

05.11.2018

Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 04.12.2018 at camp court Swat.




Reader

04.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Adjourn. To come up for rejoinder if any arguments/further proceedings on 06.12.2018 before D.B at Camp Court Swat.



Member



Member
Camp Court, Swat

06.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.



Member



Member
Camp Court Swat

ANNOUNCED

06.12.2018

04.09.2018

Petitioner Amir Hatam in person alongwith his counsel Mr. Wilayat Ullah Khan, Advocate present. Mr. Muhammad Saeed, S.S alongwith Mr. Usman Ghani, District Attorney for respondents present.

Main contention of the petitioner is that due to the retirement of the Chairman of this Tribunal, on one date, he was not present and so his case was dismissed in default on 02.07.2018. However, on coming to know about the dismissal of his appeal, he immediately on 13.07.2018, submitted the present application which is within time. Further contended that in fact the absence of the petitioner was not intentional but wit was result of misunderstanding. He undertook that he will regularly attend the proceedings and pursue his appeal in future.

Since the application is within time and absence on the date of hearing has also been explained, as such, in the interest of justice, the application is allowed and the appeal is restored to its previous proceedings. Copy of this order be placed on the file of main appeal where the proceedings will commence from the stage where it were cutoff. Case to come up for written reply/comments on main appeal on 03.10.2018 before S.B at camp court Swat.



Chairman
Camp Court Swat

03.10.2018

Appellant Qazi Amir Hatam in person present. Mr. Muhammad Saeed, SS alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply submitted. To come up for rejoinder, if any, and arguments on 05.11.2018 before the D.B at camp court, Swat.





Member
Camp Court Swat

Form-A
FORM OF ORDER SHEET

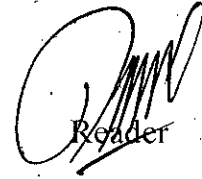
Court of _____

Appeal's Restoration Application No. 223/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.07.2018	<p style="text-align: center;">The application for restoration of appeal no. 274/2018 submitted by him may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	13.07.2018	<p style="text-align: center;">This restoration application is entrusted to Touring S. Bench at Swat to be put up there on <u>04-09-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>

09.05.2018

The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 05.06.2018 before the S.B at camp court, Swat.



Reader

05.06.2018

Neither appellant nor his counsel is present. Mr. Muhammad Saeed, S.S alongwith Mr. Usman Ghani, District Attorney for the respondents present. Representative of the respondents requested for time. Granted. To come up for written reply/comments on 02.07.2018 before the D.B at camp court, Swat. Status quo be maintained till the date fixed.




Chairman
Camp Court, Swat

02.07.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney present. Case called for several times but no one appeared on behalf of appellant. On previous date too, no one appeared on behalf of appellant. As such the present service appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED
02.07.2018



Member
Camp court, Swat

Appeal No. 274/2018
Dr. Qazi Amir Hatam vs Govt


09.03.2018

Counsel for the appellant present. Preliminary arguments heard. The appellant was transferred vide order dated 29.12.2017 from the post of Principal GHSS Dherai, Swat and was directed to report to Directorate. Against this order, the appellant filed departmental appeal on 05.01.2018⁴ which was rejected on 22.2.2018 and thereafter, he filed the present service appeal on 28.2.2018.

The learned counsel for the appellant argued that the impugned transfer was made purely on political consideration. That the MPA of the concerned area namely Muhibullah was instrumental in the said transfer. That the appellant had introduced a merit ~~passed~~^{based} policy for admission of the students of the area which was not liked by the said MPA. That the transfers on the basis of political ground have got no legal sanctity.


The points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 03.04.2018 before S.B at camp court, Swat. The learned counsel for the appellant also referred to a miscellaneous application for suspension of the impugned order. Status quo be maintained till the date fixed.

Appellant Deposited
Security & Process Fee


Chairman
Camp Court, Swat.

03.04.2018

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Muhammad Iqbal, Supdt. for the respondents present. Written reply not submitted. Seeks time. To come up for written reply/comments on 08.05.2018 before S.B at camp court, Swat. Status quo be maintained till the date fixed.


Chairman
Camp court, Swat

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 274/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28/02/2018	<p>The appeal of Dr. Qazi Amir Hatam presented today by Mr. Wilayat Ali Khan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 28/2/18</p>
2-	28-2-2018	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>09-03-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

Govt: of Khyber Pakhtoon Khwa Service Tribunal Peshawar

SA NO 274/18 dated 22/2/18.

Amir Hatam vs Secretary Education Peshawar.
Restorative Appl No. 223/18
Subject: Application for Restoration in original form
at Camp Court Swat.

Khyber Pakhtoon Khwa
Service Tribunal

Diary No. 766

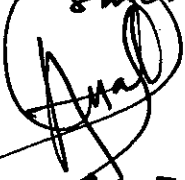
Dated 10/07/2018

R/sir,

- ① That the above case and title was fixed before the honorable tribunal Camp Court at Swat on 8/5/2018.
- ② That due to the retirement of the honorable chairman sb, the tribunal become in functional and the due tour to Swat was cancelled.
- ③ That the appellant was of the view that notices must be issued to the appellant and their counsel.
- ④ That the appellant visit the Camp Court Swat and found that his case was dismissed and default.

⑤ That no notices were issued nor the date fixed was in our notice.

⑥ Wherefore, it is requested in your kind honor that our case may be kindly restore in his original form and obliged.

Sincerely yours


Amir Hatamat Camp
Court Swat
P.O. G.H. Dherai.

0346 6413385

0332 9450870

6/7/18

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR.

Appeal No. 274/2018

Dr Qazi Amir Hatam, Principal Government Higher Secondary
School Dherai, Tehsil Kabal, District Swat.

(Appellant)

V E R S U S

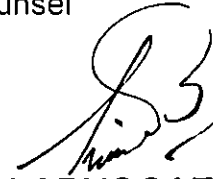
The Provincial Government through Chief Secretary, Khyber
Pakhtunkhwa at Peshawar & others

(Respondents)

INDEX

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4.	Departmental Appeal & order dated 22.02-2018	B	10.1
5.	wakalatnama	-	12

Appellant Amir Hatam
Through Counsel



WILAYAT ALI KHAN ADVOCATE
Chamber Address: park Hotel
Saidu Road, Mingora Swat
Cell #: 0300 907 5335

①

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR.

Appeal No. 274/2018

Dr Qazi Amir Hatam, Principal Government Higher Secondary School Dherai, Tehsil Kabal, District Swat. Khyber Pakhtunkhwa Service Tribunal

(Appellant)

V E R S U S

Diary No. 277

Dated 28/2/2018

- 1) The Provincial Government through Chief Secretary, Khyber Pakhtunkhwa at Peshawar.
- 2) The Secretary Education, Khyber Pakhtunkhwa at Peshawar.
- 3) The Director Elementary & Secondary Education, Khyber Pakhtunkhwa at Peshawar.
- 4) District Education Officer (M), Swat.
- 5) Section Officer, Schools/Male to Secretary Education, Khyber Pakhtunkhwa at Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER # SO(S/M)E&SED/2-1/2017/DPE.SSs&HMS DATED 29-12-2017 OF RESPONDENT # 2 WHEREBY THE APPELLANT IS TRANSFERED FROM GOVERNMENT HIGHER SECONDRY SCHOOL DHERAI KABAL AND HIS SERVICES HAS BEEN PLACED AT THE DISPOSAL OF DIRECTORATE

PRAYER

ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED TRANSFER ORDER OF APPELLANT ISSUED BY RESPONDENT # 2 DATED 29-12-2017 MAY KINDLY BE SET ASIDE AND BE CANCELLED TO THE EXTENT OF APPELLANT.

Respectfully Sheweth:

- Filed to-day*
- Registrar*
- 28/2/18*
1. That the appellant is working as principal GHSS Dherai, Tehsil Kabal, District Swat sine 16 April 2015.
 2. That respondent # 2 vide impugned order dated 29-12-2017 transferred the appellant from GHSS Dherai, Kabal, Swat and placed his services at the disposal of Directorate. Copy of the order is annexed herewith as "Annexure A".

3. That the appellant being aggrieved from the above impugned order dated 29-12-2017, filed a departmental appeal before the respondent # 2 who vide order dated 22-02-2018 has rejected/dismissed the said appeal. Copies of appeal and order are annexed herewith as "**Annexure B & C**".
4. That feeling aggrieved, the appellant prefer to file the instant appeal against the above impugned transfer order dated 29-12-2017 which is against law, *Sharia* and liable to be set aside *inter alia* on the following grounds:

GROUND S:

- a. That the case of the appellant has been dealt with in a manner not supported by the law and rules on the subject, hence the appellant has not been treated in accordance with the law.
- b. That the impugned transfer order issued by respondent # 2 is against law, facts.
- c. That in the garb of the said notification and order, the respondents are going to transfer the appellant from GHSS, Kabal, Swat.
- d. That the impugned transfer order issued by respondent # 2 is illegal, without jurisdiction, unconstitutional, against the relevant law and based on malevolence, political victimization therefore, has no sanctity in the eyes of law.
- e. That the impugned transfer order issued by respondent # 2 is against the fundamental rights

mentioned in the constitution of Islamic Republic of Pakistan 1973. Therefore, the impugned order is based on *malafide* intentions, malevolence, malign and oppressive therefore untenable.

- f. That the impugned order is based on political victimization and against the doctrine of fair justice and law of equity. Therefore on this score alone the impugned order is untenable and liable to be set aside.
- g. That the respondents cannot adopt an indirect method of depriving the appellant from the constitutional relief because unless and until the relevant law is not followed.
- h. That the appellant has been condemned unheard.
- i. That the vest right of the appellant have been infringed.
- j. That any other ground not specifically mentioned may be raised at the time of arguments with the kind permission of the honorable court.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned order dated 29-12-2017 issued by respondent # 2 may kindly be set aside and declared null and void and be cancelled to the extent of appellant. Any other relief which this court deems fit may also be granted in favour of the appellant.


Appellant Amir Hatam
Through Counsel 

WILAYAT ALI KHAN
Advocate High Court

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR.**

**Dr Qazi Amir Hatam, Principal Government Higher Secondary
School Dherai, Tehsil Kabal, District Swat.**

(Appellant)

V E R S U S

**The Provincial Government through Chief Secretary, Khyber
Pakhtunkhwa at Peshawar & others**

(Respondents)

AFFIDAVIT

It is hereby solemnly stated on oath that the contents of
the appeal are true and correct and nothing has been
concealed from this august Court as per the information
furnished by my client.

Deponent:



appellant Amir Hatam

Through Counsel



**WILAYAT ALI KHAN
Advocate**

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

28 FEB 2018

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR.

Dr Qazi Amir Hatam, Principal Government Higher Secondary
School Dherai, Tehsil Kabal, District Swat.

(Appellant)

V E R S U S

The Provincial Government through Chief Secretary, Khyber
Pakhtunkhwa at Peshawar & others

(Respondents)

APPLICATION FOR SUSPENSION OF THE
OPERATION OF THE IMPUGNED ORDER
DATED 29-12-2017 TO THE EXTENT OF
TRANSFER OF THE APPELLANT TILL THE
DISPOSAL OF THE INSTANT APPEAL

Respectfully Sheweth:

1. That the petitioner has filed an appeal before this Hon'ble Court, in which no date of hearing has been fixed yet.
2. That the respondent # 2 vide order dated 29-12-2017 has transferred the appellant/ petitioner to Peshawar.
3. That the petitioner has good prima facie case and if the proceedings on the impugned order are continued and the petitioner is compelled to relinquish the charge of the post of principal, then the petitioner will suffer irreparable loss.
4. That the balance of convenience is also in favour of the petitioner and if the suspension order mentioned in the title of this application is not graciously granted

6

then the appeal in hand will become aimless and further legal complications will come forth.

5. That the contents of the accompanying appeal may also be considered as part and parcel of this very application of the petitioners.

It is, therefore, humbly prayed that on the acceptance of this application the operation of the impugned order of respondent # 2 may kindly be suspended/ stayed to the extent of transfer of the petitioner till disposal/decision of the appeal.

Petitioner Amir Hatam
Through Counsel

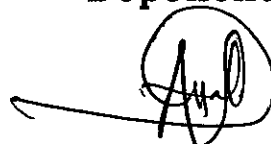


WILAYAT ALI KHAN
Advocate

AFFIDAVIT

It is hereby solemnly stated on oath that the contents of this application are true and correct and nothing has been concealed from this august Court.

Deponent:



Amir Hatam

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR.**

Dr Qazi Amir Hatam, Principal Government Higher Secondary
School Dherai, Tehsil Kabal, District Swat.

(Appellant)

V E R S U S

The Provincial Government through Chief Secretary, Khyber
Pakhtunkhwa at Peshawar & others

(Respondents)

CORRECT ADDRESS OF THE PARTIES

CORRECT ADDRESS OF THE PARTIES ARE AS UNDER:

Dr Qazi Amir Hatam, Principal Government Higher Secondary
School Dherai, Tehsil Kabal, District Swat.

(Appellant)

CNIC #: 15602-0284986-1

Mobile #: 03466413380

- 1) The Provincial Government through Chief Secretary,
Khyber Pakhtunkhwa at Peshawar.
- 2) The Secretary Education, Khyber Pakhtunkhwa at
Peshawar.
- 3) The Director Elementary & Secondary Education, Khyber
Pakhtunkhwa at Peshawar.
- 4) District Education Officer (M), Swat.
- 5) Section Officer, Schools/Male to Secretary Education,
Khyber Pakhtunkhwa at Peshawar.

(Respondent)

Appellant Amir Hatam
Through Counsel


WILAYAT ALI KHAN
Advocate



Amad A. B

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT


Dated Peshawar the December 29, 2017.

NOTIFICATION

NO.30(S/M) E&SED/2-1/2017/DPE. SSs & HMs Transfer/Ashraf Khan & others: The competent authority is pleased to transfer/adjust the following DPE, SSs & HMs and post them on the posts/stations as mentioned against their names with immediate effect:

S.#	Name & Designation	Transferred As	Remarks
2	Ashraf Khan, HM BS-17 GHS Pishtakhara Bala, Peshawar	HM BS-17 GHS Nauthia Jadeed Peshawar	Against newly created post
3	Amir Hatam Khan, Principal BS-19 GHSS Dherai Swat	Services placed at the disposal of Directorate.	
3	Muhammad Akhtar Khan, SS (Chemistry) BS-17 GHSS Langrial Abbottabad	SS (Chemistry) BS-17 GHSS Bagra Haripur	Against vacant post
4	Fazlur Rahim, SS (Urdu) BS-17 GHSS Kuza Banda Battagram	SS (Urdu) BS-17 GHSS Paimal Sharif Battagram	Against vacant post
5	Attaullah SS (Biology) wrongly working as SS (English) BS-17 GHSS Laloza Bannu	SS (Biology) BS-17 GHSS Mamash Khel Lakki Marwat	Against his original post.
6	Gul Fam, SS (Urdu) BS-17 GHSS Landi Kachi Kohat	SS (Urdu) BS-17 GHSS Muslim Abad Kohat	Against vacant post
7	Ahmad Din, SS (H/Civics) BS-17 GHSS Khesghi Payan Nowshera	SS (H/Civics) BS-17 GHSS Khair Abad Nowshera	Against vacant post
8	Muhammad Iqbal HM BS-17 GHS Hayat Abad Karak	HM BS-17 GHS Topi Qilla Karak	Against newly created post
9	Muhammad Sheukat, HM BS-17 GHS Karg Battagram	HM BS-17 GHS Bakki Manshra	Against vacant post
10	Shamsher Ali, DPE BS-17 GHSS Dherai Swat	DPE BS-17 GHSS Wadudia Swat	Against newly sanctioned post
11	Misal Bacha, SS (Chemistry) BS-17 GHSS Chantalai Swat	SS (Chemistry) BS-17 GHSS Wadudia Swat	Against newly created vacant post
12	Fazal Hamid, SS (Biology) BS-17 GHSS Kabal Swat	SS (Biology) BS-17 GHSS Wadudia Swat	Against vacant post
13	Anwar Khan, SS (Biology) BS-17 GHSS Dherai Swat	SS (Biology) ES-17 GHSS Kabal Swat	Vice Serial No. 12
14	Sher Muhammad Khan, SS (Biology) BS-17 GHSS Chamtalai Swat	SS (Biology) BS-17 GHSS Dherai Swat	Vice Serial No. 13
15	Shahzada Mohammad Afrasiab, SSS BS-18 Principal GHSS Doaba Hangu	Principal BS-18 GHS Bagato Hangu	Against vacant post
16	Murad Khan, SS (Urdu) BS-17 GHSS Garhi Ghulam Shah Peshawar.	SS (Urdu) BS-17 GHSS No.2 Peshawar	Against vacant post
17	Rahim Ullah SS (Maths) BS-17 GHSS Jahangira Swabi	SS (Maths) BS-18 GHSS Thanda koi Swabi in his own pay & scale	Against vacant post
18	Noor-u-Deen, DPE BS-17 GHSS Kaka Sahib Nowshera	DPE BS-17 GHSS Shahbaz Khel Lakki Marwat	Against vacant post

2. No TA/DA is allowed.


PRINCIPAL
Govt. Higher Secondary School
Dherai, Distt: Swat.

SECRETARY



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education Officer (M), Peshawar, Swat, Abbottabad, Haripur, Battagram, Bannu, Lakki Marwat, Karak, Kohat, Nowshera, Mansehra, Hangu, Swabi.
4. District Account Officer, Peshawar, Swat, Abbottabad, Haripur, Battagram, Bannu, Lakki Marwat, Karak, Kohat, Nowshera, Manselra, Hangu, Swabi.
5. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
6. PA to Additional Secretary E&SED, Khyber Pakhtunkhwa.
7. Incharge EMIS E&SE Department.
8. DPE, SSs & HMs concerned.
9. Office order file:

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Ames. 13.10

7/1/2018

In respect of:

Honourable Secretary Education,
Khyber Pakhtunkhwa,
Peshawar.

Subject: APPEAL FOR CANCELLATION OF TRANSFER ORDER

Dear Sir,

With profound respect it is stated that I am serving as Principal at Govt. Higher Secondary School Dherai, Swat since 16 April 2015.

But vide your order No. SO(S/M)E&SED/2-1/2017/DPE.SSs & HMS Transfer/Ashraf Khan & others at S.No. 2, dated 29.12.2017 I have been transferred to Peshawar. Sir this transfer of mine issued only and only on political grounds, which is highly cruelty and mis-carriage of justice.

I am serving up to the entire satisfaction of my immediate superiors. There is no complaint against me. But my transfer has been done on political grounds.

In light of the above exposition, your honour is therefore, requested to cancel my transfer from GHSS Dherai Swat to Peshawar and let me to continue my service at the present school (GHSS Dherai Swat).

For your this act of kindness, I shall be highly indebted and pray for you.

Thanks.

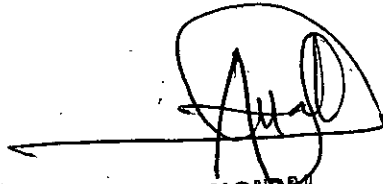
Yours obediently,



Dr. Qazi Amir Hatam
Principal GHSS Dherai, Kabal, Swat.

NO 675
Dated 05/01/2018.

Prof. Dr.
Qazi Amir Hatam
Principal
G.H.S.S, Dherai, Swat.
0346-6413385



PRINCIPAL
Govt. Higher Secondary School
Dherai, Distt: Swat.



Amir. B
1/10/18

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO(SM)E&SED/2-1/2018/Posting Transfer/Qazi Amir Hatam
Dated Peshawar the February 22, 2018

To

✓ Qazi Amir Hatam,
Principal BS-18, GHS Dheri Swat,
(Now awaiting for posting).

Subject:- APPEAL FOR CANCELLATION OF TRANSFER ORDER.

I am directed to refer to the subject noted above and to state that the Competent Authority has considered your appeal and rejected having no valid grounds.

70/ SECTION OFFICER (SCHOOLS MALE)

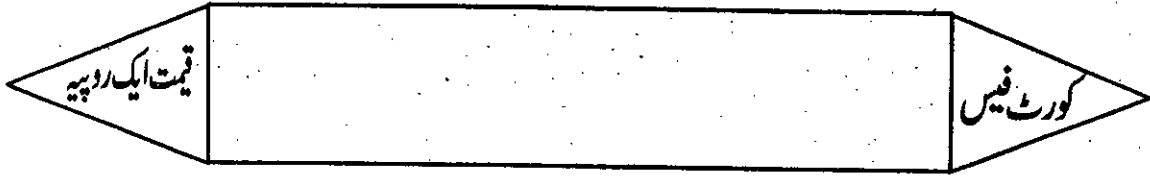
Endst: Even No. & Date:

Copy of the above is forwarded to the:-

1. PS to Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (SCHOOLS MALE)

بعدالت حصہ - سوسٹریٹوئل صدمہ خیر عنوان لیا گیا اور



موزعہ ۱ فروری ۲۰۱۸ء منجانب آسٹریٹوئل
مقدمہ ڈاکٹر آسٹریٹوئل بنام سوسٹریٹوئل خیر عنوان ویزہ
دعویٰ سوسٹریٹوئل
بجہم باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام سوسٹریٹوئل کے لیے ولد علی خان ایڈووکیٹ بالکل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف لینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ 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 ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

المرقوم رقم ماہ فروری ۲۰۱۸ء
العبد گواہ شہدہ العبد

بہتمام گوردہ سید محمد علی کے لئے منظور ہے

گواہ شہدہ العبد
دارالاسلام
15602-0284986-1 (03466413385)

Attn: Mr. Ahsan ul Haq
700

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 274/2018

Dr. Qazi Amir Hatam Principal GHSS Dherai District Swat. Appellant.

VERSUS

Chief Secretary Govt: of Khyber Pakhtunkhwa & others. Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-5.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action locus/standi .
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Tribunal.
- 4 That the instant service appeal is based on mala fide intentions.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the instant Service Appeal is against the prevailing law & rules.
- 7 That the Appellant has been treated as per law, rules & policy.
- 8 That the appeal is not maintainable in its present form.
- 9 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 10 That the instant Service Appeal is barred by law.
- 11 That the Transfer & Posting is the discretionary powers of the competent authority in view of the judgment 2008, SCMR Page-531.
- 12 That the appellant cannot claim a post of his choice in the Respondent Department of being an official of Provincial Teaching Cadre Post.
- 13 That the Respondent Department has acted in view of Sections-9 &10 of Civil Servants Act- 1973.
- 14 That the impugned transfer Notification dated 29/12/2017 of the Respondent No: 2 is within legal sphere & liable to be maintained.

- 15 That the competent authority is empower full to transfer & post a civil Servant U/S-10 of Civil Servants Act 1973 anywhere where ever his services are required in Province.
- 16 That the appellant has already completed his normal tenure of 3-years at his previous station.

ON FACTS

- 1 That Para-1, is correct to the extent that the appellant was working the Principal (BPS-19) at GHSS Dherai District Swat & has been transferred vide the Notification dated 29/12/2017 & the service of the appellant were placed at the disposal of the Respondent No: 3 for his further adjustment against the teaching cadre /Principal Post in the province. However, it is further submitted that vide another Notification No: SO(S/M) E&SED/2-1/2018/HM transfer dated 05/3/2018, the appellant has been adjusted against the Principal BPS-18 Post at GHSS Tutano Bandai, Kabal Swat. **(Copies of the said Notifications are annexed as Annexure-A&B).**
- 2 That Pare-2 is correct to the extent that the services of the appellant have been placed at the disposal of Respondent No: 3 as submitted in Para-I of the instant reply.
- 3 That Para-3, is also correct to the extent that the appellant has filed a Departmental Appeal dated 08/01/2018 against the impugned Notification dated 29/12/2017 which was rejected vide order dated 2/2/2018 by the competent authority on merits of case . **(Copies of the Departmental Appeal & Rejection order dated 22/2/2018 are annexed as Annexures C&D).**
- 4 That Para-4 is incorrect & misleading on the grounds that the appellant has been treated as per law, rules & policy vide the impugned Notification dated 29/12/2017 by Respondent No: 2, it is further submitted that the appellant is not an aggrieved person under the provision of Article-212(b) of the Constitution of Islamic Republic of Pakistan nor he has challenged the actual transfer Notification dated 05/3/2018 vide which he has been posted at GHSS Tutano Bandai District Swat against the Principal BPS-18 Post by the Respondent No: 2 & where against no Departmental Appeal U/S-22(b) of Civil Servants act 1973 has been filed by the appellant. Hence, the impugned orders dated 29/12/2017 & 05/3/2018 have got finality against the appellant & is liable to be maintained. Therefore, the Respondents No: 1-5 further submit on the following grounds inter alia :-

GROUNDS

- a Incorrect & not admitted on the grounds that the appellant has been treated in accordance with the mandatory provisions of Section-10 of Civil Servants Act 1973, vide Notification dated 29/12/2017 & 05/3/2018 by the Respondent No: 2.
- b Incorrect & denied. The impugned Notification dated 29/12/2017 of the Respondent No: 2 is legally competent & liable to be maintained in favour of the Respondents.
- c Incorrect & denied on the grounds that the appellant has been treated in accordance with the cited provision of law as the appellant has already completed his normal tenure of 3-years at his previous station & school.
- d Incorrect & misleading. The impugned order & Notification dated 29/12/2017 & 05/3/2018 are within legal parameter & liable to be maintained in view of the mandatory provision of law & jurisdiction conferred upon the Respondent No: 2. Hence, the statement of the appellant in view of the stated facts & circumstances of the case is baseless & without any cogent justification.

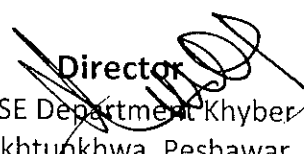
- e Incorrect & denied. The plea of the appellant is baseless as he has been treated as per law, rules & policy having no question of violation of fundamental rights of the appellant in the instant case by the Respondents.
- f Incorrect & misleading. The impugned transfer Notification dated 29/12/2017 & 05/3/2018 are legally competent in view of the relevant provisions of law, rules & Transfer Policy of 2000 on the grounds that the appellant is a BPS-18 Officer in the E&SE Department of Teaching Cadre & is liable to serve anywhere in the Province against the said Post.
- g Incorrect & not admitted. The Respondent Department has acted in accordance with law, rules & Transfer Policy in the case of the appellant nor he has been deprived of any legal & constitutional rights.
- h Incorrect & misleading the Respondent No: 2 has observed proper procedure prior to the issuance of the impugned Notifications dated 29/12/2017 & 05/3/2018. Therefore, the plea of the appellant is liable to be dismissed.
- i Incorrect & denied. Detailed reply of this grounds has already been given in the foregoing paras of the instant reply. Hence, needs no further comments.
- j Legal. However, the Respondents further seek leave of this Honorable Tribunal to submit additional grounds & case law/record at the time of arguments.

In view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant Service Appeal with cost in favour of the Respondent Department in the interest of justice.

Dated ___ / ___ /2018.

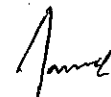

Secretary

E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondents No:1&2)


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 3,4&5)

VERIFICATION

I, Hameed Ur Rehman Asstt: Director (Litigation-II) E&SE Department do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments are true & correct to the best of my knowledge & belief.



Deponent

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 274/2018

Dr. Qazi Amir Hatam Principal GHSS Dherai District Swat. Appellant.

VERSUS

Chief Secretary Govt: of Khyber Pakhtunkhwa & others. Respondents

REPLY TO THE STAY APPLICATION FOR & ON BEHALF OF RESPONDENTS No: 1-5.


Respectfully Sheweth :-


The Respondents submit as under:-

- 1 That Para-1 needs no comments, being pertains to the record of this Honorable Tribunal.
- 2 That Para-2 is correct. Hence needs no further comments.
- 3 That Para-3 is incorrect & misleading. The Respondents have got a good prima-facie case in their favour & its chance of success are very bright & if the proceedings/operation of the impugned Notification dated 29/12/2017 has not been suspended, the Respondents No: 1-5 shall suffer huge losses.
- 4 That Para-4 is incorrect & denied. The aspect of balance of conveyance is also lies in favour of the Respondents instead of the appellant. Hence, application in hand is liable to be dismissed.
- 5 Legal. However, the contents of the accompanied reply to the main Service Appeal may also be treated as an integral part of the reply of the present application in favour of the Respondents 1-5.

Therefore, it is most humbly requested that on the acceptance of this reply, the application in hand may kindly be rejected with cost in favour of the Respondents in the interest of justice.

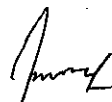
Dated ___/___/2018.


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondents No:1&2)


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 3,4&5)

VERIFICATION

I, Hameedur Rehman Asstt: Director (Litigation-II) E&SE Department do hereby solemnly affirm and declare on oath that the contents of the instant reply to the application are true & correct to the best of my knowledge & belief.


Deponent



Annex-A

①

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

S/HO 2

Dated Peshawar the December 29, 2017.

29/12/17

NOTIFICATION

NO.303(M) T&SED/2-12017/DPE. SSs & HMs Transfer/Ashraf Khan & others: The competent authority is pleased to transfer/adjust the following DPE, SSs & HMs and post them on the posts/stations as mentioned against their names with immediate effect:

S.#	Name & Designation	Transferred As	Remarks
1	Ashraf Khan, HM BS-17 GHS Pishitakhara Bala, Peshawar	HM BS-17 GHS Nauthia Jaded Peshawar	Against newly created post
2	Amir Hatanu Khan, Principal BS-19 GHSS Dherai Swat	Services placed at the disposal of Directorate.	
3	Muhammad Akhtar Khan, SS (Chemistry) BS-17 GHSS Langrial Abbottabad	SS (Chemistry) BS-17 GHSS Bagra Haripur	Against vacant post
4	Fazlur Rahim, SS (Urdu) BS-17 GHSS Kuza Banda Battagram	SS (Urdu) BS-17 GHSS Paimal Sharif Battagram	Against vacant post
5	Attaulah SS (Biology) wrongly working as SS (English) BS-17 GHSS Lalozai Bannu	SS (Biology) BS-17 GHSS Mamash Khel Lakki Marwat	Against his original post
6	Gul Fam, SS (Urdu) BS-17 GHSS Landi Kachi Kohat	SS (Urdu) BS-17 GHSS Muslim Abad Kohat	Against vacant post
7	Ahmad Din, SS (H/Civics) BS-17 GHSS Kheshgi Payan Nowshera	SS (H/Civics) BS-17 GHSS Khair Abad Nowshera	Against vacant post
8	Muhammad Iqbal HM BS-17 GHS Hayat Abad Karak	HM BS-17 GHS Topi Qilla Karak	Against newly created post
9	Muhammad Shaukat, HM BS-17 GHS Karg Battagram	HM BS-17 GHS Baddi Mansehra	Against vacant post
10	Shahsher Ali, DPE BS-17 GHSS Dherai Swat	DPE BS-17 GHSS Wadudia Swat	Against newly sanctioned post
11	Misal Bacha, SS (Chemistry) BS-17 GHSS Chantalai Swat	SS (Chemistry) BS-17 GHSS Wadudia Swat	Against newly created vacant post
12	Fazal Harid, SS (Biology) BS-17 GHSS Kabal Swat	SS (Biology) BS-17 GHSS Wadudia Swat	Against vacant post
13	Anwar Khan, SS (Biology) BS-17 GHSS Dherai Swat	SS (Biology) BS-17 GHSS Kabal Swat	Vice Serial No. 12
14	Sher Muhammad Khan, SS (Biology) BS-17 GHSS Chantalai Swat	SS (Biology) BS-17 GHSS Dherai Swat	Vice Serial No. 13
15	Shahzada Mohammad Afriah, SSS BS-18 Principal GHSS Doaba Hangu	Principal BS-18 GHS Bagato Hangu	Against vacant post
16	Murad Khan, SS (Urdu) BS-17 GHSS Garhi Ghulam Shah Peshawar	SS (Urdu) BS-17 GHSS No.2 Peshawar	Against vacant post
17	Rahim Ullah SS (Maths) BS-17 GHSS Jahangira Swabi	SS (Maths) BS-18 GHSS Thanda koi Swabi in his own pay & scale	Against vacant post
18	Noor-u-Deen, DPE BS-17 GHSS Kaka Sahib Nowshera	DPE BS-17 GHSS Shahbaz Khel Lakki Marwat	Against vacant post

2. No TA/DA is allowed.

SECRETARY

Annex-B.

(2)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

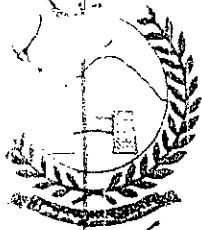
Dated Peshawar the March 5th, 2018.NOTIFICATION

S/HO 14

5/3/2018

NO.SO(SM) E&SED/2-1/2018/HM Transfer: Posting/transfer of the following headmasters/Principal is hereby ordered on the posts/stations as mentioned against their names in the interest of public service with immediate effect:

S/#	Name & Designation	Transferred As	Remarks
	Mr. Hazrat Younas, HM BS-17 GHS Parai Swat	HM BS-17 GHS Aghingaro Dheri Swat	Vice Sr. No.2
	Mr. Iqbal Jehan, HM BS-17 GHS Aghingaro Dheri Swat	HM BS-17 GHS Parai Swat	Vice Sr. No.1
	Mr. Sher Afzal, HM BS-17 GHS Laram Dir Lower	HM BS-17 GHS Bazdara Payan Malakand	Against vacant post
	Mr. Jamat ur Rashid, HM BS-17 GHS Lawaghar Chani Khel Karak	HM BS-17 GHS Paimda Banda Karak	-do-
	Mr. Ali Haider, HM BS-17 GHS Chandoor Mansehra	HM BS-17 GHS Mera Amjad Ali Mansehra	-do-
	Mr. Muhammad Arshiq, HM BS-17 GHS Gharib Pura Nowshera	HM BS-17 GHS Manahi Nowshera	-do-
	Mr. Muhammad Naeem, HM BS-17 GHS Makhai Dir Lower	HM BS-17 GHS Banda Dir Lower	-do-
	Mr. Arif Zaman, HM BS-17 GHS Ghumnawan Haripur	Instructor BS-18 RITE (M) Haripur (in his own pay & scale)	-do-
	Mr. Muhammad Ijaz Qureshi, HM BS-17 Tolanj Jadeed Kohat	Instructor BS-18 RITE (Male) Kohat (in his own pay & scale)	-do-
	Mr. Mushtaq Ahmad Baig, HM BS-17 GHS Bartoon Torghar	HM BS-17 GHS Trand Baitagram	-do-
	Mr. Hamid Hussain, HM BS-17 GHS No.2 Lund Khwar Mardan	HM BS-17 GHS Patti Kalan Mardan	-do-
	Mr. Saad Ullah Jan, HM BS-17 (Awaiting posting)	HM BS-17 GHS Shakh Quli Khan Lakki Marwat	-do-
	Mr. Muhammad Zubair, HM BS-17 GHS Pattan Kalan Abbottabad	HM BS-17 GHS Kathiali Abbottabad	-do-



(3)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

✓ 14	Mr. Qazi Amir Hatam, Principal BS-18 (Awaiting Posting)	Principal BS-18 GHSS Tetana Banda Kabal Swat	-do- ✓
15	Mr. Javed Ahmad, HM BS-17 GHS Machan Da Maira Haripur	HM BS-17 GHS Dobandi Haripur	-do-
16	Mr. Fida Muhammad, HM BS-17 GHS Narshak Mardan	HM BS-17 GHS Said Abad Mardan	-do-
17	Mr. Abdul Shakoor, HM BS-17 GHS Dheri Naqarchian Haripur	HM BS-17 GHS Machan Da Maira Haripur	Vice Sr. No.15
18	Mr. Muhammad Fazal Raziq, HM BS-17 GHS Jabbar Kohat	HM BS-17 GHS To anji Jadeed Kohat	Vice Sr. No.9

No TA/DA is allowed.

Endst: of even No. & Date:

SECRETARY

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education Officers (M), Concerned.
4. District Account Officers, Concerned.
5. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
6. PA to Special Secretary E&SED, Khyber Pakhtunkhwa.
7. Incharge EMIS E&SE Department.
8. Headmasters & Principal concerned.
9. Office order file.

(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS MALE)