECTORATE OF EDUCATION FATA SECRETARIATE PESHAWAR

TRANSFER

Mr. Muhammad Ashraf SST Govt: Middle School Angoor Adda, S.W Agency is hereby transferred as a AAEO to Agency Education Office with effect from the date of his taking over charge Vice Sher Ali Khan AAEO proceeding on retirement from 5-3-2012.

NOTE:-

1. Charge report should be submitted to all concerned.
2. TA/DA etc: is not allowed.
3. The order will take effect if the teacher concerned is not involved in population census duty, 2012 and as & when the post vacated by Sher Ali Khan AAEO.

(FAZLI MANAN)
DIRECTOR EDUCATION(FATA)

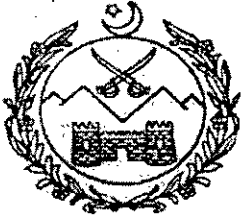
Endst: No. 747-52 /A-12/M.Ashraf Khan SST Dated Pesh: the... 17/1/.....2012
Copy forwarded to the:-

- 1 Agency Education Officer , N.W. Agency at Miranshah.
- 2 Agency Education Officer, S.W. Agency at Tank .
- 3 Agency Accounts Officer, N.W. Agency at Miranshah.
- 4 Agency Accounts Officer, S.W. Agency at Tank.
- 5 P.A to D.E FATA.

B. Farooq

DEPUTY DIRECTOR (ESTAB)

[Signature]



"B"

(11)

FATA SECRETARIAT
(SOCIAL mums DEPARTMENT)
WARSAK ROAD PESHAWAR

Dated Peshawar the July 10, 2018

NOTIFICATION

No.SO/Edu/SSD/FATA/ 185-091 Mr. Muhammad Ashraf, Subject Specialist in Economics (BS-17) working against the post of Subject Specialist in Pashto (BS-17) at Govt. Higher Secondary School Shahoor South Waziristan Agency is hereby adjusted against the vacant post of Head Master (BS-17) at Govt. High School Ghazlama North Waziristan Agency with immediate effect in the interest of Public Service.

Secretary Social Sectors Department FATA

Copy of the above is forwarded to the:

1. Director Education FATA.
2. Agency Education Officer South Waziristan Agency.
3. Agency Education Officer North Waziristan Agency.
4. Agency Accounts Officer North Waziristan Agency.
5. Agency Accounts Officer South Waziristan
6. PS to Secretary SSD FATA.
7. Officer Concerned.

Abdul Manan

Abdul Manan
Section Officer Education

(Signature)



13

**DIRECTORATE OF EDUCATION
MERGED AREAS**
KHYBER PAKHTUNKHWA, WARSAK ROAD PESHAWAR, PAKISTAN
PHONE. 091-9210166 FAX 091-9210216

OFFICE ORDER.

The competent authority is pleased to assign the additional charge /responsibility of the Litigation Section/Ombudsman of this Directorate to Mr. Muhammad Ashraf Assistant Director (Monitoring) of local Directorate.

**Additional Director Education
Merged Areas KPK Peshawar**

Endst; No. 359-62 / Dated 10/1 /2020.

Copy of the above is forwarded to the: -

1. Additional Director Merged Areas KPK Peshawar.
2. Deputy Director (Estab;) local Directorate.
3. Admn: Officer local Directorate.
4. Muhammad Ashraf Assistant Director local Directorate.


Dy: Director (F/A)



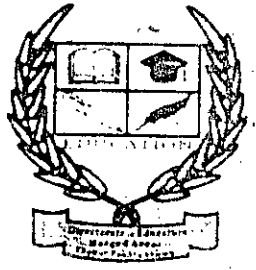


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**DIRECTORATE OF EDUCATION
MERGED AREAS**

Khyber Pakhtunkhwa
G.T Road Peshawar City, Pakistan
Phone. 091-9210166 Fax 091-9210216

15



No. _____ / dated 27/11/2020

OFFICE ORDER.

The Competent Authority is pleased to hand over an Additional Charge of Assistant Director Establishment (Female) in connection with stop gape arrangement to **Mr. Muhammad Ashraf, Assistant Director (M&E)**, Local Directorate with immediate effect in the interest of public service till further order.

**Additional Director (Estab.)
Directorate of Education Merged Areas
Khyber Pakhtunkhwa, Peshawar**

Endst: No. 5936-38

Copy to the:

1. Additional Director (Estab :), Local Directorate.
2. Assistant Director (M&E), Local Directorate.
3. PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

[Signature]
Deputy Director (F/A)

[Signature]

TO

THE DIRECTOR ELEMENTARY AND
SECONDARY EDUCATION NEW MERGE
AREA KPK PESHAWAR.

DEPARTMENTAL APPEAL FOR
CONVERTING THE POST OF THE
APPELLANT FROM TEACHING CADRE TO
MANAGEMENT CADRE ON THE GROUND
OF LONG EXPERIENCE SPENT ON
MANAGEMENT CADRE.

Respectfully Sheweth:

The appellant submits as under:

- 1- That the appellant has been initially appointed as SST on 01/01/2009 and after appointment the Appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the Appellant as well as appointed as AAEO on 17/01/2012 to 31/05/2017.
- 2- That due to unblemished record the Appellant has been promoted from SST to SS on 31/05/2017, promoted to Head Master on 10/07/2017.
- 3- That the Appellant has been given to Additional Charges of Additional DEO NWTD with effect from 29/02/2019 to till 14/09/2019 while given to charge of Assistant Director M&E on 15/09/2019 by the Respondent Department till now.

That the long experience of the Appellant spent on Management Cadre has also been clarified from the Additional Charges given to the Appellant as

DAE post on file
[Signature]
31/8/2021
4-

15

Assistant Director AD Litigation on
10/01/2020 Additional Charges of AD
Establishment Female has also been handed over to
the Appellant on 27/11/2020 by the Respondent
Department.

It is, therefore most humbly prayed that on
acceptance of the instant Departmental appeal the
post of the appellant may kindly be converted
from teaching cadre to Management Cadre on the
ground of spent long experience on Management
Cadre alongwith all back benefits.

Dated 02/08/2021

Appellant


Muhammad Ashraf Khan



(F) (16)

**Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**
PH No. 091-9210389, 9210938,
091-9210437, 9210957, 9210468
Fax 091-9210936

No. _____ /E-6/P/F M.Ashraf Khan AD

Dated 9/8/2021.

To

Mr, Muhammad Ashraf Khan
Assistant Director M & E
Directorate of NMD

Subject;-

DEPARTMENT APPEAL FOR CONVERTING THE POST OF THE
APPELLANT FROM TEACHING CADRE TO MANAGEMENT CADRE ON
THE GROUND OF LONG EXPERIENCE SPENT ON MANAGEMENT
CADRE

Memo;-

I am directed to refer to your appal dated 02.0.8.2021 the subject noted above and to ask you that the Competent authority has rejected your instant appeal.

Encl; Attached

Deputy Director (F/A)
Merged Areas
[Signature]

Endst: No. 1214-21

Copy forwarded to:-

1. P.A to Director of Elementary and Secondary Education KPK. Peshawar
2. P.A to Addll; Director Elementary and Secondary Education NMD local office.

[Signature]
Deputy Director (F/A)
Merged Areas
[Signature]

[Signature]

(G)

(17)

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR.**

OFFICE ORDER

The services in respect of Mr. Mati Ullah ADO (Management cadre) working against the post of SST at GHSS, Jani Khel District Bannu is hereby placed at the disposal of District Education Officer (M) Bannu for further posting against the post of ADEO (Management cadre) in his own pay & BPS in the interest of public service with immediate effect.

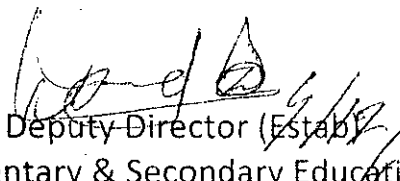
DIRECTOR

Endst: No. 396-98 /F.No.04/ADEO (M) Transfers.

Dated Peshawar the 04/12/2017

Copy of the above is to the:-

1. The District Education Officer (M) Bannu with r/w to his letter No. 14201 dated 01-11-2017.
2. District Accounts officer Bannu.
3. Principal GHSS, Jani Khel Bannu.
4. ^{ADO} SST concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. Master File.


Deputy Director (Establishment)

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

4/12/17



(H) (18)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU.

OFFICE ORDER

With reference to Director Elem: & Secy: Education Khyber Pakhtunkhwa order issued under Endst: No.396-99/F.No.04/ADEO(M) Transfer Dated; 04-12-2017, the Local adjustment of the following ASDEOs/ADEOs Education Department Bannu are hereby ordered in the best interest of public service, with immediate effect please.

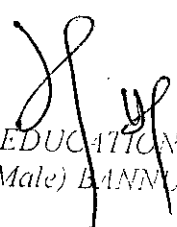
S.No.	Name & Designation	From	To:	Remarks
1-	Matiullah SST	GHSS Jani Khel Bannu.	SDEO(M) Bannu.	Adjusted against ASDEO (C) Nurrar in place of S.No.4
2-	Wajidullah Khan ADEO Phy: & PVT Schools	DEO(M) Office Bannu	Local Office	Adjusted against ADEO(P&D) Post in place of S.No 3
3-	Javid SST/ADEO(P&D) Iqbal	DEO(M) Office Bannu	GMS Junai Baka Khel Bannu.	Adjusted against vacant SST (G) Post.
4-	Muhammad Azam Khan ASDEO(C)Nurrar	SDEO(M) Bannu	DEO(M) Bannu.	Adjusted against ADEO Phy: & PVT Schools, in place of S.No.2

Sd/-
DISTRICT EDUCATION OFFICER
(Male) BANNU

Endst: No. 16169-75 /ADEO Estab: Secy: Dated: 19/12 /2017.

Copy for information & N/A to the:-

- 1- Director Elem: & Secy: Edu: Khyber Pakhtunkhwa.
- 2- Deputy Commissioner Bannu,
- 3- District Monitoring Officer Bannu.
- 4- Deputy DEO (M) Bannu.
- 5- SDEO (M) Bannu.
- 6- District Account Officer Bannu.
- 7- Officer concerned for strict compliance & report.


DISTRICT EDUCATION OFFICER
(Male) BANNU

