Form- A

FORM OF ORDER SHEET

Court of	
Case No	1191/2022

Order or other proceedings with signature of judge	Date of order proceedings	S.No.
3	2	1
The appeal of Mr. Shabir Ahmad presented today by Uzma Syed Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on . Notices be issued to appellant and his counsel for the date	28/07/2022	1-
in . Notices be issued to appellant and his counsel for the date fixed. $II-B-22$ By the order of Chairman		

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. // 9/ /2022

Shabir Ahmad

V/S

Education Deptt:

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APPELLANT

Shabir Ahmad

THROUGH:

(UZMA WED)

ADVOCATE HIGH COURT

&

(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2022

Mr. Shabir Ahmad CT GHSS Maneri Payan District Swabi.

(Appellant)

VERSUS :

- 1. The Director Education (E&SE) Deptt KP, Peshawar.
- 2. The Dy. DEO (Male) (E&SE) Deptt, Tehsil and District Swabi.
- 3. The District Education Officer (Male) Swabi.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 28/01/2022 WHEREBY THE APPELLANT WAS TRANSFERRED ON COMPLAINT IN VIOLATION OF POSTING TRANSFER POLICY, SUPERIOR COURT JUDGMENT AND AGAINST REJECTION ORDER DATED 15/02/2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED WITHOUT SHOWING ANY REASON.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 28/01/2022 and 15/02/2022 MAY BE SET ASIDE, BEING PASSED PREMATURELY AND IN THE VIOLATION OF POSTING/TRANSFER INSTRUCTION. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT ON BASIS OF ADMINISTRATIVE GROUND/COMPLAINT, PREMATURELY AND IN VIOLATION OF LAW AND RULES. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

23)



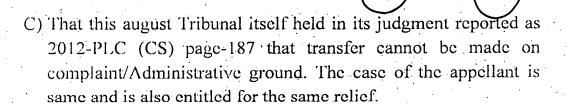
RESPECTFULLY SHEWETH:

FACTS:

- 1. That the appellant serving as CT Teacher In education Deptt and working with full zeal and zest and up to the entire satisfaction of her superior.
- 2. That complaint was filed against the appellant by the prinicipal and appellant was transferred on complaint vide order dated 28.01.2022 the appellant was transferred from GHSS Maneri Payan to GHSS Gar Munara against vacant post. (Copy of Complaint and impugned order dated is attached as Annexure-A & B).
- 3. That as the appellant was transferred without any personal hearing on complaint, therefore he is aggrieved from said order and filed departmental appeal against the transfer order, which was rejected vide order dated 15/02/2022 without showing any reason. (copy of departmental appeal and rejection order is attached on as Annexure-C & D).
- 4. That thereafter the appellant filed civil Suit in Civil Court Swabi on 18/02/2022, against the transfer order dated 28.01.2022. Which was returned to the appellant in original with direction to approach the proper forum on 19.07.2022. Copy of civil suit and order is attached as annexure- E & F.
- 5. That now the appellant having no other remedy, but come to this august Tribunal on the basis of following grounds amongst others.

GROUNDS:

- A) That the impugned order dated 28.01.2022 are against the law, facts, norms of justice, premature, violation of posting transfer policy and Govt: circular dated 27.02.2013, therefore not tenable and liable to be set aside.
- B) That the appellant was not treated according to law and was transferred from GHSS Maneri Payan to GHSS Gar Munara 0n complaint without any personal hearing.



- D) That no inquiry was conducted on complaint and appellant was transferred without any personal hearing which is against the law and rules.
- E) that the post of the appellant is still vacant and appellant working on the same.
- If) That complaint/ letter against the appellant on the basis of which the impugned transfer order of the appellant has been passed, but according to rules no transfer can be made on basis of complaint and if any complaint was filed against any one he should be departmentally proceeded, but the appellant was transferred on administrative ground on the basis of that complaint which is not permissible under the law.
- G) That the appellant was not dealt according to law and punished for the fault of others.
- 11) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Shabir Ahmad

THROUGH:

(UZMA SYED)

ADVOCATE HIGH COURT

&

(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT.

Dated:28/07/2022

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO.	/2022	

Shabir Ahmad

V/S

Education Deptt:

APPLICATION FOR SUSPENDING THE OPERATION OF ORDER DATED 28.01.2022 and 25/02/2022 TO THE EXTENT OF THE APPELLANT TILL THE DISPOSAL OF MAIN APPEAL.

R. SHEWETIL

- 1. That the appellant has filed an appeal along with this application in which no date is fixed so for.
- 2. That impugned order is passed prematurely and in violation of posting transfer policy.
- 3. That the transferred order dated 28.01.2022 was made on complaint/administrative ground which is not permissible under the law.
- 4. that the post of the appellant is still vacant so no hurdle if the order was suspended further the appellant not relived the charge yet.
- 5. That the grounds of main appeal may also be considered as integral part of this application.

6. That the appellant has a good prima facie case and all the ingredients are in favor of the appellant.

It is therefore most humbly prayed that the operation of the order dated 28.01.2022 may be suspended to the extent of the appellant till the decision of main appeal.

APILELLANT
Shabir Ahmad

THROUGH:

(UZMA SYED)
ADVOCATE HIGH COURT

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

<u>AFFIDAVIT</u>

It is affirmed and declared that the contents of Application and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.

DEVONENT







Office of the Principa: GHSS Ma seri Payan District Swabi

No. _____/ Gen:/Misc, Dated: ____03/1/2021

To,

The District Education Office . (Maie! Swabi

Subject:

Complaire

Мето: -

One Mr. Shabbir Ahmad CT of this school yesterday i.e. 02-11-2021 in the lust period while I was setting outside my office with some staff members, he come an aggressive mood and present me an application and order me to forward this this application to DEO (M) Swabi. I asked him what is this, he replied it my 3 days casual leave application and starting abusing and used unparlimentry language and also threat me that if you not allow me I will see with you that how you came to school framewo.

It is requested that strict cotion way he taken against the said teacher under the rules. It is very difficult for me to run the school smoothly to having like this teacher have very bad manners.

It is also stated that all staff members of this school stressing that if the said teacher remain here in the school we all well be made request for transfer.

GHSS Maneri Payan

SACIB KHAMabi

THE PROPERTY SERVICE STATE OF THE PARTY OF T



DISTRICT EDUCATION OFFICE (MALE) SWABI

(Office Phone & Fax No 0938280239, emis swabi@vahao.com)



TRANSFER ORDER

In pursuance of Govt. of Khyber Pakhtunkhwa E&SED letter No.SO(SM)E&SED/7-1/2022/PT/General/Dated Peshawar the January 04th, 2022 and subsequent upon approval of the Competent Authority, transfer order of the following teachers is hereby issued to the schools noted against each on their own pay & scale in the best interest of public service with immediate effect.

S#	Name of Teacher	From	To	Remarks
1.	Nazeer Ahmad SST (G)	GHS Haryan	GMS Gar Akakhel	AVP
2.	Ajmal Khan CT	GHSS Kabgani	GHS Mazghund (G)	AVP
3.	Qamar Zeb CT	GHS Pabaini	GMS Kotha	AVP
4.	Muhammad Shabbir SCT	GCMHSS Marghuz	GHS Zarobi	AVP
5. 5	Muhammad Zubair CT	GMS Panawal (5)	GMS Lyran	AVP
6.,	Asimullah Jan CT	GHSS Kunda	GMS Jalbai Shamali	AVP
7:	Muhammad Ayaz TT	GHSS Gar Munara	GMS Marghuz	AVP
8.	Muhammad Fayaz SST (G)	Under transfer to GHSS Gar Munara	GHS No.1 Zaida	AVP
9	:Muhammad Abid CT	GMS M.Banda K.Khan	GHSS Mansabdar	AVP
10.	Fida Naseem CT	GSBASHS Shewa .	GHSS Ayub khan killi	v/s 25
11.	Raz Muhammad SST (G)	GHS Kala	GHS Swabi	v/s 12
12.	Shakir Muhammad SST (G)	GHS Swabi	GHS Kala	v/s 11
13.	Javed Iqbal SST (G)	GHS Dodher	GHS Shahmansoor	v/s 14
14.	Faizul Bari SST (G)	GHS Shahmansoor	GHS Dodher	v/s 13
15.	Ishtiaq Ahmad CT	GHSS Naranji	GHSS Sheikh Jana	AVP
16.	Muhammad Fazil CT	GHSS Mansabdar	GHSS Tarakai	AVP
17.	Fazli Wahid DM	GHS Ghazi Kot	GHS No.3 Yar Hussain	v/s 18
18.	Shafat Un Nabi DM	GHS No.3 Yar Hussain	GHS Ghazi Kot	v/s 17
19.	Mazhar Ul Hasan S.Qari	GHS No.2 Dagai	GHS No.2 Tordher	AVP
20.	Shabbir Ahmad CT	GHSS Manerl Payan	GHSS Gar Munara	On administrative grounds
21.	Ashraf Ali SCT	GHS Dodher	GHS Baja	AVP

13

Smer

SAOIB KHAN Civil Judge-VI Swabi



-	Muhammad Javed SST(G)	GHS Jhanda	GHSS Sikandari	AVP
23.	Abid Hussain DM	GHS Sard Chena	GHS Lahor	AVP
24.	Hamayoon DM	GMS Kund Shalmani	GMS Urmal Dheri	AVP
25.	Sami Ul Haq CT	GHSS Ayub Khan Killi	GHS Sard Chena	AVP

Note:

- 1. No TA/DA is allowed.
- 2. Charge reports should be submitted to all concerned.

DISTRICT EDUCATION OFFICER (MALE) SWABI

Copy for information to the:

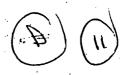
- 1. Deputy Commissioner Swabi.
- 2. District Accounts Officer Swabi.
- 3. District Monitoring Officer Swabi.
- 4. Principal/Head Master schools concern.
- ,5. Teachers concerns.

6. Master file.

Dy. DISTRICT EDUCATION OFFICER (MALE) SWABI

SACTE KHAN Civil Judge VI Swabi

المزيرت كي طافي بد كر معرا الحرالسور الحرا wind & GHSS will with control & 13. ichel his y Gent (Sist Contraction) is in our who we will find y colis i vitu si i con francisco Tisti se les Este Jus sky une like 2 Mish Chit 10 11 les 1 Cr. settle Cir circulicas - ولايكوار مافرل معرمين كا كريم ايل -6 ce will as le 2 mon de Glos le sur Shur - (Judiparch 2 bo Chle Ly allie o i de





OFFICE OF THE DISTRICT EDUCATION OFFICER

(MALE) SWABI

_Dated __

To .

The Principal

GHSS Maneri Payan Swabi.

Subject:

APPEAL AGAINST TRANSFER.

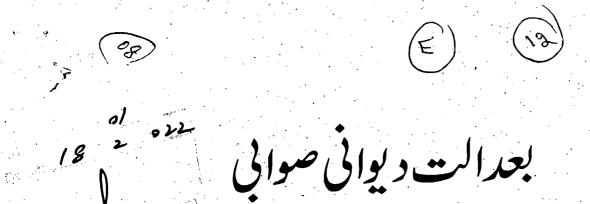
Memo:

Reference with appeal of Shabbir Ahmad CT of your school regarding his transfer/adjustment at GHSS Gar Munara Swabi on administrative grounds.

You are hereby directed to inform the teacher concerned that his appeal has been rejected by the Competent Authority and also relieve him immediately in-order to report at concerned school.

mby 15.2.2022

Dy. DISTRICT EDUCATION OFFICER (MALE) SWABI



_____ شبیراحمسی ٹی گورنمنٹ ہائیرسینٹرری سکول مانیری پایاں مخصیل و ضلع صوابی

(1) دعوی استقراریه بدین مراد که مدعالیهم کوکئی حق واختیار حاصل نه ہے که وه مدعی کوبد نیتی وسیاسی بنیاد پر بلاکسی تحقیق اور بلاکسی وجہ کے اور نامکمل انکوائیری پرٹرانسفر و منتقل کریں، مدعالیهم کا مدعی کوسیاسی اور بدنیتی کی بنیاد پر GHSS Garh Munara — GHSS Maneri Payan ٹرانسفر بروئے نوٹیفیکیشن مور و دو تابل منسوخی 28.01.2022 غلط، خلاف قانون اور خلاف واقعات ہے اور ہرگز قابل بحالی نه ہے بلکہ قابل اخراج وقابل منسوخی ہرگز مدعالیهم کے اس غلط، خلاف قانون، خلاف واقعات، خلاف حقیقت اور بنی بر بدنیتی و ذاتی عناد نوٹیفیکیشن کا پابندوذ مه دار نہ ہے۔

- (2) دعوی صدور حکم امتناعی دوامی بدین مراد که مدعالیهم کوٹرانسفرنوٹیفیکیشن مورخه 28.01.2022 پرمزید کاروائی تاحد مدعی کرنے سے منع و باز فرمائیں۔
- (3) دعوی صدور حکم امتناعی تا کیدی بدین مراد که مدعانیهم کومدعی کی GHSS Maneri payan واپس بحال کر کے نوٹیفیکیشن مورخه 28.01.2022 منسوخ کرنے پر پر پابندو مامور فرما کیں۔

بنائے دعویٰ وبنائے مخاصت بعداز انکار علیم معالیم م اندر حدود عدالت پیداشد مالیت مقدمہ بعرض اختیار ساعت عدالت جسنور کو اختیار ساعت حاصل ہے

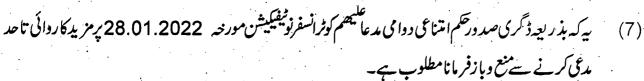
مالیت بعرض کورٹ فیس معانب ہے

(3

جناب عالی! عرضیدعوی مدعی حسب ذیل عرض ہے

- (1) یکه مدعی CT استاد ہے جبکہ مدعا علیہ محکمة علیم کے اعلیٰ افسران ہیں
- (2) یه که مدعی گورنمنٹ ہائیرسیکنڈری سکول مانیری پایاں میں بطور CT استاد تعینات تنصاور اپنے فرائض بطریقی احسن سر انجام دے رہے تنصے۔
- (3) یہ کہتقریبا 3/4 ماہ قبل مدعاعلیہ 1 نے مدعی کے ساتھ بدنیت ہوکر سیاسی و ذاتی عناد کی بنیاد پر برخلاف مدی ایک فرضی آوگئی : عضر و منظر و مرم خود ساختہ آئی بنا کر مدعاعلیہ 2 کوشکایت /Complaint کی جس پر مدعاعلیہ 2 نے بلاکسی تحقیق کے برخلاف مدعی انکوائیری شروع کی ۔
 - (4) یه که مدعاعلیه 1 کی بدایت پرمدعی نے معاملہ هذا کو بطریقه احسن حل کرنے کے لئے مدعاعلیه 1 کودرخواست کی جس پر معاملہ هذا بوگیا۔ معاملہ هذا بدامداداسٹاف گورخمنٹ ہائیرسکنڈری سکول مانیری پایاں حل ہوگیا ، اور مابین مدعی ومدعاعلیه 1 راضی نامه ہوگیا۔
 - (5) یہ کہ مدعاعلیہ 2 نے مابین مدعی ومدعاعلیہ 1 کے طلح ہونے اور تنازع حل ہونے کے باوجود بھی برخلاف مدعی شکایت مدعاعلیہ 1 پرکاروائی کرکے مدعی کوسیاسی دباؤو ذاتی عنادوبد نیتی کی بنیاد پر گورنمنٹ ہائیر سیکنڈری سکول مانیری پایاں سے گورنمنٹ ہائیر سیکنڈری سکول گاڑمنارہ بروئے نوٹیفیکیشن مورخہ 28.01.2022 ٹرانسفر کردیا۔
 - (6) یه که معالیم کاصلح مونے کے باوجود مدعی کوسیاسی اور بدنیتی کی بنیاد پر GHSS Maneri Payan سے GHSS Maneri Payan ٹرانسفر بروئے نوٹیفیکیشن مورخہ 28.01.2022 کرنا غلط،خلاف قانون اورخلاف واقعات ہے اور ہرگز قابل بحالی نہ ہے بلکہ قابل اخراج وقابل منسوخی ہے اور مرگز مدعالیم مے اس غلط،خلاف قانون، خلاف واقعات،خلاف حقیقت اور بنی بر بدنیتی و ذاتی عنادنوٹیفیکیشن کا پابندوذ مددار نہ ہے

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- (8) یک بذریعه ڈگری صدور تھم امتناعی تاکیدی معالیہ می کورعی کی GHSS Maneri payan واپس بحال کرنے اورنوٹیفیکیٹن مور خد 28.01.2022 منسوخ کرنے پر پر پابندو ما مور فر مانا مطلوب ہے۔
- (9) پیکه دعالمیسیم کو ہر چند کہا گیا کہ وہ خانگی طور پر مدعی کو GHSS Maneri payan واپس بحال کر کے نوٹیفیشن مور خہ 28.01.2022 منسوخ کر ہے مگروہ لیت لعل کر کے عرصہ چند یوم سے صاف انکاری ہے بدیں وجہ دعوی تصفراک ضرورت پڑی۔

(10) یہ کہ مالیت مقدمہ بعرض کورٹ فیس، مالیت بعرض اختیار ساعت، بنائے دعویٰ، بنائے مخاصمت درج عنوان عرضیدعویٰ ہے اور عدالت حضور کواختیار ساعت حاصل ہے۔

لهذااستدعاہے کہ دعویٰ مدی حسب تشرق عنوان عرضیدعویٰ بحق مدی برخلاف مدعاً معمم ڈگری صا درفر مائیں حرجہ علیہ عنوان عنوان عنوان عنوان عرضیدعویٰ بحق میں معالم میں معالم میں معالم میں معالم میں معالم میں معالم می

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CRION

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1019 Paris 1912 خلفا بیانی ہیں کہ جملہ مراتب عرضیدعوی تا حدمام ویقین میرے درست اور سیح ہے اوركو كى بھى امرعدالت حضور سے فنى اور پوشيده نہيں رکھا گيا ہے بیان کیاجا تا ہے کہ مرعی نے برخلاف مرعالیم قبل ازیں اس نوعیت کا کسی بھی عدالت میں دعوید ائری نہیں کی ہے tijlur.

کے الت دیوانی عبوا بی

مر العد منام برامنیل ده برامنیل مانیل ده براه مانیل ده براه در منام د

CIB KHARDO

جنابعالی! درفورست منهان مدی بران جدر که رمتنای عاری

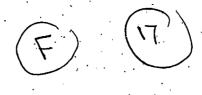
را) برا که مقدم عینوان بارا عدامی حفوا میں دائر کی جاتی ہے جس میں . مدید کاردای سے گی:

ربه که بادی العنظم میں فدی کا قوی فقیم منتا یک فدر تورز ن معدر منتا یک فدر تورز ن معدد منتا یک فدر تورز ن معدد معدد منتا یک می و تو تعقیل می مورف مدی علیم کو تو تعقیل می مورف مدی علیم کا ورزی کم ن مع فنع مراز مرفا معلوب

منبر ا21 بنازم وکیل بزارم وکیل

int





Plaintiff in person and representative of defendants present.

Under disposal is an application filed by defendants for rejection of plaint under Order 07 Rule 11 CPC read with section 151 of CPC.

Said Application was strongly rebutted by plaintiff by filing written reply thereto. Arguments already been heard and record gone though.

It is contended in the application and arguments advanced by learned counsel for the defendants that plaintiff is a Civil Servant and he is serving as CT teacher in GHSS Maneri Payan and was transferred to GHSS Garh Munara vide notification dated 28.01.2022. Plaintiff has challenged his transfer order in the instant declaratory suit, which is not maintainable in view of Article 212 of Constitution of Pakistan. The matter relates to terms and conditions of Civil Service and jurisdiction of Civil Court is barred and the plaintiff could have availed his remedy before the Service Tribunal.

Learned counsel for plaintiff rebutted the application and contended that the plaintiff was transferred on the basis of political power and malafide intention from GHSS Maneri Payan to GHSS Garh Munara vide notification No.SO(SM)E &SED/7-1/2022/PT/General Munara vide Peshawar 4th January 2022 with serial No.20, which is hereby challenged in the instant declaratory suit.

Admittedly, the plaintiff as a Civil Servent and Contended that the plaintiff as a Civil Servent and Civil

Admittedly, the plaintiff as a Civil Servant and KPK Civil Servants Laws are applicable to him. Posting and transfer comes within the ambit of terms and conditions of service and if any person is aggrieved of his posting and transfer orders, the remedy is available to him is to approach the concerned Service Tribunal and as such the jurisdiction of Civil Court is barred under Article 212 of the constitution of Pakistan.

Perusal of the record reveals that the dispute relates to service matter for which this court lacks jurisdiction as per section 4 of the KPK Service Tribunal Act, 1974. Therefore, due to lack of jurisdiction plaint

Shabir Ahmad vs Principle

Page 01 of 02

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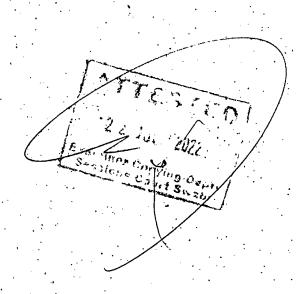


is hereby returned to the plaintiff Under Order 7 Rule 10 of the Civil Procedure Code, 1908 with the directions to approach to the proper forum to redress his grievances.

Moharrar is directed to provide original copy of the plaint along with other necessary documents to the plaintiff after necessary proceedings. With no, order as to costs. Order announced. File be consigned to the record room after its completion.

Announced: 19.07.2022

(Saqib Khan)
Civil Judge-VI, Swabi



VAKALATNAMA

4.7		1997
NO	<u> </u>	/20

IN THE COURT OF KP SERVICE TRIBUNAL PESHAWAR

Shabir Ahmad

Appellant Petitioner Plaintiff

VERSUS

Education Depti;

Respondent (s)

Defendants (s)

I AVE Shakir Ahmad (appellant)

do hereby appoint and constitute the SYED NOMAN ALI BUKHARI Advocate, UMMASYBO High Court for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and al proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s), ratify all the acts done by the aforesaid.

DATE_____/20

(CLIENT)

ACCEPTED

SYED NOMAN ALI BUKHARI ADVOCATE HIGH COURT

UZMA SYED
Advocate High Carr

CELL NO: 0306-5109438