

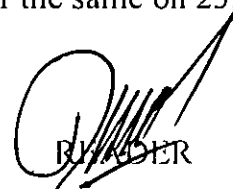
08.08.2014

Clerk to counsel for the appellant, Mr. Muhammad Jan, GP with Aneesur Rahaman Clerk and Clerk to counsel for private respondent No. 5 present. The learned Member is on leave, therefore, case to come up for the same on 04.12.2014.


READER

4.12.2014

Clerk to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with representative of the official respondents and clerk to counsel for private respondent No. 5 present. The Tribunal is incomplete. To come up for the same on 23.4.2015.


READER

23.4.2015

Counsel for the appellant and Mr. Ziaullah, GP and attorney for private respondents present. Parties are directed to produce their counsel on the next date. To come up for arguments on 10.6.2015.



MEMBER

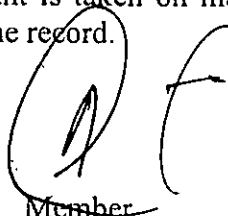


MEMBER

10.06.2015

Counsel for the appellant and Miss, Shehnaz, Assistant to the learned senior counsel for private respondents alongwith Muhammad Jan, GP for respondent-department present. Learned counsel for the appellant while routing the Tribunal through record highlighted orders of the respondent-department in order to show their shims. He, however stated that in order to address genuine grievances of the appellant, the respondent-department has promised that the appellant will be suitably accommodated in District Mardan provided that the appeal is withdrawn. In the stated circumstances on the request of learned counsel for the appellant the appeal stands dismissed as withdrawn. Signature of learned counsel for the appellant is taken on margin of order sheet. File be consigned to the record.

Announced.
10.06.2015


Member


Member

*with counsel for appellant
with notice to the respondents & the
deputy
of court.*

108/2014

5.5.2014

Clerk to counsel for the appellant, Mr. Muhammad Jan, GP with Bukhari, Shah, Supdt. for official respondents present and filed reply to stay application. Copy handed over to clerk to counsel for the appellant. Clerk to counsel for private respondent No. 5 also present. Due to general strike of the Bar, counsel for the parties are not available. Since the case is ripe, hence it is fixed for arguments on 2.6.2014. Rejoinder, if any, in the meantime.

09.5.2014

None is available on behalf of the parties. The case is ripe and has already been fixed for arguments on 2.6.2014 vide order sheet dated 5.5.2014 which is in the knowledge of the parties also. However, the appellant may file rejoinder, if any, in the meantime.

MEMBER

MEMBER

02.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Aziz Khan, Assistant for official respondents and counsel for the private respondents present. Counsel for the appellant does not want to file rejoinder. To come up for arguments on 08.08.2014.

MEMBER

MEMBER

17.3.2014

Counsel for the appellant and AAG present. Security and process have not been deposited, therefore, notices could not be issued to the respondents. Counsel for the appellant requested for time to deposit the same. Process Fee and security be deposited within 3 days. Thereafter, notices be issued to the respondents. To come up for written reply on main appeal as well as reply/arguments on stay application on 17.4.2014.

MEMBER

MEMBER

17.4.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Bukhari Shah, SO for official respondents No. 1 to 4 present and submitted written reply on main appeal with request for time to file reply on stay application. Junior of counsel for private respondent No. 5 present and filed written reply on main appeal as well as stay application. Arguments of the learned counsel for the appellant as well as learned GP on stay application partly heard. Senior counsel for private respondent No.5 was stated to be busy in hon'ble Darul Qaza, Swat therefore, to come up for reply on stay application on behalf of official respondents and further arguments on stay application on 25.4.2014.

MEMBER

MEMBER

25.4.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Bukhari Shah, SO for official respondents and counsel for private respondents present. Due to general strike of the Bar, counsel for the parties jointly requested for adjournment. To come up for further arguments on stay application on 5.5.2014.

MEMBER

MEMBER

Appellant's Counsel
Private Secy of Security
AAG filed security
attached with file

Appeal No-108/2013
Mst. Saima Naz

3.
19.02.2014

Counsel for the appellant and Mr. Zia Ullah, GP for the respondents present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. After serving for more than 8 years at Peshawar, the appellant was transferred to GGC, Sheikh Maltoon, Mardan vide order dated 13.06.2013 (Page No.13 of the appeal). He submitted arrival report at Mardan on 15.06.2013 and as such charge was handed over to her on 15.06.2013 by Principal Govt: Girls Degree College Sheikh Maltoon, Mardan vide endorsement No. 268-72 dated 11.07.2013. After lapse of two months the transfer order of the appellant was cancelled vide order dated 11.09.2013. The appellant filed departmental appeal on 25.09.2013, which has not been responded within the statutory period of 90 days, hence the instant appeal on 20.01.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. The appellant has also submitted an application for suspension of impugned order dated 11.09.2013. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply on main appeal on 09.05.2014 as well as reply/arguments on application on 17.03.2014.

Member

4.
19.02.2014


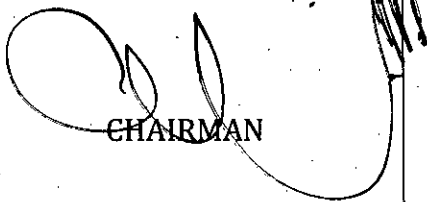
This case be put before the Final Bench for further proceedings.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 108 /2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/01/2014	<p>The appeal of Mst. Salma Naz resubmitted today by Mr. Muhammad Farooq Malik Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	27-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>19-2-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mst. Salma Naz Lecturer in Health & Physical Education received today i.e. on 20 .01.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Copy of departmental appeal is not attached with the appeal which may be placed on it.

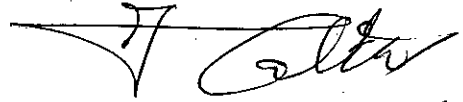
No. 92 /S.T,

Dt. 20/01 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Farooq Malik Adv. Pesh.

*Re submitted by counsel at & fulfilled
all the deficiencies*


M. Farooq Malik
Advocate
H. C. Pesh
22-1-2014

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 108 /2014

Mst: Salma Naz.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

I N D E X

S.No.	Description of documents	Annex	Pages
1.	Grounds of Appeal with Affidavit		1-37
2.	Application for suspension with Affidavit		8-9
3.	Addresses of Parties		10
4.	Copy of Appellant's Domicile	A	11
5.	Copy of Appellant's husband appointment letter	B	12
6.	Copy of notification dated 13 th June 2013	C	13
7.	Copy of Notification dated 14 th June 2013	D-01	14-15
8.	Copy of notification dated 3 rd July 2013	E	16
9.	Copies of School Leaving Certificates of Appellant's children	F	17-19
10.	Copies of school admission receipts of Appellant's children	G	20-22
11.	Copy of charge relinquishment report	H	23-24
12.	Copy of arrival report	H-1	25-26
13.	Copy of notification dated 11.09.2013	I	27
14.	Copy of Representation/ Appeal	J	28-29
15.	Copy of grounds of writ petition	K	30-38
16.	Copy of High court order	L	39
17.	Wakalatnama		40

Dated 20 .01.2014


Appellant

Through


Mohammad Farooq Malik,
Advocate
High Court Peshawar

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 108 /2014

96
20-1-2014

Mst: Salma Naz wife of Farooq Hussain, Lecturer in Health & Physical Education, Government Girls Degree College, Gulshan Rehman, Kohat Road Peshawar.....Appellant

VERSUS

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pukhtunkhwa through Secretary Higher Education, Peshawar.
3. Director Higher Education, Khyber Pukhtunkhwa, Peshawar.
4. Dr.Khalid Khan, Additional Secretary Higher Education Department, Government of KPK, Peshawar.
5. Gulalay, lecturer Health & Physical Education, Government Girls College Sheikh Maltoon Mardan.

.....Respondents

20/1/2014

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 11.09.2013 WHEREBY APPELLANT HAS BEEN TRANSFERRED FROM GOVERNMENT GIRLS COLLEGE SHEIKH MALTOON MARDAN TO GOVERNMENT GIRLS DEGREE COLLEGE, GULSHAN REHMAN COLONY KOHAT ROAD PESHAWAR WITHIN THE SPAN OF TWO MONTHS

co-submitted to-407 and filed.

22/1/2014

Respectfully Sheweth

1. That the Appellant is M.Sc Health & Physical Education; she was lastly posted as lecturer in Health & Physical Education (BPS-17) in Government Girls Degree College Gulshan Rehman colony Kohat Road Peshawar and served as such for about seven years.
2. That the Appellant is Mardan domicile and her husband is a lecturer in Health & Physical Education (BPS-18) at Abdul Wali Khan University Mardan. **(Copy of Appellant domicile & appointment letter of her husband are Annexure A & B)**
3. That on 13th June 2013, the appellant was transferred from Government Girls Degree College, Gulshan Rehman Colony Kohat Road Peshawar to Government Girls College Sheikh Maltoon Mardan, on completion of her tenure exceeding three years and also observing her domicile and spouse policy. **(Copy of notification is Annexure C)**
4. That immediately thereafter on the following day of transfer order i.e. on June 14th 2013, Respondent No.4 using his political influence and pressure got suspended the transfer order mentioned in para-3 above which was later on cancelled and as a result the Appellant was transferred back to his previous place of posting at Peshawar. **(Copies of notifications are Annexure D & D/1)**
5. That the Appellant protested over the above cancellation order of her posting at Mardan and the authority vide order

dated July 3rd, 2013 restored the earlier order of Appellant mentioned in Para-3 above as a result the Appellant was reposted back to Mardan. **(Copy of notification is Annexure E)**

6. That consequent upon transfer, the Appellant shifted her three children from Saint Francis High School, Hayatabad Peshawar and admitted them at the Educators Pre School Mardan, she paid their admission and tuition fee to the tune of more than forty thousand. **(Copies of school leaving certificates & admission receipts are Annexure F & G)**
7. That in pursuance to the above transfer order from Peshawar to Mardan, the Appellant relinquished charge of her post at Peshawar and assumed the charge at Government Girls College Sheikh Maltoon Mardan. **(Copy of charge relinquish report and arrival report are Annexure H & H-1)**
8. That due to political influence and direct involvement of Respondent No.4 who is not on good terms with the husband of Appellant, by abusing his lawful authority got her transferred back to Peshawar after two months of her posting in Mardan vide office order dated 11.09.2013 **(Copy of notification dated 11.09.2013 is Annexure I)**
9. That the Appellant protested over her frequent transfer and posting, based on malafide by filing appeal to the next higher authority on 25.09.2013 which has not been disposed of as yet. **(Copy of Representation/Appeal is Annexure J)**

10. That competent authority did not decide the representation/appeal of the Appellant, therefore, she filed writ petition before Hon'ble Peshawar High Court Peshawar against the apparent malafide of the respondents, the Hon'ble High Court disposed of the writ petition with the direction to the department to dispose of the representation as earliest. (Copy of writ petition and order dated 25.11.13 is Annexure K & L)

11. That after the laps of statutory period, the respondents did not decide the representation of the Appellant. Keeping in view all the attending facts and circumstances of the case, the Appellant files appeal before this Hon'ble Court, inter alia, on the following grounds:-

GROUNDS

- a. That all the posting and transfer orders passed against the Appellant are not strictly speaking in the public interest and have been passed by the authority by abusing and misusing its powers just to victimize the Appellant.
- b. That according to the posting and transfer policy of the Provincial Government, the normal tenure of posting of public servant is three years in the settled areas. In the instant case the Appellant has been transferred from Mardan to Peshawar two times within the span of about three months which order is without lawful authority, illegal, void ab initio and against the settled posting and transfer policy of the Provincial Government.

- c. That the husband of Appellant is in the government service, posted at Mardan and according to posting of spouse policy, she has the right to be posted at one station with her husband but this policy has been violated by the respondents malafidely.
- d. That the previous performance reports passed in present record of the service of Appellant regarding the general reputation, focus her integrity, she has always been rated as a good officer.
- e. That due to repeated pre mature posting and transfer of the Appellant is in violation of the provision of Provincial Government Policy.
- f. That on humanitarian grounds too she has the right to be posted where her children have been admitted in the recent past along with her husband.
- g. That the impugned action/orders/decision are without lawful authority, illegal, void ab-intio, malafide, with ulterior motive and of no legal effect.
- h. That the transfer order of Appellant smacks arbitrariness, deviation from the normal procedure of law and even for disclosing no reason for passing frequent orders without any legal justification.
- i. That Appellant already assumed charge and also got admitted her children in Mardan so transfer back her to Peshawar would adversely affect the educational career of her school going children.

6


- j. That the transfer order of the Appellant is made on the recommendations of highly influential persons, so the impugned order on the face of record is void, unlawful and violative of Rule-21(2) r/w schedule-V of Rules of Business Khyber Pakhtunkhwa 1974.
- k. That the transfer of the Appellant is pre mature and in her place blue eyed person has been adjusted by violating all the norms of justice and element of malafide cannot be ruled out.
- l. That the respondents particularly Respondent No.4 has not acted in accordance with law in view of Article-4 of the constitution of Pakistan 1973 of r/w section 24-A of the General Clauses Act 1897 and thus the impugned order passed is without merit and unsustainable in the eyes of law.

It is, therefore, prayed that the impugned order dated 11.09.2013 may graciously be declared null and void, without lawful authority, illegal and ineffective.

Secondly on cancellation of the above notification Respondent No.4 may be directed to restore the previous posting and transfer order of the Appellant dated 11.09.2013.


Appellant

Through


Mohammad Farooq Malik,
Advocate
High Court Peshawar.

7



BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. _____/2014

Mst: Salma Naz.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

AFFIDAVIT

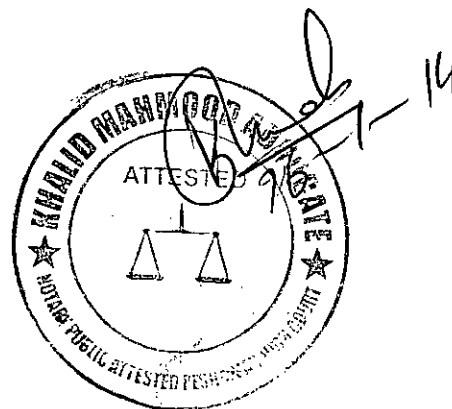
I, Mst. Salma Naz, Lecturer in Health Physical Educat do hereby solemnly declare that the accompanying **Appeal** is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent

NIC#

Identified by


Muhammad Farooq Malik,
Advocate.



8

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. _____/2014

Mst: Salma Naz.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

APPLICATION FOR SUSPENSION OF IMPUGNED ORDER
DATED 11/09/2013 PENDING FINAL DECISION OF MAIN
APPEAL.

Respectfully Sheweth,


1. That the Appellant/appellant has filed Appeal before this Hon'ble Tribunal in which no date of hearing has been fixed so far.
2. That the appellant has got a good prima facie arguable case, the impugned order is without lawful authority and unsustainable in law, balance of convenience lies in her favour and in case operation of impugned order is not suspended, the very purpose of appeal would be defeated and it would become infructuous as well.

It is, therefore, prayed that the operation of impugned order dated 11/09/2013 may graciously be suspended till final decision of Appeal.



Petitioner

Through


Mohammad Farooq Malik,
Advocate
High Court Peshawar.

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. _____/2014

Mst: Salma Naz.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

AFFIDAVIT

I, Mst. Salma Naz, Lecturer in Health & Physical Education do hereby solemnly declare that the accompanying Application is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

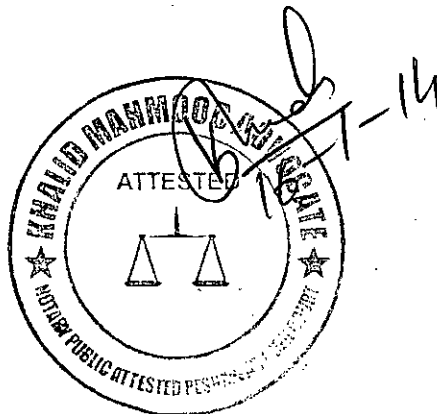
Salma
Deponent

NIC#

Identified by

M. Farooq Malik

Muhammad Farooq Malik,
Advocate.



BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. _____/2014

Mst: Salma Naz.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

ADDRESSES OF PARTIES.

APPELLANT

Mst: Salma Naz wife of Farooq Hussain, Lecturer in Health & Physical Education, Government Girls Degree College, Gulshan Rehman, Kohat Road Peshawar.

RESPONDENTS

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pukhtunkhwa through Secretary Higher Education, Peshawar.
3. Director Higher Education, Khyber Pukhtunkhwa, Peshawar.
4. Dr.Khalid Khan, Additional Secretary Higher Education Department, Government of KPK, Peshawar.
5. Gulalay, lecturer Health & Physical Education, Government Girls College Sheikh Maltoon Mardan



Appellant

Through



Mohammad Farooq Malik,
Advocate
High Court Peshawar.

DOMICILE CERTIFICATE

I Salma Naz Spouse/Daughter of Dilawar Khan

hereby declare that I was born of parents who are permanently domiciled in North-West Frontier Province having been born/settled in this Province

I was born at Village/Mohallah Fazool Abad

Tehsil Takht Phai Division Mardan.

Salma Naz

Signature of the applicant

Date :-

Pursuance to the declaration dated

19-1-92

filed by

Miss Salma Naz Spouse/Daughter of Dilawar Khan

domiciled in North West Frontier Province; it is hereby certified that the

said Salma Naz born of parents who are permanent

residents of the North-West Frontier Province having been born/settled within it.

I have satisfied myself from personal knowledge/verification that the

above declaration is true and certify accordingly.

This 19th day of JAN 1992

Name :- Mulla Khan
Designation :- MAGISTRATE I
MARDAN/TAKHT
(Seal)

COUNTERSIGNED

DISTRICT MAGISTRATE
MARDAN.
(Seal)

Attested

to be true copy

Attested

to be true copy

No 346 Dated 19-1-92

(Strike out which ever is not applicable)

جانب عالی

تقدیر کی جاتی ہے۔ کہ تمام سہ ماہیہ دستے دلاور خان حوض میں آباد ہونے لگے ہیں اور ان کے دلایں بھی یہاں کے معتقل باشندگان ہیں۔ نیز ان کو میں ذاتی طور پر جاننا ہوں

سرور عالی

۱۹/۱۱/۱۹۶۱

دستور

میں

دستور

Attested

to be true copy

E/A (11)
BETTER COPY

DOMICILE CERTIFICATE

I. Salma Naz Son/Daughter of Dilawar Khan hereby declare that I was born of parents who are permanently domiciled in North West Frontier Province having been born/settled in this province.

I was born at Village/Mohallah Fazal Abad Tehsil Takhtbhai Division Mardan.

Signature of the applicant

Date:-

Pursuance to the declaration dated 19.1.92 filed by Mr/Miss Salma Naz Son/Daughter of Dilawar Khan domiciled in North West Frontier Province, it is hereby certified that the said Salma Naz born of parents who are permanent residents of the North West Frontier Province having been born/settled within it.

I have testified myself from personal knowledge/verification that the above declaration is true and certify accordingly.

This 19th day of Jan 1992.

Name:- _____

Designation:-

COUNTERSIGNED

DISTRICT MAGISTRATE

MARDAN

(Seal)

Attested

lll
to be true copy

[Handwritten Signature]



ABDUL WALI KHAN, UNIVERSITY,
MARDAN, PAKISTAN

Ph# =92 937 9230618 Fax# +92-937-9230619

F. No. 1(8)-Reg-1/AWKUM/2010/1415

Sep 14, 2010


Mr. Farooq Hussain
S/o Wasal Khan
Director Physical Education
Govt. Collge Peshawar.

Subject: **APPOINTMENT AS LECTURER OF HEALTH & PHYSICAL EDUCATION BPS-18**

Consequent upon the recommendations of Selection Board in its meeting held on August 28, 2010 and subsequent approval by the Syndicate in its meeting held on Sep 8, 2010, the Competent Authority is pleased to appoint you as Lecturer BPS-18 in Department of Health & Physical Education, on regular basis, with effect from the date of your joining/taking over the charge, on the following terms and conditions.

Terms & Conditions

1. You will be on probation for a period of one year.
2. You will have to serve 2-months notice if you want to resign from the service at Abdul Wali Khan University, Mardan or pay in lieu thereof.
3. You will be governed by the rules/regulations of Abdul Wali Khan University, Mardan as amended from time to time.
4. You will have to sign an undertaking to work to the best of your abilities, honesty and commitment at Abdul Wali Khan University, Mardan for at least 3 years.
5. You will have to provide medical fitness certificate from the medical superintendent of District Head Quarter Hospital, Mardan.
6. Medical facility will be provided to you as per rules of Abdul Wali Khan University, Mardan.
7. If the offer is acceptable to you on the terms & conditions mentioned above, you are required to report for duty to the undersigned within 10 days after issuance of this letter.


14/9/10
Prof. SHER ALI KHAN
REGISTRAR

Distributions:

1. PS to Vice Chancellor
2. Treasurer
3. R.A.D (Audit)
4. Pay Section
5. Personal file
6. Relevant file
7. Person concerned





**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT**

13
C

Dated Peshawar the, June 13, 2013

NOTIFICATION

NO.SO(C-IV)/HE/8-4/2011 / 17714-20 The Competent Authority is pleased to order of posting/transfer of the following Female Lecturers in Health & Physical Education of College Cadres in Librarians working in Higher Education Department in the Colleges noted against each with immediate effect;

S.#	Name Designation & Present Posting	Proposed Station	Remarks
1.	Mst. Salma Naz, Lecture in Health & Physical Education , GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S, No.2
2.	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S, NO.1

Note:- No TA / TG is allowed.

SECRETARY HIGHER EDUCATION

Endst: No. & Date Even.pp

Copy to the:-

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 Director Higher Education Khyber Pakhtunkhwa, Peshawar.
- 3 The District Account Officer Mardan.
- 4 Principal Govt. Girls Degree College Gulshan Rehman Kohat, Road Peshawar.
5. Principal Govt. Girls Degree College, Sheikh Maltoon Mardan.
6. Officers concerned.

Jenan Zeb Khan
(Jenan Zeb Khan)
SECTION OFFICER (C-IV)

15/6/13
19/6/13

Attested

MU
to be true copy

9 PE
2686

Attested
to be true copy



ANNEXURE D

19

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the, June 14, 2013

NOTIFICATION

NO.SO(C-IV)/HE/8-2/2013. The Competent Authority is pleased to withdraw the transfer order of the following DPEs issued vide this Department Notification of even No. dated 13-06-2013 with immediate effect in the public interest;

S.#	Name Designation & Present Posting	Proposed Station	Remarks
1.	Mst. Salma Naz, Lecture in Health & Physical Education , GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S,No.2
2.	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S,NO.1

Note:- No TA / TG is allowed.

SECRETARY HIGHER EDUCATION

Endst: No. & Date Even.pp

Copy to the:-

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 Director Higher Education Khyber Pakhtunkhwa, Peshawar.
- 3 The District Account Officer Mardan.
- 4 Principal Govt. Girls Degree College Gulshan Rehman Kohat, Road Peshawar.
- 5 Principal Govt. Girls Degree College, Sheikh Maltoon Mardan.
- 6 Officers concerned.

(Jehan Zeb Khan)
SECTION OFFICER (C-IV)

Attested

to be true copy

Attested

to be true copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the, June 27, 2013

Attention to Heron *Amex D.P-10*

22

(15)

ANNEXURE D/1

NOTIFICATION

NO.SO(C-IV)/HE/8-2/2013. The Competent Authority is pleased to cancel the transfer order of the following DPEs issued vide this Department Notification of even No. dated 13-06-2013 with immediate effect in the public interest;

S.#	Name Designation & Present Posting	Proposed Station	Remarks
1.	Mst. Salma Naz, Lecture in Health & Physical Education, GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S.No.2
2.	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S.NO.1

Note:- No TA/ TG is allowed.

SECRETARY HIGHER EDUCATION

Endst: No. & Date Even.pp

Copy to the:-

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 Director Higher Education Khyber Pakhtunkhwa, Peshawar.
- 3 The District Account Officer Mardan.
- 4 Principal Govt. Girls Degree College Gulshan Rehman Kohat, Road Peshawar.
5. Principal Govt. Girls Degrec College, Sheikh Maltoon Mardan.
6. Officers concerned.

JZ
(Jehan Zeb Khan)
SECTION OFFICER (C-IV)

Attested
[Signature]
to be true copy

Attested
[Signature]
to be true copy

ANNEXURE E

16



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT**

Dated Peshawar the, July 03, 2013

NOTIFICATION

NO.SO(C-IV)/HE/8-2/2013, In pursuance of this Department Notification of even No. dated 14-6-2013, The Competent Authority is pleased to restore w.e.f 13-06-2013 of this Department Notification dated 13-06-2013 in the public interest;

S.#	Name Designation & Present Posting	Proposed Station	Remarks
1.	Mst. Salma Naz, Lecture in Health & Physical Education , GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S, No.2
2.	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S, NO.1

Note:- No TA / TG is allowed.

SECRETARY HIGHER EDUCATION

Endst: No. & Date Even.pp

Copy to the:-

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 Director Higher Education Khyber Pakhtunkhwa. Peshawar.
- 3 The District Account Officer Mardan.
- 4 Principal Govt. Girls Degree College Gulshan Rehman Kohat. Road Peshawar.
5. Principal Govt. Girls Degree College. Sheikh Maltoon Mardan.
6. Officers concerned.

Jehan Zeb Khan
(Jehan Zeb Khan)
SECTION OFFICER (C-IV)

Attested
[Signature]
to be true copy

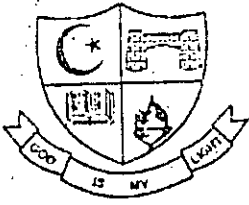
Attested
[Signature]
to be true copy

No. 150

ANNEXURE "F"

Roll No. 2171

17



Saint Francis' High School Hayatabad, Peshawar School Leaving Certificate

THIS IS TO CERTIFY that Muhammad Muazam Khan
s/o Farooq Hussain
was admitted to this school on 31st August 2010
on a transfer certificate from As a beginner
and left on 31st July 2013
with a Good character.
He was studying in class Two

All sums due to the school in his account have been paid satisfactorily up to end
of July 2013

His date of birth according to the admission register is
Twenty First September Two Thousand Six

Promotion has been

Principal

Saint Francis' High School,
Hayatabad, Peshawar.

Dated 31st July 2013.

FRANCIS SALES FERNANDEZ,
PRINCIPAL,
St. Francis' High School,
Hayatabad, Peshawar.

Attested

to be true copy

Attested

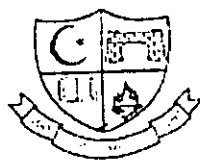
M

to be true copy

No. 461

Roll No. 908

18



Saint Francis' High School
Hayatabad Peshawar

School Leaving Certificate

THIS IS TO CERTIFY that Hoor Aina
D/O Farooq Hussain
was admitted to this school on 31st August 2010
on a transfer certificate from As a beginner
and left on 31st July 2013
with a Good character.
She was studying in class Two
All sums due to the school on her account have been paid satisfactorily
up to end of July 2013
Her date of birth according to the Admission Register is
Twenty First September Two Thousand Six
Promotion has been

Dated: 31st July 2013

PRINCIPAL
St. Francis' High School
Hayatabad

FRANCIS SALES FERNANDO,
PRINCIPAL
St. Francis' High School,
Hayatabad, Peshawar.

Attested

to be true copy

Attested

to be true copy



House No: 211 Sector AE.W2 Road,
Sheikh Maltoon Town Mardan. Tel: 0937-881421

20

RE 42

Gi

116

RECEIPT
CASH/CHEQUE

GR-III

Book No: _____

RT. No: _____

Date: 27-8-2013

Received with thanks from PAGHUNDA KHAN D/O FAROOQ HUSSAIN

the Sum of Rs: 15312- Rupees in words. FIFTEEN THOUSAND - THREE HUNDRED TWELVE ONLY.

in Cash/Cheque/D.D./PO No: _____ Dated: _____

Drawn on: _____ A/c No: _____

On account of:- _____

Subject to realization on Bank Documents:- _____

Registration Fee _____ Rs: 300-

Admission Fee _____ Rs: 5000-

Security _____ Rs: 4000-

Tuition Fee for the M/O SEPT. & OCT. 2013 Rs: 4500-

Annual Charges (Session) 2013-14 Rs: 1312-

Medical Counselling _____ Rs: _____

Computer Lab. Charges _____ Rs: 200-

Science Lab. Charges _____ Rs: _____

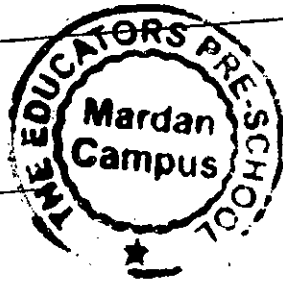
Transport Charges for the M/O _____ Rs: _____

Other Charges _____ Rs: _____

TOTAL Rs: 15312-

Received By _____

[Signature]



Attested
[Signature]

Attested
[Signature]
to be true copy



MARDAN CAMPUS
House No: 211 Sector AE.W2 Road,
Sheikh Maltoon Town Mardan. Tel: 0937-881421

21

42

RECEIPT
CASH/CHEQUE

GR-II

Book No: _____

RT. No: 4165

Date: 27-8-2013

Received with thanks from HOOR AINA D/O FAROOQ HUSSAIN

the Sum of Rs: 13062- Rupees in words. (THIRTEEN THOUSAND - SIXTY TWO ONLY)

in Cash/Cheque/D.D./PO No: _____ Dated: _____

Drawn on: _____ A/c No: _____

On account of:- _____

Subject to realization on Bank Documents:- _____

Registration Fee _____ Rs: 300-

Admission Fee _____ Rs: 5000-

Security _____ Rs: 4000-

Tuition Fee for the M/O SEPT. & OCT. 2013 Rs: 2250-

Annual Charges (Session) _____ Rs: 1312-

Medical Counselling _____ Rs: _____

Computer Lab. Charges _____ Rs: 200-

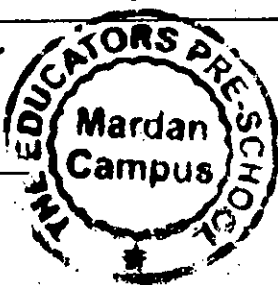
Science Lab. Charges _____ Rs: _____

Transport Charges for the M/O _____ Rs: _____

Other Charges _____ Rs: _____

TOTAL Rs: 13062/2

Received By [Signature]



Attested [Signature]

to be true copy

Attested
[Signature]
to be true copy

22

30

MARDAN CAMPUS
House No: 211 Sector AE.W2 Road,
Sheikh Maltoon Town Mardan. Tel: 0937-881421

RECEIPT
CASH/CHEQUE

GR-II

Book No: 42

RT. No: 4166

Date: 27-8-2013
MUHAMMAD MUAZAM KHAN S/O FAROOQ HUSSAIN

Received with thanks from MUHAMMAD MUAZAM KHAN S/O FAROOQ HUSSAIN
the Sum of Rs: 13062 - Rupees in words. THIRTEEN THOUSAND - SIXTY TWO ONLY.

in Cash/Cheque/D.D./PO No: _____ Dated: _____

Drawn on: _____ A/c No: _____

On account of:- _____

subject to realization on Bank Documents:- _____

Registration Fee _____ Rs: 300 -

Admission Fee _____ Rs: 5000 -

Security _____ Rs: 4000 -

Admission Fee for the M/O SEPT. & OCT. 2013 Rs: 2250 -

Annual Charges (Session) _____ Rs: 1312 -

Medical Counselling _____ Rs: _____

Computer Lab. Charges _____ Rs: 200 -

Science Lab. Charges _____ Rs: _____

Transport Charges for the M/O _____ Rs: _____

Other Charges _____ Rs: _____

TOTAL Rs: 13062 -

Received By [Signature]



Attested

Attested [Signature]
to be true copy

to be attested by [Signature]

24

OFFICE OF THE PRINCIPAL G.G.D.C. GULSHAN REHMAN COLONY
PESHAWAR

Endst.No. 273-75 /

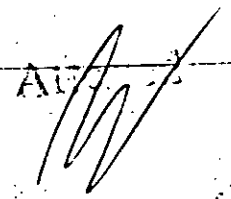
Dated 14-6-2013

Copy forwarded to the:

- 1) Accountant General Khyber Pakhtun Khawa Peshawar.
- 2) The Director of Higher Education, (KPK) Peshawar.
- 3) Section Officer (C-IV) with reference to Notification bearing No. SO(C-IV)HE/8-4/201-

- 4) The District Accounts Officer, _____
- 5) The above named Officer.

PRINCIPAL
Government Degree College
Kohat Road, Peshawar

AC


Attested
for the copy

ANNEXURE "H" (23)

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the fore/after noon on the 14, June 2013
Made over and Relinquished the Charge of the Office / Post of Lecturer in H.P.B Govt Girls
Degree College Gulshan Rahman, Kohat road, Peshawar.

2. Particulars of cash and important secret and confidential documents handed over are noted on the
reverse: (Nil)

(1) Signature of Relieved: [Signature]

Govt: Servant/Name _____

Station: G.G.D.C. KOHAT ROAD, Peshawar.

(2) Signature of Govt: Servant Receiving Charge

NAME:

Designation:

G.G.D.C. Kohat Road, Peshawar

Dated 14-6-2013

[Signature]
PRINCIPAL
Government Degree College
Kohat Road, Peshawar

Attested
[Signature]
to be true copy

[Signature]

To

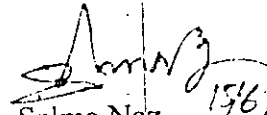
The Principal
GGDC Sheikh Maltoon Mardan

SUBJECT:

ARRIVAL REPORT

Dear Madam

Reference to Higher Education Department Notification Bearing No.SO(C-IV)/HE/S-4/2011/7714-20 Dated 13.06.2013, relieving order of GGDC Kohat Road, Peshawar No 269-72 dated 14.06.2013 & transfer of charge No 273-75 dated 14.06.2013, I hereby submit my arrival report in the office of the principal GGDC Sheikh Maltoon, Mardan on 15.06.2013(F.N)


Salma Naz 15/6/2013
Lecturer in Health & Physical Education

Attested
all
to be true copy

Attested
[Signature]
to be true copy

96

CERTIFICATE OF CHARGE REPORT

We receive /handed over the charge of the post of Lecturer in Health & Physical Education Govt: Girls Degree College Sheikh Maltoon Mardan on Transfer Vide Government of Khyber Pakhtunkhwa Higher Education, Archives and Libraries Department Notification No. SO(C-IV)/HE/8-4/2011/7714-20 Dated 13/06/2013. w.c.f 15-06-2013 Forenoon/ Afternoon.

Signature of Relieved: Jia Azeem
Government Servant _____
Name in Block Letter SUEALAY
Designation: Lecturer in HPE

STATION:- GOVT GIRLS DEGREE COLLEGE SHIKH MALTOON MARDAN

Signature of Relieving SALMA NAZ
Government Servant _____
Name in Block Letter Mst. SALMA NAZ
Designation: : LECTURER

Officer of the Principal Govt Girls Degree College Sheikh Maltoon Mardan.

Endst: No. 268-72

Dated. 11/7/2013.

Copy of the above Forwarded to the.

1. Secretary to the Govt of Khyber Pakhtunkhwa Higher Education Peshawar.
1. Director Higher Education Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Mardan.
3. Personal File.
4. Officer Concerned.

Jawal Begum
Principal
GGDC Sheikh Maltoon
Mardan

Attested
[Signature]
to be true copy

Attested
[Signature]
to be true copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

27

Dated Peshawar the, September 11, 2013

NOTIFICATION

ANNEXURE I

NO.SO(C-IV)/HE/8-2/20139163-69, In Pursuance of this Department Notification of even No. dated 03-7-2013, The Competent Authority is pleased to cancel the notification of even number dated 13-6-2013 with immediate effect in the public interest;

S.#	Name Designation & Present Posting	Proposed Station	Remarks
1.	Mst. Salma Naz, Lecture in Health & Physical Education, GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S, No.2
2.	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S, NO.1


Note:- No TA / TG is allowed.

SECRETARY HIGHER EDUCATION

Encl: No. & Date Even pp

Copy to the:-

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 Director Higher Education Khyber Pakhtunkhwa, Peshawar.
- 3 The District Account Officer Mardan.
- 4 Principal Govt. Girls Degree College Gulshan Rehman Kohat, Road Peshawar.
5. Principal Govt. Girls Degree College, Sheikh Maltoon Mardan.
6. Officers concerned.


(Jehan Zeb Khan)
SECTION OFFICER (C-IV)

Attested

to be true copy

Attested

to be true copy

محذمت جناب سپیکر بڑی ہائیر ایجوکیشن خیبر پختونخواہ

جناب عالیہ

گزارش ہے کہ ^{مستقیم} مسلمی ناز (بیگم رازیہ گل ایجوکیشن) جو کہ مردان کے ڈومیسائل کی حاملہ ہے اور بچھلے تقریباً اٹھ سال سے مردان ڈسٹریکٹ سے باہر ڈیوٹی سرانجام دے رہی ہے جبکہ میں اسکا شوہر مردان جو ٹورسٹی میں بطور ڈاکٹر رکنم سپورٹس کام کر رہا ہوں میں نے ادک درخواست جمع کرائی تھی جسے بتاریخ 13 جون 2013 کو الہ ڈیڑھ بجے

20-14/7/2013/HE/8-4/2013(6.17) No. So کو فروپ کو ^{GADC Ghiek Maltoom} مردان ڈسٹریکٹ سے کر دیا گیا۔ بینک اگلے ہی دن 14 جون کو یہ نوٹیفکیشن بحوالہ آرڈینمنٹ 13/6/2013 ^{HE/8-2/2013/885561} No-So (c-w) withdraw کر دیا گیا اور پھر 27 جون کو

میں ایک ^{complaint cell} جمع کرائی جس پر میں نے ^{complaint cell} کا جواب دیا جس سے بحال کر دیا گیا۔ لہذا فروپ نے شیخ ملتون قانج میں جاری کیا اور تنخواہ بحال ہوئی اور پھر ڈیوٹی سم انجام دینا شروع کر دی جبکہ دوسری طرف موصوفہ قلائع ایک وقت کے ایڈیشنل سپلیم ^{in absentia} خالہ خان کی وسالت سے بحال کیا اور ^{Relieve} سے بحال کیا گیا۔

گٹھن رٹن قانج کے پیم پینل نے اڑھائی ماہ بعد ڈاکٹر بلیم پٹ کو مطلع کیا کہ موصوفہ قلائع نے جاری نہیں کیا تو ڈاکٹر بلیم پٹ نے اسکا نوٹس دے سوتے وارن کیا۔ پین موصوفہ نے اسکے باوجود یہاں بنا کر جاری نہیں کیا۔ لیونلہ ایک وقت کے ایڈیشنل سپلیم ^{in absentia} خالہ خان اسکی ٹیٹ پٹائی میں موصوفہ سے ^{Relieve} سے بحال کیا گیا۔


M

Right to Information کے معلومات پر بتایا گیا کہ یہ کورٹ کے کہنے پر ہوا ہے
 جناب والی: اس تاریخ کو کورٹ میں موجود تھا ایسا کوئی فیصلہ نہیں ہوا
 جس پر بنا اڈر کیا جائے۔ اس کیس کے پیچھے خالد خان ایڈیشنل سیکرٹری
 کا ہاتھ ہے کیونکہ اس ٹرا سنفر کیلئے عام سیاسی Approaches کا
 کھیل اسی کا رہا ہوا ہے اور یہ اس کیس میں گلائٹی کیلئے interest
 دیا ہے۔ سرکار نے Tenure کا دورانیہ دو سال مقرر کیا ہے لیکن
 جناب والی: موصوفہ اس شیخ ملتوں کالج میں تقریباً آٹھ سال گزار
 چکی ہے اسکے باوجود اسے یہاں پر روکنے کی بھرپور کوشش کی جا رہی ہے
 مہربانی کر کے انتظام کے تقاضے خود سے کرتے ہوئے 11 ستمبر کا
 نوٹیفیکیشن کو Cancel کر کے اپنے اس اعلیٰ منصب پر اللہ تعالیٰ
 کا نائب ہونا کا ثبوت دیں۔

شکریہ

فاروق حسین
 0333 9192912

10/ سہمی ناز بیگم رازمہ گل بھوشن



Attested
 to be true copy

BEFORE PESHAWAR HIGH COURT PESHAWARW.P No. 2607-P/2013

Mst: Salma Naz wife of Farooq Hussain, Lecturer in Health & Physical Education, Government Girls Degree College, Gulshan Rehman, Kohat Road Peshawar.....Petitioner

VERSUS

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pukhtunkhwa through Secretary Higher Education, Peshawar.
3. Director Higher Education, Khyber Pukhtunkhwa, Peshawar.
4. Dr.Khalid Khan, Additional Secretary Higher Education Department, Government of KPK, Peshawar.
5. Gulalay, lecturer Health & Physical Education, Government Girls College Sheikh Maltoon Mardan.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.**

Respectfully Sheweth

1. That the petitioner is M.Sc Health & Physical Education, she was lastly posted as lecturer in Health & Physical Education (BPS-17) in Government Girls Degree College Gulshan Rehman Kohat Road Peshawar and served as such for about seven years.

ATTESTEDEXAMINER
Peshawar High Court

6-12-13

That the petitioner is Mardan domicile and her husband is a lecturer in Health & Physical Education (BPS-18) at Abdul Wali Khan University Mardan. (Copy of petitioner domicile & appointment letter of her husband are Annexure A & B at page 9-10);

2. That on 13th June 2013, the petitioner was transferred from Government Girls Degree College, Gulshan Rehman Colony Kohat Road Peshawar to Government Girls College Sheikh Maltoon Mardan, on completion of her tenure exceeding three years and also observing her domicile and spouse policy. (Copy of notification is Annexure C at page 11)

3. That immediately thereafter on the following day of transfer order i.e. on June 14th 2013, Respondent No.4 using his political influence and pressure got suspended the transfer order mentioned in para-3 above which was later on cancelled and as a result the petitioner was transferred back to his previous place of posting at Peshawar. (Copies of notifications are Annexure D & D/1 at page 12-13);

4. That the petitioner protested over the above cancellation order of her posting at Mardan and the authority vide order dated July 3rd, 2013 restored the earlier order of petitioner mentioned in Para-3 above as a result the petitioner was reposted back to Mardan. (Copy of notification is Annexure E at page 14)

5. That consequent upon transfer, the petitioner shifted her three children from Saint Francis High School, Hayatabad Peshawar and admitted them at the Educators Pre School Mardan, she paid their admission and tuition fee to the tune

ATTESTED

EXAMINER
Peshawar High Court

21.12.13

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8

of more than forty thousand. (Copies of school leaving certificates & admission receipts are Annexure F & G at Page 15-20)

6. That in pursuance of the above transfer order from Peshawar to Mardan, the petitioner relinquished charge of her post at Peshawar and assumed the charge at Government Girls College Sheikh Maltoon Mardan. (Copy of charge relinquish report and arrival report are Annexure H & H-1 at Page 21-24)

7. That due to political influence and direct involvement of Respondent No.4 who is not on good terms with the husband of petitioner, by abusing his lawful authority got her transferred back to Peshawar after two months of her posting in Mardan vide office order dated 11.09.2013 (Copy of notification dated 11.09.2013 is Annexure I at page 25)

8. That the petitioner protested over her frequent transfer and posting, based on malafide by filing appeal to the next higher authority on 25.09.2013 which has not been disposed of as yet. (Copy of Representation/Appeal is Annexure J at Page 26-27)

9. That keeping in view all the attending facts and circumstances of the case the petitioner finding no other speedy, proper, efficacious and prompt remedy, invokes the constitutional jurisdiction of this Hon'ble Court, inter alia, on the following grounds:-

LED TODAY

Deputy Registrar

02 OCT. 2013

ATTESTED

EXAMINER
Peshawar High Court

06/12/13

GROUNDS

- a. That all the posting and transfer orders passed against the petitioner are not strictly speaking in the public interest and have been passed by the authority by abusing and misusing its powers just to victimize the petitioner.
- b. That according to the posting and transfer policy of the Provincial Government, the normal tenure of posting of public servant is three years in the settled areas. In the instant case the petitioner has been transferred from Mardan to Peshawar two time within the span of about three months which order is without lawful authority, illegal, void abinitio and against the settled posting and transfer policy of the Provincial Government.
- c. That the husband of petitioner is in the government service, posted at Mardan and according to posting of spouse policy, she has the right to be posted at one station with her husband but this policy has been violated by the respondents malafidely.
- d. That the previous performance reports passed in present record of the service of petitioner regarding the general reputation, focus her integrity, she has always been rated as a good officer.
- e. That due to repeated pre mature posting and transfer of the petitioner is in violation of the provision of Provincial Government Policy.
- f. That on humanitarian grounds too she has the right to be posted where her children have been admitted in the recent past along with her husband.

FILED TODAY
 Deputy Registrar
 02 OCT 2013

ATTESTED

EXAMINER
 06/12/13


- g. That the impugned action/orders/decision are without lawful authority, illegal, void ab-intio, malafide, with ulterior motive and of no legal effect.
- h. That the transfer order of petitioner smacks arbitrariness, deviation from the normal procedure of law and even for disclosing no reason for passing frequent orders without any legal justification.
- i. That petitioner already assumed charge and also got admitted her children in Mardan so transfer back her to Peshawar would adversely affect the educational career of her school going children.
- j. That the transfer order of the petitioner is made on the recommendations of highly influential persons, so the impugned order on the face of record is void, unlawful and violative of Rule-21(2) r/w schedule-V of Rules of Business Khyber Pakhtunkhwa 1974.
- k. That the transfer of the petitioner is pre mature and in her place blue eyed person has been adjust by violating all the norms of justice and element of malafide cannot be ruled out.
- l. That the respondents particularly Respondent No.4 has not acted in accordance with law in view of Article 4 of the constitution of Pakistan 1973 of r/w section 24-A of the General Clauses Act 1897 and thus the impugned order passed is without merit and unsustainable in the eyes of law.


OCT 2013

ATTESTED
EXAMINER
Peshawar High Court
106-12-13

It is, therefore, prayed that the impugned order dated 11.09.2013 may graciously be declared null and void, without lawful authority, illegal and ineffective.

Secondly on cancellation of the above notification Respondent No.4 may be directed to restore the previous posting and transfer order of the petitioner dated 11.09.2013.

Petitioner
Through 
Ghulam Mohy-ud-Din Malik,
Advocate,
Supreme Court of Pakistan.

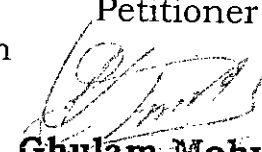
And

Mohammad Farooq Malik,
Advocate
High Court Peshawar.


Interim Relief

May it please your lordship,

By way of Interim Relief, operation of impugned notification dated 11 September 2013 may graciously be suspended till final decision of main writ petition

The prayer for granting Interim Relief is made on the grounds that the petitioner has got a good prima facie case, balance of convenience scales in her favour and she will suffer irreparable loss in case interim relief is not granted.

Petitioner
Through 
Ghulam Mohy-ud-Din Malik,
Advocate,
Supreme Court of Pakistan.

&

Mohammad Farooq Malik,
Advocate
High Court Peshawar

ATTESTED

EXAMINER
Peshawar High Court
21/11/13

36

17

CERTIFICATE

Certified that no such Writ Petition has earlier been filed in this Hon'ble Court on behalf of the petitioner.

LIST OF BOOKS

- 1 Constitution of Islamic Republic Of Pakistan, 1973.
- 2 Any other law as per need.

[Signature]
Advocate

AFFIDAVIT

I, Muhammad Farooq Malik Advocate as per information of the client do hereby solemnly declare that the accompanying Writ Petition is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court:

[Signature]
DEPONENT

No. 2867-
 Certified that the above was verified on solemn affirmation before me in office, this 2nd day of Oct 2013 By Muhammad Farooq Malik who was identified by Secy who is personally known to me:
[Signature]
 Oath Commissioner
 Peshawar High Court, Peshawa.

ATTESTED

[Signature]
06-12-13

FILED TODAY
Deputy Registrar
02 OCT 2013

(37) (13) (6)

BEFORE PESHAWAR HIGH COURT PESHAWAR

W.P No. _____/2013

Mst: Salma Naz.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa and others.....Respondents

ADDRESSES OF PARTIES.

PETITIONER


Mst: Salma Naz wife of Farooq Hussain, Lecturer in Health & Physical Education, Government Girls Degree College, Gulshan Rehman, Kohat Road Peshawar.

RESPONDENTS

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pukhtunkhwa through Secretary Higher Education, Peshawar.
3. Director Higher Education, Khyber Pukhtunkhwa, Peshawar.
4. Dr.Khalid Khan, Additional Secretary Higher Education Department, Government of KPK, Peshawar.
5. Gulalay, lecturer Health & Physical Education, Government Girls College Sheikh Maltoon Mardan.

Petitioner

Through


Ghulam Mohy-ud-Din Malik,
Advocate,
Supreme Court of Pakistan.

ATTESTED

EXAMINER
Peshawar High Court

06-12-13

OCT. 2013

BEFORE PESHAWAR HIGH COURT PESHAWAR

W.P No. 2607-P/2013

Mst. Salma Naz wife of Farooq Hussain, Lecturer in Health & Physical Education, Government Girls Degree College, Gulshan Rehman, Kohat Road Peshawar.....**Petitioner**

VERSUS

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pukhtunkhwa through Secretary Higher Education, Peshawar.
3. Director Higher Education, Khyber Pukhtunkhwa, Peshawar.
4. Dr.Khalid Khan, Additional Secretary Higher Education Department, Government of KPK, Peshawar.
5. Gulalay, lecturer Health & Physical Education, Government Girls College Sheikh Maltoon Mardan.

13
3366/13

.....**Respondents**

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth

1. That the petitioner is M.Sc Health & Physical Education, she was lastly posted as lecturer in Health & Physical Education (BPS-17) in Government Girls Degree College Gulshan Rehman Kohat Road Peshawar and served as such for about seven years.

ATTESTED

EXAMINER
Peshawar High Court
66-12 13

Annex "L" 39

PESHAWAR HIGH COURT PESHAWAR.

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case Noof.....



Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
-----------------------------	---

1	
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25.11.2013.	<u>WP No.2607-P OF 2013</u>
-------------	-----------------------------

Present: Mr. Muhammad Farooq Malik, Advocate for the petitioner.

QAISER RASHID KHAN, J. After having heard the learned counsel for the petitioner at a considerable length, he lastly requested that the departmental appeal preferred to the authorities against the transfer order of the petitioner may be directed to be disposed of at the earliest so that he may approach the proper forum for the redressal of his grievance.

Order accordingly and the writ petition is disposed of in limine.

sd/ Qaiser Rashid Khan
sd/ Jibamullah Khan

JUDGE

[Signature]
 JUDGE

CERTIFIED TO BE TRUE COPY

Examiner
 Peshawar High Court Peshawar
 Authorized Under Article 87 of
 the Constitution of 1973

7883

Date of Presentation of Application..... 29.11.13

No of Pages..... 8P

Copying fee..... 16.00

Urgent Fee..... 16.00

Total..... 16.00

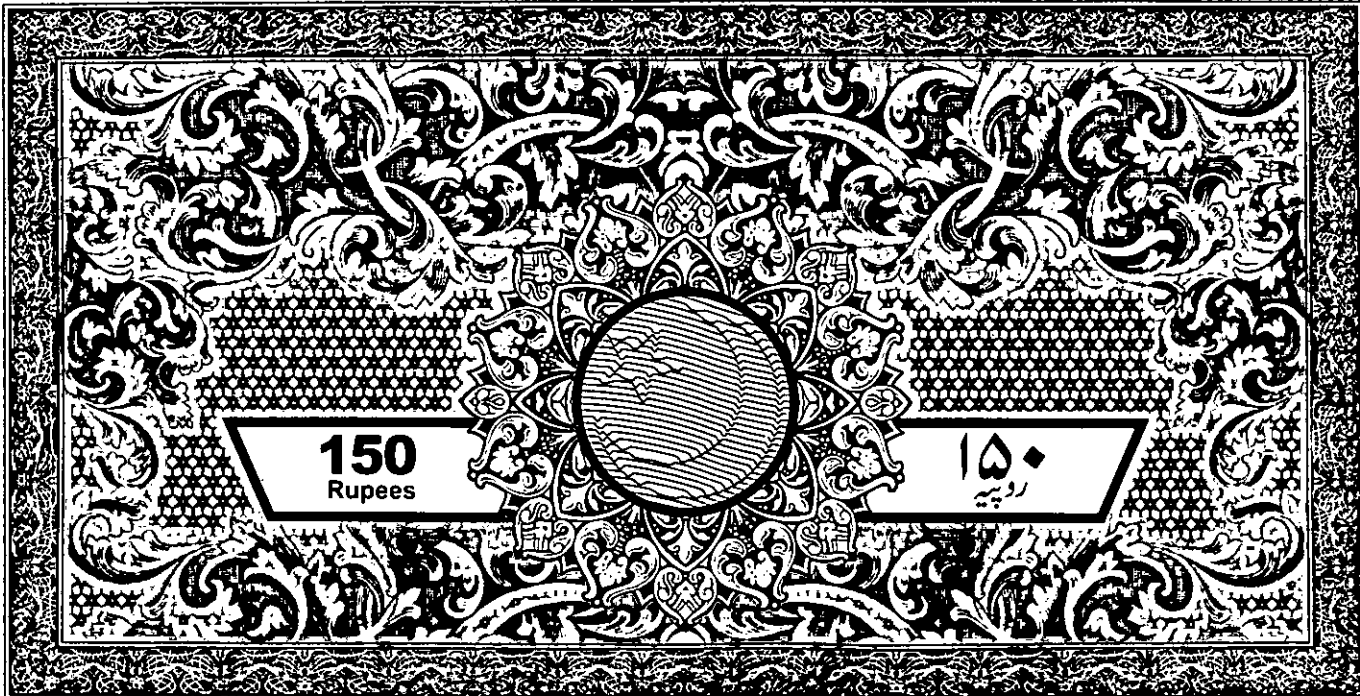
Date of Preparation of Copy..... 06-12-13

Date Given For Delivery..... 06-12-13

Date of Delivery of Copy..... 06-12-13

Received..... *[Signature]*

06.12.13



بعدالت حیدر خٹو جو اس وقت ٹراکٹریں سٹاپ پر

سماہ لکھن نامہ گورنمنٹ KPIIC

مختیار نامہ خاص دعویٰ سرکس ریل -

مناجات و سپاہ وند 5

10171

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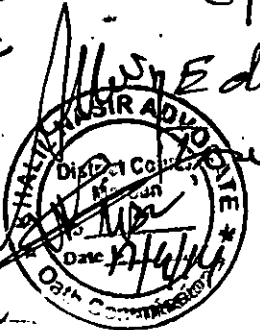
اقرار کر کے لکھ دیتے اور بتا ہوں۔ کہ مقدمہ بالا کی پیروی سے بوجہ کاروبار دیگر مصروفیات سے بذات خود معذور ہوں۔ لہذا اپنی جانب سے کسی اسٹیل چارج و لہ اکہ فائی کلمنٹے چھٹو کو مختیار خاص مقرر کر کے اختیار دیتا ہوں۔ کہ مختیار خاص دعویٰ مذکورہ کی پیروی میری جانب سے کریں۔ وکیل مقرر کریں۔ بیان تحریر پر تصدیق میری جانب سے کریں۔ اور اس کو داخل کریں۔ کاغذات یا دیگر ثبوت تحریری طلب کرائیں یا پیش کریں یا واپس کریں یا سوال و جواب کرتے۔ صلح نامہ، راضی نامہ، دست برداری یا اقبال دعویٰ دیں۔ یا اقرار نامہ تاشی داخل یا قبول کرے۔ دعوائی، جواب دعویٰ، جواب اجواب، بیان دیوے، درخواست CPC (2) 12 داخل کرے۔ درخواست منسوخی ڈگری / کارروائی پکٹرف داخل کریں۔ اور اس پر دستخط کریں۔ بیان خلقی داخل کرے۔ یا دیگر درخواست کسی مضمون کی پیش کرے یا کوئی مطالبہ متعلقہ مقدمہ داخل کرے۔ یا واپس لے۔ مقدمہ میں اپیل گرانی، نظر ثانی، اپیل دراپیل، اس عدالت ماتحت تا عدالت عالیہ و عظمیٰ آف پاکستان دائر پیش کریں۔ اجراء داخل کرے۔ رقم وصول و داخل کرے اور مقدمے کے سلسلے میں جو کچھ کارروائی ہوگی اس میں لائیں۔ جملہ ساختہ پروا داخل اختیار موضوع کا پیش کردہ ذات خاص اپنے کے قبول و منظور ہیں۔ لہذا مختیار نامہ بذراستد تحریر ہے۔

17-06-2014
گواہ شدہ 2

Gulalay

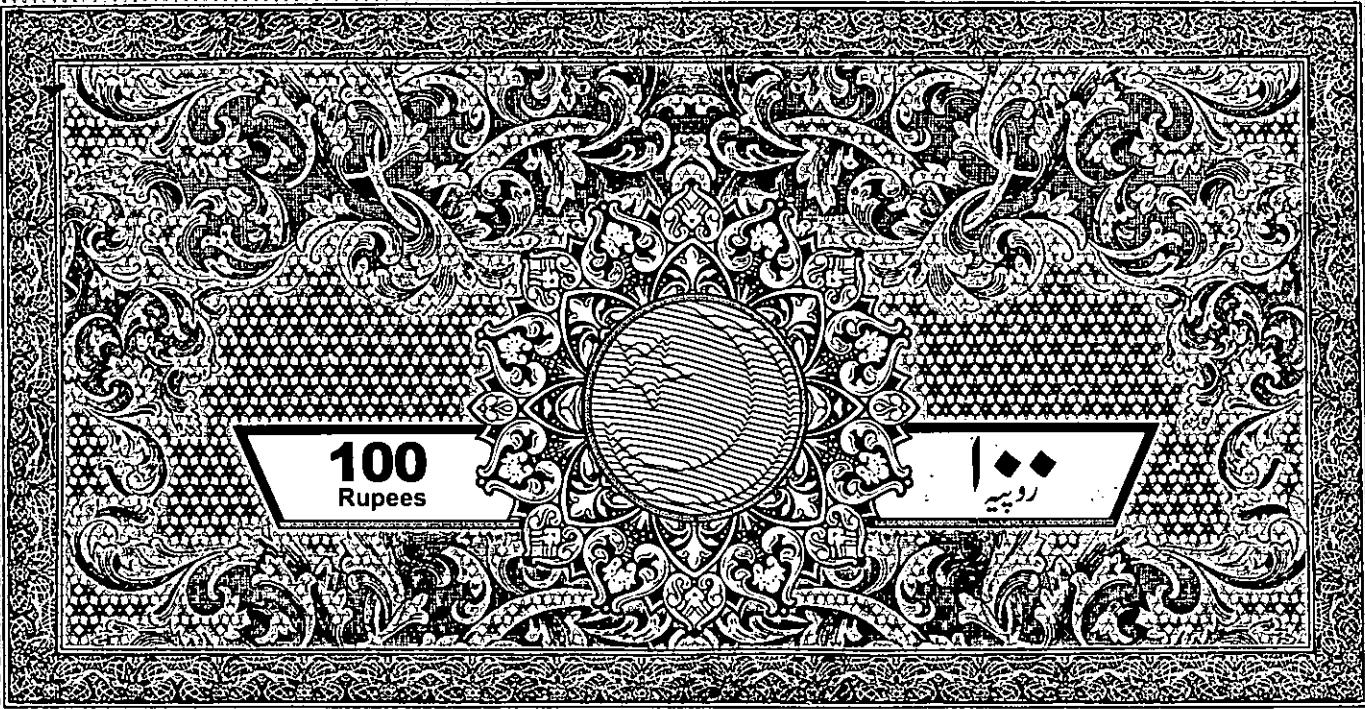
Gulalay Lecturer H & PH
Education G.C. Sherkh Multan
Mardan.

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756953



برائے حساب، کاپی



بعدالت صدر محنون خواہ سرسبز ٹرا سوسٹی ہے

کورٹ فیس

مورخہ: 2014-04-17 2014 منجانب رسائی کے لئے

مقدمہ: سہ ماہی نامہ بنام: گورنمنٹ آف پاکستان

دعویٰ: سرسبز ٹرا سوسٹی

جرم:

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کارروائی متعلقہ آن مقام ~~سہ ماہی~~ کے لئے اسے ایم ایس مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل ایم ایس اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق ذراں پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرفہ یا اپیل کی برآمد ہوگی اور منسوخ دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 17 ماہ اپریل 2014ء

العواہ شہادہ العاہ

بمقام: کے لئے منظور ہے۔

Acceptd
S. M. Niyas Ali

سہ ماہی کے لئے منظور ہے

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.108/2014

Mst. Salma Naz..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa though Chief Secretary and others..... (Respondents)

INDEX

S. No.	Description of Documents	Annexure	Pages
1.	Para-wise Comments		1-3
2.	Writ Petition bearing No. 2087/2013 titled Gulaly VS Secretary Higher Education and 03 others in the Peshawar High Court Peshawar	(Annex-A)	4-8
3.	Notification dated 03-07-2013	(Annex-B)	9
4.	Order dated 28-08-2013 passed by the Peshawar High Court Peshawar	(Annex-C)	10-11
5.	Notification dated 11-09-2013	(Annex- D)	12
6.	Department letter No. SO (A&L)HE/8-2/2011/13691 dated 31-01-2014	(Annex- E).	13

Respondents

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.108/2014

Mst. Salma Naz:..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others..... (Respondents)

Para-wise Comments on behalf of Respondents No. 1 to 4.

Respectfully Sheweth: -

Preliminary Objections: -

1. The Appellant has no locus standi to file the Appeal in hand.
2. That the Appellant has exerted political influence for her transfer in violation of section 22 of the Khyber Pakhtunkhwa Civil Servant Conduct Rules 1987, hence the Appeal is liable to dismissal on this score alone.
3. That the Appellant is estopped by his own conduct to file the Appeal in hand.
4. That the Application/Departmental Appeal was not addressed to the Appellate Authority and that it was not moved by the Appellant herself, rather it was moved and signed by Mr. Farooq Hussain, the husband of the Appellant, therefore, the Appeal in hand is not maintainable under Section-4 of the Khyber Pakhtunkhwa Tribunal Act.
5. That the spouse policy is not applicable to the Appeal in hand as the husband of the Appellant, namely Farooq Hussain is working in Abdul Wali Khan University which is an autonomous body and is not a civil servant.

On Facts: -

1. Relates to the record, hence calls for no comments.
2. Correct to the extent that her husband is performing his duties in Abdul Wali Khan University, Mardan which is an autonomous body and he is not a civil servant.
3. Correct to the extent that the Appellant was transferred from Government Girls Degree College, Gulshan Rehman, Kohat Road Peshawar to GGC, Shaikh Maltoon, Mardan vide Notification dated 13-06-2013 per (Annex- C) of the Service Appeal. It is also correct that the Appellant belongs to District Mardan, however, it is incorrect that her transfer was made under the spouse policy. The spouse policy is not applicable to the Appeal in hand as the husband of the Appellant, namely Farooq Hussain is working in Abdul Wali Khan University, Mardan which is an autonomous body and is not a civil servant.
4. Denied as drafted. No political interference is admitted.
5. Correct to the extent of restoration of the earlier Order dated 13-06-2013.

6. Calls for no comments from the answering Respondents.
7. Correct.
8. Incorrect. The Respondent No. 5 had filed Writ Petition bearing No. 2087/2013 titled Gulaly VS Secretary Higher Education and 03 others in the Peshawar High Court Peshawar (**Annex- A**) wherein the Notification dated 03-07-2013 (**Annex- B**) was challenged and a prayer was made for setting aside the Notification. The Hon'ble Peshawar High Court Peshawar vide Order Sheet dated 28-08-2013 (**Annex- C**) passed the following Order:

"Let comments of Respondent No. 1 be called for, so as to reach this Court within fortnight.

Respondent No. 1 is directed to appear in person alongwith the relevant record pertaining to transfer of the Petitioner."

It was in this background that the Notifications dated 03-07-2013 and 13-06-2013 were cancelled vide Notification dated 11-09-2013 (**Annex- D**). It may further be added that the Appellant had also filed Writ Petition No. 2607/2013 in the Peshawar High Court Peshawar per (**Annex- K**) of the Service. The Hon'ble Peshawar High Court Peshawar vide Order dated 25-11-2013 per (**Annex- L**) of the Service Appeal, remanded the case to the Respondents Department with the direction to dispose of the Departmental Appeal at the earliest so that she may approach the proper forum for redressal of her grievances. It may further be added that the Appellant had not filed any Departmental Appeal against the Notification dated 11-09-2013 (**Annex- D**) supra, one Farooq Hussain, the husband of the Appellant had moved an application to Respondent No. 2 per (**Annex- J**) of the Service Appeal, against the Notification which was regretted vide this Department letter No. SO (A&L)HE/8-2/2011/13691 dated 31-01-2014 (**Annex- E**).

9. Incorrect. As explained in Para-8 above.
10. As explained in Para-8 above.
11. The Department has regretted the Appeal moved by the husband of the Appellant under his own name and signature per (**Annex- G**) supra.

On Grounds: -

- A. Incorrect. The posting and transfer is strictly done in the public interest and there is no abuse or misuse of powers/authority vested in the Respondents.
- B. Incorrect. Every civil servant is liable to serve anywhere according to the pleasure of the Competent Authority.
- C. Incorrect. The husband of the Appellant is not a civil servant, rather he is the servant of Abdul Wali Khan University Mardan which is an autonomous body and that the spouse policy is not applicable in the circumstances of the case.
- D. Relates to the record of the Appellant, hence calls for no Comments from the answering Respondents.
- E. As replied in Para-B above.
- F. Calls for no Comments.

3

G. Incorrect. As explained in Para-8 above.

H. Incorrect. As explained in Para-8 above.

I. Calls for no Comments.

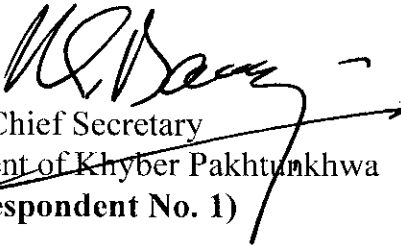
J. Incorrect. The Appellant has also used political influence upon the authorities for her transfer.

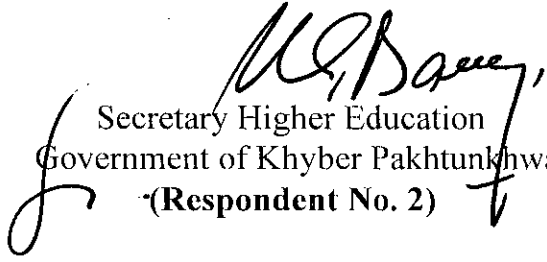
K. Incorrect, hence denied.


L. Incorrect. The Respondents have acted in accordance with the law and constitution and no violation of law has been committed.


Prayer: -

In view of the above submissions, it is humbly prayed that the Appeal in hand may graciously be dismissed with costs.


Chief Secretary
Government of Khyber Pakhtunkhwa
(Respondent No. 1)


Secretary Higher Education
Government of Khyber Pakhtunkhwa
(Respondent No. 2)


Additional Secretary Higher Education
(Respondent No. 4)


Director Higher Education
(Respondent No. 3)

Annex-A
[PP-4-8

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ petition No 207 of 2013

Gulaly
(Petitioner)

Vs

Secretary etc.
(Respondents)

INDEX

S.NO	DESCRIPTION	ANNEX.	PAGES
1.	Writ petition	-	1 to 4
2.	Affidavit	-	5
3.	Memo if addresses	-	6
4.	Office Order dated 13/06/2013	A	7
5.	Recommendation of respondent No.3	B	8
6.	Office Order dated 14/07/2013	C	9
7.	office order dated 27/06/2013	D	10
8.	Impugned office order dated 03/06/2013	E	11
8.	Court Fee.	=	12
8.	Wakalat Nama	=	13

Petitioner
Through, Gulaly
S.M.Ilyas Advocate
High Court
Bar. At law (BPTC)
Distt. Courts Mardan

5

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ petition No _____ of 2013

Gulalay Lecturer in Physical Education GGDC

Sheik Maltoon Town Mardan. _____ (Petitioner)

Versus

1. Secretary Higher Education Khybar Paktoon kwaw
2. Director Higher Education KPK Peshawar.
3. Principal Government Girls Degree College Sheikh Maltoon Mardan
4. Mst. Salma Naz Lecture in Health and Physical Education GGDC Gulshan Rehman Kohat Road Mardan ✓ Peshawar (Respondents)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION 1973 OF ISLAMIC REPUBLIC OF PAKISTAN

Respectfully Sheweth,

1. That petitioner is serving as lecturer Physical Education in Government Girls Degree College Sheik Maltoon town Mardan.
2. That on 13/06/2013 through office order No.SO(C-IV)/HE/8-4/2011/7714-0 the respondent No.1 has transferred the petitioner against respondent No.4

P-2

(6)

from GCC Sheikh Maltoon Mardan to GGDC Gulshan Rehman Kohat Road Peshawar. (Copy of office order dated 13/06/2013 is attached as annex A)

3. That in compliance of the above transfer order, petitioner request to the competent authority for the cancellation of transfer order, because petitioner is permanent resident of District Mardan, having mother of two infant babies, it is very difficult to the petitioner if she goes to Peshawar on daily bases.
4. That respondent No.3 forwarded the request of petitioner to the competent authority with the remarks, that the application was based on facts. Respondent No.2 was satisfied with the work and conduct of the petitioner, thus respondent No.3 recommended the application and forwarded the application for favourable consideration. (Copy of recommendation of respondent No.3 is attached as annex B)
5. That respondent No.1 has withdrawn the transfer order No.SO (C-IV)/HE/8-4/2011/7714-0 dated 13/06/2013 in the public interest vide office order No. No.SO (C-IV)/HE/8-2/2013/8855-61 (Copy of office order dated 14/07/2013 is attached as annex C)
6. That on 27/06/2013 the competent authority respondent No.1 has cancelled the department notification dated 13/06/2013 with immediate effect in the public interest. (Copy of the office order dated 27/06/2013 is attached as annex D)
7. That on 03/06/2013 due to political influence the respondent No.1 restored the notification dated 13/06/2013 vide office No.(C-IV)/HE/8-2/2013/9163-69 dated 03/07/2013, which is illegal against law and facts; without lawful authority amongst the following grounds. (Copy of office order dated 03/06/2013 is attached as annex E)

GROUNDS

- a. Because impugned office order No.(C-IV)/HE/8-2/2013/9163-69 dated 03/06/2013 issued from the office of respondent No.1 regarding the restoration of transfer order in favour of respondent No.4 is illegal against law and facts and without lawful authority.
- b. Because the impugned office order is against the law and facts and has been passé in this regard of the precedent set for by the superior court.
- c. That respondent No.4 due to political influence of the Chief Minister, wherein she request for the restoration of transfer order dated 13/06/2013 which is without lawful authority.
- d. Because after fully satisfaction respondent No.1 has recommended with the remarks of respondent No.3 through proper channel, regarding the transfer of the petitioner, and once withdrawn the transfer order of the petitioner and then cancelled the same through proper notifications.
- e. Because impugned request for cancellation of transfer order in result of political pressure, which has been seriously deprecated by the Honourable Supreme Court of Pakistan in its judgements.
- f. Because official/respondent are bound to obey and respect judgement of Supreme Court of Pakistan, which is also having a protection in article 189 of the constitution of Pakistan 1973, being binding upon all citizens.
- g. Because succumbing to the whims and wishes by the political authority and flouting the judgement of Honourable Apex Court is contemptuous act on the part of respondents.
- h. That instant petition is prima-facia, balance of convenience lies in favour of petitioner and if

impugned order not cancelled petitioner will suffer in irreparable loss.

On acceptance of this petition impugned office order No.(C-IV)/HE/8-2/2013/9163-69 dated 03/07/2013, may please be set-aside, any other relief deemed fit may also be graciously granted in favour of the petitioner.

INTERIM RELIEF

That impugned Office Order dated 03/07/2013 may please be suspended and service of the petitioner at GGC Shiekh Maltoon Town Mardan may not be disturbed, till the final decision of the case.

Petitioner *Gul*
Through
S.M.Ilyas Advocate
High Courts
Bar. At law (BPTC)
Distt. Courts Mardan

LIST OF BOOKS.

- 1. Constitution of Pakistan 1973.
- 2. Other references as per needs.

CERTIFICATE:- This is certified, that no such petition has earlier been filed in this Honourable court on the same subject matter.

Through,
S.M.Ilyas Advocate
High Court
Bar. At law (BPTC)
Distt. Courts Mardan

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Annex-B P-9



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the, July 03, 2013

NOTIFICATION

18/63-68

NO:SO(C-IV)/HE/8-2/2013, In pursuance of this Department Notification of even No. dated 14-6-2013, The Competent Authority is pleased to restore w.e.f 13-06-2013 of this Department Notification dated 13-06-2013 in the public interest;

S/#	Name Designation & Present Posting	Proposed Station	Remarks
1	Mst. Salma Naz, Lecture in Health & Physical Education, GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S, No.2
2	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S, NO.1

Note:- No TA / TG is allowed.

SECRETARY HIGHER EDUCATION

Endst. No. & Date Even.pp

- Copy to the:-
1. Accountant General Khyber Pakhtunkhwa Peshawar.
 2. Director Higher Education Khyber Pakhtunkhwa, Peshawar.
 3. The District Account Officer Mardan.
 4. Principal Govt. Girls Degree College Gulshan Rehman Kohat, Road Peshawar.
 5. Principal Govt. Girls Degree College, Sheikh Maltoon Mardan.
 6. Officers concerned.

[Handwritten signature]

5/7

[Handwritten signature]
(Jehan Zeb Khan)
SECTION OFFICER (C-IV)

[Handwritten signature]

[Handwritten signature]
05/7/13

+ THE
PESHAWAR HIGH COURT
PESHAWAR



Ph: No. 091-9210149-158
Ext: No. 364

No. 12590 /Judl:

Dated Peshawar the 6/9 2013

From

The Additional Registrar (J),
Peshawar High Court,
Peshawar.

Amex-c

[PP-10-11]

To

✓ The Secretary Higher Education,
Govt: of KPK, Peshawar.

Subject: Writ Petition No. 2087-P/2013

Gulalay Lecturer in Physical Education

--- Petitioner

Versus

Secretary Higher Education & others

--- Respondents

Memo:

I am directed to forward herewith copy of order dated 28/08/2013, passed by Division Bench of this Court in the titled case, for compliance and ask you to submit parawise comments to this Court within fortnight and shall also appear in person on 25/09/2013 alongwith the relevant record pertaining to transfer of the Petitioner.

[Signature]
ADDITIONAL REGISTRAR (J)

Encl:

Copy of order & Writ Petition.

6/9/13

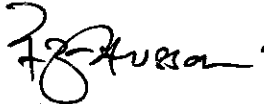

*4542/2013
10/9/2013
SO (Lit)*

*HK
7/9*

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

11

S.No.	Date of order	Order or other proceedings with signature of the Judge
1	2	3
	<p>28-8-2013</p>	<p><u>W.P.No.2087-P/2013.</u></p> <p>Present: Nemo for the petitioner. __</p> <p>Let comments of respondent No.1 be called for, so as to reach this Court within a fortnight.</p> <p>Respondent No.1 is also directed to appear in person alongwith the relevant record pertaining to transfer of the petitioner.</p> <p style="text-align: right;">  <u>JUDGE</u> </p> <p style="text-align: right;">  <u>JUDGE</u> </p>

office
29/8/13



Annex-D
P-12

267

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT**

Dated Peshawar the, **September 11, 2013**

NOTIFICATION

NO.SO(C-IV)/HE/8-2/20139163-69, In Pursuance of this Department Notification of even No. dated 03-7-2013, The Competent Authority is pleased to cancel the notification of even number dated 13-6-2013 with immediate effect in the public interest;

S.#	Name Designation & Present Posting	Proposed Station	Remarks
1.	Mst. Salma Naz, Lecture in Health & Physical Education , GGDC, Gulshan Rehman, Kohat, Road Peshawar	GGC, Sheikh Maltoon, Mardan.	Vs S, No.2
2.	Mst. Gulalai Lecture in Health & Physical Education, GGDC, Maltoon, Mardan.	GGDC, Gulshan Rehman Kohat Road Peshawar	Vs S, NO.1


Note:- No TA / TG is allowed.

SECRETARY HIGHER EDUCATION

Endst: No. & Date Even.pp

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Director Higher Education Khyber Pakhtunkhwa, Peshawar.
3. The District Account Officer Mardan.
4. Principal Govt. Girls Degree College Gulshan Rehman Kohat, Road Peshawar.
5. Principal Govt. Girls Degree College, Sheikh Maltoon Mardan.
6. Officers concerned.


(Jehan Zeb Khan)
SECTION OFFICER (C-IV)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

No. SO(A&L)HE/8-2/2011 / 1369-71
Dated Peshawar the, January 31st, 2014

To

Ms. Salma Naz
Lecturer in HPE,
GGDC, Gulshan Rehman
Kohat Road, Peshawar

Subject:

DEPARTMENTAL APPEAL/WRIT PETITION UNDER ARTICLE-199 OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 WRIT PETITION NO.2607-P OF 2013 DATED 25-11-2013 TITLED MST. SALMA NAZ LECTURER IN HPE AT GGDC, GULSHAN REHMAN KOHAT ROAD, PESHAWAR VS CHIEF SECRETARY AND FOUR OTHERS.

I am directed to refer to the subject noted above and to state that you had filed a writ Petition before the Peshawar High Court Peshawar on 25-11-2013, wherein the Honorable Court directed to dispose of the Departmental Appeal of the Petitioner and inform the petitioner accordingly. It is to inform you that you have not submitted departmental appeal to the appellant authority. Your husband made an application under his signature on 23-09-2013 against the notification dated 11-09-2013.

2. It is worth mentioning here that in the notification dated 13-6-2013 at S.No 2 Ms Gulalai, Lecturer in HPE at GGDC Shiekh Maltoon Mardan under transfer to GGDC Gulshan Rehman Kohat Road Peshawar had filed a writ Petition before the Peshawar High Court Peshawar No. 2087-P/ 2013 dated 28-8-2013 wherein the Honorable Court directed the Secretary Higher Education 28-8-2013 to appear in person before the Court with relevant record.

3. A comprehensive note explaining the writ Petition by Ms. Gulalai Lecturer in HPE before the Peshawar High Court Peshawar against the notification dated 13-6-2013 and dated 11-9-2013 was submitted to the competent authority and approved the proposal of this department and cancelled the notification explained above. Accordingly writ Petition No. 2057- P/ 2013 was disposed of. This department regrets its inability to entertain the departmental appeal moved by your husband.


3/2/14
(JEHAN ZEB)
SECTION OFFICER (C-IV)

Endst: No. & Date Even.

Copy forwarded to the:-

1. Director Higher Education Peshawar for information.
2. Section Officer (Litigation) Higher Education Department for information with reference to High Court judgment at 25-11-2013.


3/2/14
SECTION OFFICER (C-IV)

Three
3/2/14

BEFORE THE SERVICE TRIBUNAL KHABER
PAKHTUNKHWA PESHAWAR

Service Appeal No. 108 of 2014

Mst Salma Naz -----Appellant

Vs

Government of KPK

and others-----=Respondents

COMMENTS/WRITTEN STATMENT ON BEHALF
COMMENTS ON BEHALF OF RESPONDENT NO.5

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

- a. That appeal is not maintainable.
- b. That appellant has got no cause of action.
- c. That appellant has concealed material facts from this Honourable Tribunal.
- d. That appellant has not come to this Honourable tribunal with clean hands.
- e. That appeal is not competent in its present form.
- f. That appeal is bad for mis-jionder and non-jionder of necessary parties.
- g. That appeal is time barred.

ON FACTS:

1. No comments.
2. Regarding Para No. 2 of the appeal, it is submitted that respondent No. 5 is also Mardan Domiciled permanent R/o Shiekh Maltoon town of District Mardan, having mother of two infant babies.
3. That Para No. 1 is incorrect because the transfer order of the appellant was issued due to political influence thus was cancelled by the competent authority.
4. Incorrect hence denied.
5. Para No.2 is concerning with record, while remaining Para is incorrect, because appellant pressurized the competent authority for restoration the transfer order due to political influence hence denied.
6. Incorrect hence denied.
7. Incorrect thus denied.
8. Totally incorrect because the office order dated 11/09/2013 was issued due to public interest.
9. No comments.
10. No comments.
11. No comments.

GROUND:-

- a. Para No.1 of the ground is wrong incorrect thus denied.

- b. Incorrect hence denied.
- c. Incorrect, denied.
- d. No comments
- e. Inc Incorrect hence denied.
- f. Incorrect denied.
- g. Incorrect hence denied.
- h. Incorrect hence denied.
- i. Incorrect hence denied.
- j. Incorrect hence denied.
- k. Incorrect hence denied.
- l. Incorrect hence denied.

It is therefore prayed that appeal of the appellant may please be dismissed with cost.

Dated 17/04/2014

Respondent No.5

Through ~~S. M. ILYAS~~
Barrister at Law
Advocate High Court
S.M. Ilyas (Advocate High court)

Affidavit

I respondent No.5 solemnly affirms that the contents of this comments are true and correct to the best of my knowledge and belief.

Gul
DEPONENT



BEFORE THE SERVICE TRIBUNAL KHABER
PAKHTUNKHWA PESHAWAR

Service Appeal No. 108 of 2014

Mst Salma Naz -----Appellant

Vs

Government of KPK and others----Respondents

REPLICATION OF SUSPENSION OF THE
ORDER 11/09/2013

RESPECTFULLY SHEWETH,

Respectfully Sheweth,

1. Needs no comments.
2. Incorrect hence denied.

It is therefore prayed that the application of the
appellant may please be dismissed with cost.

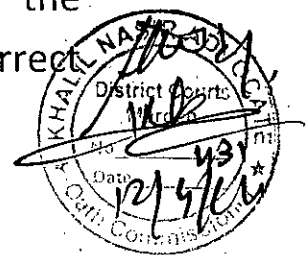
Dated 17/04/2014

Respondent No.5
S.M. ILYAS
Through,
Advocate High Court
Distt: Court Peshawar
S.M. Ilyas (Advocate High court)

Affidavit

I respondent No.5 solemnly affirms that the
contents of this replication are true and correct
to the best of my knowledge and belief.

DEPONENT



BEFORE THE SERVICE TRIBUNAL KHABER
PAKHTUNKHWA PESHAWAR

Service Appeal No. 108 of 2014

Mst Salma Naz -----Appellant

Vs

Government of KPK

and others-----=Respondents

COMMENTS/WRITTEN STATEMENT ON BEHALF
COMMENTS ON BEHALF OF RESPONDENT NO.5

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

- a. That appeal is not maintainable.
- b. That appellant has got no cause of action.
- c. That appellant has concealed material facts from this Honourable Tribunal.
- d. That appellant has not come to this Honourable tribunal with clean hands.
- e. That appeal is not competent in its present form.
- f. That appeal is bad for mis-joinder and non-joinder of necessary parties.
- g. That appeal is time barred.

ON FACTS:

1. No comments.
2. Regarding Para No. 2 of the appeal, it is submitted that respondent No. 5 is also Mardan Domiciled permanent R/o Shiekh Maltoon town of District Mardan, having mother of two infant babies.
3. That Para No. 1 is incorrect because the transfer order of the appellant was issued due to political influence thus was cancelled by the competent authority.
4. Incorrect hence denied.
5. Para No.2 is concerning with record, while remaining Para is incorrect, because appellant pressurized the competent authority for restoration the transfer order due to political influence hence denied.
6. Incorrect hence denied.
7. Incorrect thus denied.
8. Totally incorrect because the office order dated 11/09/2013 was issued due to public interest.
9. No comments.
10. No comments.
11. No comments.

GROUND:-

- a. Para No.1 of the ground is wrong incorrect thus denied.

- b. Incorrect hence denied.
- c. Incorrect, denied.
- d. No comments
- e. Inc Incorrect hence denied.
- f. Incorrect denied.
- g. Incorrect hence denied.
- h. Incorrect hence denied.
- i. Incorrect hence denied.
- j. Incorrect hence denied.
- k. Incorrect hence denied.
- l. Incorrect hence denied.

It is therefore prayed that appeal of the appellant may please be dismissed with cost.

Dated 17/04/2014

Respondent No.5

Through S.M. ILYAS
Barrister at Law
Advocate High Court
S.M. Ilyas (Advocate High court)

Affidavit

I respondent No.5 solemnly affirms that the contents of this comments are true and correct to the best of my knowledge and belief.

Gulali
DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Miscellaneous Application in Service Appeal No:108/2014

Mst. Salma Naz..... (Applicant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others..... (Respondents)

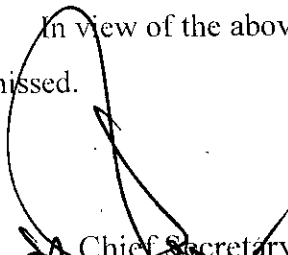
REPLY TO APPLICATION FOR SUSPENSION OF ORDER DATED 11-09-2013.

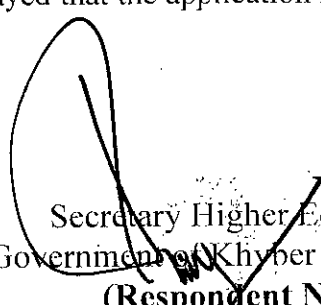
Respectfully Sheweth: -


1. No Comments.
2. Incorrect. The Application has got no prima facie case. The order dated 11-09-2013 has been passed by the Competent Authority after fulfilling all codal formalities and the order is sustainable in the eyes of law. The Application has not made Departmental Appeal hence the Appeal and incidental/ consequential relief sought as not maintainable in view of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act. Moreover, the Applicant has not balance of convenience on her side, rather the balance of convenience of the Respondents.
3. The Applicant has been working at Government Girls Bacha Khan Degree College Peshawar and she is not suffering irreparable loss.
4. Reply to the main Appeal may be considered as integral part of this Reply to Application.

Prayer: -

In view of the above submission it is humbly prayed that the application in hands may be dismissed.


Chief Secretary
Government of Khyber Pakhtunkhwa
(Respondent No. 1)


Secretary Higher Education
Government of Khyber Pakhtunkhwa
(Respondent No. 2)


Director Higher Education
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Miscellaneous Application in Service Appeal No.108/2014

Mst. Salma Naz..... (Applicant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others..... (Respondents)

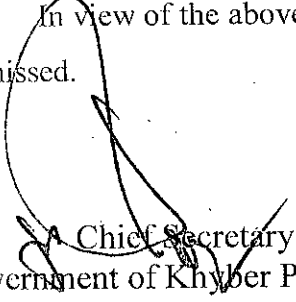
REPLY TO APPLICATION FOR SUSPENSION OF ORDER DATED 11-09-2013.

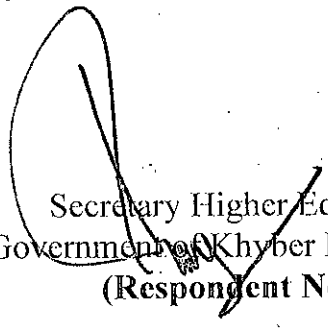
Respectfully Sheweth: -

1. No Comments.
2. Incorrect. The Application has got no prima facie case. The order dated 11-09-2013 has been passed by the Competent Authority after fulfilling all codal formalities and the order is sustainable in the eyes of law. The Application has not made Departmental Appeal hence the Appeal and incidental/ consequential relief sought as not maintainable in view of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act. Moreover, the Applicant has not balance of convenience on her side, rather the balance of convenience of the Respondents.
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Prayer: -

In view of the above submission it is humbly prayed that the application in hands may be dismissed.


Chief Secretary
Government of Khyber Pakhtunkhwa
(Respondent No. 1)


Secretary Higher Education
Government of Khyber Pakhtunkhwa
(Respondent No. 2)


Director Higher Education
(Respondent No. 3)